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MASTERARBEIT

Titel der Masterarbeit

„Theoretical Analysis and Comparison of Protectionist Policies, Foundations, Implementation, Objectives and Derived Results within the Member States of ASEAN+3 and the EU”

Verfasserin

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angestrebter akademischer Grad

Master of Arts (MA)

Wien, 2013

Studienkennzahl lt. Studienblatt:

A 066 864

Studienrichtung lt. Studienblatt:

Masterstudium Wirtschaft und Gesellschaft Ostasiens

Betreuer:

Univ.-Prof. Mag. Dr. Rüdiger Frank

Acknowledgments

Hereby I would like to take the chance and thank everyone who supported me during the process of writing this Master thesis.

First of all I would like to sincerely thank my Professor, Dr. Rüdiger Frank, who supports his students in every possible way, starting from the very first seminar until the Master Seminar and also supported me during the composition of this thesis.

Furthermore I would like to express my gratefulness to all other teachers and professors who have accompanied and inspired me during my studies.

Also to my family, especially to my parents, brother, grandmother and aunt and uncle, who have always supported the way of education I have chosen, I would like to express my sincere gratitude.

Moreover, I would also like to thank my friends Elisabeth Höchtel, David Shimmin, Andrea Pototschnig and Katrin Leirich who have helped and encouraged me during the period of finishing this thesis and also have put a lot of effort into proof-reading it.

Special thanks goes to Katrin Leirich, who has helped me in every possible way during the administrative process of this master thesis.

Besides I would also like to mention my employer, who has offered me the possibility of entering into the working environment during the period of writing this thesis and thereby already gaining professional experience while finishing my Masters degree.

Lastly and most importantly, I would like to thank my husband Jose Samuel Ramirez Torres who has encouraged me every day while writing my thesis, who has given me advice and has also corrected this thesis.

My family and friends deserve the acknowledgement of my gratitude in so many ways; this is why I would like to state here that they make my life valuable.

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1 Introduction

Regional trade organizations are an integral part of the world's economy and trade within these groups is flourishing. For example, Yoshida et al. (1994:63) states that "Intra-regional trade in both the EC [European Community] and East Asia [China, Korea, Japan and Southeast Asia] has grown faster than world trade...". Also, Winters (1991:72) mentions that intra-European trade is very high due to the integration level.

Nations are pursuing trade liberalization through negotiations within smaller groups, because bigger multilateral negotiation processes have led to dissatisfaction. Since the 1980s regional trade organizations have successfully eliminated regional trade barriers.

The European Union's (EU) success has been a worldwide example of how to remove trade barriers between developed countries, whilst the Association of Southeast Asian Nations (ASEAN) has provided a model for removing trade barriers between developing countries. (Yeung et al. 1999:ixf)

One of the reasons for nations to prefer trade liberalization within smaller groups is that multilateral trade liberalization is often too slow and cumbersome. Secondly, since the 1970s economic growth in developed nations has declined, but international trade has increased, therefore regional trade organizations acted as an "engine of growth". Thirdly, the protectionist import substitution policies¹ adopted by many developing nations were unsuccessful. This contrasts with the successes of regional trade organisations, which (as explained later) include the promotion of national and world welfare by allowing for larger market access and lower trade barriers. (Yeung et al. 1999:3ff)

Bagwell and Staiger (1997:2f) adopt the view that governments abandon unilateral trade policies and join regional trade organisations to enhance their access to markets and thereby improve national welfare. They also propose that government enter these agreements because it enables them to escape from the 'Prisoners' Dilemma'². Furthermore, Bagwell and Staiger (1997:37) argue that issues such as military security or political stability can motivate regional integration initiatives.

¹ Import substitution policies favour the replacement of imports through domestic products with measures like tariffs, subsidies and administered wage and price policies and so on.

² This term explains why two countries might not cooperate, even though it is in their best interest, as they do not know what kind of or if the other country uses trade policies. Like this terms-of-trade externalities make the level of trade restriction between countries too high and a trade agreement can lower or eliminate restrictions.

On the one hand regional trade blocs liberalize economic activities and integrate the region, on the other hand the term trade bloc also has a negative implication because it indicates an inward-looking and protectionist orientation. (Yeung et al. 1999:11)

Yeung et al. (1999:x) state that "... while [trade blocs are] founded on principles of liberalization which could make regional trade organizations the building blocks of the global economy, they may become new bastions of protectionism."

Basically, the formation of regional trade organizations does not eliminate protectionism, it only reduces or removes trade barriers between member nations. (Yeung et al. 1999:11f)

There are many reasons to argue that regional trade organizations are of protectionist nature. One of the reasons is the occurrence of trade diversion, which has "an automatically negative effect on the rest of the world from the formation of a bloc, even if the bloc does not have higher external trade barriers on average than did its constituent members." (Smith 1994:28)

Salvatore (2007:341) states that "trade creation occurs when some domestic production in a nation that is a member of the customs union is replaced by lower-cost imports from another member nation."

Moreover "trade diversion occurs when lower-cost imports from outside the customs union are replaced by higher cost imports from a union member. This results because of the preferential trade treatment given to member nation. Trade diversion, by itself, reduces welfare because it shifts production from more efficient producers outside the customs union to less efficient producers inside the union." (Salvatore 2007:343)

This means that regional trade organizations do not contribute to world welfare and might even diminish the welfare of their members.

One of the best examples of trade diversion is the Common Agricultural Policy (CAP) of the EU. Despite being advantageous for EU farmers, this policy is disadvantageous for EU consumers and damaging for non-EU farmers. (Smith 1994:28)

Regionalism is generally perceived to be implicit of a negative policy, because it nearly always leads to trade diversion. However, undistorted free trade does not exist in the current global trading system, thus regional trade agreements can be seen as the best option for policy makers. (Trebilcock/Howse 2005: 195)

Another reason why regional trade organizations have not yet become building blocks is that there are no institutional forums for negotiations and the World Trade Organisation (WTO) does not provide any setting for "organization-to-organization negotiations". (Yeung et al. 1999:12)

Also, Yoshida et al. (1994:104) state, that “... it is much easier for a smaller number of like-minded countries to come to an agreement on trade and investment liberalization, a problem with which GATT [General Agreement on Tariffs and Trade] has not dealt successfully so far.”

Regional trade organizations may have negative impacts on world welfare; however one has to consider the level of regional economic integration, as well as to analyse the effects of the regional trade organization on international trade.

The level of regional economic integration can be categorised into five different stages:

1. The loosest form is a Preferential Trade Agreement (PTA), which lowers trade barriers for participants of the agreement. (Salvatore 2007:340)
2. The next level is a Free Trade Area (FTA). Trade barriers between members are eliminated, but individual external trade barriers and trade policies can be maintained by the members.
3. In addition to the characteristics of the FTA, the Customs Union (CU) also has a common external trade policy. (Yeung et al. 1999:18)
4. Moreover, Common Markets (CM) also incorporate free movement of labour and capital among member countries, in addition to the features of the CU.
5. The highest level of integration is called an Economic Union, which has harmonised or unified monetary and fiscal policies of their members. (Salvatore 2007:340)

The EU can be categorised as a CU, whereas ASEAN is at the stage of a FTA.

This thesis will compare the different implemented protectionist policies of the EU and ASEAN Plus Three (APT)³, as well as explain on which grounds they are used by means of arguments for restricting trade. Examples of countries will be given will be compared with each other in order to find out the differences and similarities.

The objectives of this research are to review and assess the implemented protectionist measures, compare the different strategies and investigate the contribution of protectionist measures to the arguments for restricting trade. Bearing these objectives in mind, a research question has arisen: **“What are the protectionist strategies used by both trading blocs, what do they have in common and how do their strategies differ from each other?”** The hypothesis of this thesis is that each trade bloc uses trade policies mainly in order to support its strategic industries, thus trying to enhance the nation’s welfare.

³ The APT states comprise the member states of ASEAN and China, Korea and Japan.

The analysis will focus on specific sectors of primary and secondary economic activities, such as agriculture, steel industry, food and beverage industry, transportation machinery industry, and so on.

In order to answer the research question and accepting or refuting the hypothesis, this paper is divided into four sections.

The first part will explain the theoretical framework of the thesis, focusing on the New Trade Theory and Strategic Trade Theory to elucidate why nations decide not to follow free trade, but implement different types of restrictions and barriers.

In the second part the implemented policies of the EU will be analysed. This is followed by the third part, which details the analysis of policies from the APT countries.

Finally, the fourth part will compare the different policies of the two trade blocs using arguments for restricting trade and the conclusion will outline the most important arguments and findings.

2 Overview: ASEAN and EU

This section will start with an overview of ASEAN and the EU, where an introduction of the two regional trade organizations is provided.

ASEAN is an organization of ten countries, which was formed on August 8th, 1967 by the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand. After the foundation also Brunei Darussalam, hereafter referred to as Brunei, the Union of Myanmar (Burma), the Kingdom of Cambodia, the Lao People's Democratic Republic (PDR) and the Socialist Republic of Vietnam became members of ASEAN.

In 1997, a forum called APT, was created and later (1999) institutionalised. APT has the function of being a cooperation coordinator between ASEAN and the three nations of China, Japan and the Republic of Korea, hereafter referred to as Korea.

In 1992, the ASEAN Free Trade Area (AFTA) was established as a trade agreement by ASEAN in order to support local manufacturing in all ASEAN countries.

AFTA does not have a common external tariff on imported goods. Each member can freely impose tariffs on goods from outside of ASEAN. For goods within ASEAN, members are only allowed to apply a tariff rate between zero and five %. This tariff scheme is known as the Common Effective Preferential Tariff (CEPT) scheme. Trade within ASEAN is facilitated and preferential treatment is given to goods produced within the free trade area (FTA).

It can generally be stated that the levels of protection for agriculture, food and beverages are particularly high in China, Japan and Korea. The Nominal Rate of Protection (NRP)⁴ for food products and beverages is also high in these three countries as well as in Taiwan. Similarly, the Effective Rate of Protection (ERP)⁵ tends to be high for the same industries in these countries with only few exceptions, indicating that these industries are substantially protected from import competition.

A high level of protection is given to industries such as paper, chemicals and machinery in ASEAN countries, as well as in China. High protection can be observed for the transportation machinery industry in many ASEAN countries, as well as in China, reflecting the importance of this industry for these governments.

Trade barriers Hong Kong and Singapore barely exist. The only industries that receive protection are agriculture, food products and beverages, however, compared to other East Asian economies, the level of protection is low. (Urata/Kiyota 2005:227f)

As shown by Razeen (2007:13), as well as Saqib and Taneja (2005:27), there is also a multiplicity of product standards, investment restriction, custom procedures, bureaucratic red tape and other labour-market restrictions; even among ASEAN countries, which makes it more difficult for exporters to come up to the requirements of each country.

The EU, on the other hand, is an economic and political union of 27 member states, which applies a common external tariff. The EU has a single market and its policies are aimed at ensuring free movement of people, goods, services and capital. Common policies on trade, agriculture, fisheries and regional development are maintained and a monetary union was established in 1999.

Since 2009, the EU has been the world's largest market and trader. (WTO 2011a: 1)

Furthermore, in "2005, South-East Asia became the EU's 6th largest trading partner, supplying the EU with exports consisting mainly of textiles and apparel, machinery and electrical appliances, as well as palm and coconut fats and oils. The EU on the other hand supplies ASEAN with high-tech industrial products such as turbojets and other automotive vehicles, machinery and electrical appliances, pharmaceutical products, perfumery and cosmetics, optical precision instruments, and iron and steel products." (Bernadino 2007:2)

⁴ NRP is "... the percentage tariff imposed on a product as it enters the country". (Encyclopædia Britannica Online 2012)

⁵ The EPR "... measures how much protection a tariff or other trade policy provides domestic producers." (Pearson 2009:1)

This thesis aims to look at protectionist policies implemented by the two trading blocs, the EU and APT. More precisely, the different protectionist strategies will be compared and protectionism will be explained by means of arguments for restricting trade. These arguments are based upon two economic theories, namely the New Trade Theory and the Strategic Trade Theory.

3 Theoretical Framework

Since the publication of David Ricardo's "Principles of Political Economy and Taxation" in 1817, the theory of comparative advantage, under the assumption of free trade, has shown that countries concentrate on the production of goods which they produce more efficiently.

The reason for comparative advantages is seen on the one hand by Ricardo on grounds of international productivity differences and on the other hand by Eli Heckscher and Bertil Ohlin (1991)⁶ due to international difference in factor endowments.

Nevertheless, it became clear in the 1970s that international trade was not completely explained by factor endowments or other comparative-advantage-based theories. Generally, these theories state that free trade involves the exchange of diverse goods and that worldwide welfare and trade is raised the more countries differ in their produced goods.

Yet, most of trade growth in the decades after the 2nd World War took place in relatively similar goods and countries. (Neary 2009:2)

For this reason some researchers concentrated on the New Trade Theory and on the Strategic Trade Theory.

The theoretical approach of this thesis is therefore based upon these two theories and the focus lays on the explanation of protectionism within the two focus groups.

3.1 New Trade Theory

In the 1970s researchers developed new trade models which were based upon imperfect competition.

International trade theory used to be dominated by the concept of comparative advantage, which means that countries profit from their differences in tastes, technology or factor endowments. In traditional models trade was based on constant returns to scale and perfect competition.

⁶ The main sources of the book are an article by Heckscher in 1919 and the Ph.D. dissertation of Ohlin in 1924, edited by Harry Flam and M. June Flanders in the book 'Heckscher-Ohlin trade theory'.

The main findings of the New Trade Theory were that trade is mostly driven by economies of scale and imperfect competition. By means of these findings international trade was analysed. A world with imperfect competition usually does not guarantee benefits from trade, but most of the models from the New Trade Theory show that the presence of increasing returns on scales raises profits from international trade. The New Trade Theory not only reemphasizes the advantages of international trade, but it also shows that increasing returns and imperfect competition are part of it, thus interventions by governments can advance market results.

This new view implements the idea of strategic trade policy, which states that interventionist policies by the government can reallocate excess returns from foreign to home enterprises. (Krugman 1987:132ff)

This suggestion is also part of the conventional theory of trade, but as Corden (1997:14ff, 39f)⁷ points out, direct correction of domestic market failure is desirable; protection is always second-best.

The position taken by most representatives of the New Trade Theory is that the comparative advantage model is not complete, but free trade is still the first best policy, thus the conclusion that followers of the New Trade Theory support protectionism is not correct.

Even originators of this theory state that “the gains from intervention are limited by uncertainty about appropriate policies, by entry that dissipates the gains, and by the general equilibrium effects that insure that promoting one sector diverts resources from others. The combination of these factors limits the potential benefits of sophisticated interventionism.” (Krugman 1987:143)

3.1.1 Literature Overview

The mentioned papers provide illustrations how, by implementing interventionist trade policies, national welfare in an imperfectly competitive environment can be enhanced. The studies mentioned are just a selection by the author of this thesis; numerous studies concerning the topic have been carried out by various researchers.

During the late 1970s Krugman launched with his paper “Increasing Returns, Monopolistic Competition and International Trade” a new approach to Trade Theory. Until then research was carried out under the assumption of perfect competition. (Neary 2009:1)

In his first paper Krugman (1979:469) showed that trade and gains from it will occur even between similar countries, which have comparable technology and endowment factors. The research developed a general equilibrium model of non-comparative trade. His paper displays

⁷ The original version by Warner M. Cordon was published in 1974.

a model in which trade is caused by economies of scale as an alternative to differences in factor endowments or technology.

As he is using a one-factor model, differences in factor endowment can be ruled out. Trade does not occur between similar economies in conventional models, but Krugman's model shows that there will be trade as well as gain from it.

Krugman (1979:477) finds out that: "The important point to be gained from this analysis is that economies of scale can be shown to give rise to trade and to gains from trade even when there are no international differences in tastes, technology, or factor endowments." One can state that Krugman explained in his paper the increased trade between similar economies like the European countries or the ASEAN states. The factor of regional closeness which contributes to increased trade cannot be omitted; however, Krugman's paper also showed that the assumption of comparative advantage, which prevails in other trade theories, determines not always the development of trade.

Krugman (1979:469) was the first one to carry out research under the assumption of imperfect competition. It can be said that his paper "... develops a simple model in which trade is caused by economies of scale instead of differences in factor endowments or technology."

In the early 1980s more and more research was carried out using models of imperfect competition and many articles about the New Trade Theory were being published. (Neary 2009:1)

Krugman's paper (1981) "Intraindustry specialization and the gains from trade" was the most influential one and the book "Market Structure and Foreign Trade" by him and Helpman (1985) set the beginning of the New Trade Theory. (Neary 2009:10)

Krugman (1981:959f) states, that 'intra-industry trade' depends on the similarities of countries concerning factor endowments. Due to the fact that trade growth in the post war period has occurred mostly "... without sizable reallocation of resources or income-distribution effects ..." he concludes that trade takes place between countries with akin factor endowments and hence the trade form is intra-industry.

Krugman's (1981:971) view is that "the variety of products produced in any one country is limited by the existence of scale economies in production." Therefore alike countries trade with each in goods which have "similar factor proportions".

Empirical work that applied the new models soon followed for example by Helpman (1987:62). His paper proves that most trade took place between similar economies, in this case developed ones. He also states that "the larger the similarity in factor composition, the larger the share of intraindustry trade."

Helpman's (1987:80) conclusion is that the importance of difference in factor endowments concerning trade has declined over time.

Similar studies were published by Avinash Dixit and Victor Norman (1980), Kelvin Lancaster (1980), Elhanan Helpman (1981) and Wilfred Ethier (1982). (Neary 2009:10)

Lancaster (1980:151f), for example, shows in his paper that even more 'intra-industry' trade takes place between entirely identical economies, between which, according to the Comparative Advantage Theory no trade would take place.

He states that 'intra-industry' trade occurs when economies are entirely identical and even under the circumstances of comparative advantage. Protection might abolish intra-industry trade, but agricultural protection of a "country with a comparative disadvantage in agriculture may even increase two-way trade in manufactures." (Lancaster 1980:174)

Also reciprocal dumping was explained by the new trade theory. Brander (1981:1-14) uses a Cournot⁸ setting, in which both firms produce identical products. In his model trade arises from a "dumping or price discrimination motive". Domestic welfare is being raised by competition and therefore lower prices exist for consumers.

In the model of Krugman and Brander (1983:1f, 9) rivalry between oligopolistic firms gives rise to dumping. This dumping can also be mutual, which leads to two-way trade of the same product. Welfare can rise because of lower prices for consumers, but also resources are wasted through two-way trade.

The New Trade theory is also combined with the New Growth Theory, which is as well based on market imperfections. International trade and endogenous growth are linked by technology and knowledge spillovers.

Grossman and Helpman (1991) show for example how international trade can enhance a country's research and development (R&D) sector through the spreading of technological information, apart from that also competition and entrepreneurial effort is raised and the market size is being enlarged. (Fine/Deraniyagala 2001:814)

Grossman and Helpman (1991:337) also mention that transmission of knowledge occurs whenever commerce takes place. Especially international trade, e.g. foreign buyers of local goods, may provide information about manufacturing techniques, or foreign sellers might suggest how products can be used more efficiently. They state: "International commerce can spur innovation by facilitating the process of industrial learning."

⁸ Cournot behaviour explains the actions of companies which compete for the amount of output. The important feature is that firms assume that the foreign company's output does not change when their own output does.

Grossman and Horn (1988:767ff) consider in their model the existence of informational entry barriers to and that barriers give a reason for temporarily protecting infant producers.

They state that latecomers have a disadvantage due to missing reputation; however, it is also being mentioned that in case of “endogenous entry, quality choice, and information transmission”, that this is not the case.

On the other hand, they declare that forms of government interventions are desirable; however, for the case of imperfectly informed consumers, trade policy does not correct the distortions. (Grossman/Horn 1988:785f)

Eaton and Grossman (1986:402) specify that “... a trade policy of either sign may raise domestic welfare in a duopolistic market with domestic consumption.” In their study they found out that by using industrial policies and if oligopolistic profits can be reallocated to domestic companies, domestic welfare is increased. Nevertheless, policies only work, if governments set them before companies make their production decisions. Problems arise, if there is more than one domestic firm and if they compete with each other. In this case a production or export tax will bring the domestic companies to “collusion-level” and the possibility arises that the home country makes a complete use of its monopoly power in trade. (Eaton/Grossman 1986:403)

Their study found out that “... the sign of the optimal trade or industrial policy (i.e., whether a tax or subsidy is optimal) depends on the relationship between the home firm's conjectural variation and the actual equilibrium reactions of the foreign firm.”(Eaton/Grossman 1986:385) In their model each firm produces a single good which is a substitute for the rival's output. The domestic government in this model, whose goal is to maximize national welfare, “... can tax (or subsidize) the output of domestic firms, tax (or subsidize) the exports of these firms, and tax (or subsidize) the imports from the foreign rivals of domestic firms.” (Eaton/Grossman 1986:386)

If companies played Bertrand⁹, the optimal intervention is an export tax. In this way the intervention of each government profits the foreign firm, which means that intervention is no longer abusive, but it is still detrimental for customers. (Corden 1997:249f)

An export subsidy with Cournot competition is advantageous for the home company at the expense of the foreign firm. (Eaton/Grossman 1986:391)

Eaton and Grossman (1986:390) state, that their proposition reaffirms the argument made by Brander and Spencer (1984) which says that an export subsidy in a Cournot equilibrium raises domestic welfare by transferring profit to the home company.

⁹ Bertrand behaviour explains the actions of companies which compete for the price of output. Firms assume that the foreign company's price does not change when their own price does.

Dixit and Kyle (1985) analyse trade policies in the case of an entry by a domestic firm into a foreign market. This scenario raises national production, which can be achieved by an export or production subsidy and results into a replacement of foreign firms by domestic ones. (Eaton/Grossman 1986:399)

They present their study with just two countries and two firms, whose objective is to maximize their profits. In general “protection for entry promotion” is harmful to world welfare, but it is stated that “for a single country, the capture of any monopoly rents on behalf of its own residents can make it desirable to pursue policies that favour its own firms and harm foreign ones.” (Dixit/Kyle 1985:140)

Dixit (1984:7) considers in his model two countries with a given number of firms. The industry is characterized by a homogenous product oligopoly and he uses the Cournot Equilibrium Concept and policy instruments like import tariffs, export policies, subsidies and production subsidies.

Dixit (1984:3f) indicates that “Trade restrictions do provide indirect methods for partial correction of domestic distortions and for income redistribution, but these problems are always better handled by other instruments, such as production and consumption taxes or subsidies that are directly targeted to the problem¹⁰.”

Krugman’s model (1985) is based on economies of scale at the margin and illustrates that protection/subsidization of a domestic company in one field can lower its marginal production/input cost. The sales of domestic firms increase with protection of the domestic market and the sales of foreign companies decrease. As a result, the domestic firm’s marginal costs are lower than the ones of the foreign firms. Thus, the equilibrium in the market abroad moves into the domestic firm’s favour and one can see that import restrictions can also function as export promotions. (Eaton/Grossman 1986:384, Dixit 1984:6)

The advantage of a protected domestic market, for example, by a quota or a tariff, is often used as an argument for protection, because in this scenario firms have a bulk of advantages: “they are assured of the economies of large-scale production, of selling enough over time to move down the learning curve, of earning enough to recover the costs of R&D. While charging high prices in the domestic market, they can ‘incrementally price’ and flood foreign markets with low-cost products.” This argument makes sense when markets are oligopolistic, segmented and there are economies of scale. Krugman’s model thus shows how protection is being used to enhance national welfare. A company is given advantage over its foreign rivals

¹⁰ See Bhagwati 1988

due to the fact that through protection a company automatically has lower marginal costs and can therefore achieve a higher market share, even in unprotected markets. (Krugman 1985:75) Krugman (1987:131f) states that the new model of trade theory brings into doubt if trade can be explained by comparative advantage and shows that it might be of national interest to have government interventions, like import barriers, export subsidies and so on.

New trade models integrate four alterations compared to neoclassical models: “market imperfections, strategic behaviour and the new industrial economics, new growth theory and political economy arguments.” Interventionist trade policies are justified in many of these models and the possibility that free trade is a disadvantage for economic growth is considered. (Fine/Deraniyagala 2001:812)

The conclusion that the New Trade Theory provides reasons for more interventionist government policies in trade should not be drawn as even creators of the new theory themselves criticize protectionism.

Firstly, it is stated that it is impossible to make appropriate policies when the basis is an imperfect market. The problem is that governments in the home country in reality do not know much about the market situation and policies of other countries, so the ‘decision’ which policies to implement is complex.

Secondly, gains from protection will be dispersed by the market entry of further rent-seeking firms. Considering external economies, one can say that the policy designed to help one industry will not be limited to that branch, but will affect the whole economy. Mostly consumers will benefit from cheaper prices enabled by the policy.

Thirdly, considerations about general equilibrium raise the empirical difficulty of finding suitable interventionist policies and make it unlikely that beneficial policies can be found. The problem is that a country needs to choose which sector and industry it wants to subsidise, due to the fact that these subsidies deduct resources from other sectors. This means that a government must have good knowledge about the effect of the policy on the targeted sector, but also about other sectors of the home economy before it can decide about an interventionist policy. If a particular sector receives a subsidy, another sector in the home economy is being put at a strategic disadvantage.

The gained excess returns in the subsidised sector must therefore offset the lost returns in the other home sector. (Krugman 1987:138-141)

This point of view is also supported by Dixit and Grossman (1984) who analyse in their paper the fact if export promotion raises welfare, provided that several oligopolistic industries are

being supported. They state that if there is only one home company benefiting from protection, then a subsidy promotes domestic welfare through the transfer of profits to the home company. Nevertheless, if there are many similar domestic companies benefiting from the same protection, it is disadvantageous for non-targeted industries and hard for a government to find out which sector should be targeted.

Dixit and Grossman (1984:1) state that “Subsidies that assist domestic firms in their competition with foreign rivals are being viewed with increasing favour, both in theoretical analyses and in practical applications.” In the case that monopoly rents exist, an interventionist trade policy can transfer these rents from foreign to home companies and thereby raise national welfare.

In the models discussed so far only one oligopolistic industry has been considered, but if there are several oligopolistic industries, “rent-extraction in one industry will at the same time cause an even greater rent loss in another”. (Dixit/Grossman 1984:2)

Dixit and Grossman (1984:3) “recognize the general equilibrium principle that promotion of one industry is implicitly taxation of another.”

However, governments, even if they do not know about every sector in the home economy, are also not completely without information.

Another argument against interventionist trade policies is the fact that policies are aimed to redistribute income. Policies like that often have a ‘Beggar-Thy-Neighbour Component’¹¹ and raise national income at the expense of a foreign country, which might lead to a trade war and leaves both countries worse off. On the other hand, countries also often see themselves in a ‘Prisoner’s Dilemma’, because they do not know if other countries are implementing interventionist policies, so they are better off intervening.

Pressure groups at the domestic level often try to influence interventionist policies for their own purpose as well, which leads to an inefficient redistribution. (Krugman 1987:141ff)

This point is also stated by Dixit (1984:15) who says that protection is wanted by pressure groups and arguments for protection can easily be misused.

Krugman (1987:143) says that “The economic cautions about the difficulty of formulating useful interventions and the political economy concerns that interventionism may go astray combine into a new case for free trade. This is not the old argument that free trade is optimal because markets are efficient. Instead, it is a sadder but wiser argument for free trade as a rule of thumb in a world whose politics are as imperfect as its markets.”

The findings of the New Trade Theory are supplemented by the Strategic Trade Theory.

¹¹ A ‘Beggar-Thy-Neighbour Component’ describes a policy which improves the situation of one country at the expense of another’s.

3.2 Strategic Trade Theory

Strategic Trade Theory stands for an activist trade policy and protectionism by the government. According to this theory, a nation can create a comparative advantage to improve its economic activity in the international market.

Although strategic trade policy improves the economic activity of a country in the international setting and raises home welfare, even the originators recognize “serious difficulties in carrying it out”. Firstly, it is difficult to decide which sector of the economy or economic actor should be favoured. Secondly, the appropriate policy for the situations is hard to choose. Thirdly, as most nations are making use of strategic trade policies, the benefits for each nation are mostly neutralized. Fourthly, the benefits for one nation come at the expense of another. (Salvatore 2007: 308f)

Krugman (1987:138) states that “The emphasis on external economies suggested by new trade theory is similar to the strategic trade policy argument in offering a reason for the government targeting particular sectors. However, the external economies argument differs in one important respect; policies to promote sectors yielding external economies need not affect other countries adversely. Whether the effect of one country's targeting of high-externality sectors on other countries is positive or negative depends on whether the scope of the externalities is national or international. There is a conflict of interest if knowledge spills over within a country but not between countries.”

Summing up, Krugman (1987:136) illustrates that Strategic Trade Policy is concerned about raising national welfare by supporting home companies in international competition; however, this takes place at another country's expense.

3.2.1 Literature Overview

Papers by Brander and Spencer (1983, 1985) showed that in oligopolistic markets there can be an economic reason for protecting domestic firms in order to raise their competitiveness.

Krugman (1987:135) mentions that the influential papers by James Brander and Barbara Spencer (1983, 1984) show that interventionist policies like export policies, subsidies and import barriers can prevent foreign companies from entering a third market. In their studies government policies function in the same way as “... ‘strategic’ moves such as investment in excess capacity or research and development (R&D) serve in many models of oligopolistic competition - hence the term ‘strategic trade policy’.”

Bagwell and Staiger (2002:168) mention the model of Brander and Spencer (1984) as the pioneering model of strategic-trade policy.

Brander and Spencer (1983) describe in their paper a scenario in which R&D investment is made prior to production and prove that export policies, subsidies and R&D subsidies, if implemented separately, are enhancing welfare. The optimal policy according to their research would be an export subsidy and R&D tax.

The central idea in Brander and Spencer's (1984:1) study is that it is "to the advantage of a country to capture a large share of the production of profit-earning imperfectly competitive industries." A domestic subsidy lowers the world prices of a given product, which is beneficial for foreign consumers, but it also raises domestic and decreases foreign profit. (Brander/Spencer 1984:6)

Brander and Spencer (1984:19) state that "The terms of trade will move against the subsidizing country but price still exceeds the marginal resource cost of exports so that the resulting expansion of exports can actually raise domestic welfare."

As a result, export subsidies, which capture a large share of foreign markets, are attractive policies for domestic companies. In general the welfare effect would be higher if subsidies were reduced; nevertheless, this puts countries into the situation of a 'Prisoner's Dilemma' because the country which does not use subsidies is worse off. (Brander/Spencer 1984:7-15)

Brander and Spencer (1985: 194) note that most trade liberalization has been multilateral, because countries require reimbursement in the form of freer access to foreign markets for reducing their own tariffs or quotas. In their paper imperfect competition tries to explain this phenomenon. They state that "If imperfect competition is an important characteristic of some international markets, then firms in these markets may earn pure profits. Protection can shift some of these profits from foreign to domestic firms, and in addition, tariffs can transfer foreign rents to the domestic treasury in the form of tariff revenue. There is some cost in that markets are further distorted, but it is clear that, from a purely domestic point of view, protection is likely to be an attractive policy." From an international point of view, shifting profits from one firm to another does not increase world welfare, because only one country benefits from protection at the expenses of other countries. They note that "...imperfect competition gives rise to beggar-thy-neighbour incentives for protective policies. The natural solution to this dilemma is through multilateral negotiation and trade liberalization, but unilateral tariff or quota reduction would not be expected."

Domestic companies as well as domestic labour, no matter if the industry is capital- or labour-intensive, always favour protection because of profit-shifting motives. (Brander/Spencer 1985: 194f)

Also Krugman (1985) considers assistance for domestic firms which could help them in export markets. Nevertheless, he also points out that protection does not increase welfare. Costs of subsidies can easily offset the gains from increased exports and lower costs for the domestic company.

Baldwin and Krugman (1986: 2f) developed a simulation model of the market situation for Random Access Memory (RAM) computer chips and showed how the privileged access of the home market enabled Japanese firms to lower their costs and like this export successfully to foreign markets.

On the other hand, the study concludes that there is no evidence, that the protectionist policies adopted by the Japanese government raised welfare and the policies might even have been a net loss to the Japanese economy. (Neary 2009: 32)

Models based on strategic behaviour (see for example Bhattacharjea 1995, Fuerst/Kim 1997, Van Long/Soubeyran 1997, Bernhofen 1997, Sleuwaegen et al. 1998) are very diverse, but what they all have in common is that they justify strategic policies and that they state that other forms of policies should be used in a supplementing way. Free trade cannot be the perfect solution in an environment with market imperfections, as the more imperfections there are, the more policies to deal with are needed. Given the diversity of the models, one can still conclude that interventions should be selective and country, or sector specific. The neoliberal position about these models is that the government does not have enough information concerning the selection of the different interventionist policies. The information requirements are one reason why also researchers who were pioneers in this theoretical field rejected most interventionist policies. (Fine/Deraniyagala 2001: 813)

The statement of Brander and Spencer (1984:19) should give a conclusion about the Strategic Trade Theory: “Producing countries have cooperative incentives to get together to agree not to use such subsidies, but they also have an incentive to cheat on any resulting agreements, suggesting that international regulations which attempt to discourage subsidization, such as GATT regulations, are likely to require regular reinforcement if they are to survive.”

The problem is that if one country uses trade policy tools, the other countries are at a strategic disadvantage and to prevent this, every country tries to intervene in its economic performance, even though the outcome decreases world welfare.

As it can be seen in the mentioned papers about New Trade Theory and Strategic Trade Theory, protection can be implemented in various ways, but all forms of protection are aimed at improving the position of the domestic market in comparison to foreign markets. This is usually done by policies which increase home market prices of foreign products, lower the costs of domestic producers or restrict the entrance of foreign producers to the home market.

Herby the following means are used:

Tariffs: Tariffs are taxes imposed on foreign good, resulting in higher prices of the specific good.

Quotas: Quotas limit products for importers over specific periods. Quotas also increase prices within the home market. The difference between a tariff and a quota is that tariffs generate revenue for the government, quotas for the owner of an import license. Currently another version of quotas, called orderly marketing agreements or voluntary export restrictions (VERs) is in use. Using an orderly marketing agreement, domestic governments ask foreign governments to restrict the quantity of exports of a good to the domestic country, which should prevent the case that the importing country imposes even higher trade barriers. VERs are normally implemented on a bilateral basis.

Regulatory Barriers: Product standards are also a commonly used regulatory barrier. For example standards are used for ensuring that imported food products are according to sanitary standards in the domestic country. Sometimes those standards also protect domestic producers. An example for unintended restriction could be the automobile market, standards concerning pollution or safety can be introduced, which are not met by foreign producers.

Subsidies: An alternative to restriction is to subsidise domestic producers. Examples for subsidies are credit programs, special tax incentives and direct subsidy payments.

Exchange Controls: This protectionism practice works by restricting access to foreign money required to buy goods from abroad. Governments can for example hold their exchange rate artificially low in order to protect their exporting and import competing industries. With this practice, foreign goods are expensive in the domestic market, while home good are cheap on foreign markets. Another aspect would be to restrict access to foreign assets.

(Coughlin et al. 1988: 4f)

Concerning exchange rates, Baldwin (1970:9f) mentions that "...general exchange-rate, monetary, and fiscal policies do not distort international trade provided resources are initially allocated efficiently and market imperfections are absent, but it is relevant to consider in negotiations on commercial policy whether they are in fact being used in a trade-distorting manner...." On the other hand, it is important to mention that selective monetary policies can cause trade distorting effects, as for example discriminatory exchange-rate policies. (Baldwin 1970: 12)

In this thesis exchange rate controls are not dealt with as it would exceed the research focus, but it is important to mention that countries do occasionally use their exchange rate policy to manipulate their economic performance.

The reason why this thesis does not look into exchange rates control is that the comparison is too complex due to historical reasons. As in Europe the Bretton Woods System was used until 1973, countries could not use exchange rates for protecting their economies, due to the fact that states were dependent on other states. China, on the other hand, does not/did not depend on other states concerning her currency thus China has no free floating currency¹² in order to support her economy.

What is more, the fact that exchange rate policies are used for stabilizing currencies shows that they are rarely used for protectionism.

The results of exchange rate policies are difficult to evaluate, especially if some states use freely floating exchange rates and others use managed floating exchange rates. Implications of exchange rates are very complex and there is no comparative basis for exchange rate policies of China and the EU, as well as the other APT states, hence this policy will not be considered in this thesis.

However, a more subtle way of protectionism - non-tariff barriers (NTBs) - became more and more used policies as tariffs and quotas were successfully lowered by the WTO and many other trading arrangements. (Trebilcock/Howse 2005: 202)

3.3 Non Tariff Barriers

Any restriction on free trade is a trade barrier. These barriers can either be tariff barriers, like custom duties, or NTBs. (Saqib/Taneja 2005: 2)

Baldwin (1970:5) defines a NTB as "any measure (public or private) that causes internationally traded goods and services, or resources devoted to the production of these

¹² For the classification of Exchange Rate Regimes and Monetary Policy Frameworks conduct the IMF webpage at: <https://www.imf.org/external/np/mfd/er/2008/eng/0408.htm>

goods and services, to be allocated in such a way as to reduce potential real world income. Potential real world income is that level attainable if resources and outputs are allocated in an economically efficient manner.”

Mansfield and Busch (1995:724) state that the GATT¹³ and the World Trade Organization (WTO) limited the usage of tariffs, therefore policymakers who are influenced by pressure groups changed to NTBs. The two authors claim that “...the recent proliferation of NTBs has done much to offset the gains in liberalization made during successive rounds of the GATT.”

Thus tariff reductions by the GATT have not reduced the level of protection, but have increased the use of NTBs. (Mansfield/Busch 1995: 748)

Also, Baldwin (1970: 1f) claims that the growing interest and use of NTBs is due to reduced tariffs in GATT rounds. With constant reduction, countries focus more on NTBs which did not exist when tariff rates were high.

Regional trade organizations are set up in controversy against the WTO principle of non-discrimination; however, Article XXIV of the GATT enables the establishment of custom unions or free trade areas under some conditions. These conditions are firstly that trade barriers are not allowed to raise against non-members. Secondly, trade restrictions within the regional trade organization are eliminated within a reasonable length of time. Thirdly, the WTO has to be informed about the formation of a regional trade organization. (Yeung et al. 1999: 25f)

Bhagwati (1988:156) on the other hand states that Article XXIV allows regional trade organization to use discriminatory policies, because “maintaining external tariffs unchanged is, in any event, not the same as eliminating trade diversion.”

Also NTBs can be use in a more discriminatory way than tariffs, so the strengthening of Article XXIV regarding tariffs will not eliminate the use of NTBs. (Yeung et al. 1999:32)

If a trade distorting measure is used in a situation where resources and outputs are efficiently distributed then world income will be reduced. On the other hand, if a distortion already exists, trade policies might raise welfare.

For the reason that there are plenty of distorting policies used in the world economy, it is impossible to claim which one raises or lowers world income, as every policy has effects on others. If trade policies affect all industries, then no misallocation of resources is caused, but if just some sectors are affected, a difference in marginal production costs and domestic prices between nations is caused. (Baldwin 1970: 6-9)

¹³ The GATT started to operate under the WTO in 1995, which introduced the principle of Most Favoured Nation (MFN) as a follow up of the GATT. The GATT as an agreement still exists and is administered by the Goods Council of the WTO. (Yeung et al. 1999: 25)

Basically, one could claim that the downward trend in trade restrictions was offset by the growth in NTBs. Those barriers are often called ‘administered protection’, because no legislative enactment is needed.

There are two different types of NTB’s. ‘High-track’ restraints, which are evident and politically agreed on and which get around GATT’s rule of law, like restraints on exports by trading partners, and ‘low-track’ restraints , which misdirect, like countervailing duties or anti-dumping provisions. The use of ‘high-track’ restraints has increased remarkable since the 1970s. (Bhagwati 1988: 43f)

Bhagwati (1988: 44f) says that “The definition of ‘hard-core’ NTBs that is used goes beyond voluntary export restrictions and other export-restraining arrangements to include import quotas, non-automatic licensing, and variable levies; for another, the measure of the presence of such NTBs reflects only the percentage of imports covered by such measures, not the protective effects of the measures.” For example if a VER or any other trade restriction eliminates imports, it will not be seen at indexes at all, in view of the fact that those suppressed imports will not show as imports reduced by trade restrictions.

VERs are usually used in industrialized countries and import quotas and non-automatic licensing¹⁴ in developing countries.

Non Tariff Barriers can broadly be categorized as:

- **“Import Policy Barriers**
- **Standards, Testing, Labelling and Certification Requirements**
- **Anti-dumping & Countervailing Measures**
- **Export Subsidies and Domestic Support**
- **Government procurement”** (Saqib/Taneja 2005: 2)

3.3.1 Import Policy Barriers

In addition to tariffs ‘para-tariff measures’ are used. These measures include custom surcharges, extra charges, domestic taxes and charges levied on imports and enacted customs valuation. In order to protect the domestic industry and raise fiscal revenue custom surcharges are used. Additional charges comprise for example registration fees on imported motor vehicles, customs formality tax and so on. The ASEAN Secretariat states that “Customs

¹⁴ The WTO defines “Automatic import licensing (licensing maintained to collect statistical and other factual information on imports) ... as import licensing where the approval of the application is granted in all cases (Article 2.1)” (WTO 2012a)

duties and other charges on selected airports can be levied on the basis of a decreed value of goods (the so called "valeur mercuriale" in French). This practice is presented as a means to avoid fraud or to protect domestic industry. The decreed value de facto transforms an ad valorem duty into a specific duty." (ASEAN 2009b)

Import restrictions on grounds of safety, security, health, animal health, plant life, natural treasures of artistic, historic or archaeological value and public morals can be imposed in compliance with GATT, Article XX.

However, article XI of the GATT "...requires Members not to impose any prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures." (Saqib/Taneja 2005: 3)

For sustaining domestic prices and to control price fluctuations, price control measures are used. This is done through 'administrative price fixing of import prices' whereby authorities by means of domestic prices establish floor and ceiling price limits for imported goods. These measures are usually called "...official prices, minimum import prices or basic import prices." (ASEAN 2009b)

Article XVII (B) of the GATT also allows import restriction on grounds of balancing the balance of payments. Apart from import licensing and quantitative restrictions, restrictive custom procedures can be seen as import restrictions. (Saqib/Taneja 2005: 3)

Fees and formalities concerning imports can constitute a barrier to international trade. Fees can be applied for documents, visas, inspections, approvals, and so on. The costs for these fees in some cases are high. Dam (1970:181) states that the motives for charging fees can either be raising revenue or protection, but he says that "... the protective effect may be greater." Documents which are required by customs official in some cases surpass normal necessities which also adds to the costs of the importer. Sometimes custom officials imposed severe penalties for missing documents or mistakes made on the documents, which discourages importers. (Dam 1970:181)

Other custom procedures "... include the rules and regulations for classifying and valuing commodities as a basis for levying import duties." (Baldwin 1970: 12)

There is no common system for customs valuation practices, and also some specific products have special valuation practices. (Baldwin 1970:133)

Especially the valuation procedures can delay and harass the final valuation of goods and therefore discourage importers. (Dam 1970: 187)

Variable charges are used to increase the market price of imported agricultural and food products. These prices are generally known as "... reference prices, threshold prices or trigger

prices”. Duties of primary products are usually charged per total weight, but processed foodstuff is charged in proportion to the primary products amount in the final foodstuff. This, especially in the case of the EU, leads to higher tariffs for processed foodstuffs than for primary products. Furthermore, monopolistic measures, which give exclusive import rights to one, or a restricted number of economic actors, are used because of social, fiscal or economic motivation. In some cases, some companies or state-owned enterprises are granted the exclusive right to import. (ASEAN 2009b)

3.3.2 Standards, Testing, Labelling and Certification Requirements

Another category which provides protectionism is government regulations which protect health and safety of their citizens. With technical regulations, products standards, testing and certification procedures, the so called Technical Barriers to Trade (TBT), the domestic industry can be protected from international competition. Even if policy makers do not aim to protect the home industry, complicated regulations and differences in standards can easily impede trade. The steady growth in health, safety, customer and environment protection leads to the conclusion that some regulations are used as protectionist measures. (Trebilcock/Howse 2005:202)

These regulations include for example safety regulations for cars and electrical appliances, health regulations concerning the production and packaging norms for imported food and pharmaceutical products and labelling requirements concerning origin and contents. Many of these regulations are justified, but some are intended to restrict imports. (Salvatore 2007:294)

Health and sanitary regulations can also be seen as one of the biggest administrative barriers (Dam 1970:192)

Technical measures like product quality, safety or dimension requirements, as well as the relevant “administrative procedures, terminology symbols, testing methods, packaging, marking and labelling requirements” requested by authorities can hinder trade significantly.

Technical regulations are used to “...protect human life or health or to protect animal life or health (sanitary regulation); to protect plant health (phytosanitary regulation); to protect the environment and to protect wildlife; to ensure human safety; to ensure national security; to prevent deceptive practices.” Nevertheless, in order to meet these technical regulations the applied “...administrative provisions for customs clearance, such as prior registration of the importer or obligation to present a certificate issued by relevant governmental services in the country of origin of the goods...” can considerably hamper trade. Especially compulsory testing of product samples, quarantine requirements for live animals and plants, pre-shipment

inspections prior to shipment from the exporting country, and special customs formalities, like more detailed product information than usually required, or the obligation to use a specific point of entry make imports complicated. (ASEAN 2009b)

On the one hand these regulations are essential for the import and export processes, but on the other hand, protectionist goals can be reached through these rules as well. The problem is that it is difficult for a company to prove that health and sanitary regulations are protectionist. Furthermore, foreign companies do not want to make difficulties public, because like that consumers could believe that the quality of the good does not come up to the countries standard. (Dam 1970:192f)

Certificates of origin are for official use by the government; however, marks of origin are intended to inform customers and can therefore lead customers to develop prejudices against foreign goods or goods from a specific country and thus decline the amount a country can export. The production costs of foreign companies are increased by standards, testing, labelling and certification regulations, and therefore lead to a disadvantage compared to local producers.

It is legitimate to provide consumers with information about the good they buy, but “by-local campaigns” for example, show that marks of origin can lead to disadvantages for foreign producers. (Dam 1970: 186)

Baldwin (1970:147) even states that “...country-of-origin marking[s] have effects very similar to buy American or buy British campaigns.”

Furthermore, safety requirements concerning electrical appliances, equipments, machinery and vehicles differ greatly from country to country. Not only requirements, but also the way of testing if requirements are fulfilled varies significantly. (Baldwin 1970:144)

This is another factor which hampers exports to a country.

3.3.3 Anti-Dumping and Countervailing Measures

Dumping is defined as “...the sale of a product abroad at a lower price than is charged domestically. If dumping causes or threatens to cause material injury to an established industry or retards materially the establishment of an industry in the affected country, that country may impose antidumping or countervailing duties to offset the difference between the export and domestic price”. (Baldwin 1970:139)

The GATT rules governing anti-dumping (AD) and countervailing duties (CVD) are found in Article VI and state that injury to domestic producers has to be proved. The GATT 1947 recognized that under certain circumstances, like subsidization or dumping, an exception can

be made to the MFN principle and bound tariffs. If export prices are so low that injury is caused to importing nations, the importing country can impose CVD or AD provisions to offset the consequences of the subsidy or dumping.

The Anti-Dumping Agreement and the Subsidies and Countervailing Measures Agreement were established during the Uruguay Round and are subject to the WTO Dispute Settlement Understanding. This Dispute Settlement Body oversees methods of settling trade disputes.

The EU has in addition to the WTO Anti-dumping Agreement the complying EU Anti-dumping Regulations¹⁵. In the case of the EU, EU authorities have to decide if an intervention serves the community's interests, including domestic industry, users and consumers. (Bentley/Silberston 2007:1-18)

CVD are, in addition to the WTO agreement also covered by Article VI of the GATT 1994. In case of the EU, the Anti-subsidy Rule¹⁶ applies, which is based on the 1994 WTO agreement. AD duties are designed to control unfair pricing manners by private exporters. CVD should restrain government practices, which make it possible that private exporters charge lower prices abroad than at the home market. Therefore CVD are aimed at subsidies offered by governments. (Dam 1970:167)

Even if dumping disadvantages foreign producers, foreign consumers benefit through lower prices. The price reduction can even offset income losses by foreign producers.

Another case is predatory dumping in which foreign producers try to eliminate home producers and then raise the price of the good again. This is also the case for sporadic dumping when temporary surpluses exist. As a result, local producers disappear and after the surpluses are sold, it is hard for local producers to re-establish their business. (Baldwin 1970:141)

In these cases trade restrictions in the form of AD measures or CVD are allowed and justified. Nevertheless, it is difficult to find out which type of dumping is used and the fact that domestic producers consistently demand protection from dumping makes it hard to decide if real dumping is taking place.

Industrial nations, particularly the EU, have a tendency to dump agricultural products, because of the heavy subsidies the farming industry receives. However, if dumping is proved, the nations or firms usually prefer to raise prices instead of dealing with AD duties. (Salvatore 2007: 295f)

¹⁵ For more information see: http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146035.pdf

¹⁶ For more information see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R2026:20040320:EN:PDF>

AD duties are usually imposed in the form of additional customs duties in order to protect the home producer of a specific product against dumping and the same applies to CVD which are also imposed as additional custom duties to protect home producers against unfair trade affects due to subsidies by another government. (Bentley/Silberston 2007:1)

CVD and AD provisions are also being used as protectionist measures and the use of CVD and AD actions has increased significantly. Furthermore, CVD and AD measures are being used as tactical devices to lead foreign government to agree on VERs. The problem here is that no penalties for improper use exist and that defendants usually use a lot. (Bhagwati 1988: 44-53)

Finger et al. (1982: 454) state that CVD and AD actions “[weigh] ... domestic producers' interests more heavily than domestic users...”

Sometimes dumping could be an attempt to adapt to local conditions, as there might be a price difference in production costs or local companies might receive government subsidies. Home prices might be higher because of trade restriction, and therefore the exporter can charge higher prices in the home market due to missing competition. (Dam 1970:168)

If this is the case, foreign exporters cannot compete on other countries markets because of their monopoly position in the home market. AD duties imposed by the importing country in such a case serve merely protectionist aims. Generally dumping by foreign companies could lead to more competition in the local market, which is beneficial for customers. Dam (1970: 170) says “The imposition of anti-dumping duties is [sic] such a situation tends to restore the original oligopoly conditions and to permit the few domestic seller to achieve a higher than competitive rate of return.”

3.3.4 Export Policies and Domestic Support

Subsidies can be aimed at specific industries, regional development programs and special economic activities. The first kind of subsidies is directed at industries with economic difficulties or economies important for national defence or development. Hereby the most important subsidised industries according to Baldwin (1970:113) are “agriculture, commercial fishing, shipping and shipbuilding, railroads, air transportation, coal, petroleum, steel, certain nonferrous metals, cotton, textiles, paper and pulp, motion picture, electronics and aircraft”. Especially agriculture gets special protection through import restrictions and export and production subsidies.

The second kind aims at attracting new industries and thereby fostering regional development. This kind of subsidies include “investment grants, loans at low interest rates, wage subsidies, general retraining and education programs, and increased investment in infrastructure”.

The third kind of subsidies aims at special economic activities, in this manner trying to help industries to adapt to structural adjustments or economic shocks. (Baldwin 1970:117-121)

Subsidies “... include special tax allowances and grants tied to the acquisition of new capital goods for selected or perhaps all industries; research grants; selective or general wage subsidies; aid to educational institutions; and retraining and technical assistance subsidies to ease the adjustment to greater import competition.” (Baldwin 1970: 121f)

Most commonly used are subsidies for agricultural commodities. Countries try to protect their farmers from changing world market prices. This can take place by the government directly giving subsidies to farmer or buying agricultural surpluses. Like this agricultural production is increased and domestic prices deviate from world market prices. This deviation from world market prices leads to a distortion in import and export patterns, because the produced surplus has to be disposed abroad in the form of export subsidies or export sales by the government.

Currency retention practices and multiple exchange rates can be considered as subsidies even though they come from the treasury and not from trade officials. Currency retention is the accumulation of foreign exchange profits and the afterwards selling in a free market. Under scarcity conditions selling these proceeds will achieve a higher price than under the official exchange rate. The proceeds can also be used for imports from other countries for which foreign exchange would not be available under normal exchange control regulations.

Accumulating scarce foreign exchange offers therefore export incentives by lowering export prices of the home exporters, while still achieving the same profit measure in home currency.

Multiple-exchange-rates on the other hand have the benefit of different official rates for different transactions and thus some sectors of the economy can be given a better exchange rate when importing goods.

Also export financing schemes can be considered as subsidies, as governments guarantee the necessary financing. In this case government credits, guarantees by the government for commercial bank loans, or payments by the government for some parts of private institutions interest rates can help exporters or foreign importers to obtain credits with lower interest rates. Subsidies can also be used for economic development, for example, to encourage new industries. This is being achieved through production subsidies or export subsidies. Another government payment which can be considered as subsidy is payments for inputs, like raw

material or transportation. Especially transportation subsidies are widely used. (Dam 1970:134-140)

An export subsidy is a direct payment to a domestic exporter. Also a low-interest loan to foreign buyers can be considered as export subsidy. (Salvatore 2007:297)

Export subsidies can increase employment in the home country and improve the balance of payments and trade¹⁷. (Baldwin 1970:47)

Subsidies lead to a raise of a country's exports or a decline of its imports. Foreign producers therefore have fewer sales for competing goods in the subsidizing country and in third country markets. (Baldwin 1970:112)

As a counteraction importing countries can impose CVD, but if exporting countries are competing for third markets, it might lead to a "competitive subsidization race". (Dam 1970:136)

Therefore, export subsidies might lead to more trade barriers when countries adopt CVD or competitive export subsidies in third markets. (Dam 1970:132)

Export subsidies are regulated by Article XVI of the GATT. In some cases, like industrial products, export subsidies are prohibited, but for primary products, like agricultural goods, they are allowed as long as "...the subsidy received does not displace the exports of another member and thereby provide the recipient with more than an equitable share of world export trade in that product". (Bagwell/Staiger 2002:163f)

Generally speaking under the GATT 1947 export subsidies for industrial products have been forbidden, just for agriculturally products there are four exceptions.

These four cases are:

"(i) Export subsidies subject to product-specific reduction commitments within the limits specified in the schedule of the WTO Member concerned;

(ii) any excess of budgetary outlays for export subsidies or subsidized export volume over the limits specified in the schedule which is covered by the 'downstream flexibility' provision of Article 9.2(b) of the Agreement on Agriculture;

(iii) export subsidies consistent with the special and differential treatment provision for developing country Members (Article 9.4 of the Agreement); and

(iv) export subsidies other than those subject to reduction commitments provided that they are in conformity with the anti-circumvention disciplines of Article 10 of the Agreement on Agriculture. In all other cases, the use of export subsidies for agricultural products is prohibited (Articles 3.3, 8 and 10 of the Agreement)." (WTO 2012b)

¹⁷ On this subject, Meade (1954:309-316) has extensively shown in his book how a country in deficit can improve its balance of trade and payments by the imposition or removal of export subsidies or taxes.

A big problem is posed by the CAP used by the EU. This policy is designed to maintain the farmers' income and provides high support to farmers. Like this agricultural surpluses are caused and these surpluses are exported as subsidised goods. Other problems concerning export subsidies are caused by the EU and its support to the aircraft (Airbus) industry and Japans' Ministry of International Trade and Industry (MITI) and its support to the computer and high-tech industries. (Salvatore 2007:298)

On the one hand export subsidies can be considered as a positive feature, as they expand the volume of trade and increase consumer welfare. But export subsidies also create unfair advantage for exporters and distort market forces. (Bagwell/Staiger 2002:163)

Thus export policies, such as export restrictions, prohibitions, licences, quotas, taxes and less-than-full VAT rebates and so on can be seen as protectionist policies.

The WTO states that "...export restraints tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to downward pressure on the domestic prices of these products, and thus may implicitly assist domestic downstream processing of the products concerned". (WTO 2010:ix)

Export restrictions redirect supplies to the domestic market and therefore reduce the prices through fewer exports. The WTO states that "...The resulting gap between domestic prices and world prices constitutes implicit assistance to domestic downstream processors of the targeted products and thus provides them a competitive advantage". Also terms of trade might shift into the countries favour if it uses export restrictions. (WTO 2010:44)

It is important to note that world welfare is higher if countries compete in subsidization, because consumer gains offset the loss for exporting countries. Hereby the Strategic Trade Theory explains why export subsidies are appealing, but also why exporting countries try to reach reductions in subsidies via agreements.

Exporting governments try to seek an agreement to control export subsidies in order to avoid a subsidy war. From this point of view the GATT restrictions on export subsidies constitute a victory for exporting governments. (Bagwell/Staiger 2002:179)

Bagwell and Staiger (2002:179) state that "...there is a fundamental difference between an agreement to reduce import tariffs and an agreement to reduce export subsidies. A tariff-liberalization agreement expands the volume of trade whereas a subsidy-reduction agreement restricts the volume of trade."

Also, Baldwin (1970:54) says that export subsidization makes foreign buyers recipients of aid, as they can buy products at a lower price than they would without subsidization from abroad. The importance of aid-giving could be highlighted through long-term export credits granted

by governments to less developed countries, which have similarities to some kind of bilateral aid programs founded by developed countries.

If the currency of a country is overvalued, there is a need for export subsidies, as otherwise the distortion cannot be solved. Overvalued currency makes it impossible to export without subsidies. Therefore, export subsidies are more common within developing countries or within countries with blocked currencies. (Dam 1970:133)

3.3.5 Government Procurement

Governments worldwide purchase goods and services to be able to execute government duties like education, defence, utilities, infrastructure, public health and so on, thus public procurement markets embody large shares of national income. (Evenett/Hoekman 2006:xii)

Article III:8 of the GATT 1947 says that Article III:4 concerning national treatment for imported products is not relevant in the case of products purchased for governmental purposes. Only if goods are bought for commercial resale then the national treatment clause is applicable. (GATT 1986:7)

The Government Procurement Agreement (GAP), which enhances non-discrimination, national treatment and transparency of purchases made by governments is currently accepted by 41 WTO members. (WTO 2012c)

Discrimination in government procurement can be seen as a high import barrier. (Arrowsmith 2002:761)

In some cases certain domestic companies, regions or industries are favoured by governments, however, this reduces economic efficiency. (Evenett/Hoekman 2006:xv)

Discriminatory government procurement policies always discriminate against foreign suppliers. (Baldwin 1970:12)

Dam (1970:199) states that "... discrimination against foreign products by government purchasing officials constitutes one of the most important barriers to world trade from a purely quantitative point of view".

Trebilcock and Howse (2005:292) affirm that "Government procurement policies pose a problem closely related to that of potentially trade-distorting subsidies." In many countries the government is the largest purchaser and thus governments can use their purchasing powers to support political, social and economic policies.

According to the authors "The three most common areas for domestic preference in government procurement are: (1) to protect employment in declining industries; (2) to protect

the supply of 'strategic' defence goods; and (3) to support emerging domestic high-tech industries". (Trebilcock/Howse 2005:292)

The motives for protection concerning government purchases are mainly balance of payments, national security and protection of home industries. Countries with payment imbalances use restrictions on foreign procurement to balance payments. (Dam 1970:200)

One reason for discrimination in procurement is also to promote businesses owned by minorities, small and medium enterprises (SMEs) or companies located in special regions. (Evenett/Hoeckman 2005:166)

National security reasons for restrictions are justifiable, but one has to be careful that the argument is not used for purchasing civilian goods which are not designed for the military. (Dam 1970:201)

Dam (1970:202) says that "... as large as military expenditures are and as important as balance-of-payments constraints on expenditures may be, a major motive for procurement restrictions is protection".

Usually, governments have official domestic preference policies or tactics to overcome free competition. These policies and tactics include: price discrepancy against foreign proposals, discounts for domestic manufacturers, discriminatory starting policies (for example only domestic producers are allowed to participate), foreign suppliers are required to buy local materials in the case they obtain the contract, time and methods of noticing about bidding are manipulated, discriminatory bidding procedures and requiring specific standards which can only be met by domestic suppliers. (Trebilcock/Howse 2005:293)

The way how governments purchase is very complex and therefore favouring some suppliers can easily be hidden. Sometimes governments straight forward ban foreign bids for contracts. If this is not the case governments can impose restrictions against foreign bidders during the procurement process. At the tendering stage governments notify suppliers which goods they want to purchase. Hereby the tendering procedure can be open, selective or limited. In an open procedure every supplier can bid, in selective procedures only qualified companies can bid and in limited procedures only individual suppliers are contacted and can bid.

Limited tendering cannot always be considered as a protectionist measure because in cases of national emergencies limited tendering provides quicker procedures. The disadvantage of limited tendering is that there is no competition, which leads to higher prices and new foreign and domestic suppliers have no chance to bid.

Governments often require that companies from which they procure goods have special health and safety standards for workers. This can be discriminatory, as standards differ across

countries and foreign supplier's costs often rise to meet these standards, which makes foreign suppliers not competitive anymore. Even if foreign companies meet the required standards, the verification procedures are often costly and complex, discouraging foreign suppliers to bid. Therefore tendering procedures can be discriminative through raising the price of foreign suppliers or reducing the number of bidders.

The evaluation stage can be discriminatory for the fact that usually there are slight differences in the offered goods and through subjective judgments by government officials concerning the quality of the good, the reliability of the supplier and so on, discrimination can be exercised. One obvious form of discrimination is price preference in order to increase the price of foreign offers, which leads to disadvantages for foreign firms.

Concerning the procurement of services the following problems arise. In some cases, services can only be delivered when the supplier is present. For achieving presence foreign companies can form joint ventures or set up subsidiaries but this can be restricted by government policies towards foreign FDI, joint ventures and so on.

For providing services, sometimes the movement of people is required, but this can be restricted by rules governing work visas and permits. (Evenett/Hoekman 2006:xvi-xviii)

Generally speaking in the Organization of Economic Co-operation and Development (OECD) countries an amount equivalent to 7.57% of gross domestic product (GDP) is used for government procurement. The OECD reports that 5.10% of the national incomes is spent by non-OECD countries for government procurement. The world value for contestable government procurement is 7.1% of the world GDP. (Audet 2002:151)

Concerning government procurement in developing countries one can apply the New Trade Theory and its emphasize on internal increasing returns to scale and monopolistic competition (IRS-MC). The government has the chance to enlarge the size of domestic production of IRS-MC commodities through home biased government procurement as this raises the demand and therefore also the size of output. (Trionfetti 2000:66)

Trionfetti (2000:71) claims that "... a small developing country is typically in the situation where home biased government demand is likely to be large in some sectors and, therefore, it is likely to increase domestic output. This effect creates considerable scope for political interplay between the government and domestic producers". Governments in developing countries can thus see home biased procurement as a device to increase the demand size and thus also the market size.

The question of economic efficiency can be asked when governments discriminate in their procurement practices. Profits for domestic firms given through home biased procurement are offset by higher prices the government has to pay to home suppliers.

This is why "... procurement favouritism is likely to be more costly than a policy of non-discrimination". (Evenett/Hoekman 2005:167)

3.4 Arguments for Restricting Trade

Dixit and Norman (1980:165) state that departure from free trade can be explained by the following reasons: world market prices can be affected through trade taxes and thus better terms of trade can be achieved, domestic income distribution can be influenced, targets for trade production and consumption in the home market can be accomplished and distortions because of market failure can be corrected. Other reasons are national security and protection of infant industries, which, once established, can lead to spill-over effects of knowledge to other national industries.

By means of **arguments for restricting trade** the applied protectionist measures by the two trading blocs will be analysed. These arguments are as stated below:

- 1. National defence**
- 2. Income redistribution**
- 3. Optimum tariff**
- 4. Balancing the balance of trade**
- 5. Protection of jobs**
- 6. Infant industries**
- 7. Spillover effects**

3.4.1 National Defence

This argument is centred on the production of crucial products in a national emergency. The most important factor in this case is food. Famines can appear and in case of shortages foreign imports might not be available as foreign governments impose export restriction to ensure their own supply.

The GATT allows such an export restriction, therefore self-sufficiency is often mentioned as an argument for protection of the agricultural sector, even though free trade theories state that

according to comparative advantage other countries could produce some goods more efficiently.

One reason is also the argument that in case of war a country has to supply itself, because other countries from which it imports could become its enemies.

Also price fluctuation for agricultural goods due to weather or other environmental factors are an argument for protection as otherwise farmers' income would be unpredictable but their expenses for land, machinery and other commodities is fixed. This could lead to a situation in which farmers are put out of business.

Another argument is the preservation of nature and the country side. If land was not used for agricultural purposes industry would destroy typical rural communities and the nature.

Especially in Europe governments argue that the countryside is a natural and cultural treasure which has to be protected.

The problem is that the mentioned arguments are used for protective measures which lead to overproduction and trade distortions and do not serve the original mentioned arguments. It would be better to regulate price instability through, for example, income insurances for farmers and regional development plans would be better for conserving rural living styles than protection. (Trebilcock/Howse 2005:327f)

3.4.2 Income Redistribution

The income redistribution argument is based on favouring disadvantaged groups within the country and is closely related to the argument of job protection.

Industries can decline because of rising imports, but also because of internal factors. Workers from these industries therefore have less income and governments can give protection and adjustment help to declining industries in order to redistribute income. At this juncture, it is important to distinguish between industries hurt by foreign competition and declining industries.

When an industry is declining, workers from that industry have a lower income than other taxpayers; therefore, output subsidization raises the income of workers.

Industries hurt by foreign competition on the other hand can be fostered through protection.

The ability of redistribution income is limited. Social welfare can be maximized by output and labour movement subsidization, but desirable taxation rules and production policy are changed by income redistribution. Especially high marginal tax rates limit income redistribution. (Diamond 1982:123-136)

However, protection can reduce domestic unemployment through substituting imports with domestic products, thus jobs are created or maintained.

Such policies, on the other hand, create more unemployment in other countries. This is why “Domestic unemployment and deficits in the nation’s balance of payments should be corrected with appropriate monetary, fiscal, and trade policies rather than with trade restrictions”. (Salvatore 2007:303)

Taxes on foreign goods are at the same time a subsidy to domestic producers of import competing goods. Also VERs can be considered as income redistribution policies. Hereby limits are set on import quantities and limited supply to the market increases domestic prices, which transfers foreign income to domestic import-competing industries.

The problem with most income redistribution policies is that indirectly income is also redistributed from domestic consumers to producers because of higher domestic prices. (Hillman 2004:135f)

3.4.3 Optimum Tariff

An optimum tariff is known as a beggar-thy neighbour policy, because terms of trade of a nation are improved at the costs of others. Also foreign retaliation tariffs can offset all the gains from optimum tariffs. (Hillman 2004:130)

However, Hillman (2001:2) states that “... the tariff-initiating economy may possibly gain notwithstanding retaliation”.

Generally one can claim that the imposition of a tariff always lowers welfare in other countries and it is also not for sure that the country imposing the tariff will gain as improved terms of trade can be offset by the allocation distortion of resources. The conclusion that tariffs always raise the domestic price of the imported good is not always true. As tariffs improve the terms of trade, international prices of protected goods should decrease. In this connection it depends if the improvement in the terms of trade can offset the rise of prices or not. (Dixit/Norman 1980:25)

Dixit and Norman furthermore (1980:25) state that “...the effect of tariffs on domestic prices, and thus the effect of tariffs on the domestic distribution of income, cannot be predicted a priori”.

The outcome of an optimum tariff also depends on the size of a country. A small country cannot affect world prices at all, only countries whose “net purchases have an impact on world prices” can alter prices through the imposition of tariffs. (Dixit/Norman 1980:150)

However, trade taxes should only be used to improve the terms of trade and for imperfect situation if trade is the reason for the distortion, but not for income redistribution aims. (Dixit/Norman 1980:166f)

3.4.4 Balancing the Balance of Trade

This argument centres on the mercantilist view that “larger trade surpluses are beneficial from a national perspective”. (Coughlin et al. 1988:8)

Departure from free trade increases welfare of a nation through improving the terms of trade. If a nation has monopsony power¹⁸ in the world market over an imported good, terms of trade of a nation improve if the domestic demand of a country decreases through tariffs or other protectionist measures. Therefore, world demand is lowered by this country and also the price of the imported good on the world market. On the other hand, the amount of trade declines and there will be domestic inefficiency because of a tariff, but an optimum tariff here can balance the losses against the improvements in terms of trade. (Hillman 2004:130)

3.4.5 Protection of Jobs

This argument is closely related to the argument of income redistribution as it also centres on disadvantaged groups.

For this reason, the argument of income redistribution and protection of jobs is analysed in one section together when comparing the implemented policies later on.

Protection can reduce domestic unemployment by subsidizing declining industries, giving adjustment help, or protecting import-competing industries. (Salvatore 2007:303)

Nevertheless, maintaining an industry which is not competitive against foreign imports can cost more than it would benefit the economy.

3.4.6 Infant Industries

Already John Stuart Mill (1996:918f) said:

“The only case in which, on mere principles of political economy, protecting duties can be defensible, is when they are imposed temporarily (especially in a young and rising nation) in hopes of naturalizing a foreign industry, in itself perfectly suitable to the circumstances of the country. The superiority of one country over another in a branch of production, often arises only from having begun sooner. There may be no inherent advantage on one part, or disadvantage

¹⁸ Monopsony power is an example for imperfect competition in which many sellers have only one buyer.

on the other, but only a present superiority of acquired skill and experience. A country which has this skill and experience yet to acquire, may in other respects be better adapted to the production than those which were earlier in the field: and besides, it is just a remark of Mr. Rae, that nothing has a greater tendency to promote improvements in any branch of production, than its trial under a new set of conditions. But it cannot be expected that individuals should, at their own risk, or rather to their certain loss, introduce a new manufacture, and bear the burden of carrying it on until the producers have been educated up to the level of those with whom the processes are traditional. A protecting duty, continued for a reasonable time, might sometimes be the least inconvenient mode in which the nation can tax itself for the support of such an experiment. But it is essential that the protection should be confined to cases in which there is good ground of assurance that the industry which it fosters will after a time be able to dispense with it; nor should the domestic producers ever be allowed to expect that it will be continued to them beyond the time necessary for a fair trial of what they are capable of accomplishing.”

The infant industry argument states that a country may have a potential comparative advantage, but because of missing know-how, this industry has not developed yet, or has only a small output. Hereby temporary trade protection can help such infant industries to be established and with the help of protection these industries can meet foreign competition. Customers, on the other hand, pay higher prices during the time of protection, so the profit of the protected industry must offset that.

One has to mention that this argument for protection is more valid for developing countries, and that it is difficult to choose which industry is eligible for protection. Production subsidies could be used instead of trade protection, which would create fewer distortions. (Salvatore 2007:303)

It is also important to note that the infant industry argument is an argument for temporary protection. (Corden 1997:140)

The infant-industry argument is accepted as a reason for protection by GATT Article XVII. (WTO 2012d)

Usually the infant industry argument is related to import-competing industries, but it can also concern export industries and other industries. Learning can take place in all industries, but mostly in industries which are new for the country. Typically, this argument is linked to

manufacturing, because developing countries try to shift the focus from agriculture to manufacturing. (Corden 1997: 153f)

It is known that protection is not the appropriate policy to internalize leaning externalities, which is connected with the infant-industry argument. (Hillman 2001:2)

Therefore, one can say that infant industries would be better served with promotion than with protection, which discriminates against foreign trade.

The problem of subsidies is that they require revenue, which might be hard for governments to provide. Import tariffs, on the other hand, create exactly these revenues. (Salvatore 2007:304)

3.4.7 Spillover Effects

This argument centres on protected industries which spillover benefits to other home industries. Knowledge can spread from company to company, only if firms patent or market their knowledge, there is no external effect. However, there is always an unavoidable diffusion of innovations¹⁹. Thus there is a case for protection, because the more knowledge there is to diffuse, the more external economies there will be. Therefore protection can foster industries in an investigational phase in which systems are varying or knowledge is progressing. Knowledge creating companies can be favoured by the government by giving subsidies to knowledge creation, like research or training. (Corden 1997:149)

The arguments for protection of the home market and the means of protection are now used for analyzing the different protectionist policies of the two trade blocs.

First of all, the different protectionist policies of the two regional trade agreements are presented.

4 Protectionist Policies of the EU States

4.1 Overview

Most of the total trade of the EU (nearly two thirds) was carried out within its borders in 2009. (WTO 2011a: 7)

During the Trade Policy Review of the WTO, which is used in this paper to identify the protectionist measures, the EU was in an economic recession. This caused increased

¹⁹ For more information concerning the Diffusion of Innovations Theory see Rogers, Everett M. (2003), Diffusion of Innovations. New York, NY: Free Press

protectionist demands, but the EU remained in general apparent concerning its trade and investment organization. Nevertheless, market access barriers and other trade distorting measures continued to be executed. (WTO 2011a: vii)

After the beginning of the financial crisis, member states intervened on a large scale to steady their economies. The European Central Bank (ECB) and other central banks in the EU fostered monetary policies and in addition to that, governments provided fiscal aid. Most of the member states approved support for the financial sector. In 16 states "... support ranged between 5% and 35% of GDP, whereas in Ireland it reached roughly 170% of GDP...". (European Commission 2011: 15)

As support was subject to EU state aid rules, it minimized the possibility for trans-border market distortions. (WTO 2011a: 3)

As this paper concentrates on general protectionist policies adopted by the two trading blocs, it will not put a focus on measures taken during the financial crisis.

4.1.1 Trade Policy

Concerning external trade policy only the EU, not a single member country, is able to adopt legally binding agreements. Hereby the Lisbon Treaty²⁰, Article 207(1) of the Treaty on the Functioning of the European Union (TFEU) established the EU's competence over the common commercial policy. The EU's external trade policy comprehends trade of merchandise and services, intellectual property rights and FDI. Previously external trade legislation was adopted by the Council, through the imposition of Article 207(2) TFEU the European Parliament is now involved as well. (EUR-Lex 2010:140)

In March 2011 trade policy also became subject to comitology²¹ procedures through the regulation of COM(2011) 82 final. (European Commission 2011b)

Trade policies which are now under comitology rules are the Generalised System of Preferences (GSP) and the Economic Partnership Agreement Market Access Regulation. (WTO 2011a: 16)

The GSP grants lower tariffs for around 180 developing countries and special benefits for the 48 least developed countries. (European Commission 2004:2)

²⁰ The Treaty of Lisbon can be consulted at: http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=FXAC07306

²¹ Comitology stands for "... the way the Commission exercises the implementing powers conferred on it by the EU legislator, with the assistance of committees of representatives from the EU Member States." (European Commission 2012b)

“The EU’s GSP consists of three arrangements: standard GSP, which offers tariff preferences to entitled developing countries, GSP+, which grants additional tariff reductions to ‘vulnerable’ countries that implement international standards in the fields of human rights, core labour standards, sustainable development, and good governance; and Everything But Arms [EBA] which grants duty- and quota-free access for products from least developed countries [LDCs]”. (WTO 2011a:21f)

Generally the importance of the GSP for EU imports is not very high. The WTO states, for example that in 2008 86% of imports entered under MFN, and just 5% under GSP, GSP+ and EBA. Nevertheless, GSP is important for sectors like footwear, animal and vegetable fats, live animals and rawhides. (WTO 2011a:21f)

The EBA also removed tariff quotas on rice and sugar imports in 2009, however until September 2012 importers of EBA sugar were only allowed to purchase at a price not lower than 90% of the EU reference price. (WTO 2011a:21)

In spite of continued growth of preferential trade agreements, around “85% of total EU import entered under the MFN regime in 2008 (latest year for which data is available), highlighting the fundamental importance of the multilateral trading system for EU trade”. (WTO 2011a: vii)

Table 1: Overview European Union 2011

European Union 2011		
	Simple average Bound Tariff	Simple average MFN Rate
Total	5.2%	5.3%
Agricultural Products	13.8%	13.9%
Non-agricultural Products	3.9%	4%

Tariff Binding Coverage	
Total	100%
Non-agricultural Products	100%

Anti-dumping measures imposed by the EU in 2011	125
Countervailing Duties imposed by the EU	11
Safeguard Measures in Force	None since 2005

Source: WTO 2012j:76, own adaptation

4.2 Import Policy Barriers

Regulatory practices of the EU are especially burdensome. High regulatory standards for food and product safety, as well as technical regulations and conformity assessment procedures limit access to the EU market for foreign suppliers. (WTO 2011a:ix)

On the other hand, the EU is fostering trade facilitation measures like the implementation of single window services and the adoption of a customs registration number, which can be used within the whole EU. These measures facilitate physical security checking at national borders. (WTO 2011a:viii)

The EU has complete authority over customs; all procedures are harmonized at EU level. National laws concerning customs are there for supporting the implementation of EU custom laws. The most important legislation concerning customs is the EU Customs Code²² and its Implementing Provisions²³. (WTO 2011a:28)

On the other hand the USTR (2012b:165) states that “Notwithstanding the existence of customs laws that govern all EU Member States, the EU does not administer its laws through a single customs administration. Rather, there is a separate agency responsible for the administration of EU customs law in each of the EU’s 27 Member States.” No EU institution exists which ensures that classification or valuation rules, customs procedures, or rules of origin are applied uniformly throughout the EU. Additionally, customs agencies do not have to follow the decisions of other member states concerning materially identical issues. For disputes the Customs Code Committee is responsible about which the USTR (2012b:165) writes that “While, in theory, the Committee exists to help reconcile differences among Member State practices and thereby help to achieve uniformity of administration, in practice its success in this regard has been limited. Not only are the Committee and other EU-level institutions ineffective tools for achieving the uniform administration and application of EU customs law, but the EU also lacks tribunals or procedures for the prompt review and EU-wide correction of administrative actions relating to customs matters.” Traders have to appeal in every member state separately if customs agencies have made different dispute resolutions. Disputes can be brought to the European Court of Justice, but the USTR states that decisions can take years.

²² The Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992R2913:20070101:EN:PDF>

²³ The Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20010701:EN:PDF>

Economic actors involved in customs transactions have to possess an Economic Operator Registration and Identification (EORI) number, which is given to them by member state authorities. These numbers are valid throughout the whole EU. (WTO 2011a:29)

The WTO (2011a:viii) states that due to security considerations the EU introduced new regulations for customs procedures.

From 2011 on advance cargo information requirements were implemented within the EU. The Safety and Security Amendment to the Customs Code²⁴ requires security data to be sent to the EU before the arrival of the goods. This means that traders must file an electronic Entry Summary Declaration (ENS) with the "customs office of first entry" into the EU. On the other hand, this single window service should simplify custom procedures and should enhance "... 'seamless flow of data' between economic operators, customs authorities and other agencies, and the European Commission". (WTO 2011a:29f)

Economic actors can also be granted authorized economic operator ²⁵ status by an EU member state, which is recognized by all other member states. This status has various benefits, for example fewer controls and faster processing. (WTO 2011a:30)

The EU's source of custom valuation is the WTO Customs Valuation Agreement. The Community Customs Code and its Implementing Provisions integrate the WTO Agreements into national customs legislation of the EU member states.

The transaction value is the primary source for calculating customs value in the EU. Article 29 of the Council Regulation (EEC) No 2913/92 of 12 October 1992 says: "The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted, where necessary, in accordance with Articles 32 and 33..." (WTO 2011a:31)

"The EU applies non-preferential and preferential rules of origin." Non-preferential origin determines products to undergo trade policy measures or tariff quotas. Preferential origin applies to goods traded between certain countries, which have reduced or no custom duties.

The legal basis for these rules is Article 22-26 of the Customs Code and Articles 35-65 of the Implementing Regulations.

If a good was produced in more than one country 'substantial transformation' is applied. The good "... shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that

²⁴ The Safety and Security Amendment to the Customs Code can be consulted at: http://ec.europa.eu/ecip/security_amendment/index_en.htm

²⁵ For more information see: http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/aao/index_en.htm

purpose and resulting in the manufacture of a new product or representing an important stage of manufacture”.²⁶

New rules concerning origin from GSP countries²⁷ were introduced in January 2011. Like this developing countries should have easier access to the EU market. (WTO 2011a:32f)

In 2011, the EU’s simple average applied MFN tariff rate was 6.4%; for agricultural goods 15.2%; and the average MFN rate for non-agricultural goods was 4.1%. Nevertheless, the WTO states that “...the structure of the EU's MFN tariff remains complex, and around 9% of tariff lines have peak rates of more than 15%.” (WTO 2011a: viii)

MFN rates are granted to WTO and non-WTO Members by the EU.

The European Parliament and the Council set common custom tariff duties. The EU has an online database²⁸ which shows all tariff rates and other trade policy measures like quantitative restrictions and so on.

The analysis of the WTO is based on tariffs from 2011 and it states that, apart from *ad valorem* duties, most of the time the EU also applies non-*ad valorem* duties on agricultural goods. In addition to that the EU also has seasonal duties and uses an entry price system²⁹ for the fruit and vegetable sector, for which duties are reduced, if the price of the good reaches a certain level. Entry prices apply for example to “tomatoes, cucumbers, courgettes, citrus fruits, grapes, apricots, and plums”. (WTO 2011a:34)

The Meursing Table according to which the EU “...charges a tariff on each imported product based on the product’s content of milk protein, milk fat, starch, and sugar ...” is mentioned as especially burdensome (USTR 2012b:147)

The usage of the Meursing Table results in different duty rates than the usual tariff classifications. Calculating Meursing duties for processed food products poses an avoidable administrative burden.

Within the EU, especially dairy products have very high average tariff rates, as well as tobacco, live animals and grains. (WTO 2011a:34)

The WTO (2011a:35) states that “Around one-quarter of all tariff lines are duty free; and approximately 9% of lines are ‘nuisance’ rates. ... All rates above 100% are AVEs [*Ad*

²⁶ Article 24, Council Regulation (EEC) No. 2913/92, 12 October 1992.

²⁷ For more information see:
http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm

²⁸ The database can be conducted at:
http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en

²⁹ For more information on the Entry Price System see:
http://ec.europa.eu/agriculture/eval/reports/fruitveg/part1_fulltext.pdf

Valorem Equivalents³⁰] relating to agricultural goods; these apply on prepared or preserved mushrooms (200.6% and 153.7%), concentrated or sweetened milk and cream (164.8%), whey (139%), olive oil (159.3%), certain meats and edible meat offal (157.8% and 122.9%), and isoglucose (120.6%). The highest rates for non-agricultural products apply on motor vehicles (22%) and on fish (22-26%).” The EU uses around 11% non-*ad valorem* tariff lines which offer more protection. The biggest product group, apart from agricultural goods, to which non-*ad valorem* duties apply, are watches and watch accessories.

The EU has bound all its tariff lines, hereby the average bound tariff rate is 6.4%.

Other charges which are applied by the EU are value added taxes (VAT), which have to be paid at the time of customs clearance. VAT, as well as excise duty rates differ greatly between members. Alcohol, processed tobacco and energy products underlie excise duties in all member states. All other taxes which are applied by EU member states can be found in a public database³¹.

Generally the EU does not have quantitative import restrictions for WTO members, however for steel products from Russia and Kazakhstan and textiles from Belarus and from the Democratic People’s Republic of Korea import quotas are used.

Furthermore, import inspection is applied for certain steel products, but the EU states, that the surveillance scheme is not supposed to limit market access³². (WTO 2011a:36-43)

Certain agricultural products may also require import licensing. Article 130 of COUNCIL REGULATION (EC) No 1234/2007 of 22 October 2007³³ defines the products. For the following products import licenses may be required: “cereals, rice, sugar, olive oil and table olives, flax and hemp, milk and milk products, beef and veal, fruit and vegetables, and processed fruits and vegetables”.

Import licences can be obtained by traders from member states authorities. The EU states that quantitative restrictions are used for implementing sanctions imposed by UN resolutions, as well as to accomplish non-economic objectives of the EU. For example, timber producing countries which have “entered into a Forest Law Enforcement Governance and Trade ‘Voluntary Partnership Agreement’ with the EU are subject to licensing”. (WTO 2011a:44)

The USTR (2012b:144) states that market access for pharmaceutical products is limited, especially through “...nontransparency and a lack of meaningful stakeholder input into

³⁰ Average unit values are used by the Secretariat to estimate ad-valorem equivalents of non ad-valorem tariff rates. (WTO 2011a:34)

³¹ The database can be found here: http://ec.europa.eu/taxation_customs/tedb/taxSearch.html

³² For more information see: http://www.wtocommerce.org/tw/SmartKMS/do/www/readDoc?document_id=110297

³³ Article 130 of COUNCIL REGULATION (EC) No 1234/2007 of 22 October 2007 can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2007R1234:20100501:EN:PDF>

policies related to pricing and reimbursement”. According to the USTR transparency concerning the usage of government cost-containing measures regarding pharmaceutical products in Belgium is missing. In Belgium a three percent turnover tax on the sale of pharmaceutical products is charged and companies have to pay a ‘claw-back’ tax if government spending on medicine surpasses the budget. In Czech Republic, the current pricing and reimbursement system is criticized as it limits access for foreign producers. In Finland only drugs which are registered at the Pricing Board are being reimbursed to patients. In France a new industry tax in order to continue regular medical information for doctors was introduced, furthermore industry sales representatives are banned to visit individual doctors for a period of two years.

In Hungary the “... volume and pricing restrictions, high sector-specific taxes, and delays in reimbursement approvals” are criticized. In Poland, as well as in Spain reimbursement agreements and pricing policies are not transparent enough and Portugal lacks transparency concerning government cost-containment measures. (USTR 2012b:145)

The USTR also states that import restriction for enriched uranium limits the market access of non-EU suppliers. “The EU’s Euratom Supply Agency continues to pursue a policy that appears to favor two European enrichers.” (USTR 2012b:147)

4.3 Standards, Testing, Labelling and Certification Requirements

Especially regulatory practices like technical regulations and conformity assessment procedures create avoidable trade barriers within the EU. The EU itself recognized that the number of requirements has increased, but it states that “... its regulations pursue legitimate objectives, are subject to a thorough impact assessment, are developed according to a transparent process allowing ample opportunity for interested parties from other WTO Members to participate and make their views known, and are largely based on relevant international standards”. Technical regulations and conformity assessment procedures can be implemented by member states or on EU levels, products which are not part of Harmonised Standards of the EU³⁴ underlie national regulations. (WTO 2011a:45)

Especially “household appliances, electric and electronic equipment, machinery, motor vehicles and parts, fuels, construction materials, measuring devices, textile and apparel, chemicals, fertilizers, food, water, wine, vitamins and minerals, cosmetics, seal products, and genetically modified plants” are subject to regulations. During October 2008 and January

³⁴ A list of products can be found here: <http://ec.europa.eu/enterprise/intsub/a12/index.cfm?fuseaction=a12.menuproducts>

2011 146 technical regulations and conformity assessment actions were reported to the WTO. Member states notified around 140 technical regulations and conformity assessment procedures, hereby France had a share of 21%, Czech Republic and Slovenia each 14%, Finland 10%, Denmark, Italy and Sweden each 8%, and the rest of the notifications were made by Estonia, Germany, Hungary, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Spain and the United Kingdom. “Notifications covered, inter alia, construction materials, fire safety equipment, measuring devices, machine tools, dairy and other agricultural products, food additives and supplements, alcohol and alcoholic beverages, veterinary medicines, fertilizers, motor vehicles, arms and ammunition, and tobacco and tobacco products.” (WTO 2011a:46)

Generally goods which are accepted by one country for their standards can also be marketed in the market of other member states, even if their regulations differ. The only exception is defined in Article 36 of TFEU, as “[Other provisions]... shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.” Nevertheless, even the European Parliament and the Council recognize that there are still problems implementing the common recognition of product standards from third countries. (WTO 2011a:54)

Furthermore, Sanitary and Phytosanitary (SPS) measures can be filed on EU level or by single member states. During the period under review (2008 to 2011) the EU reported 56 standard and 3 emergency SPS measures.

The main law concerning SPS can be found in the General Food Law³⁵.

Apart from countries which have a SPS agreement with the EU³⁶, the import of live animals and animal products, unless the country got a prior approval, is forbidden. The imported food must fulfil the standards of the EU food law and animal health law.

A country that wishes to export live animals or animal products to the EU has to submit a request to the Commission, which then conducts an audit through the Food and Veterinary Office. If the audit is approved, the Commission hands a draft to the Standing Committee on

³⁵ The General Food Law can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:EN:PDF>

³⁶ These countries are: Andorra, Canada, Chile, EFTA, Faroe Islands, Liechtenstein, Mexico, New Zealand, San Marino, Switzerland and the United States (US).

the Food Chain and Animal Health, which then agrees or disagrees concerning the importation. Another requirement is that the applicant is member of one of the 178 World Organisation for Animal Health (Office International des Epizooties - OIE) members in order to provide systems for "... detection, reporting and confirmation of OIE listed diseases...". (WTO 2011a:55-58)

The way of animal processing has to be approved of as well. The processing establishments must be listed for export to the EU, otherwise the export is prohibited. Also animal welfare has to be certified in order for products to be allowed to be imported. For first time approvals, there are no statutory limitations concerning the process duration.

Imports of plants and their products, and food of non-animal origin need pre-approval. "All food must comply with the general requirements on food hygiene in Regulation No. 852/2004, and, depending on the product, on contaminants, pesticide residue levels, food additives, food irradiation, novel foods, and radioactivity. There are also product-specific requirements for quick frozen foodstuffs, foodstuffs for particular nutritional purposes, and genetically modified organisms. Certain plants and plant product must comply with phytosanitary requirements." (WTO 2011a:58)

During the importation process animals and animal products are controlled at an official border inspection post and imports must be accompanied by health certifications. Imports of live animals must be notified to the border 24 hours before arrival through the Trade Control and Expert System.

Special Import Conditions for the importation of products of animal origin exist for Albania, Bangladesh, China, India, Indonesia, Mexico, Myanmar, Ukraine and Japan³⁷.

Animal feed and food products of non-animal origin can enter the EU market without certification or pre-arrival notification, but national authorities have to control imports on a regularly basis.

Some products, specified in Annex I of Regulation No. 669/2009³⁸, must be notified before arrival and are exposed to specific controls. Certain products³⁹ are subject to checks of reduced plant health, which includes phytosanitary certificates by the export country and border controls.

Another system, called the Rapid Alert System for Food and Feed (RASFF) which was implemented in 2011, is supposed to spread information to member states about risks of

³⁷ For more information see: http://ec.europa.eu/food/animal/bips/docs/special_import_conditions.pdf

³⁸ Regulation No. 669/2009 can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:194:0011:0021:EN:PDF>

³⁹ A list of the products can be found here: http://ec.europa.eu/food/plant/organisms/imports/recommended_products_plant_checks_en.pdf

imported food and feed. If serious problems concerning the safety of food and feed imports are found, the Commission is notified immediately. (WTO 2011a:58f)

Regulation (EC) N 16/2011⁴⁰ defines the RASFF and was implemented on January 31st 2011. 3,358 original notifications were passed on in 2010, 592 were alert notifications⁴¹, 1,188 information notifications⁴² and 1,578 border rejections⁴³. 5,224 follow-up notifications⁴⁴ were conducted. The overall increase of RASFF notifications in 2010 was 7.8%. (European Communities 2011:9-16)

Concerning genetically modified organism (GMOs), the EU has several legislations. A current proposal⁴⁵ allows EU member states to limit or forbid the cultivation of GMOs in their own territory. (WTO 2011a:60)

Six member states⁴⁶ of the EU currently prohibit the use and/or sale of GMOs.

Apart from the already mentioned import barriers labelling requirements pose yet another import barrier.

Labelling requirements have to have warnings if foodstuff has been treated with packaging gases, if it contains sweeteners, added sugar, aspartame, more than 10% added polyols and if confectionery or beverages contain alcohol. Also products containing food colours with the E-numbers E110, E104, E122, E129 and E124 have to be labelled "... may have an adverse effect on activity and attention in children...". Furthermore, labels have to be written in the official languages of the member states.

The label has to contain the country of origin for products like "beef and veal, fruit and vegetables, eggs, poultry, wine, honey, olive oil, fish and fish products and organic products". Other goods have to be labelled with the country of origin if it would otherwise mislead consumers.

Concerning health claims, only food which comes up to special nutrition content is allowed to be labelled with claims about health benefits. The USDA states that "Trade marks and brand

⁴⁰ Regulation (EC) N 16/2011 can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:006:0007:0010:EN:PDF>

⁴¹ An alert notification is conducted when rapid action is required, because food, feed or food contact material represents serious risks. (European Communities 2011:12)

⁴² Information notifications do not require rapid actions, as the product has not reached the market yet, or is no longer available. (European Communities 2011:12)

⁴³ Border rejection notifications conduct information about food, feed or food contact material which was refused to enter the market. (European Communities 2011:12)

⁴⁴ Follow up notifications is a RASFF notification following an original notification. (European Communities 2011:12)

⁴⁵ For more information see: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2011-0170+0+DOC+PDF+V0//EN>

⁴⁶ These six member states are Austria, France, Greece, Germany, Hungary and Luxembourg.

names that suggest health and/or nutritional benefits but do not comply with the new rules must be entirely removed from the EU market within 15 years.” (USDA 2009a:8-12)

4.4 Anti-Dumping and Countervailing Measures

Council Regulation (EC) No. 1225/2009, 30 November 2009⁴⁷ on AD and Council Regulation (EC) No. 597/2009, 11 June 2009⁴⁸ on CVD regulates the EU’s use of these two measures. Basically the Commission is responsible for the use of AD measure and CVD. New comitology rules concerning AD and CVD apply since March 2011.

The EU is a heavy user of AD measures. Even though the number of adopted measures has decreased, in 2011 there were still 125 measures in force, most of them aimed at China. Concerning CV measures one can say that the EU barely uses this trade policy instrument and no safeguard measures were applied since 2005. (WTO 2011a:viii)

AD measures affected imports from 27 countries, whereby 44% concerned imports from China, around 6% concerned India, Russia and Thailand. On average an AD measure is in force for six to seven years and around 12% remain in force for more than ten years. (WTO 2011a:40)

Goods mostly affected by AD duties are chemicals, base metals, mineral products, textiles and shoes. According to the WTO “Some of the highest definitive AD duties that resulted from original investigations or reviews between June 2008 and June 2010 concern certain welded pipes of iron or non-alloy steel (90.6%) and certain prepared or preserved citrus fruits (up to 100.1%) from China, and stainless steel fasteners from Viet Nam (up to 707%)”.⁴⁹ (WTO 2011a:41)

The regulations say that the EU can only impose AD measures if they are not against the community interest, but since the last review of the WTO no measures have been identified as such.

In 2010 four provisional and 3 definite CVD were implemented by the EU. At the end of December 2010 altogether 11 CVD were existing. Goods mostly affected by CVD were Polyethylene terephthalate (PET) and “PET film, antibiotics, graphite electrode systems, sulphahnilic acid, and biodiesel”.

⁴⁷ Council Regulation (EC) No. 1225/2009, 30 November 2009 can be consulted at: http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146035.pdf

⁴⁸ Council Regulation (EC) No. 597/2009, 11 June 2009 can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:188:0093:0126:EN:PDF>

⁴⁹ For detailed information about trade and trade-related measures from October 2008 to May 2010 see: http://www.wto.org/english/news_e/news10_e/summary_g20_june10_e.pdf

As already mentioned, no safeguard measures were initiated since 2005. Safeguard measures are regulated by Regulation No. 260/2009⁵⁰. Safeguards applied on imports from “Armenia, Azerbaijan, Belarus, the Democratic People's Republic of Korea, Kazakhstan, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam” are subject to Regulation No. 625/2009.”⁵¹

EU safeguard legislations allows the Commission to impose surveillance, which consists of “automatic import licensing during a limited period” if a product threatens to cause harm to EU manufacturers. (WTO 2011a:40-43)

4.5 Export Policies, Subsidies and Domestic Support

The WTO states that even with a reduced role of the CAP within the EU market, total support remains high. The reform of the CAP reduced export subsidies and domestic support, but MFN tariffs granted by the EU continue to be high. (WTO 2011a:ix)

The CAP was reformed during 2003 to 2008 and a Single Payment Scheme (income support) was introduced, furthermore most direct aid payments for farmers were eliminated.

On November 20th 2008 a ‘Health Check’ of the CAP was conducted, which “... [eliminated] arable crops direct payments and the arable set-aside obligation and substantially reforms intervention arrangements. It also ends most other coupled direct payments, increases milk quotas gradually leading up to their abolition in 2015, and convert market intervention into a genuine safety net.” Direct payments were diminished and the money was reassigned to the Rural Development Fund. (WTO 2009a:11f)

Subsidies are granted on EU and member state level. Subsidies are prohibited if trade between member states is affected and member states have to get permission from the Commission to grant national subsidies. (WTO 2009a:4)

The General Block Exemption Regulation⁵² and De Minimis Aid (€ 200,000 or less support per company over three years)⁵³ do not require prior notification and approval for state aid.

⁵⁰ Regulation No. 260/2009 can be consulted at: http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc_142728.Reg-260.en.L84-2009.pdf

⁵¹ Regulation 625/2009 can be consulted at: http://trade.ec.europa.eu/doclib/docs/2009/august/tradoc_144178.codified.en.L185-2009.pdf

⁵² COMMISSION REGULATION (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:214:0003:0047:EN:PDF>

⁵³ COMMISSION REGULATION (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:379:0005:0010:EN:PDF>

The WTO states that in 2009 nearly €11 billion were granted for block exemptions. (WTO 2011a:70)

The biggest areas of aid expenditure are agriculture, structural operations and expenditure of research. (WTO 2009a:4)

At the EU level mostly agricultural and structural help is granted. Structural assistance, namely the Structural funds and the Cohesion Fund, is aimed at the development of backward regions within the EU. Until 2013 the Cohesion Fund targets Bulgaria, Cyprus, the Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia. The main focus lies on infrastructure and non-economic activities in these countries; this is why the Cohesion fund is only by a small part covered by state aid rules. (WTO 2011a:70f)

State aid granted by member states in 2009 accounted for around € 427.2 billion, including crisis measures. The amount covers support to production, services, the coal sector, agriculture, fisheries and transportation, but not the support for the railway sector, neither the “support for compensation for services of general economic interest”. (European Commission 2010:9)

The WTO states, that “On average, member States granted approximately € 268 billion per year between 2007 and 2009, roughly three-and-a-half times the average for 2004-06. This reflects the sharp increase in state aid provided by member States in response to the financial and economic crisis”.

If crisis measures are excluded, the total amount granted for 2009 is around € 73.2 billion. “Germany granted most aid (around € 16.7 billion), followed by France (€ 14.7 billion), Italy (€ 5.7 billion), Spain (€ 5.7 billion) and the United Kingdom (€ 4.1 billion).” (European Commission 2010:11)

“In sectoral terms, around € 46.9 billion of aid was earmarked for the manufacturing and services sectors, roughly € 2.5 billion for the other non manufacturing sectors¹⁹, € 2.7 billion for coal, € 11.8 billion for agriculture and fisheries and approximately € 3.3 billion for the transport sector ...”, excluding railways. Assistance for industry and services totalled to € 412.1 billion in 2009. “In absolute terms, the United Kingdom granted most aid (€ 123.2 billion) followed by Germany (€ 115.4 billion), France (€ 39.3 billion), Belgium (€ 33.9 billion), and Greece (€ 14.1 billion). Excluding crisis measures, aid awarded to industry and services amounted to € 58.1 billion in 2009. Germany granted most aid (around € 15.3 billion) followed by France (€ 11.7 billion), Spain (€ 4.9 billion), Italy (€ 4.6 billion) and the United Kingdom (€ 3.3 billion). (European Commission 2010:12)

If crisis measures are excluded, around 79.3% of aid was aimed at industry and services, followed by 16.2% for agriculture and fisheries and 4.5% for transport, excluding railway. (European Commission 2010:14)

The WTO (2011a:72) states that “Excluding aid granted in response to the financial and economic crisis, average annual state aid decreased from € 76.1 billion in 2004-06 to € 70.1 billion in 2007-09. Twelve member states reduced their average state aid levels between 2004-06 and 2007-09. Relative to economic size, Bulgaria recorded the highest level of non-crisis aid in the EU (2.1% of national GDP) in 2009, followed by Malta (2%), Hungary (1.5%), and Finland (1.2%). Non-crisis state aid was 0.4% of national GDP or less in Estonia, Luxembourg, Italy, Netherlands, and the United Kingdom.” Most of the assistance was given to manufacturing and agricultural businesses. The used instruments were mainly grants, tax exemptions as well as soft loans and guarantees.

However, the subsidy regime of the EU Common Market Organization for fruit and vegetables covers dozens of products and subsidies for farmers are only gradually decreasing. The EU has different subsidies for fresh fruit and processed ones. For example for peaches “...a flat rate payment is available for peaches going to processing. These subsidies are offered by the European Commission to the Member States and, because the funds are technically de-linked from specific commodities, they are notified as ‘green box’ payments.”⁵⁴

The problem is that once member states receive these subsidies “...the payments are often distributed to specific commodity sectors.” (USTR 2012b:147)

Subsidies for Airbus-affiliated companies from France, Germany, Spain and the UK are being mentioned as especially trade distorting. The international competitive position of the EU’s civil aeronautics industry is being increased through those policies. (USTR 2012b:161)

Furthermore, export refunds are granted because of the CAP. The price difference between Community prices and international prices are eliminated like this in order to make exporters more competitive. The Commission sets periodically the amount of the refund, which is paid to the exporter. (WTO 2009a:15)

The WTO (2011a:64) states that the “... the EU provides assistance to promote its agricultural products and food outside the EU In addition, export promotion schemes are in place at the national or sub-national levels”.

⁵⁴ “Green box” payments are allowed subsidies by the WTO. For more information see: http://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm

The EU does not make use to export taxes, however, member states may implement quantitative export restrictions according to Regulation (EEC) No. 2603⁵⁵ by themselves.

The WTO (2011a:61) claims that "... exports of 'dual-use' items are controlled at the EU level ...". Dual-use items are defined as: "... items, including software and technology, which can be used for both civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices".⁵⁶

Other export controls underlie authorization by the member states where the exporter is having her/his business. All different kind of authorizations, from national general, global to individual ones, are valid all over the EU. National general authorizations are used in "France, Germany, Greece, Italy, the Netherlands, Sweden, and the United Kingdom" (UK). Individual authorizations are for one exporter and one end user, global authorizations for one exporter and a number of end users or countries. (WTO 2011a:62)

According to the European Commission (2008:2) "... there is a lack of transparency across Member States regarding both the scope and conditions of use of national general export authorisations and the list of exporters denied access to national general export authorisations. As a result, the chances of infringement of the Regulation are significant. This leads to regulatory treatment of certain exports that benefits businesses established in one Member State at least partly at the expense of businesses established in and national security interests of other Member States, and is not in the best interests of the Community as a whole. The discrepancy between national authorisations is particularly difficult to manage for companies established in several Member States. Third countries and the private sector have questioned the current situation that permits such divergent practices for the same exports."

4.6 Government Procurement

Around 85% of government procurement in the EU is under member states legislation. (WTO 2011a:viii)

Government procurement makes up a significant part of economic activity within the EU. The WTO states, that "In 2007, the EU public procurement totalled € 2,088 billion (16.8% of its GDP), of which € 367.2 billion (3% of GDP, and 18% of total public procurement) was

⁵⁵ For more information conduct: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31969R2603:EN:HTML>

⁵⁶ For more information conduct Article 2, Council Regulation (EC) No. 428/2009 of 5 May 2009 (page 4) at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2009R0428:20090827:EN:PDF>

above-threshold procurement, i.e., procurement covered by EU legislation rather than national legislation of EU member States.” (WTO 2011a: 77)

State trading enterprises in Finland and Sweden, for example, have exclusive rights concerning the importation of alcoholic beverages, in Greece and Luxembourg concerning gas and in Luxembourg concerning electricity. Sweden’s law concerning the import of alcohol was ruled out by the Court of Justice of the EU in 2007. (WTO 2011a:67)

Generally, procurement above specified thresholds; hereby “procurement procedures of entities operating in the water, energy, transport, and postal services sectors”, as well as “the coordination of procedures for the award of public work contracts, public supply contracts, and public services contracts”, must be advertised within the whole EU. Since August 2009 also defence and security procurement must be opened to European suppliers. Government procurement has to be advertised in the Official Journal⁵⁷.

Furthermore, the EU is a party to the WTO’s Government Procurement Agreement (GPA), and has also signed bilateral agreements. (WTO 2011a: 77ff)

The WTO (2011a: 80) indicates that “... in 2007 ... contracts of a total value of €12 billion (3.3% of total above-threshold procurement, and 3.9% of total procurement open to GPA partners) were awarded to suppliers originating from non-EU GPA signatories”.

EU government procurement laws focus on openness and a transparent system, however, suppliers from non-EU countries cannot participate in EU procurement, unless a bilateral agreement has been signed, or if the country is member of the GPA. These laws do not apply to contracts below threshold and the telecommunications, as well as the broadcasting sector. National rules, which entail discriminatory practices, cover all public procurement which is not covered by EU laws.

In order to facilitate procurement procedures the Commission implemented an Action Plan for e-Procurement in 2004, but in 2010 less than 5% of all procurements were awarded through the electronic system. (WTO 2011a:81f)

In 2004 the revised Utilities Directive (2004/17) was introduced which lays out the rules concerning government procurement of commodities like water, transportation, energy and within the postal sector. Concerning procurement of these commodities bidders have to have 50% EU content if they are not covered by any agreement. (USTR 2012b:158)

Country specific policies can be seen in the following paragraphs.

In Austria, the upper limit for non-competitive tenders was raised in 2009 from EUR 40.000 to EUR 100.000. Apart from that government owned power utilities are exempted from public

⁵⁷ The Official Journal can be conducted at: <http://ted.europa.eu/TED/main/HomePage.do>

tenders⁵⁸. Furthermore, public procurement in Bulgaria is not transparent. Some tenders seem to be tailored for specific companies. The French government maintains shares in defence contractors and this makes it cumbersome for foreign companies, even for companies within the EU, to participate in defence procurement. In Greece numerous qualification requirements for bidders exist. Companies have to prove that they are paying taxes, have not been bankrupt, are paying social security for their employees; managing directors and board members have to prove that they are not participating in any illegal activities and so on. All these requirements have to be approved by competent authorities. The difficulty posed is that not in every nation these authorities exist.

In the Czech Republic a new law was introduced in November 2011 which would improve procurement processes, but on the other hand would "... retain certain mechanisms permitting the transfer of public money to anonymously-held companies." (USTR 2012b:159)

In Hungary "... politically motivated procurement decisions ..." make procurement non-transparent and favourable. Also the Italian, Slovenian and the Lithuanian public procurement is criticized for its lack of transparency. In Lithuania some tenders are defined in a way that only one specific company is able to participate.

In order to be awarded a contract for the purchase of military equipment, Lithuania, Romania, the UK, Austria and Greece require sometimes very high offset agreements.

Portugal seems to favour bids from EU companies, even when bids from other countries are better.

In the UK some sectors of the defence market are only accessible for companies which have a partnership with the Ministry of Defence.

In Slovenia the "... short time frames for bid preparation, lack of clarity in tendering documentation, and opacity in the bid evaluation process ..." pose impediments to public procurement.

The National Revision Commission (NRC) reviews all disputes in Slovenia concerning government procurement and it is claimed that firstly "... its decisions are not subject to judicial appeal ... [and secondly] ... there are also concern that the NRC favours EU, and especially Slovenian, firms under its ambiguous 'national interest' standard, regardless of cost or doubts about a firm's ability to deliver and service its products." (USTR 2012b:160f)

⁵⁸ European Commission ruling (2008/585/EC) regulating this rule can be conducted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:188:0028:01:EN:HTML>

5 Protectionist Policies of the APT States

5.1 Overview

ASEAN was founded by signing the ASEAN Declaration on the 8th of August 1967 in Bangkok, Thailand. ASEAN aims at accelerating economic growth, promoting regional peace and stability and to encourage active collaboration within its members.

In the Treaty of Amity and Cooperation in Southeast Asia (TAC) of 1976, the ASEAN member states detained their fundamental principles, which are as follows:

“Mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations; The right of every State to lead its national existence free from external interference, subversion or coercion; Non-interference in the internal affairs of one another; Settlement of differences or disputes by peaceful manner; Renunciation of the threat or use of force; and Effective cooperation among themselves.” (ASEAN 2009a)

In 2003 at the 9th ASEAN summit association’s leaders decided that an ASEAN Community should be established and in 2007, at the 12th summit, the ‘Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015’ was signed.

The ASEAN Political-Security Community, the ASEAN Economic Community (AEC)⁵⁹ and the ASEAN Socio-Cultural Community comprise the three pillars of the ASEAN Community. The ASEAN Charter, which entered into force on the 15th of December 2008, presents the legal status and institutional framework for the ASEAN Community. It is legally binding for all ten ASEAN members. By 2015 ASEAN envisages the AEC to have the following features: “(a) a single market and production base, (b) a highly competitive economic region, (c) a region of equitable economic development, and (d) a region fully integrated into the global economy.” The AEC should transform ASEAN into an area with free movement of goods, services, investment and labour. (ASEAN 2009c)

In 1993 the CEPT Scheme⁶⁰ commenced and the agreed effective tariff has been applied by all member states since then. This reduced tariff is only used for goods from ASEAN origin.

A product is considered to be from ASEAN origin⁶¹, if at least 40% of the f.o.b.⁶² price of the finished good is from a member state. The CEPT applies to products which are “in the CEPT inclusion list of both the importing and exporting countries and must have a CEPT tariff of

⁵⁹ For more detailed information about the AEC conduct: <http://www.aseansec.org/5187-10.pdf>

⁶⁰ For more legal information about the CEPT Scheme conduct: <http://www.aseansec.org/1164.htm>

⁶¹ According to the ASEAN CEPT local-content requirement

⁶² Freight on board (f.o.b.) price is the price including transport and export taxes until the point of exit.

20% or below; and the product must meet the local-content requirement of 40% or alternative substantial transformation rules”. (WTO 2008a:37)

Under the CEPT Scheme tariffs were severely reduced, thus NTBs have emerged also between ASEAN states⁶³. There are numerous measures to eliminate these NTBs between member states. The major NTBs between the member states are “... customs surcharges, technical measures and product characteristic requirements, and monopolistic measures ... [which involve state trading or the usage of a limited group of importers]...”. (ASEAN 2009b) The Economic and Social Commission for Asia and the Pacific (ESCAP) (2009:8-18) states that ASEAN member states have varied levels of logistics performance index (LPI), export and import costs and differences concerning the process duration of exporting and importing, as well as the required documents. Singapore is ranked number one concerning trade facilitation measures. On the other hand Cambodia and Lao PDR are ranked last regarding import and export time. Also the import and export costs per container are four to five times lower for Singapore than for Lao PDR. The overall LPI, which comprises components like business environments, the quality of governance and institutions, the efficiency of customs, international and domestic transportation costs, the ease of shipments and logistics competence ranks Singapore in the first place, afterwards in consecutive order are ranked Malaysia, Thailand, Indonesia, the Philippines, Cambodia, Lao PDR, Myanmar and Brunei. Even though there are considerable differences between the ASEAN states and the level of intraregional trade is lower compared to the EU, ESCAP (2009:8) states that “... ASEAN does record stable, albeit slow, growth of this trade.”

5.1.1 Brunei Darussalam

Brunei has one of Asia’s highest per capita incomes due to petroleum, oil and natural gas resources. It is a small, but relatively open economy. Brunei is exposed to external shocks, as the oil and gas sector, as well as exports, make up a large share of its GDP.

Essential food items and petrol receive high subsidies and are under price controls. Brunei’s institutional structure shows a lack of transparency concerning trade and trade-related policies. In order to promote the private sector and non-petroleum industries, the government established the Brunei Economic Development Board to enhance foreign investment. Tax incentives are provided to attract investment. Brunei is mainly active in the following regional and bilateral trade agreements: “... ASEAN, the East Asia Growth Area, Asia-Pacific

⁶³ In-depth information about NTBs of ASEAN states can be conducted at: <http://www.aseansec.org/16355.htm>

Economic Cooperation (APEC), and the four-member Trans-Pacific Strategic Economic Partnership (SEP) Agreement (with Chile, New Zealand, and Singapore)”. (WTO 2008a:viif)

Table 2: Overview Brunei Darussalam 2011

Brunei Darussalam 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	25.3%	2.5%
Agricultural Products	30.7%	0.1%
Non-agricultural Products	24.5%	2.9%

Tariff Binding Coverage	
Total	95.3%
Non-agricultural Products	95.0%

Anti-dumping Measures imposed by Brunei Darussalam	-
Countervailing Duties imposed by Brunei Darussalam	-
Safeguard Measures in Force	-

Source: WTO 2012j, WTO 2008a; own adaptation

5.1.2 Cambodia

Cambodia became a WTO member in 2004. As a LDC it receives GSP benefits. Cambodia’s government tries with help of the ‘Sector-Wide Approach’ (SWAp) to broaden the economic base which is still limited to garments and tourism. This program also complies with Cambodia’s Aid-for-Trade strategy.

Social and economic achievements have steadily developed and the GDP growth averaged around 10% between 1998 and 2007, thus poverty has decreased. Most of all the discovery of oil and gas in the country has contributed to this phenomenon. In 2009 the global recession also had impacts on Cambodia. The limited economic base exposed Cambodia to economic vulnerabilities. Cambodia depends greatly on exports to the US and the EU. Imports come mainly from other Asian states and are made up from “manufactured goods, food, and fuel”. (WTO 2011b:vii)

Table 3: Overview Cambodia 2011

Cambodia 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	19.1%	10.9%
Agricultural Products	28.1%	15.2%
Non-agricultural Products	17.7%	10.3%

Tariff Binding Coverage	
Total	100%
Non-agricultural Products	100%

Anti-dumping Measures imposed by Cambodia in 2011	0
Countervailing Duties imposed by Cambodia	0
Safeguard Measures in Force	0

Source: WTO 2012j, WTO 2011b; own adaptation

5.1.3 Indonesia

Even though Indonesia was and is from time to time exposed to political problems and natural disasters it has a stable economic development. (WTO 2007a:vii)

The country is addressing sustainable development through political and economic programs, whereby a further opening of the economy is a goal.

Agriculture is a main sector of the economy and is supported through a revitalization program giving support to “infrastructure, financial services, research and development and institutional reform”. Industrial policy is assisting cluster groups, which are concentrated at the improvement of Indonesia’s regions. (WTO 2007a:5)

Indonesia is part of the WTO, ASEAN, APEC, Asia-Europe Meeting (ASEM), Developing 8 and other bilateral agreements. (WTO 2007a:13)

Table 4: Overview Indonesia 2011

Indonesia 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	37.1%	7.0%
Agricultural Products	47.0%	8.1%
Non-agricultural Products	35.6%	6.9%

Tariff Binding Coverage	
Total	96.3%
Non-agricultural Products	95.8%

Anti-dumping Measures imposed by Indonesia in 2012	3
Countervailing Duties imposed by Indonesia	-
Safeguard Measures in Force	1

Source: WTO 2012j, WTO 2007a, WTO 2012g; own adaptation

5.1.4 Lao PDR

The Lao PDR is a WTO member since February 2013.

Over 80% of Lao PDR's foreign trade is with ASEAN countries. As member of ASEAN the country applies the ASEAN Harmonized Tariff Nomenclature (AHTN), hereby the average tariff for goods from ASEAN origin is 5%. Nevertheless, Lao PDR has the highest number of goods for which tariffs remain high. (USTR 2007:375)

Under the direction of the 'New Economic Mechanism', which was introduced in the 1980s, the country transformed itself from a centrally planned to a market-oriented economy. Lao PDR's trade policy nowadays is shaped by trade agreements; altogether the country has concluded agreements with 16 nations. Lao PDR is, amongst others, part of the Early Harvest Program (EHP) and the Asia Pacific Trade Agreement (APTA).

Lao PDR itself gets duty free and quota free market access under the EBA and the GSP. The ASEAN Integrated System of Preferences (AISP) grants Lao PDR unilateral preferential treatment by original ASEAN members and it receives Special and Preferential Treatment (SPT) from China and Korea.

Lao PDR has trade agreements with Argentina, Belarus, Cambodia, China, the EU, India, Indonesia, Korea, Malaysia, Mongolia, Myanmar, the Philippines, Russia, Thailand, Vietnam and the US.

Lao PDR's closest trading partners are Thailand and Vietnam, it is participating in the AFTA and negotiating trade agreements with "China, Korea, Japan, India, Australia and New Zealand". An important trade agreement for Lao PDR is the Lao PDR-US bilateral trade agreement (BTA). (National Statistics Centre 2007:9)

Table 5: Overview Lao PDR 2010

Lao PDR 2009/10		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	14.9%	9.7%
Agricultural Products	22.4%	19.4%
Non-agricultural Products	13.7%	8.2%

Tariff Binding Coverage	
Total	-
Non-agricultural Products	-

Anti-dumping Measures imposed by Lao PDR in 2011	-
Countervailing Duties imposed by Lao PDR	-
Safeguard Measures in Force	-

Source: The World Bank 2009/10; own adaptation

5.1.5 Malaysia

Malaysia's economy concentrates on export-oriented production and trade, which are very important sectors of the economy. (WTO 2009b:vvi)

Economic policies focus on services, the relaxation of trade barriers and the reduction of reliance on manufactured exports. With that objective Malaysia has lowered the applied MFN tariffs. FTAs, of which the one with ASEAN is the most significant, are important for Malaysia (WTO 2009b:viii)

Malaysia established FTAs with Japan, Pakistan, New Zealand, India, Chile and Australia. At the regional level the AFTA was established. As a member of ASEAN Malaysia also has FTAs with China, Japan, Korea, India, Australia and New Zealand. (MITI 2008)

Generally, Malaysia applies a liberal regime for agricultural goods, whereby the average MFN tariff is 2.8%, but some non-*ad valorem* tariffs are high. Import licenses are required for specific agricultural goods and the importation of rice is restricted and can only be done by the company Padiberas Nasional Berhad (BERNAS)⁶⁴.

For agricultural goods TRQs were implemented in 2008. The import of mineral resources, oil and gas does not require import licenses and the tariffs are zero. On the other hand export taxes are charged for mineral products.

Malaysia's manufacturing sector is rather open; the average tariff in 2009 was 8.7%. Only the automotive sector is protected heavily, for example cash rebates are given to buyers with cars older than ten years if they buy national brands. (WTO 2009b:x)

⁶⁴ For more information conduct: <http://www.bernas.com.my/index.php>

The WTO states that mainly in the automobile industry and in government procurement protectionist policies can be found. (WTO 2009b:23)

Table 6: Overview Malaysia 2010

Malaysia 2010		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	23.0%	6.5%
Agricultural Products	66.8%	10.8%
Non-agricultural Products	14.9%	5.8%

Tariff Binding Coverage	
Total	84.3%
Non-agricultural Products	81.9%

Anti-dumping Measures imposed by Malaysia in 2011	0
Countervailing Duties imposed by Malaysia	0
Safeguard Measures in Force	0

Source: WTO 2012j, 2009b; own adaptation

5.1.6 Myanmar

Myanmar's trade has been increasing in accordance to its neighbours, but its openness is considerably lower. (Alamgir 2008:983) The country trades mostly with regional neighbours. (Htay 2007:50)

China, Thailand, Singapore, Korea and Malaysia are the most important trade partner. From 2001 to 2005 89% of all imports came from the mentioned countries, 44% of all exports in 2005 were sold in Thailand. (Alamgir 2008:986)

In 2004 the most important import partner was Singapore, followed by China and Japan. Textile imports, lubricant, oil and diesel, cars and machine parts make up the most important imports of Myanmar. The main exports are mine products, agricultural products, timber and forest products, textile and garments and marine products. (Htay 2007:48) Economic sectors such as mining of gems and jade are booming because of regional demand. (Richards/Dosanjh 2001:16)

Since 2000 mineral fuels are the largest export sector of the economy.

Trade in weapons and armament, narcotics and black market trade are not included in official statistics; however they constitute a considerable amount of trade.

The overestimated GDP and the overvalued exchange rate make it complicated to estimate the openness ratio. 51% of Myanmar's GDP is made up by agriculture and 14% by industry.

Trade in “teak, petroleum, and natural gas, pearls, jade, and precious stones, fish and prawns, and metals” and other goods is subject to State Peace and Development Council (SPDC) controlled entities. If foreign investors form alliances with State Owned Enterprises (SOEs), they may be granted exceptions. The oil and gas sector is controlled by state monopolies, mainly by the state-owned Myanmar Oil and Gas Enterprise (MOGE). (Alamgir 2008:981-992)

Economic growth is being enhanced by large project investments, mainly in power industry, petroleum and infrastructure by China, Korea and Thailand. (Richards/Dosanjh 2001:9)

Table 7: Overview Myanmar 2011

Myanmar 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	83.4%	-
Agricultural Products	103.4%	-
Non-agricultural Products	23.0%	-

Tariff Binding Coverage	
Total	17.6%
Non-agricultural Products	5.0%

Anti-dumping Measures imposed by Myanmar in 2011	0
Countervailing Duties imposed by Myanmar	0
Safeguard Measures in Force	0

Source: WTO 2012j, own adaptation

5.1.7 Philippines

Imports from the region are becoming exceedingly significant to the Philippines. Most of the exports are manufactures, mainly electronic appliances. Investment policy concentrate on some main areas according to the Investment Priority Plan (IPP) and taxes, as well as other incentives, and are focused on export performance and Filipino property ship.

Investment is encouraged, especially in areas listed in the IPP, furthermore incentives to enhance bio-fuel production and organic agriculture were introduced lately.

The Philippines economy relies heavily on manufactured products, thus it is vulnerable to external shocks. Also foreign investment restrictions which are mainly found in agriculture, fisheries and services limits FDI inflows into the country. Only in some sectors, like

manufacturing in export processing zones (EPZs), foreign investment is encouraged. (WTO 2012e:viif)

The Philippines have bilateral trade agreements with Japan and as a member of ASEAN RTAs exist with Australia and New Zealand, China, India, Japan and Korea. Altogether the Philippines have 15 preferential trading partners. (WTO 2012e:viii)

Table 8: Overview Philippines 2011

Philippines 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	25.7%	6.1%
Agricultural Products	35.1%	8.7%
Non-agricultural Products	23.4%	5.7%

Tariff Binding Coverage	
Total	67.0%
Non-agricultural Products	61.9%

Anti-dumping Measures imposed by the Philippines since 2005	3
Countervailing Duties imposed by the Philippines	-
Safeguard Measures in Force	7

Source: WTO 2012j, WTO 2012e; own adaptation

5.1.8 Singapore

Singapore is one of the most open countries. With a few exemptions, tariffs are set at zero. (WTO 2008b:vii)

Services made up 65% of GDP in 2007. Singapore’s government also tries to increase the share of manufacturing by supporting infrastructure and offering incentives. Manufacturing activities focus mainly on “...electronics, chemicals, biomedical sciences (comprising the pharmaceutical, medical technology, biotechnology, and healthcare service industries), and engineering (including precision and transport engineering)”. (WTO 2008b:ix)

The Ministry of Trade and Industry (MTI) is responsible for setting trade policies. MFN treatment is granted to all trading partners. (WTO 2008b:viii)

The main industrial policy tools used by Singapore are tax measures, “state-ownership of land and its allocation; statutory bodies and the financial assistance they provide; and government-linked companies (GLCs)”. (WTO 2008b:53)

The public bodies mentioned by the WTO (2008b:55) are “... the Ministries of Education, Finance, Law, Information, Communications and the Arts, Manpower, Transport, and Trade and Industry. The statutory boards include the Economic Development Board (EDB), JTC Corporation (previously the Jurong Town Corporation), and the Monetary Authority of Singapore (MAS)”. Statutory boards offer tax incentives, as well as direct assistance, like grants or loans, to companies.

As an ASEAN member Singapore has FTAs with Australia and New Zealand, China, India, Japan, Korea. Singapore by itself has signed FTAs with Australia, China, the Hashemite Kingdom of Jordan, India, Japan, Korea, New Zealand, Panama, Peru, Switzerland, Liechtenstein, Norway and Iceland, the US, Costa Rica, the Cooperation Council for the Arab States of the Gulf (GCC), which comprises Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates; and with Brunei, New Zealand and Chile (The Trans-Pacific SEP). (International Enterprise Singapore 2012)

Table 9: Overview Singapore 2011

Singapore 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	10.3%	0%
Agricultural Products	26.9%	0%
Non-agricultural Products	6.4%	0%

Tariff Binding Coverage	
Total	69.7%
Non-agricultural Products	65.1%

Anti-dumping Measures imposed by Singapore	-
Countervailing Duties imposed by Singapore	-
Safeguard Measures in Force	0

Source: WTO 2012j, WTO 2008b; own adaptation

5.1.9 Thailand

Thailand is an important exporter of industrial products and its economy is exceptionally open, nevertheless price controls are used widely.

The political instability, which took place during the review period of the WTO, caused a decline in FDI, but also restriction on foreign ownership and a complex, as well as time-costly, taxpaying system decreased the amount of FDI.

Agriculture is an important sector of the economy and Thailand is an important producer and exporter of rice and rubber. Producers of rice are supported through a mortgage scheme, sugar prices are set by the Cane and Sugar Board and fuel prices are controlled through the Oil Fund. (WTO 2011c:vii-ix)

Thailand is as member of ASEAN FTAs like the other members and in addition to that has also signed FTAs with Australia, India, Japan, Peru and New Zealand.

The WTO states that “Beyond ASEAN, the picture of Thailand's free-trade agreements is complicated, sometimes simultaneously involving bilateral and regional deals”. (WTO 2011c:29)

Table 10: Overview Thailand 2010

Thailand 2010		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	28.0%	9.8%
Agricultural Products	39.9%	22.0%
Non-agricultural Products	25.5%	8.0%

Tariff Binding Coverage	
Total	75.0%
Non-agricultural Products	71.3%

Anti-dumping Measures imposed by Thailand between 2007-2011	6
Countervailing Duties imposed by Thailand	0
Safeguard Measures in Force (provisional)	1

Source: WTO 2012j, WTO 2011c; own adaptation

5.1.10 Vietnam

Vietnam is an ASEAN member since 1995 and a WTO member since 2007. In context with the WTO accession Vietnam reduced its tariffs notably. (USTR 2012b:401)

Vietnam transformed itself from a centrally-planned economy to a socialist market economy. The so called ‘Doi Moi’ economic reform in 1986 made Vietnam’s position in the international economic setting of today possible. Vietnam’s main exports are “crude oil, textiles and garment, rice, coffee, rubber, coal, aquaculture and processed forest products”. Main imports include “petroleum products, steel, fertilizer, electronics, machinery and equipment”. (ASEAN 2011a)

Apart from ASEAN Vietnam is also negotiating its membership in the Trans-Pacific Partnership and has an agreement with Australia, which is called the Australia-Vietnam Joint Trade and Economic Cooperation Committee, as well as with the US and Chile.

Table 11: Overview Vietnam 2010

Vietnam 2010		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	11.0%	9.8%
Agricultural Products	18.5%	17.0%
Non-agricultural Products	10.4%	8.7%

Tariff Binding Coverage	
Total	100%
Non-agricultural Products	100%

Anti-dumping Measures currently imposed by Vietnam	2
Countervailing Duties imposed by Vietnam	-
Safeguard Measures in Force	-

Source: WTO 2012j, WTO 2012f; own adaptation

5.1.11 China

China’s economy is very dependent on its export sector. In 2010 China surpassed Germany as the largest exporter and it was the second largest importer worldwide. (WTO 2010:vii)

In 2004 China became a net importer of agricultural goods. (WTO 2010:71)

China maintains its strategy of opening the economy and tariffs show a declining trend. However, the WTO (2010:24) declares that China uses different policies such as tariffs, NTB, export restraints and state-ownership to control the distribution of resources.

There are SOEs and companies in which the state has “controlling shares (SOEs), collectively owned enterprises, joint-stock enterprises, ‘domestic private’ enterprises, individual businesses (sole proprietorships), and foreign-invested enterprises”. Even though SOEs have been withdrawing from some sectors and private companies are increasing, SOEs nevertheless profited excessively from government measures to enhance economic performance. Domestic private enterprises recently have troubles getting credits from banks, however this problem does not exist for SOEs. (WTO 2010:54)

Manufacturing is since always a more important economic sector than agriculture and services in China. The government intervenes in the manufacturing sector through the allocation of capital and resources, taxes and other sector-specific policies. (WTO 2010:69)

China takes part in the APTA, the “APEC forum, the Asia-Europe Meeting (ASEM), the ASEAN+3, and the East Asia Summit”.

It has signed agreements with Hong Kong and Macao, Chile, Pakistan, Singapore, New Zealand, Peru, Australia and the GCC. (WTO 2010:15-20)

Table 12: Overview China 2011

China 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	10.0%	9.6%
Agricultural Products	15.7%	15.6%
Non-agricultural Products	9.2%	8.7%

Tariff Binding Coverage	
Total	100%
Non-agricultural Products	100%

Anti-dumping Measures currently imposed by China	5
Countervailing Duties currently imposed by China	3
Safeguard Measures in Force	1

Source: WTO 2012j, WTO 2012f; own adaptation

5.1.12 Japan

Despite the global financial crisis, Japan did not introduce new trade barriers, but neither continued further liberalization. Traditionally exports were the growth engine of Japan’s economy, but during the crisis exports declined sharply.

The labour productivity of agriculture is a lot lower than manufacturing, thus agriculture receives more protection and government support. The manufacturing sector is comparably open and competitive.

Japan’s government’s ‘New Growth Strategy’ focuses mainly on “... environment and energy, medical and health care, economic integration with other Asian countries, tourism and revitalization of regional economies, science and technology, human resources, and financial services” in order to enhance its economic performance. (WTO 2011f:vii-ix)

Japan currently has ten bilateral FTAs with “Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, the Philippines, Switzerland, and Viet Nam”, as well as the FTA with ASEAN. (WTO 2011f:17)

Table 13: Overview Japan 2011

Japan 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	5.3%	5.3%
Agricultural Products	22.8%	23.3%
Non-agricultural Products	2.6%	2.6%

Tariff Binding Coverage	
Total	99.7%
Non-agricultural Products	99.6%

Anti-dumping Measures imposed by Japan (2011 – in force)	6
Countervailing Duties imposed by Japan	-
Safeguard Measures in Force (since 2001)	1

Source: WTO 2012j, WTO 2011f; own adaptation

5.1.13 Korea

Korea’s trade policy is mainly open, but farmers receive considerable government protection. (WTO 2008c:38)

Import quotas have been nearly completely abolished, only the importation of rice underlies quotas.

The GDP share of the agricultural sector has constantly fallen even though government interventions have been executed. Self-sufficiency has been achieved for major products such as rice, but in general the import volume of agricultural products has increased.

In 2007 trade in goods and services amounted around 90% of Korea’s GDP which shows that Korea’s economy is becoming more and more outward oriented. (WTO 2008c:vii-x)

The WTO (2008c:24) states that “Korea is an export-dependent country and one of the biggest beneficiaries of the multilateral trading system...”

Korea is member of APEC, APTA, APT, and has different agreements with ASEAN and its members. It takes part in ASEM meetings, the Asia Cooperation Dialogue and has signed

FTAs with Chile, Singapore, the European Free Trade Association (EFTA) States⁶⁵ and the US. (WTO 2008c:26-30)

Table 14: Overview Korea 2011

Korea 2011		
	Simple Average Bound Tariff	Simple Average MFN Rate
Total	16.6%	12.1%
Agricultural Products	56.1%	48.6%
Non-agricultural Products	10.2%	6.6%

Tariff Binding Coverage	
Total	94.6%
Non-agricultural Products	93.8%

Anti-dumping Measures imposed by Korea in 2011	
Countervailing Duties imposed by Korea	
Safeguard Measures in Force	

Source: WTO 2012j, own adaptation

5.2 Import Policy Barriers

Brunei Darussalam

Due to APEC trade facilitation guidelines, Brunei has facilitated its customs procedures. E-government initiatives are being fostered in order to enable paperless transactions. The ASEAN Single Window also includes Brunei and should propagate easier "... customs documentation procedures, cargo release, and clearance". (WTO 2008a:34)

Amongst other things, import requirements contain the registration of importers at the port of entry, or import permits for goods like "plants, animals, birds, fish, salt, sugar, rice, drugs, gambling machines, and used motor vehicle". In the case of "plants, animals, animal products, birds, and fish", import licenses and sanitary or phytosanitary certificates are required. (WTO 2008a:36)

Preferential rules of origin are granted to trade agreements like ASEAN, the Trans-Pacific SEP and the Brunei-Japan EPA. Non-preferential rules of origin are not covered by any laws in Brunei. For products of ASEAN origin Brunei "has reduced tariffs on 93% of tariff lines to 5% or zero". (WTO 2008a:viii)

As WTO member, Brunei applies MFN tariffs, which average at "4.8% in 2007, zero for agriculture and 5.4% for non-agricultural products, ranging from 0% to 30%". The WTO

⁶⁵ The EFTA States include Liechtenstein, Iceland, Norway and Switzerland.

states that “Almost 99% of tariffs are subject to *ad valorem* rates, while 131 carry specific rates of duty, which apply mainly to matches, cigarettes, coffee, tea, and petroleum oils and lubricants. As they tend to conceal relatively high *ad valorem* equivalents, estimates of which were not available, it is likely the inclusion of these specific duties in the calculation of the average applied MFN tariff rate would raise Brunei's overall level of tariff protection.”

Furthermore, the WTO states that in Brunei “*Ad valorem* equivalents of specific rates tend to be high and are often used to conceal high rates of tariff”.

Generally tariffs are low. Nearly 93% of Brunei’s tariffs are bound; hereby the average bound rate is 25.8%, thus tariffs can be raised.

The difference between the bound tariff of 25.8% and the MFN tariff of 4.8% is high, in the agricultural sector the difference is even higher, with 23.4% bound tariff compared to a MFN tariff of zero.

Even though Brunei has reduced its already low tariff rates, some goods underlie non-tariff restrictions, like prohibitions and licensing requirements. In order to support domestic suppliers, there are export restrictions for products like rice and sugar.

Brunei is not a party of the Harmonized Description and Coding System (HS), even though it adopted the rules in 1992.

Basic food products, goods for industrial use and computers are not subject to import duties, but 21% of tariff lines surpass “three times the simple average MFN tariff, and 20.4% exceed 15%”. These exceeds are mainly found in tariffs for “wood and furniture, fabricated metal products, machinery, and chemicals”, thus granting high protection.

Producers of raw materials and semi-processed goods are particularly protected in Brunei, as for example tariffs for finished furniture are a low lower.

According to the CEPT scheme Brunei has 71% duty free tariff lines and 22% of tariff lines are at 5%. Only transport equipment has a tariff rate of 13.9% (in 2006) and “tea, coffee, alcoholic products, and tobacco” are excluded of the CEPT scheme. Basically, Brunei’s CEPT tariff rate “is half of the average applied MFN rate”.

Exceptions are prepared foods (88.7%), mineral products (93.4%) and transport equipments (36%). In 2008 the overall bound rate was 25.8%, however tariff rates of 50% covered “animal products, dairy products, coffee, tea, and fruit and vegetables”. High bound rates of over 40% can also be found in “chemicals, leather products, wood and pulp, transportation equipment, and electric machinery”.

No tariff quotas are applied by Brunei.

NTBs, which are used by Brunei include import limitations, like prohibitions, restrictions and licensing. Import prohibitions include “opium, indecent and obscene printed matter, firecrackers, vaccines from Chinese Taipei, cough mixture containing codine, Java sparrows and turtle eggs, arms and ammunition, and alcoholic beverages, including spirits and liquors”. The importation and manufacturing of alcohol is restricted due to religious reasons; only non-Muslims are allowed to import limited quantities.

Other import restrictions cover plants and “animals, poisons, radioactive material” and eggs, which have to be marked “imported” on their shell. Salt, sugar and rice paddy imports are restricted in order to sustain domestic food security. Used motor vehicles older than five years are restricted because of safety grounds. Import permits for all mentioned merchandise can be obtained at different departments but must also be submitted to the Royal Department of Customs to be approved. (WTO 2008a:37-45)

Cambodia

In order to facilitate import-export procedures, the Cambodian government has implemented different policies. In 2006 a strategy to manage and control the clearance of imported and exported goods was introduced and like this the inspection rate for containers was reduced to 20%. Also the Single Administrative Document (SAD) helped making documentation requirements at the border more efficient. With the implementation of the Automated System for Customs Data, which is currently used at 3 ports, the time to clear a shipment was reduced to 24 hours. (WTO 2011b:31)

For import/export declarations Cambodia applies a fee of 15,000 riels (KHR) each time. In addition to that “Camcontrol [⁶⁶] charges inspection fees of 0.1% of the c.i.f. [⁶⁷] value of imports, and 0.1% of the f.o.b. value on exports”. It is a fact that the current duty on imports should be decreased, as even if the value of the imported good is higher, customs processing costs are the same.

“Cambodia levies trade-related taxes in the form of customs duties, an additional tax on gasoline (US\$ 0.02 per litre) and on diesel oil (US\$ 0.04 per litre), export tax, and two indirect taxes which are levied on the value of imports: value added tax and excise tax. The VAT is a uniform 10% rate and excise taxes are levied on a number of product groups.” Because Cambodia decreased import duties, excise taxes were raised in order to maintain a revenue neutral tax reform. As income through customs is the main source of Cambodia’s government revenue, “customs duties, VAT on imports, and excise taxes on imports

⁶⁶ Camcontrol is Cambodia’s Import Export Inspection and Fraud Repression Directorate-General

⁶⁷ Cost, insurance and freight (c.i.f.) is a term used for quoting prices, which include the costs of the good, the insurance and the freight transport costs.

accounted for between 70% and 56% of total tax revenue between 2004 and 2010”. (WTO 2011b:31ff)

Due to the WTO accession, the highest tariffs of Cambodia were eliminated and right now tariffs comprise four tiers: 0%, 7%, 15% and 35%. The highest tariff rate covers “semi-processed goods and consumer goods, such as processed meat and dairy products, processed vegetables and fruits, beverages and tobacco, footwear, and motor vehicles”. Over half of the tariff lines in Cambodia are duty free or are set at a 7% rate. The MFN rate on agricultural goods is 14.5% and 11.3% for industrial merchandise.

With each stage of processing the tariff rise. 100% of all tariff lines are bound, hereby the average duty rate is 20.1% and the average applied rate is 11.7%. (WTO 2011b:vii)

There are especially high tariffs on fully processed goods, for example in sectors of “food, beverages, tobacco, textiles, leather, chemicals, and non-metallic mineral products”.

Duty and tax exemptions area available for temporary imports designated for re-export, goods in transit, and so on. Export Qualified Investment Projects can import production equipment, building material and raw materials free from customs duty and exemptions exist for garment and footwear industries. In 2000 around half of all imports were subject to duty or tax exemptions. During the WTO study no TRQs were applied.

As ASEAN member, Cambodia is part of the CEPT Scheme, thus tariffs for products from ASEAN origin range between 0 to 5%, the average tariffs for agricultural products are “less than half of the MFN rate and around one third of the MFN rate for non-agricultural products”. In 2009 the ‘transaction value’ and ‘identical goods and similar goods’ as customs valuation were introduced in Cambodia and in 2011 the Customs Valuation Agreement was put into practice.

Duties and taxes are charged according to the origin of the product. For preferential treatment the certificate of origin by the exporting country is conducted, all other goods receive MFN treatment.

Since Cambodia’s WTO entry some new licensing requirements for fisheries and live animals⁶⁸ have been established. Most of the licensing in Cambodia is automatic, only quantities concerning some narcotics and fish are restricted. Imports of “metal waste, toxic waste, municipal waste, clinical waste, sewerage sludge, waste of animal hairs, household waste, psychotropic substances and their precursors, poisonous chemicals, certain pesticides, used computers, and spare parts” are prohibited. (WTO 2011b:35-41)

⁶⁸ In accordance with GATT article XX(b), which allows exceptions “necessary to protect human, animal or plant life or health”.

Indonesia

In order to improve the investment climate, since 2006 the Indonesian government also improved customs procedures. Hereby the following measures were taken: “(a) accelerate the flow of goods by speeding up the customs examination process, facilitating cargo processing, and implementing lower costs at Indonesian ports; shorten cargo processing for capital goods to seven days from the current average of 30 days; (b) expand the role of bonded zones by extending the function of bonded warehouses and automating certain of their functions; c) aim to eradicate smuggling and customs fraud; and (d) accelerate the registration and application process for excise facilities”. (WTO 2007a:37)

Indonesia has signed the WTO Customs Valuation Agreement, which means that duties are imposed on the c.i.f. value of the good.

However, USTR (2011a:185) states that “... Indonesia’s Customs Service uses a schedule of reference prices to assess duties on some imports, rather than using actual transaction prices as it committed to do under the WTO Customs Valuation Agreement”.

Even though tariffs are still Indonesia’s main trade policy instrument they are decreasing shown by a MFN rate in 2006 of 8.3%. (WTO 2007a:5)

In 2004 Indonesia adopted the AHTN, which splits tariffs into ASEAN tariffs and MFN non-ASEAN tariffs. The HS is used for categorizing imports and exports. (WTO 2007a:39)

In 2006 the simple average applied duty was 9.5%; hereby 59% of tariff lines underlie *ad valorem* duties from zero to 5%. Indonesia does not make use of TRQs. As tariffs are an important policy tool in Indonesia, they are very complex, with over 11,000 lines and 19 rates. The WTO (2007a:40) states that “Bound tariff rates tend to be substantially higher than applied rates and the gap has widened in many cases since 2003 as a result of scheduled tariff cuts. This gives increased scope for the authorities to raise applied rates on strategic commodities, which the Government did in 2005, when it increased import duties on corn and soybeans from 0% to 5% and 10%, respectively.”

94.6% of all tariffs are bound at 40%, goods which are unbound or exceed 40% include “automobiles, iron, steel, and certain chemical products”.

For transport equipment only 31.4% of tariffs are bound. For “agricultural and marine products, petroleum oil and textiles and clothing” 100% of all tariffs are bound. In the most heavily protected areas of the agricultural sector 1,341 tariff lines have bindings at or above 40%.

Especially high tariffs, of around 80 to 90 % are charged for alcoholic beverages and for cars tariffs as high as 60% exist. Only 22% of all tariff lines are duty free.

As many bound tariffs are higher than the actual applied charges, uncertainties concerning tariffs exist. Tariff escalations can be seen for “processed food, beverages and tobacco industry products, and for semi-processed products in the paper, printing, and publishing sector” because of a tariff reduction on final goods. High tariffs also exist for “textiles and leather, chemicals, non-metallic mineral products, and basic metal products”.

The average CEPT rate of Indonesia granted to ASEAN states was 2.7% in 2006.

In the current WTO round of negotiations, Indonesia tries to achieve special exemptions from tariff reductions for rice, sugar, soybeans and corn. (WTO 2007a:41ff)

In 2004 400 products were put on the list of sensitive and highly sensitive goods in order to be excluded from free trade agreement tariff reductions. The products on the sensitive list include “cars, electronics, textiles, and chemical products, for which Indonesia frequently uses licensing requirements and quality-control standards to regulate imports. The ‘highly sensitive list’ includes rice, sugar, soya beans, maize and other food items, motor vehicles, motor cycles, ethyl alcohol, and ceramics....”

Fees charged by customs only comprise a Customs User Fee, which is charged for each submitted declaration document, other fees are not charged.

“Alcoholic beverages, lubricants, explosives, and certain dangerous chemical compounds, ozone depleting substances, and rough diamonds, among other items” are subject to import restrictions. A censor board controls the import of “video tapes, laser discs and other entertainment products for both exhibition and private use”. Non-automatic import licensing covers “alcoholic beverages; nitrocellulose; precursors; optical discs; rice; white crystal sugar; consumption salt; and unworked diamonds”. Only local firms can obtain import licenses, whereupon merely “State-enterprise importers, (private or state companies licensed to import goods that compete with those they produce domestically); importer-producers (firms approved to import goods and equipment necessary for production and not available locally); and sole agents (i.e. national distributors holding sole-import licences from the Ministry of Trade)...” are the only licence holders which can import restricted goods. (WTO 2007a:46)

Import bans exist for chicken meat and quantitative restrictions exist for meat and poultry. Rice imports are forbidden during the harvest time from January to June, during other months restrictions apply. Salt imports are also prohibited during the harvest time from July to the end of each year. Salt importers must “source 50% of their raw materials locally”. Only five companies are allowed to import sugar and even for those five companies restrictions exist. The Indonesian government states that this policy should protect farmers.

For “corn, rice, soybeans, sugar, textile and related products, shoes, electronics, and toys” a special importer identification code number must be obtained since 2002, otherwise imports can be denied at the port.

The WTO states that “Trading partners have raised concerns that the import licensing requirements restrict and distort trade... [but] Indonesia maintains that the regulations are designed to help curb smuggling”. (WTO 2007a:47)

In order to help domestic industries no import duties apply to raw materials, components or machineries. Industries which are subject to tariff exemptions are aircraft maintenance, public transportation, energy and telecommunications. Also a Duty Drawback System for the re-export of imported materials exists.

The WTO (2007a:35) states that the most important NTBs used by Indonesia are “... i) the regulation on the timing of the import of rice and sugar: ii) verification and other requirements for the export of tin and granite; and ii) the ban on the export of logs and sand”. Also the importer registration licensing scheme and exceeding requirements in order to obtain import licences for textiles are an existing NTB.

Lao PDR

Annual importation plans have to be presented by importers to the Ministry of Commerce or provincial authorities in the Lao PDR. Importers are only allowed to import according to these plans. Some imports also require licenses. Import prohibitions exist for “weapons, illegal drugs, toxic chemicals, hazardous materials and pornographic materials”. Also agricultural products which are produced in a sufficient amount in the Lao PDR are not allowed to be imported. (USTR 2007:375)

The turnover tax on all merchandise and services is either 5 or 10%. The USTR (2007:376) states that “Laos appears to apply the turnover tax in a discriminatory manner with lower rates or exemptions applied to many domestic products”. Goods like distilled spirits and beer are subject in addition to the turnover tax to 50 to 70% excise tax, soft drinks and beverages to 30%, cigarettes to 55%, perfume and other cosmetic products to 30% and vehicles to 65 to 90%.

The turnover tax is gathered at customs checkpoint and from the wholesale dealer. The VAT is 10% for foreign and domestic investments, whereby for exports it is 0%. (WTO 2007b:21)

In the Lao PDR all imports are liable to licensing requirements of which most are non-automatic. The USTR (2010) states that “Among the wide range of products subject to these non-automatic licensing requirements are food and animal feeds, fuels and lubricants, steel

bars for construction, print and audiovisual material, cement, and motor vehicles”. Only companies which are approved as importers are allowed to import goods.

Customs is cumbersome, because nearly every import container is inspected and exporters complain about “irregularities and corruption in the clearance process”. The USTR (2010) also mentions that “Customs procedures in Laos have improved since the introduction of the ASEAN Harmonized Tariff System, but a large number of approvals and informal payments are often still required to get through the process”.

Tariffs between 5 and 40% are charged for imports of agricultural products, the average import tariff covered by the Agreement on Agriculture is 18.77%.

Quotas can be applied in order to ensure food security, to secure the Lao PDR’s productive capacity of rice and to hold up the minimum farm-gate price. (WTO 2001:29) Nevertheless currently there are no import bans or quotas, neither seasonal restriction for agricultural goods. Goods from ASEAN origin according to the AFTA CEPT scheme are exempted from import licenses. The Lao PDR’s non automatic licensing is supposed to protect small and infant industries in the case of steel bars and cement. Traffic congestion is being controlled with non automatic licensing for automobiles and motorcycles. Health and safety should be protected in the case of foodstuffs, seeds and fertilizers and public morals and internal security in the case of print and audio-visual materials, as well as casino utensils and weapons. Import controls for some chemicals are in place in order to hinder the production of illegal drugs and explosives. (WTO 2001:76f)

Companies which trade in goods have to register as import and export companies in the Lao PDR. There are six tariff rates (5, 10, 15, 20, 30 and 40%) in the Lao PDR, which are *ad valorem* rates. The tariff structure provides low tariffs for investment goods and inputs for industry and high tariffs for luxury goods. (WTO 2001:17ff)

The Lao PDR does not apply tariff quotas and uses only *ad valorem* duties. (WTO 2012g)

The import of “...weapons, right-hand-drive vehicles, animal parts, addictive drugs, certain medicines, cultural items for instance casino equipment, certain publications and audio-visual material and other products that may offend the Lao culture or corrupt children (such as pornography), nominated agricultural products and dangerous goods...” is prohibited.

Subject to state control are “...petroleum products, construction steel, cement, rice, vehicles, electricity, minerals, tobacco [and] timber products”. The WTO also states that images of Buddha and God are only allowed to be imported without the approval of the Ministry of Information and Culture. For most imports licenses are required. (WTO 2001:20)

Most importantly the Lao PDR required importers only to import raw material which cannot be produced domestically.

Also animal products like animal parts, agricultural products which are produced in the country are not allowed to be imported and/or exported. (WTO 2007b:35-41)

Malaysia

If a company wants to import goods into Malaysia it has to file a declaration with Customs. The Royal Malaysian Customs (RMC) is responsible for all custom-related laws. Since 2007 custom clearance is fully computerized, which facilitates trade. (WTO 2009b:24) The complexity of the border taxation is raised through import duty exemption or drawbacks for intermediate goods used in the export production. (WTO 2009b:ix)

The custom valuation for goods is based on the c.i.f. value, which is used as the transaction value of imports. (WTO 2009b:25)

The main border measure in Malaysia affecting imports are tariffs. The simple average MFN tariff in 2009 was 7.4%; around 60% of tariffs lines are duty free and about one-fifth of tariff lines are unbound. Hereby the simple average bound MFN rate is considerable higher than applied rate, which means that the government can raise tariffs within the bound level. (WTO 2009b:viii-ix)

Import prohibitions and non-automatic licensing are the most used barriers. (WTO 2009b:23) Around a quarter of tariff lines underlie import licensing, which is mostly non-automatic and applies to "...animal and vegetable products, wood, machinery, vehicles and transport equipment, and arms". Selected strategic industries, like "...passenger and commercial vehicle and motorcycles..." are protected like this. In order to be allowed to import motor vehicles and bikes which were built abroad an importer has to get Approved Permits (APs) from the MITI. The WTO indicates that the AP system is used as a quota restriction system. (WTO 2009b:32)

In Malaysia "... non-automatic licensing is ... used to regulate the flow of imports and to promote selected 'strategic' industries that have been identified to achieve certain socio-economic objectives". (WTO 2009b:ix)

Nearly all tariff rates are *ad valorem*; in order to protect agricultural products non-*ad valorem* rates exist. In 2009 32 of the top 50 tariffs involved non-*ad valorem* duties, which means that the tariff protection is considerably higher than the simple average applied tariff of 7.4%. Around 80% of Malaysia's tariffs are bound, bound tariffs are higher the applied MFN tariffs, thus authorities may raise tariffs. The average bound rate in 2005 was 15.6%, for agricultural goods 11.0% and for non-agricultural goods 16.5%.

Approximately 60% of tariff lines are duty free. Tariff protection for raw materials is usually lower than for processed goods, depending on the value-added content. Only for fully processed non-metallic mineral goods tariffs are higher than for semi-processed products. In order to support domestic small producers in 2008 18 TRQs were applied, which increased the tariffs from the range of 0% to 5% to the range of 0% to 25%, whereat the out-of-quota tariffs range from 20% to 90%.

Import duty exemptions exist for in Malaysia not available raw materials and components which are used for the production of export goods and machinery. (WTO 2009b:27-31)

Myanmar

The ECAP (2002:73) mentions that after the adoption of the market-oriented economy system in 1988 trade barriers were lowered and import/export procedures were simplified.

In 1992 the HS was established in Myanmar. (ASEAN ICT Email 2008b)

Importers have to show at the time of import an import declaration form in addition with an import license or permit and other certificates from government departments.

The import duty is charged according to the c.i.f. value and the commercial tax is charged based on the landed cost, which is the addition of assessable value and import duty. (ASEAN ICT Email 2008b)

If government departments or organizations import or export goods they might be exempt from custom duties by the Minister for Finance and Revenue.

As a WTO member Myanmar applies the Customs Valuation method. It is stated that "...the real value is taken to be the normal price or import value of goods at the time and place of importation". An open market sale is supposed between buyer and seller.

The maximum tariff rate applied in Myanmar is 40%. For imports of machinery, spare parts and inputs usually a duty of 0.5% to 3% is applied. (ASEAN ICT Email 2008c)

It is forbidden to import "... counterfeit coins and currencies, pornographic articles, piece goods without stamped measurement, goods having counterfeit trade mark, all kinds of narcotic drugs and psychotropic substances, playing cards, goods bearing the imprint or reproduction of the flag of the Union of Myanmar [and] goods bearing the emblem of Buddha and pagodas of Myanmar". (ASEAN ICT Email 2008b)

The importation of domestically produced goods is restricted and the importation of luxury goods like alcohol and cigarettes is forbidden. In 1997 the so called "Export first and Import later" system was introduced. (ESCAP 2002:75)

In Myanmar every enterprise must be registered as an exporter or importer at the Export Import Registration Office, Directorate of Trade. Foreign companies are only allowed to

register as joint venture corporations. The fee for registration is Myanmar Kyat (MMK) 5,000 for one year, for three years MMK 10,000, for renewal the same fees have to be paid again.

Every good, apart from prohibited ones, can be imported into Myanmar with an import license from the Ministry of Trade. Import license fees have to be paid if import permits are not mandatory. The fees range between MMK 250 to MMK 50,000.

An exemption from this fee exists for “machinery, equipment, instruments, machinery components, spare parts and construction materials”. The validity of an import license is six months. (ASEAN ICT Email 2008a)

In 2005 the average applied tariff was 4.5%, which shows more openness than in other developing countries. (Alamgir 2008:985)

Htay (2007:46-57) indicates that foreign trade is constrained through quantitative restriction for imports and exports. The highest import barriers pose cumbersome custom clearance methods, no international valuation norms and the “...valuation based on open market price between independent buyers and sellers”. Also the facts that at least four exchange rates exist, which are an official rate, parallel rate, tariff valuation rate and foreign exchange certificate rate, impedes trade.

Philippines

In 2007 the AHTN was introduced in the Philippines which simplified tariffs. Duty-free imports have a share of 4.7% and over half of all tariff lines have duties between 0 to 5%. Products which receive the highest tariff protection are rice and sugar. (WTO 2012e:27)

However, the tariff remains the most important policy tool in the Philippines. The simple average applied MFN tariff is 6.4% and the simple average bound rate 25.7%. The tariff average is 10.2 % for agricultural goods and 5.8% for non-agricultural products. Over 60% of all tariff lines are bound. (WTO 2012e:viii)

The highest tariffs apply to fully processed goods with an average of around 7%. High protection through tariffs is also given to “textiles and leather, followed by wood and furniture, paper and printing, chemicals, and non-metallic mineral products”.

The simple average MFN duty applied is 6.4%, the average tariff is 10.2% for agricultural products and 5.8% for non-agricultural goods.

Tariffs of most agricultural products are bound while industrial products have a low frequency of bound tariffs. The simple average bound rate is 25.7%, whereupon the tariff rate is 35.6% for agricultural products and 23.3% for non-agricultural products. As the applied MFN tariffs are a lot lower than the bound rates, which means that the government can easily raise tariffs.

TRQs apply to only 0.9% of all tariff lines. The TRQ for rice is 40%. The law also allows variable levies and seasonal tariffs, but they are seldom applied.

The tariff for preferential trading agreements ranges from 0.1% to 5.8%, which is lower than the applied MFN rate. (WTO 2012e:29-32)

For agricultural products the simple average applied tariff in 2011 was 7.7%, the highest tariff of 50% applies to corn. High tariffs also exist for cane sugar with 65% and rice and beet sugar with 50%. (WTO 2012e:67)

The Sugar Regulatory Administration (SRA) is responsible for sugar production and supply and only sugar traders registered at the SRA are able to import or export sugar. Sugar is one of the highest protected goods. For imports of cane sugar a tariff quota with in-quota rates of 50% and out-of-quota rates of 65% applies.

For manufactured products the simple average applied tariff was 6.4%, the highest tariffs of 30% apply to automobiles, motorcycles and waste materials. (WTO 2012e:70ff)

A VAT of 12% applies to the majority of all imports, except "... agricultural and marine food products, agricultural inputs, books, newspapers, and magazines; and passenger and/or cargo vessels of more than 5,000 tons". Also bio-organic products and coal, as well as petroleum products are exempted from VAT. (WTO 2012e:34)

The Philippine's import licensing system is complicated and import quotas exist for sensitive goods like rice. (WTO 2012e:viii)

Import licences are needed for every import. The WTO (2012e:38) states that the licensing system is complex as there are non-automatic, automatic and special licensing systems. Furthermore, "... only persons, firms, and institutions registered as bona fide importers, domestic users, breeders, producers, traders..." can apply for non-automatic licences. Every person or company who comes up to the requirements can apply for automatic licences. However, the government is the only entity which can import rice.

For non-quota goods and goods which underlie quotas different licensing methods exist. For quota-goods different licences for non-agricultural and agricultural goods are used. The WTO (2012e:40) mentions in its 'Trade Policy Review' report that "For non-agricultural products, quotas are granted on the basis of an importer's past performance in relation to historical growth in sale. For agricultural products, there are regular and special licences. Regular licences are issued annually for tariff quotas at the start of the quota year. Special licences, which may be valid for less than a year, are issued for quotas reallocated from the surrendered volumes during the quota year, additional quotas created and allocated by government and any remaining quota allocated on a first-come-first-serve basis. Processing of special licences

takes about one month. Licensees who use less than the quota utilization threshold (set at 80%) are penalized; 50% of their unused and unsurrendered quotas is deducted from their next quota-year allocation on the first instance; 75% on the second instance; and 100% on the third instance.”

The Philippines use non-preferential rules of origin for all imports. Goods imported into the Philippines underlie “customs tariffs, excise duties, VAT, and various customs fees and charges for BOC services”.

Importers need to register at the Bureau of Customs (BOC), for which the fee is Philippine Peso (PHP) 1,000 and PHP 500 for renewals. The BOC introduced an automated Electronic-to-Mobile system in order to facilitated custom procedures.

Shipments are classified into ‘red lane’, ‘yellow lane’ and ‘green lane’. Around 60% of shipments were classified as ‘red lane’ in 2010, which means the shipment has to undergo physical examination and other controls, thus the clearance takes one to two days.

For valuing the duties on imports the transaction value is used. For clearing valuation and classification disagreements a Valuation and Classification Review Committee exists in each district port. The decisions can be appealed at the Central Valuation Classification Review and Ruling Committee. The WTO states that every year there are around 100 valuation/classification disagreements at the port of Manila.

The President is able to remove, reduce or raise duties up to 100% *ad valorem* and change classifications. (WTO 2012e:25ff)

Consequently a barrier to imports are the numerous custom fees and charges for BOC services, which can range from PHP 250 to PHP 3,000, in addition to that fees for laboratory tests might be charged, which can be as high as PHP 2,500.

Excise taxes are charged for “...alcohol products, automobiles, jewellery, minerals, perfumes, cigarettes, and petroleum”. For imported distilled spirits higher excise taxes are charged than for locally produced ones. Furthermore, fish products can only be imported if the domestic supply is not sufficient and the importation of used vehicles is forbidden. (WTO 2012e:36f)

Singapore

Singapore is one of the most open economies and has facilitated custom procedures in an outstanding manner. The country has an electronic single window for customs declaration, called the TradeNet system. Tariffs exist only for alcoholic beverages, namely “... stout and porter, beer and ale, and medicated and non-medicated samsu”. 69.9% of all tariffs are bound at 6.9%. (WTO 2008b:viii,38) All agricultural tariff lines are bound. Bindings are limited for “mineral products, footwear, articles of stone, precious stones, transport equipment, arms and

ammunition, and works of art”. The bound rate for agricultural goods is 9.4% and for non-agricultural goods 6.4%. (WTO 2008b:36)

Import restrictions exist because of environmental, health and public security reasons. (WTO 2008b:ix)

Goods which are not allowed to be imported are “...chewing gum ...; chewing tobacco and imitation tobacco products; cigarette lighters of pistol or revolver shape; controlled drugs and psychotropic substances (except those approved as medicinal products); endangered species of wildlife and their by-products; firecrackers; obscene articles, publications, videos and software; and seditious and treasonable materials”.

Motor vehicles older than three years are not allowed to be imported due to environmental and safety reasons. Licence requirements exist for “... strategic items; hazardous chemicals; medicinal products; films and videos; equipment for the reproduction of copyright publications, video tapes, video compact discs, laser discs, records or cassettes; arms, ammunition, and explosive precursors; agricultural biotechnology products and food derived from biotechnology”. The importation of rice underlies non-automatic licences in order to guarantee food security. Customs valuation is based on the transaction value and calculated according to the c.i.f. value of the good. (WTO 2008b:39-42)

Fees collected for imports are the goods and service tax (GST) of 7% and excise taxes on “alcohol products, tobacco products, petroleum products, and motor vehicles”. Exemptions from custom duties and GST exist for temporarily imported and re-exported goods and vice averse. Raw and intermediate goods might also be exempted from custom and excise duties.

Traders have to be registered at the Accounting and Corporate Regulatory Authority. For using TradeNet a Central Registration number has to be obtained, nevertheless the process for obtaining the number is not being mentioned as cumbersome. Import permits have to be acquired through TradeNet before the importation. For the importation of food, traders have to register at the Agri-Food and Veterinary Authority (AVA) and at Customs. (WTO 2008b:36ff)

Thailand

Since 2008 all custom procedures in Thailand are paperless and the single-window service should be implemented soon. Nevertheless, non-automatic licensing exists for a range of goods in order to monitor prices and to protect public health and domestic producers. (WTO 2011c:viii)

With the application of AHTN, Thailand’s number of tariff lines increased from 5,505 to 8,300. (WTO 2011c:50)

Thailand's tariff structure is very complex, different *ad valorem*, specific duty and alternate duty rates are applied. More than a quarter of all tariff lines are unbound, which includes tariff lines of some agricultural goods. (WTO 2011c:viii)

Tariffs are mostly used as a trade policy. In 2007 the AHTN was adopted. Thailand applies 31 *ad valorem* rates from 0-80%, 19 specific-duty rates and 158 alternate-duty rates. High *ad valorem* rates apply to imported goods which are also produced locally, such as "farm products, automotive products, motorcycles, alcoholic beverages, fabrics, paper and paperboard, and restaurant products".

74% of all tariff lines are bound. The difference between bounded and applied tariffs is considerably high, even though tariffs tend to fall continuously.

The average applied MFN tariff is 11.2%, whereupon agricultural goods have the highest tariffs of around 26%. Especially high tariffs apply to beverages, spirits and tobacco of around 49%. Non-agricultural products with high protection through tariffs include transport equipment with around 33%. 24 TRQs exist for agricultural products, including rice and sugar. (WTO 2011c:49-52)

Applied MFN tariffs depend on the kind of agreements Thailand has with the exporting country. In some agreements Thailand is allowed "... to retain protection for transport equipment, beverages and tobacco, vegetables, and footwear...". Import surcharges exist for three products, namely fishmeal, maize for animal feed and soybean meal. (WTO 2011c:54)

Legislative agreement is needed to change statutory tariff rates, but applied rates can be change by the Minister of Finance. (WTO 2011c:51)

The WTO (2011c:57) states that import restrictions are complex, whereupon licensing and prohibitions seem to be used as quantitative restrictions. Generally speaking infant industry protection is the main reason for applying these measures. (WTO

Non-automatic licence requirements exist for 24 agricultural goods, which are additionally subject to TRQs, and processed goods such as "... fishmeal, raw silk, used diesel engines, certain buses, chainsaws, marble, plastic wastes, and certain antiques or objects of art...".

Automatic licences are used for "... certain garments (i.e. unfinished garments, parts or components except collars, cuffs, waist bands, pockets, and cuffs for trousers), intaglio printing machines, and colour photocopying machines".

Import prohibitions exist for "...counterfeit goods and equipment for their manufacture, used motorcycle engines, game machines (coin or disc operated), and household refrigerators using CFC [chlorofluorocarbon] in the production process...". (WTO 2011c:61)

TRQs exist for 23 agricultural products, namely “..milk and cream, and flavored milk, skim milk, potato, onion, garlic, coconut, copra, coffee bean, tea, pepper, corn, rice, soybeans, onion seeds, soybean oil, palm and palm oil, coconut oil, sugar, instant coffee, soybean meal, tobacco leaf, raw silk, dried longan...”. (USDA 2010a:31)

The WTO (2011c:49) indicates that “... imports still often face burdensome requirements including extra fees, surcharges, and certificate-of-origin requirements”. Thailand applies preferential rules of origin. Furthermore, every importer has to register for importation. Products are valued according the c.i.f. price of imports. Import declaration fees of Thai Baht (B) 200 are charged for each transaction, other fees for documentation and for Custom Houses attendance during holidays, or after office hours are charged as well.

Vietnam

In 2006 the Customs Valuation Agreement of the WTO was implemented in Vietnam. (USTR 2011b:379)

An import licensing regime for consumer goods, food, agricultural goods and textiles was implemented in 2008. Circular 24, which is an automatic import licensing requirement, covers main agricultural and food products, textile and apparel products and certain industrial goods. Importers have to obtain this license, otherwise shipments cannot be unloaded. The USTR (2011b:378) states that in principle the license is not automatic, even if called so, because products cannot move until the license is obtained by the importer, which often takes longer than the specified seven days. Before being allowed to apply for the license an original bill of landing, which is acquired after the cargo loading, must be received. This limits the possibility for an early license application.

Also the European Chamber of Commerce in Vietnam (EuroCham Vietnam) states that one problem is that application and issuance works through mailing via the postal system, which can cause applications to get lost and is very time consuming. The validity of the automatic import license is limited to 30 days, after that a reapplication is required. This increases administrative burden significantly. The EuroCham Vietnam (2010) observes that “... Article 1 of Circular 24 seems to us more of a ‘non-automatic’ import licensing procedure” and that “... the ‘automatic’ import license will have restrictive effect on the import of many ordinary commodity items...”.

Some products, like “cigars and cigarettes, crude oil, newspapers, journals and periodicals, and recorded media for sound or pictures” can only be imported by state trading enterprises.

VAT apply to a number of goods and services, excise taxes⁶⁹ exist for “cigarettes, cigars, liquors, beer, under-24 seat cars, some kind of two-and three-wheeled motorcycles, aircrafts, yachts, gasoline, some kind of air-conditioners, playing cards, votive gild papers and votive objects, service, dance halls, massage parlours and karaoke bars, casinos, betting, and golf and lottery business”.

Import prohibitions exists for goods like “...cultural products deemed ‘depraved and reactionary,’ firecrackers, certain children's toys, second-hand consumer goods, right-hand drive motor vehicles, and used spare parts for vehicles”. (USTR 2011b:379)

In May 2011 Notice 197 was issued by the Ministry of Industry and Trade (MOIT) which controls the import of wines, spirits, cosmetics and mobile phones. These goods are only allowed to be imported through the three seaports of Hanoi, Da Nang and Ho Chi Minh City. Importers of such goods have to get their import documents notarized by Vietnamese diplomatic offices abroad.

Furthermore, Circular 122 was implemented by the Ministry of Finance (MOF) in 2010, which is in charge of price controls and registrations for goods like “... cement, steel, liquefied petroleum gas, clean water for commercial use, chemical fertilizers, plant protection products, animal drugs and vaccines, salt, milk/nutritional powders for children under six years old, sugar, rice, animal feed, coal, paper, textbooks, and railway transport”. (USTR 2011b:379)

The MOF can apply price controls whenever domestic prices in- or decrease without a justifiable reason. (USTR 2012a:402)

Apart from this, advertisement for “distilled spirits in print, electronic, and broadcast media” is forbidden, which is considered as a barrier to increased imports of distilled spirits by some companies. (USTR 2012a:403)

Automatic import licences are required for “meat and edible meat offals, fish, crab and fish products, sugar confectionary, chocolate, cereals, flour, extracts, essences and concentrates of edible products, beverages, spirits, vinegar, cosmetics, processed vegetables and fruits, plastic products, textiles and apparels, footwear, home electrical appliances, motor vehicles, furniture, toys, and steel products”. (WTO 2011d:1)

The importation of “cultural products deemed ‘depraved and reactionary,’ firecrackers, certain children's toys, second hand consumer goods, right hand drive motor vehicles, and

⁶⁹ The Thai Law on Excise Tax can be conducted at: <http://www.customs.gov.vn/English/Lists/Documents/ViewDetails.aspx?List=889a92fd-e7a0-4c8e-b800-80ff1158ebaf&ID=1061>

used spare parts for vehicles” is prohibited. A TRQ exists for salt, tobacco, eggs and sugar. (USTR 2011b:378)

The simple average MFN tariff applied in 2010 was 9.8%, 17% for agricultural products and 8.7% for non-agricultural goods; 100% of all tariff lines are bound, the average tariff duty is 11.4%, whereupon the tariff duty for agricultural goods is 18.5% and for non-agricultural products 10.4%. (WTO 2011e:174)

The average tariff imports face is around 15% or less. High tariffs exist for fresh fruit, nuts, poultry, port, cheese, frozen potato products, flatbread, tomato concentrate and sauce, ice cream powder, cereals, sugar, sweets, distilled spirits, powdered teas, nutritional supplements and coffee. High tariffs are also applied on restaurant equipment and large engine motorcycles. In 2008 and 2009 tariffs for “meat, poultry, automobiles, paper, steel, and fertilizer” were raised. (USTR 2011b:377)

China

Custom reforms in China focused on simplifying customs declaration procedures. Importers now have to declare “...only at the place where they are registered”. Traders have to get registered at the Ministry of Commerce (MOFCOM). Custom declarations have to be made in paper and electronic form at the port of entry. Pre-shipment inspections are required for “...certain commodities related to national security, with high value or complicated technology; equipment exceeding certain height, length or volume; solid waste used as raw materials; and certain used electronic products that are deemed to affect public health and environment”. (WTO 2010:25)

Custom valuation is based on the transaction value, including transport, insurance and other costs. Preferential rules of origin apply to trade agreements China is part of and imports from LDCs.

China applies MFN tariff rates and non-MFN tariff rates which contain agreement, special preferential and general tariff rates, as well as TRQs. The Customs Tariff Commission of the State Council can set ‘interim tariff rates’ for all the applied rates, except for general tariff rates. These ‘interim tariff rates’ can be applied to different products for a special time period. MFN treatment is granted to all WTO Members apart from El Salvador and some EU States.

The average MFN tariff in 2009 was 9.5%, the difference between bound and applied rates is very low. However, tariffs are very multifaceted with 60 different *ad valorem* rates. Tariff exemptions exist for imported goods which are used for producing exports. State trading is mainly used for agricultural goods and crude and processed oil.

100% of all tariffs in China are bound. Bound rates for agricultural goods range from zero to 65% and from zero to 50% for non-agricultural goods. (WTO 2010:24-27)

In 2009 99.3% of all 7,867 lines at the HS 8-digit level involved *ad valorem* rates. The *ad valorem* rates ranged from zero to 65%. 52 tariff lines were no-*ad valorem*, 44 were specific rates and 5 tariff lines either applied an *ad valorem* rate, or a compound rate.

Generally speaking, China did not increase any MFN tariffs lately, but in order to save energy, tariffs for fuel oil and jet fuel were raised. The average MFN tariff for agricultural products was 15.2% and for non-agricultural goods 8.6%.

The WTO states that “China’s applied MFN tariffs are subject to positive escalation between semi-processed and fully processed products, and in some cases negative escalation between unprocessed and semi-processed products.” (WTO 2010:29)

The average MFN tariff for agricultural goods in 2009 was 15.2%, especially high tariff protection exists for “cereals..., sugar..., tobacco... and some beverages...”.

In order to stable domestic supply tariffs can be reduced for short term periods. (WTO 2010:72)

On the other hand, tariffs for manufactured goods are on average low and most of the time *ad valorem*. The average tariff in 2009 was 9.5%. On the other hand the average tariff for the automotive sector was 16.2%. Automatic licences are required for the importation of automotive parts. The importation of complete vehicles is only allowed at four coastal ports, two terrestrial ports and at the Alataw Pass⁷⁰. Used vehicles, parts and components cannot be imported. (WTO 2010:78)

General rates apply to imports from countries which do not underlie MFN tariff rates⁷¹ and imports whose origin is unknown. These tariffs with an average of 57% are higher than MFN tariffs of an average of 9.5%.

In 2009 TRQs applied to “wheat, maize, rice, sugar, wool, wool tops, cotton, and chemical fertilizers”.

VAT and excise taxes are charged at the border for imports. The rates are 17% or 13% for most products. Domestically VATs are not charged for agricultural commodities sold by farmers, but for imported agricultural products VATs apply. (WTO 2010:32)

⁷⁰ The Alataw Pass is mountain pass between China and Kazakhstan.

⁷¹ These countries are: El Salvador, Ceuta, Gibraltar, Melilla, Andorra, Aruba, Bahamas, Bermuda, Bhutan, Bonaire Islands, Canary Islands, Cayman Islands, Comorin, Curacao, French Guyana, Gambier Islands, Guadeloupe, Liberia, Marquesas Islands, Marshall Islands, Martinique, Montserrat Island, Nauru, Norfolk Island, New Caledonia, Palau, Palestine, Reunion, Sabah, Saint Martins Island, Sao Tome and Principe, the Republic of San Marino, Seychelles, Society Islands, Tuamotu Islands, Tubai Islands, Turks and Caicos Islands, Tuvalu, Vatican City, British Virgin Islands, and Western Sahara.

NTBs used by China include import and export licensing and state trading in order to distribute resources. (WTO 2010:viii)

In 2009 52 tariff lines were forbidden to be imported and 528 lines were partially forbidden. Tariff lines concerned most of all were "...products of animal origin, opium, mineral products, chemicals, raw hides, waste of skins and leather, used clothes, ash of precious metals, used articles of machinery and electronic equipment, and second-hand transport equipment". (WTO 2010:33f)

MOFCOM (2009) issues a catalogue which lists all goods subject to import and export licences.

Import licensing is used for products from WTO members and non-members. Non-automatic licensing applies to 95 tariff lines, mostly for "... ozone-depleting substances, and specific old mechanical and electronic products Non-automatic licences are also required for imports of chemicals used for military purposes ..., toxic materials ..., and radioactive isotopes and their compounds ...". Automatic import licences exist mainly for "...poultry, vegetable oil, tobacco, chemical fertilizers, coal, natural rubber, iron ore, crude and processed oil, steel, machinery products, automobile components, and ships". (WTO 2010:34)

Before receiving an import licence the applicant must first apply for an import permit. Licences are valid for one calendar year, but can be extended for another three months.

In order to guarantee domestic supply and stabilize prices the Chinese State may decide that certain goods underlie state trading. In 2009 state-trading enterprises (STEs) primarily imported "grain ..., sugar, cotton, chemical fertilizer, tobacco and crude and processed oil". Tobacco importations are state monopoly.

Most products imported by STEs also underlie TRQs. The WTO affirms that in 2008 "90%, 70%, 60%, 50% and 33% of total quotas allocated for wheat, sugar, maize, rice, and cotton, respectively," were allocated for STEs. (WTO 2010:34f)

Price controls exist for tobacco, edible salt, cotton, grain, sugar, steam filature yarns and chemical fertilizers.

Due to China's high energy demand the government intervenes to secure the country's energy supply. Imports of energy products face low tariffs, but they are often subject to automatic licensing and state trading. Exports of energy products on the other hand face very high barriers being subject to export quotas, licensing, state trading and export taxes. (WTO 2010:75ff)

Korea

Custom clearance became more complex in recent years and an early warning system which blocks undervalued imports was introduced in order to prevent the import of underpriced products. (WTO 2008c:38)

Import declarations can only be handled by consignors, custom brokers and associations or corporations for customs clearance. The required documents for importation are "... the commercial invoice, price declaration, and duplicates of the bill of lading. Where applicable, a detailed packing list, import approval document, sanitary and phytosanitary certificates (most agricultural goods and processed foods), and certificate of origin for goods subject to tariff preferences should be submitted."

Korea Customs Service (KCS)⁷² has fully computerized import clearance since 2005. Import/export clearance is operated by the system and the single window system covers quarantine, inspection and custom clearance at once. (WTO 2008c:40)

Also an immediate clearance system at the main ports in Busan, Incheon and Gwangyang is offered by KCS for trustworthy firms. The WTO states that around "... 60% of inward cargo uses this system."

On the other hand KCS applied since 2005 stricter custom controls for agricultural products in order to protect local farmers from undervalued import declarations. These controls are mainly used for "... peppers, garlic, sesame seeds, onions, carrots, and seasoning powders...". (WTO 2008c:41)

Korea was the first country to use a completely electronically clearance portal system, established by the Korean Customs UNI-PASS Information Association, furthermore Korea does not require any pre-shipment inspections.

Free Trade Zones (FTZs) in Korea exempt goods from all customs requirements. Regional government can request FTZs from the Minister of Knowledge Economy.

Korea complies with the WTO Agreement on Customs Valuation. Imports are valued according to their c.i.f. cost and mainly the transaction value is used.

Since August 2007 the KCS uses the 'SIREN system', which is an early warning system for undervalued imports of agricultural merchandise. (WTO 2008c:42f)

Korea uses preferential and non-preferential rules of origin, whereupon each of the FTAs has different rules of origin, which increases the tariff complexity. (WTO 2008c:52)

According to the WTO (2008c:38) tariffs continue to be the main trade policy instruments in Korea. Nearly all tariff lines are *ad valorem*, but applied tariffs in Korea tend to be very

⁷² The webpage of KCS can be conducted at: <http://english.customs.go.kr/kcshome/site/index.do?layoutSiteId=english>

intricate with "...small rate differences and decimal points". In 2008 the average applied MFN tariff was 12.8% with very high tariffs applied on agricultural products. Korea's "... tariff rates range from zero to 887.4% ...". TRQs are applied under Korea's "multilateral agricultural market-access commitments" whereat in-quota tariffs from 0 to 50% are used, out-of-quota rates can be as high as 800.3%. Furthermore the WTO states that "autonomous tariff quotas", "usage tariffs" and "duty concession" which are applied selectively increase the tariff intricacy. 90.8% of all tariffs are bound but the difference between applied and bound MFN tariffs is high. The WTO states that "Korea has continued to use this gap to apply higher MFN duties (e.g. adjustment duties) termed as 'flexible tariffs', which the authorities maintain are within WTO bindings."

Very high tariffs are applied on agricultural and fishery products, over 30% for nuts and 35% or higher for dairy products. Also for "pears, table grapes, juices, starches, and peanut butter" high tariffs from 45 to 54% apply. The USTR (2012b:240) states that especially high tariffs exist for tea with 754% and peanuts with 513%. 'Adjustment tariffs' are used for certain agricultural, fishery and plywood products. Thereby the applied tariff rates are raised. Bound tariffs remain comparatively high as well. Peak *ad valorem* tariff rates exist mainly for agricultural goods, ranging from zero to as high as 887.4% for manioc.

In 2007 Korea adopted the HS Tariff Classification. In 2008 the simple average MFN tariff was 12.8%, for agricultural goods 53.5%, for industrial goods 6.5%; showing different tariff protection goals. The highest tariff rates exist for vegetable products with 101.6% and in the manufacturing sector footwear and headgear with 10.1%, as well as textiles with 9.8% show tariff exceeds. The WTO (2008c:44) mentions that in Korea "By according varied and substantial levels of protection to selected industries, especially agriculture, tariffs distort competition by favouring some activities."

Transparency of tariffs is high as over 99% of all duties are *ad valorem*. Nevertheless, around 124 different rate bands exist principally for agricultural duties.

Alternate tariffs exist for around 0.7% of all tariff lines. Duties range from zero to 887.4%. Non-*ad valorem* duties are used mainly for films for cinemas, diagnostic or laboratory reagents, raw silk and recorded video tapes. Alternate duties also exist for some agricultural tariff items as out-of-quota duties, whereupon "sesame seeds and oil, jujubes and pine nuts" exceed duties of over 500%.

Tariff escalations exist for "semi-processed food, beverages and tobacco and throughout all production stages of textiles and leather, basic metal products, and non-metallic mineral products". For semi-manufactured goods lower tariff duties apply.

The Minister of Strategy and Finance (MOSF) sets annually adjustment duties in order to protect domestic industries from import flows. Mostly products like fish, rice preparations, sauces and plywood are protected by using adjustment duties. Korea retained the right to take special safeguard action for products such as grains, potatoes, ginseng and soybeans. (WTO 2008c:45-49)

Goods with fluctuating seasonal prices receive seasonal tariff protection in order “... to protect domestic industries against competing imports that threaten to ‘disrupt’ production.”

On the average 90.8% of all tariff lines, 89.5% of industrial and 98.7% of agricultural tariff lines, are bound in Korea. The simple average bound rate in 2008 was 17.1%. Very high bound tariff rates exist for cereals and dairy products. The average bound tariff for agricultural goods is 62.5% and for industrial merchandise 9.4%. The WTO states that “Korea uses this scope mainly to raise MFN tariffs annually by applying higher adjustment duties ... on a number of products to temporarily protect domestic producers.” (WTO 2008c:51)

TRQs are applied by Korea whereupon in-quota tariff rates range from zero to 50% and out-of-quota rates are often over 100%, in some cases even 800.3% *ad valorem*. The WTO (2008c:53) states that “Some tariff quotas operate, in effect, as quantitative restrictions, whereby seemingly prohibitively high out-of-quota tariffs prevent out-of-quota imports....” The latest data from 2006 showed that the average fill rate of TRQS was roughly 68.3%. Again the WTO mentions that “The consistently large unfilled share of tariff quotas on some items, even with relatively low in-quota tariffs, suggests that their administration and allocation may, inter alia, be restricting imports....”

TRQs are assigned by around 22 different organizations, of which some are owned or controlled by domestic producers. Some organization members produce food products which are imported under TRQs. (WTO 2008c:54)

The USTR (2012b:240) states that “Korean domestic industry groups, which administer the quotas, frequently allocate the more favorable in-quota tariff rate to their larger members that import raw ingredients.”

Depending on the product, different quota allocation methods are used, including “... the auctioning of quotas, allocation to designated agency, real demand allocation, and a combination thereof.” STEs may apply extras mark-ups in addition to the in-quota tariff on goods like “... rice, garlic, onions, pine nuts, sesame, ground-nuts, buckwheat, peppers, mung beans/red beans, and soybeans”.

Autonomous tariff quotas, which are revised every year, are granted by Korea through concessional tariffs for “... raw materials, inputs, semi-processed goods, components, parts

and, engines”. Import quotas exist for rice under the Minimum Market Access (MMA) WTO commitment. (WTO 2008c:54f)

The Korea Agro-Fisheries Trade Corporation is responsible for importing rice under the MMA commitments, which is purchased via open biddings and is being on-sold to the Ministry of Food, Agriculture, Forestry and Fisheries (MIFAFF) at the import price. In 2007 this kind of import accounted for 76% of all rice imports.

Through the MMA quota, access to the rice market improved significantly for exporters of other countries, however the import amount is still limited. (USTR 2012b:241)

Korea also has a screen quota which obliges movie theatres to show at least for 73 days a year domestic movies. Foreign programs may as well not exceed 20 % of the total TV or radio broadcasting time. In addition to that “... Korea maintains annual quotas that limit broadcast time for foreign films to 75 percent of all films for terrestrial, cable, and satellite broadcasts; foreign animation to 55 percent of all animation content for terrestrial broadcast and 65 percent of all animation content for cable and satellite broadcasts; and popular music to 40 percent of all music content.” (USTR 2012b:242)

Concerning motor vehicles Korea applies a tariff of 8% tariff and NTBs to protect the home market. NTBs include according to the USTR (2012b:246) “... taxes based on engine size, unique standards, inadequate regulatory transparency, and an inadequate ability of stakeholders to provide input at an early stage into the development of regulations and standards.”

Concerning the drug and medical market it can be said that transparency concerning pricing and reimbursement is missing for medical devices. In 2011 the Ministry of Health and Welfare introduced a pricing plan for medical devices. The prices are calculated according to the import price of imported goods and the manufacturing price of domestic ones. The USTR (2012b:247) criticises that import prices are not the actual value of a good and like this an impediment to trade is posed.

Furthermore, a Drug Expenditure Rationalization Plan which was introduced in 2006 includes cost control measures. According to the USTR (2012b:246) these “... reimbursement policies ... discourage companies from efficiently introducing advanced medical products to the Korean market and ... serve as a disincentive to investment in research and development”.

Japan

Tariffs are still Japan’s main border instrument, however Japan also uses NTBs like import prohibitions, quantitative import restrictions, like import quotas on fish and state trading for “leaf tobacco, opium, rice, wheat, barley, and milk products”. (WTO 2011f:viii)

Japan grants preferential rules of origin to its trading partners in FTAs or GSP. Certificates of origin must be provided by the exporting country for preferential tariffs under FTAs and the GSP.

In order to be granted MFN tariff rates, the goods have to be “wholly obtained” or “undergone substantial transformation” in the country of origin. (WTO 2011f:40)

For imports there are no special registration obligations and no licenses are needed; only a customs declaration has to be filed for all imports. The transaction value of imports is the c.i.f. value. A multi-payment network system can be used for paying customs duties, but only financial institutions which participate in the Japan Multi-payment Network Management Organization are able to use the system. This system connects teller institutions like government agencies with financial organizations. The Next Generation Single Window for custom procedures was established in 2010.

Around 98.8% of all 8,826 tariff lines are bound in Japan, only 108 lines are unbound. The unbound rates comprise mainly fishing vessels, petroleum oils and wood and wood products. 8,159 bound lines have *ad valorem* rates, 212 lines specific rates, 57 lines compound rates and 290 lines alternate rates.

The average bound MFN rate in 2010 was 5.9%, the average applied MFN rate 5.8%. Just for agricultural products the average bound rate is significantly higher with 16%. For non-agricultural goods the average rate is 3.5%. (WTO 2011f:32ff)

Non-*ad valorem* rates apply to “... fats and oils, footwear, prepared foods, live animals and animal products, textiles and clothing, vegetables, and mineral products”. For 408 out of 584 non-*ad valorem* rates AVEs were given by Japanese authorities. 56 tariff lines have alternate duty rates and 25 lines compound rates. 155 tariff lines, accounting for 1.8%, underlay TRQs in 2010. All in-quota rates are *ad valorem*, with an average of 18.3%, but only 24.5% out-of-quota rates are *ad valorem*, with an average of 77.4%. The WTO states that Japan’s quota allocation method is very complex and complicated.

The average applied MFN tariff rates for “...footwear and headgear, prepared foods, vegetables, live animals, hides and skins, arms and ammunition, and textiles and clothing...” are rather high. (WTO 2011f:36)

High tariff protection exists for primary agricultural goods and tariff escalation from semi-processed to final goods can be seen in sectors like “textiles, petroleum refineries, and industrial chemicals”. Protection for semi-processed goods in the sectors of “food products and manufacturing, leather products, wood and paper products, and other chemicals” is higher than for fully processed articles.

Applied average tariff rates for preferential trade agreements are lower than MFN rates, but vary from product to product.

Drugs, some weapons and certain animals and plants are forbidden to be imported or require import licences. (WTO 2011f:38ff)

Goods which require import approval are certain “marine products, medicines and chemical products, propellant powders, nuclear goods, weapons and ammunition, wild animals and plants, substances which deplete the ozone layer, specified hazardous wastes, waste chemical weapons goods, alcohol of 90 per cent by vol., rough diamonds, cultural property illegally removed from Iraq, all goods from the Democratic People's Republic of Korea, weapons or other items related to nuclear programmes or ballistic missile programmes from Iran”. (Committee on Import Licensing 2009)

Japan also applies import quotas, mainly on fish products and “...controlled substances listed in the Montreal Protocol on Substances that Deplete the Ozone Layer”.

The WTO (2011f:42) states that the method of allocating import quotas is very complex. The Ministry of Economy, Trade, and Industry decides quotas for fish imports. Decisions are made based on domestic supply and demand.

5.3 Standards, Testing, Labelling and Certification Requirements

Brunei Darussalam

Concerning standards and technical regulations, there are only 42 voluntary standards for on construction and food in Brunei. (WTO 2008a: ix)

The Department of Agriculture in the Ministry of Industry and Primary Resources is responsible for SPS measures. (WTO 2008a:48)

The Public Health (Food) Order regulates food labelling requirements. Labels may either be written in English or Malay and must contain the “.... name of food, list of ingredients, net/drained content, name and address of manufacturer, packer, wholesaler, importer and distributor, the country of origin, lot identification, date and storage instructions, and instructions and date for use”. Meat products must be labelled Halal⁷³, according to labelling requirements set by the Board for Issuing Halal Import Permits. Unless imports of beef and poultry “have been slaughtered in a foreign abattoir approved in writing by the Minister of Religious Affairs” they are subject to import restrictions.

Since 2002, 25 categories of food and beverage goods are required to be registered with the Food Safety and Quality Control Division prior to importation, and they also need date

⁷³ Halal is an Arabic term used for standards according to Islamic law.

labelling. These products are “cream, milk and milk products, pasteurised fruit and vegetable juice, soya bean curd, chilled food, sauces, peanut butter, flour and flour products, egg products, raisins and sultanas, chocolate, edible fats and oils, food additives, margarine, meat products, and nutrient supplements”. Tobacco needs to have a health warning label. For genetically modified foods there are no labelling specifications. (WTO 2008a:48ff)

Cambodia

In the course of Cambodia’s WTO entry the country agreed to improve its “standards, technical regulations, metrology, and conformity assessment capacity, as well as establish a TBT enquiry point”. (WTO 2011b:ix)

The SPS system in force shows problems concerning duplication amounts, unnecessary inspections and the reporting mechanism for food safety. (WTO 2011b:54)

Camcontrol is the agency responsible for the inspection of international goods at the domestic market. This agency has between five to twenty inspectors in each province and Phnom Penh and is mainly responsible for the “... surveillance of the domestic market, targeting smuggled and legitimate food products on the basis of risk assessment findings”. (WTO 2011b:54ff)

Indonesia

The National Standardization Agency of Indonesia, Badan Standardisasi Nasional, is in charge of standardization. In 2006 6723 standards existed, whereby 96.7% were voluntary and 211 binding. Indonesia is member of the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), Codex Alimentarius Commission (CAC), and International Telecommunication Union. (WTO 2007a:12)

Food may only be released from customs after the National Agency for Drug and Food Control, Balai Pengawasan Obat dan Makanan (BPOM), has approved it. The Department of Health may require certificates stating “... the degree of radiation, standards of Islamic purity (Halal), food additives, food safety, and alcohol content”.

The Agency for Agricultural Quarantine is responsible for SPS measures and makes sure that foreign agricultural imports come up to the standards.

The BPOM test all processed food and a registration number from the BPOM is a requirement for the importation of food. To obtain this registration number traders have to undergo an “overly complex, time consuming, and costly procedure”.

Between 2003 and 2006 15 SPS notification were submitted to the WTO Committee on Sanitary and Phytosanitary Measures by Indonesia.

If a country wants to export meat and meat products to Indonesia it has to be declared foot-and-mouth disease free, which has to be recognized by the OIE, but also a desk audit and on-site audit by the Director General of Livestock Services is required.

Only licensed pharmaceutical companies or local-government-licensed food supplement companies are allowed to import and distribute food supplements.

All packed food must be labelled in “Bahasa language, Arabic numbers, and Latin letters”. Specific wording is obligatory for “milk products, baby food, alcoholic beverages, and halal food”, the expiry date has to be mentioned and food additives must be listed. Since 1999 the BPOM requires genetically modified food to be labelled. (WTO 2007a:53ff)

Lao PDR

In 2007 the Lao PDR became a member of the ISO. (WTO 2007b:26)

No labelling or marking requirements exist in the Lao PDR and imports are allowed to enter, if the certification of the export country is sufficient. (USTR 2008)

The quality of imported and export-oriented food products is controlled by the Food and Medicine Control Committee, which was established in 1991.

The Ministry of Agriculture and Forestry is responsible for SPS measures. The importation of live animals entails certification of necessary vaccinations and also for the export certain certifications are required. A requirement for the import and export of plant and food products is a Phytosanitary certificate. (WTO 2001:25f)

Malaysia

In 2008 around 58% of the Malaysian standards were brought in line with international ones. (WTO 2009b:ix)

As the country is also part the ISO, the IEC and thus gradually putting new requirements proposed by these bodies into practice, one can see that Malaysia is trying to implement global standardization. (MOSTI 2010b)

The Department of Standards Malaysia is responsible for any actions. All standards are voluntary, apart from specific technical regulations, which make up around 3% of all standards. (WTO 2009b:38)

International standards are included in these technical regulations. Private companies receive tax deductions if they participate in international standardization activities. (MOSTI 2010a)

Of great importance are Halal certificates and standards for meat and meat products. These certificates have to be issued by the Department of Islamic Development Malaysia, Jabatan Kemajuan Islam Malaysia (JAKIM), in combination with the Malaysian Department of Veterinary Services (DVS) subsequent to on-site examinations. The DVS, as well as JAKIM

and the Ministry of Health check if slaughterhouses and processing plants in countries which export to Malaysia comply with Halal provisions.

The "... Plant Quarantine Act 1976, the Plant Quarantine Regulations 1981, the Animal Act 1953 (Revised 2006), the Fisheries Act 1985, the Food Act 1983, and Food Regulations 1985" regulate SPS measures in Malaysia. In order to meet EU requirements, two new regulations were implemented in 2009, the Food Hygiene Regulations 2009 and the Food Regulations 2009. During the review period of the WTO 11 SPS notifications were made by Malaysia and in 2008 the import of livestock products from Thailand, Cambodia, HK, China, India, Indonesia, Japan, the Lao PDR, Vietnam, EC, Iran and Syria were restricted. (WTO 2009b:40ff)

Myanmar

Some international standards organization, like the Global Harmonized System of Classification and Labelling of Chemicals, are used in Myanmar. (TKN 2010:11)

Philippines

Standards and technical regulations try to correspond with international rules. SPS regulations in the Philippines are very strict. (WTO 2012e:viii)

The Bureau of Product Standards (BPS) is responsible for laws concerning national standards. The BPS is member of the ISO and the IEC.

7,547 Philippine National Standards exist and 78.5% are in line with international standards.

Philippine National Standards are usually voluntary; in 2011 85 compulsory ones existed.

Even if imports comply with international standards, they might be subject to testing by BPS and the entry might be denied.

The Department of Agriculture is responsible for SPS measures. Around 200 SPS notifications to the WTO Committee on SPS Measures were made by the Philippines.

The country of origin has to supply SPS or health certificates for exports of food products to the Philippines.

For the import of meat and meat products, fish and fish products and for all agricultural goods additional import permits are required from different agencies. Normally only SPS rules are considered when issuing import permits, however also domestic supply can influence the decisions.

The import of meat and meat products requires a Foreign Meat Inspection Certificate and a Veterinary Quarantine Clearance from the Bureau of Animal Industry.

The import of fish and fish products is limited and only if a Fishery SPS Certificate is issued, the import can be released.

Plant and plant products can only be imported with the authorization of the Bureau of Plant Industry. The Bureau of Plant Industry must approve the importation of genetically modified (GM) plants and a certificate of GMO content must accompany the importation.

The label of imported goods must contain the Import Commodity Clearance (ICC) Mark or Philippine Standard (PS) Quality/Safety Mark. (WTO 2012e:43-46)

Singapore

The government agency SPRING Singapore is responsible for national standards. Standards are voluntary, only for government bodies they are mandatory. More than 80% of Singapore's standards comply with international standards.

Singapore is also an associate of the ISO and the IEC.

SPRING Singapore is responsible for obligatory technical regulations under the Consumer Protection (Safety Requirement) Regulation Scheme. Specific products, such as electronic and gas devices, especially for home use, have to be registered before they can be advertised and sold.

Singapore's SPS measures are very strict, however there is no labelling requirement for GM foodstuff.

The AVA guarantees like this constant supply with good quality meat, fish, fresh fruits and vegetables. The AVA inspects all imported food products. A phytosanitary certificate has to be issued from the exporting country for all imported plants into Singapore. Foreign farmers exporting to Singapore are regularly tested.

Most products are only allowed to be imported if they come from accredited countries or producers. The importation of processed food and food appliances requires import permits for each delivery. The country of origin has to be indicated at the label of "imported food, medicinal products, cosmetics, liquors, paints and solvents". Repackaged food must contain the content, the quantity, the name and address of manufacturer or seller and the country of origin. Nineteen food categories have to be labelled with the expiry date. Bottled water must contain the basic requirements and the source as well as the amount of "... sodium, calcium, potassium, magnesium, bicarbonates, chloride and sulphates...".

Household air-conditioners and refrigerators have to contain labels concerning energy efficiency. (WTO 2008b:43-48)

Thailand

National standards are implemented by the Thai Industrial Standards Institute (TISI) and food standards are enforced by the National Bureau of Agricultural Commodity and Food Standards.

Thailand is member of the ISO, the IEC and the International Telecommunications Union.

At the end of May 2011 2,979 standards existed in Thailand, whereby 2,718 were not binding. Most of the mandatory standards⁷⁴ are for construction material and electrical equipment. Obligatory standards have to be shown by a certification mark on the product.

Licences to show fulfilment of the standard are required for manufacturers and importers of goods subject to obligatory standards. The TISI receives all applications for import licences concerning goods which underlie standards. The fee for this licence is B 10,000 and the procedure can take up to 42 days.

A number of government bodies are responsible for SPS measures, whereby the National Bureau of Agricultural Commodity and Food Standards sets and controls standards for agricultural products⁷⁵, the Department of Livestock Development and the Department of Fisheries in the Ministry of Agriculture and Cooperatives is responsible for animal health of domestic and imported animal products, the Department of Agriculture in the Ministry of Agriculture and Cooperatives takes care of plant health and the Food and Drug Administration (FDA)⁷⁶ oversees food safety of domestic produced and imported products. (WTO 2011c:64)

Thailand is member of the WTO SPS Committee, the OIE, the International Plant Protection Convention (IPPC) and the Codex Alimentarius on food safety. Animal health standards in Thailand are more stringent than the ones set by the OIE.

From 2007 to 2011 Thailand notified 42 regular and 14 emergency SPS measures to the WTO. (WTO 2011c:62-65)

The Thai government requires food manufacturing and import licences which are valid for three years. (USDA Foreign Agriculture Service 2010a:5)

Imports of chilled and frozen meat require an import permit and are inspected by the Animal Quarantine Station when entering the country. Import fees apply to the inspection. Importations of plants require a phytosanitary certificate. (WTO 2011c:66)

The registration of products which are specifically controlled is needed before the importation. Food stuff must come up to the Code of Good Manufacturing Practice (GMP). Importers have to show a certificate of the factories or plants which produced the imported food, which states that they comply with the GMP Law.

⁷⁴ A list of compulsory standards can be conducted at: http://app.tisi.go.th/standard/comp_eng.html

⁷⁵ A list of agricultural standards can be found at: http://www.acfs.go.th/eng/commodity_standard.php

⁷⁶ More information about the FDA can be conducted at: <http://www.fda.moph.go.th/eng/index.stm>

The importation of various products is forbidden, in particular some kind of sweeteners, stevia, diverse kinds of food additives⁷⁷, products containing puffer fish and puffer fish itself, corn and some corn products.

All food products must be labelled in Thai and imported foods in English and/or Thai. Labelling requirements are very detailed and health claims of producers are forbidden. GMO food stuff has to be labelled if it contains more than 5% GM ingredients. (USDA Foreign Agriculture Service 2010a:4-17)

Vietnam

Vietnam is a member of the OIE and the IPPC.

The Ministry of Health (MOH)⁷⁸ takes care of food safety and hygiene and the Vietnamese Food Administration enforces food laws and standards. The Ministry of Agriculture and Rural Development⁷⁹ is in charge of domestic agricultural, forestry and fishery goods, as well as imported products.

The Ministry of Science and Technology sets national standards and takes care of food safety. For the importation of food is the Food Quality Registration Certificate is necessary. It can be obtained by the Vietnam Food Administration which is part of the MOH.

Documents necessary for the registration are the product label or a picture of it, a draft of the Vietnamese label, labelled tests, a notarized duplicate of either the GMP, or the Hazard Analysis and Critical Control Points or any other similar document.

Another requirement for the registration is a Product Specification or Certificate of Analysis, which can be drawn by the manufacturer, a testing agency from the country of origin or from Vietnam.

For the importation and sale of alcohol an import and production or trading permit is required, which is issued by the MOIT.

Bio-safety and irradiated safety certificates are needed for radiation-treated and GM food, as well as a reference to it on the production chart of the label. The importation of GM food is allowed.

A health or free sale certificate is necessary for food additives and nutritious food products for infants. All labelling has to be done in Vietnamese language and the following information has to be shown on the label: “Name and address of the food manufacturing establishment,

⁷⁷ A list of food additives forbidden in Thailand can be conducted at: http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative_Bangkok_Thailand_1-6-2011.pdf; see page 28.

⁷⁸ The webpage of the MOH can be conducted at: <http://www.moh.gov.vn>

⁷⁹ The webpage of the Ministry of Agriculture and Rural Development can be conducted at: <http://www.agroviet.gov.vn/en/Pages/default.aspx>

Quantity of the foodstuff, Ingredients constituting the foodstuff, Basic quality criteria of the foodstuff, Date of manufacture, expiry date and preservation date of the foodstuff, Instructions on preservation and instructions on use of the foodstuff, Origin of the foodstuff ... Hygiene and safety information, warnings, Ethanol content (for alcoholic beverages)". (SPRING Singapore 2010:1-7)

The Ministry of Science and Technology is responsible for adjusting obligatory contents for good labels. Decree 89/2006/ND-CP explains the requirements for good labelling for domestic sale in Vietnam as well as for exportation and importation. (US Commercial Service 2011:1)

Decision No. 46/2007/QD-BYT controls the remains of biological and chemical substances in food. (SPRING Singapore 2010:6)

Decree No.3742/2011/QD-BYT from the MOH lists the allowed food additives. Only the food additives mentioned on the list can be used and imported and in addition to that an 'authorized agency' is required to certify the safety of the additives.

Decision 23/2007/BYT by the MOH requires testing of imported food by State Control Testing Agencies (STAs). Compulsory examination exists for "preparation of meat and fish, animal or vegetable fats and oil, dairy products, sugar and confectionary, cacao and preparations, preparations of cereals, flour, starch, milk and pasta products, coffee, tea, spices, preparations of vegetables, fruits and nuts, various edible preparations, fruit juices, beverages, spirits, vinegar, functioning foods [and] medical foods". (USDA 2009b)

If imported goods do not have a STAs certificate they cannot enter Vietnam. The testing norms are applied according to the Vietnamese standard system and hygiene and safety standards. SPRING Singapore (2010:4) mentions that in this context used standards hamper trade by their "complexity" and their "non-scientific" usage.

Pesticides, before being allowed to be used have to be registered at the Plant Protection Department of the Ministry of Agriculture and Rural Development. The registration process includes a field testing permit for which a fee of around Vietnamese Dong (VND) 2 million to VND 2.8 million is charged. After receiving the permit the importer has to work with a local agency to carry out the analysis. It takes around 2 years to receive the necessary result and costs around VND 100 million. According to the field testing result the registering permission for using the pesticide in Vietnam will or will not be granted. The registering permission costs around VND 7.3 million and is valid for five years, but it can be extended. (USDA 2009b)

China

Around 46% of all standards are equal to international ones, but only 15% of all Chinese standards are obligatory. (WTO 2010:viii)

The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) is responsible for quality management, food safety, certification and standards. In China there are national, professional, local and enterprise standards.

The Standardization Administration of China, which is part of the AQSIQ is responsible for standardization. National standards have priority over other standards.

Since 2009 foreign companies operating in China are allowed to vote in technical committees concerning standards.

China is member of the ISO, the IEC and the Pacific Area Standards Congress, as well as a participant of the APEC Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment.

Mandatory product certification applies to goods connected with human and animal health and safety, as well as plant health, environmental protection and national security. In 2009 a new version of China's Compulsory Products Certification Management Regulation (Circular 117/2009) was implemented. (WTO 2010:36ff)

The Committee on TBT considers the China Compulsory Certification (CCC) system as "... a major obstacle for foreign companies exporting to China, due to the complexity, costs and length of the procedure", furthermore there is a constant growth of products subject to CCC procedures. (Committee on TBT 2009:1f)

The CCC mark, as well as the Compulsory Product Certification System is managed by the Certification and Accreditation Administration of China which is part of the AQSIQ. Products which are required to have a CCC mark cannot be sold or imported otherwise. In 2009 23 product groups, whereby 172 subcategories existed, required CCC marks. Mostly electrical wires and tools, electrical household appliances, motor vehicles, safety parts and accessories and toys require a CCC mark.

The China Quality Certification Centre⁸⁰ is in charge of voluntary certifications for products which do not require a CCC mark. Currently more than 500 products have China Quality Certification marks.

As China Quality is part of the Certification Body Scheme of the IEC System for Conformity Testing and Certification of Electrical Equipment, 52 countries recognize its Certification Body test.

⁸⁰ For more information conduct the homepage of the China Quality Certification Centre at: http://www.cqc.gov.cn/english/aboutcqc/CQCIntroduction/A022901index_1.htm

Laws regarding labelling requirements are covered by the Standardization Law, the Food Hygiene Law, the Law on Product Quality and other regulations. Label inscriptions must be in Chinese language. (WTO 2010:38f)

Korea

Industrial standards have increased considerably during the last years and are on the way to be harmonized with international standards. (WTO 2008c:ix)

Korean Industrial Standards are set by the Korean Agency for Technology and Standards. (WTO 2008c:59)

The WTO (2008c:60) states that "... The process of standard development in Korea is government led, and is a significant element of Korea's industry policy." Mandatory standards are set by ministries and government agencies, mainly for technical regulations; the Korean Agency for Technology and Standards sets voluntary Korean Industrial Standards. In 2006 15 % of all standards were mandatory. In 2007 around 61% of Korean Standards complied with international standards. Non-harmonized standards can sometimes not be harmonized because of domestic laws or they might be unique, for example standards for Kimchi.

The main laws regulating food standards are the Food Sanitation Act, the Food Code and the Food Additive Code. Food additives must be pre-approved before the import.

Biotechnology crops require environmental risk assessments. The Korean Food and Drug Administration (KFDA) carries out regular safety evaluations for GMO products and has to pre-approve pharmaceuticals, which frequently requires widespread clinical testing and other prerequisites. Nevertheless, the WTO (2008c:62) states that there are claims that the KFDA's requirements for bridging studies do not comply with international practices, even though Korea's bridging studies are based on ICH E5⁸¹. The KFDA is also in charge of imported, as well as domestic 'functional' cosmetic⁸² registration requirements, for which special quality tests are necessary. (WTO 2008c:62)

The New Excellent Product certification system exists since 2006 and provides "... government support for expansion of sales channels and for acceleration of technology development ..." for products with new or improved technologies developed by Korean companies. In addition to that, New Excellent Product certified goods receive an additional point for government procurement purposes. (WTO 2008c:63)

⁸¹ The ICH's (International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use) E5 document is an outline for calculating the impacts of ethical factors on the acceptability of foreign clinical data; in addition to that it shows the prerequisites for the investigation of bridging studies in order to introduce foreign clinical data to a new region.

⁸² Functional cosmetics contain 'functional' ingredients such as minerals, vitamins, essential oils, collagen and so on. Also products like sunscreen are considered as functional cosmetics.

APEC (2007:5) mentions that, even though national standards or technical regulations are sometimes seen as trade barriers, "... no country has found sufficient grounds or reason to challenge Korea's industrial standards in the WTO in recent years."

Korea uses animal and plant quarantine measures based on the international standards of the CAC, OIE and IPPC.

Animals and animal products have to undergo laboratory testing and epidemiological investigations.

The National Plant Quarantine Service examines imported plants and their products; the National Veterinary Research and Quarantine Service is responsible for animals and animal products. All imports of plants and plant products must have a phytosanitary certificate from the exporting country, the importation of soil and plants with soil is forbidden, and plants for planting are harshly restricted. Rice in the husk and rice straw can only be imported from Japan and Taiwan.

Genetically modified agricultural products (GMAPs) underlie strict guidelines, such as the Consolidated Notice on the Transboundary Movement of Genetically Modified Organisms. According to the applicant's environment risk assessment, the Administrator of Rural Development Administration grants the right to import or produce GMAPs. In addition to that, the Korean government itself carries out its own environment risk assessment. Before 2008 Korea did not allow GMAP importation and production. Since then, quarantine funding was amplified considerably in order to identify GMAPs. Genetically modified corn, soybeans, potatoes and processed food containing these artefacts have to be labelled.

The KFDA is in charge of marking and labelling requirements. Since 2007 garments have to be labelled with the name of the domestic producer or importer. Labels of origin have to be on nearly every good. (WTO 2008c:64ff)

Japan

Around 46% of Japanese Industrial Standards (JIS) are in line with international standards. (WTO 2011f:viii)

Standards and technical regulations are approved by the central government and the relevant laws and regulations.

10,179 JIS and 214 Japan Agricultural Standards (JAS) existed as voluntary standards in 2009. JIS marks can be used by 8,300 Japanese and 600 foreign factories. Some regulations require JIS marks for selling in Japan; however imports do not require JAS.

For motor vehicles there were 237 different safety standard regulations in 2009. Foreign electrical or consumer products can go through compliance assessment abroad by registered

conformity assessment bodies. If foreign manufacturers are registered at the Japanese government they can self-certify utensils for high pressure gas. Japan accepts furthermore chemical tests from other countries using OECD Test Guidelines and OECD Good Laboratory Practice principles.

Japan's Food Sanitation Law is constantly revised in order to guarantee food safety. Maximum residue limits for pesticides and additions concerning food additives are frequently checked. (WTO 2011f:52)

The inspection of domestic and imported agricultural goods⁸³ is regulated by the Guidelines for Implementation of the Monitoring and Guidance under the Food Sanitation Law. There is also an Act on Ensuring of Safety of Pet Animals Feed since 2009 which regulates import and sets standards for pet animal feed.

The Ministry of Agriculture, Forestry and Fisheries, the Ministry of Health, Labour and Welfare and the Food Safety Commission are responsible for SPS measures in Japan. The Food Safety Commission is also in charge of safety assessments for GM food.

Members of the Committee on SPS Measures of the WTO have complained that Japanese SPS regulations are stricter than international guidelines and under some circumstances even exceed OIE guidelines and Codex standards.

Japan is a contracting party to the OIE, the CAC and the IPPC.

The JAS Law and the Food Sanitation Law govern labelling requirements in Japan. Currently 54 technical regulations based on the JAS Law administer food labelling.

Quality Labelling Standard requirements for instant noodles are imposed on importers. The labels on fresh food must contain the name and place of origin, processed food has to be labelled with "... the name, the list of ingredients, the net content, the date of minimum durability or use-by date, instructions for storage, the name and address of the manufacturer, and the country of origin ...". Moreover, food additives have to be mentioned on the label. Organic food products have to fulfil JAS organic standards and also have to be labelled with the JAS organic mark. Allergenic substances have to be mentioned on the label.

GM Food has to be labelled. The import of GM food is restricted by the Ministry of Health, Labour and Welfare if the products do not come up to Japanese safety standards. (WTO 2011f:48-56)

⁸³ More information about plant protection and animal quarantine can be conducted at: <http://www.pps.go.jp/english/index.html>, <http://www.maff.go.jp/aqs/english/>

5.4 Anti-Dumping and Countervailing Measures

Brunei Darussalam

Brunei does not have any CVD, AD or safeguard measure in effect and it also does not have laws or regulations concerning them. (WTO 2008a:44)

Cambodia

Currently Cambodia is drafting laws concerning AD duties and CV measures, which are in compliance with the WTO safeguards and AD agreements. (WTO 2011b:41)

Indonesia

Indonesia's AD Committee was founded in 1996 and is responsible for imposing duties on "... imported goods if the export price is lower than its normal value...". CVDs are applied if subsidies are given by the exporting country, if the good causes material injury to domestic producers, or if the good greatly holds back the establishment of domestic industries. The WTO states, that "... In line with other developing countries, Indonesia urges discipline in the use of anti-dumping measures as contingency protection ...". Between 2002 and 2006 29 AD investigations were set in motion. Under the period of review by the WTO Indonesia had 61 dumping allegations against itself, for which more than half of the allegations AD duties were imposed and two CV actions were initiated.

Concerning safeguards, Indonesia introduced a regulatory framework in 2002, which imposes higher import duties initially for a period of six month, and can be prolonged. (WTO 2007a:50f)

Lao PDR

The Lao PDR is currently on the way to implement AD, CVD and safeguard legislations. (WTO 2001:22)

Malaysia

The Malaysian government can impose safeguard measures when "... a product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious prejudice to a domestic industry". (WTO 2009b:33)

A Safeguard Act was introduced in 2006 and Safeguard Regulations in 2007. (WTO 2009b:ix)

From 2006 to 2008 Malaysia took a number of AD actions against ten WTO members and 13 WTO members imposed duties on Malaysian products. (WTO 2009b:33)

Philippines

The Department of Trade and Industry regulates AD and CV laws for industrial products and the Department of Agriculture for agricultural goods.

The petitioner requesting AD or CV investigations has to be supported "... by a group of producers who collectively produce over 50% of domestic output of the 'like product', and by producers who account for at least 25% of domestic production of the product alleged to be dumped or subsidized". (WTO 2005:43)

From 1999 to 2003 13 AD investigations were initiated by the Philippines, since 2005 three AD investigations were initiated. Seven safeguard measures are currently in force. (WTO 2012e:viii)

The laws governing safeguard measures are the "Safeguard Measures Act and its Implementing Rules and Regulations; and Rules and Regulations Governing the Conduct of Formal Investigation by the TC [Tariff Commission]". Domestic producers of competitive products can file a petition for the imposition of a general safeguard.

Nine safeguard measures were initiated since 2001 and seven measures were imposed against all countries.

Furthermore, the president can apply additional *ad valorem* duties up to 100% if a country discriminates against exports from the Philippines and he/she can also forbid the importation of merchandise from the discriminating country if the unfairness continues. (WTO 2012e:41f)

Singapore

Singapore hardly ever uses contingency measures. (WTO 2008b:ix)

Under the Countervailing and Anti-dumping Duties Act the MTI can initiate investigations.

Singapore has no safeguard legislation. (WTO 2008b:42)

Thailand

In August 2009 a new safeguard legislation entered into force in Thailand. A Committee on Safeguards decides whether to impose safeguards when domestic producers petition for safeguards.

Between 2007 and 2011 six AD investigation were initiated by Thailand. (WTO 2011c:47)

The Ministry of Commerce is responsible for imposing safeguards. A Committee on Safeguard Measures was established under the Safeguard Measures on Increased Imports Act B.E. 2550 (2007), which makes the final decision. A safeguard investigation follows a petition, or own initiation by the Department of Foreign Trade, which checks the petition and then forwards it to the Committee.

The limit of an imposed safeguard is four years, but it can be extended to up to ten years.

Between 2007 and 2011 six AD investigations were started and 19 AD measures were pursued, mostly steel products were concerned. Currently there are no CVD in force. (WTO 2011c:54-57)

Vietnam

If dumped imports “cause or threaten to cause material injury to a domestic industry” an AD duty is imposed.

In general organizations or individuals can file an application which then requires an investigation for the application of AD duties.

Provisional AD duties can be imposed by the Trade Minister after sixty days when the decision was made to initiate an investigation. (WTO 2009c:2-9)

China

Between 2007 and 2008 China was the sixth most frequent user of AD measures with altogether 16 measures implemented, however the WTO (2010:35) states that “... China remains the most frequent target of anti-dumping measures...”.

In 2009 the first CV investigation was implemented by China, on the whole three investigations were implemented that year.

China did not apply safeguard investigations during the period under review by the WTO.

The MOFCOM handles notification on SPS measures to the WTO.

The State Food and Drug Administration, as well as the Ministry of Agriculture and Health and the State Administration of Industry and Commerce are responsible for food, cosmetics and pharmaceutical safety. In 2009 a new Food Safety Law was implemented, whereby 90 SPS measure notifications were submitted to the WTO. The Catalogue of Entry-Exist Commodities Subject to Inspection and Quarantine lists all goods which are checked on SPS grounds. Since 2008 reforms made it possible that some enterprises undergo the inspection at the destination and not already at the ports.

Some products, mostly live animals and plants, as well as feedingstuff, cannot be inspected at the destination. Products which have their own brand name and a leading position in the industry, a good reputation, no quality defects and 100% product inspection pass rate for the last three years can be exempted from entry/exit inspections.

China is an associate of the OIE, the CAC and the IPPC. (WTO 2010:35-38)

Korea

In Korea AD provisions are mainly used against “... imports of chemicals, machinery, paper and paperboard, and wood articles” (WTO 2008c:38)

The Korea Trade Commission is responsible for contingency measures. The MOSF imposes AD provisions and CVD. Between 2003 and 2007 47 AD investigations were initiated by Korea. In June 2007 ten final measures were imposed. Safeguard measures in Korea are composed of "... tariff adjustments, import quotas or other measures to remedy injury to a domestic industry or to facilitate structural adjustment. Financial assistance, such as relocation and re-training assistance for workers, may be provided." During the WTO review period Korea did not impose any safeguards and no CVD were imposed since the last 'Trade Policy Review' by the WTO.

Korea uses special safeguard provisions (SSG), which are allowed under Article 5 of the WTO Agreement on Agriculture. These SSGs allow "...for an additional duty of up to a third of the level of the applied tariff on agricultural imports if their prices (or quantities) fall below (or rise above) specified trigger levels." At the request of the MIFAFF the MOSF decides every year which measures should be implemented. In 2008 there were 33 SSGs in place. (WTO 2008c:57)

Japan

Japan barely uses contingency measures, two AD measures were implemented during the WTO review period, and one safeguard measure was imposed since 2001. (WTO 2011f:viii) At present there are six AD measures are in force. The laws regulating Japan's use of contingency measures is the Customs Tariff Law and the Cabinet Orders and Guidelines. (WTO 2011f:42f)

5.5 Export Policies, Subsidies and Domestic Support

Brunei Darussalam

As Brunei's economy is very heavily dependent on the oil and gas sector, the government tries to use tax and other incentives to foster SMEs in order to diversify the market. (WTO 2008a: ixf) In order to broaden the economy, SMEs are encouraged by Brunei's government. Under the Enterprise Facilitation Scheme SMEs can receive loans. The Enterprise Facilitation Scheme gives priority to companies running industrial sites, agricultural development sites, fisheries development sites and operators of tourist activities. (WTO 2008a:57)

The government is highly present in sectors as "oil and gas, telecommunication, transport and energy generation and distribution", thus there is barely any competition, which can unfavourably affect prices for domestic consumers and costs of doing business for foreigners. (WTO 2008a:x)

For consumer protection, “rice, sugar, motor vehicles, and cigarettes” are subject to price controls. (WTO 2008a:34)

Brunei’s agricultural sector accounts for less than 1% of nominal GDP in 2006, which leads Brunei to import over 80% of its agricultural goods. In order to diminish the dependence on imports, the government tries to assist “domestic production of rice, vegetables, poultry, and livestock; develop the agri-food industry; produce high-value-added products using new techniques; and conserve and protect the country's biological diversity”.

Especially “agricultural inputs for water, energy, and telecommunication services” receive high subsidies. (WTO 2008a: 56)

The biggest obstacles in Brunei’s market are “a poorly developed local private sector, high wage costs, a shortage of skilled labour, slow bureaucratic procedures and a lack of transparency, and the ban on foreigners owning land”, which all lead to an impediment of foreign capital and technology. (WTO 2008a:xi)

Cambodia

Agriculture is Cambodia’s main economic sector; therefore one concern of the government is to raise productivity within the agriculture sector. No export subsidies for the agricultural sectors exist and agricultural exports make up less than 6% of total exports.

The only existing policy, named ‘Rice - White Gold’ focuses on increasing the production and export of rice.

In order to encourage the export of finished goods and local production, Cambodia has export taxes on some unprocessed raw materials. (WTO 2011b:ix-x)

Cambodia’s Trade Promotion Department also tries to support exporters through the organisation of and participation in overseas trade fairs.

The Export Market Access Fund was set up with the help of the World Bank and enables Cambodian companies to enter foreign markets.

Export taxes exist for “natural rubber; uncut (unprocessed) precious stones; processed wood; and fish and crustaceans, molluscs and other aquatic products”. “... Antiques, certain narcotic and toxic materials, logs, precious metals and stones, and weapon...” are not allowed to be exported. (WTO 2011b:44ff)

Export taxes are used according to MFN basis and also apply to ASEAN members. Export prohibitions exist and are supposed to maintain domestic supply. For processed wood products, sand and other goods export permits must be obtained. Cambodia does not grant export subsidies.

The increase in exports is being fostered through geographically defined special economic zones (SEZs). 21 SEZs exist right now, covering mainly "... garments, shoes, bicycles, food processing and electrical equipment industries". (WTO 2011b:ix)

Indonesia

Indonesia provides assistance to domestic producers, especially through tax incentives. (WTO 2007a:60)

Indonesia established 13 economic development zones, which give tariff exemption on imports to investors. R&D activities receive financial assistance in order to promote "high technology and technologically sophisticated industries". Price controls exist for "... petrol, electricity, liquefied petroleum gas, rice, cigarettes, cement, hospital services, potable/piped water, city transport, air transport, telephone charges, trains, salt, toll-road tariffs and postage". (WTO 2007a:61)

Nearly all important sectors of the economy receive assistance through trade control or restraint. For products like "... rice, cloves, alcoholic beverages, sugar, hot- and cold-rolled coil iron, and steel products..." exclusive import rights for domestic producers exist. (WTO 2007a:36)

Agriculture has an important role in Indonesia's economy, especially sugar imports are regulated in order to protect farmers, an importer registration mechanism exists, which makes importers absorb at least 75% of domestic sugarcane.

Fisheries are important to Indonesia's population, therefore a new scheme of fisheries management eliminates foreign vessels from operating in the Indonesian Economic Exclusive Zone. (WTO 2007a:21f)

Export finance is available for companies which have no bad debt. (WTO 2007a:36)

Subsidised loans for agriculture and SME in order to enhance exports are available. Indonesia established seven bonded zones and forty industrial estates. For companies in bonded zones the regulation says that they have to export at least two thirds of their production, for which they do not pay any tariffs, neither for the import. For companies in industrial estates areas the benefit of simplified permits exists. Foreign companies in bonded zones are allowed to be owned 100% by foreigners.

The importation and exportation of merchandise is also for free in export-oriented production entrepôts.

For export promotion the state-owned Bank Eksport Indonesia grants financing facilities. Export insurance is granted by the state-owned company Asuransi Ekspor Indonesia. (WTO 2007a:57f)

Lao PDR

As agriculture is the Lao PDR's main economic sector the government tries to enhance food output and security. Domestic support measures like infrastructure provision, research, diversification of farming systems and so on are applied. 15% of the governments total spending is used for support programs. Rice production is being advanced through enlarging the irrigation growing area. (WTO 2001:30)

The Lao PDR does not have price subsidies, neither a focus on food price stabilisation. (Lindelov et al. 2011:11)

The Industry-Handicraft Development Plan focuses on "processing industry, cottage and handicraft industries, power generation, mining, agro-forestry industry, textiles and construction material industry". This development plan should improve production technology and the infrastructure on the country side. (WTO 2001:23f)

In order to create employment and reduce the amount of imported electricity the government supports hydro and thermo power plants, as well as mining projects. (Lindelov et al. 2011:7)

The export of electricity is subject to a 20% duty. The export of "... guns, archaeological and cultural artifacts, drugs and related products, logs and rough sawn timber and wild animals" is forbidden. Export licenses are needed for every export, apart from garment exports and products on the AFTA Inclusion List. (WTO 2001:22)

Malaysia

Malaysia does not have any direct export subsidies, but tax incentives are an important industrial policy instrument. (WTO 2009b:ix)

Export finance schemes exist and are offered by commercial banks and the Export-Import Bank of Malaysia (EXIM Bank). The Malaysian External Trade Development Corporation (MATRADE) focuses on export promotion. (WTO 2009b:36)

Export promotion is fostered through "export processing zones, concessionary credits, insurance, and guarantees, as well as government-sponsored promotion and marketing assistance". Tax incentives are used to enhance investments in manufacturing, agriculture, tourism, some service sectors, R&D, training and environmental protective actions. (WTO 2009b:23)

16 free industrial zones and 17 free commercial zones exist in Malaysia. These zones facilitate operation of export-oriented enterprises. Goods imported and produced in these zones are not subject to tariffs, excise, sales or service taxes, furthermore tax exemption on incomes for companies in the zones exist.

Export taxes and promotion are used as industrial policy measures, as these measures reduce domestic prices by discouraging exports. (WTO 2009b:ix)

Products like "...palm oil and selected palm products, natural rubber, pepper, pineapple, cocoa, and selected timber..." underlie export licenses. Furthermore, "...timber, live animals, ash and residues, precious metals, copper, and ferrous waste and scrap..." are subject to export taxes. The local authorities specify that these export taxes are used to support "...locally produced commodities in domestic downstream industries...". Arms, turtle eggs and rattan from Peninsular Malaysia are not allowed to be exported. (WTO 2009b:34ff)

Myanmar

Export promotion in Myanmar fosters the exportation of all exportable surpluses, the diversification of exports and the improvement of the quality of exported goods. (ESCAP 2002:74)

Export duties according to the f.o.b. value are charged for "... rice and flour, ... bamboo, ... rice bran, rice dust, raw hides and skins, oil cakes, pulses and cereals and other rice and rice products. (ASEAN ICT E-mail 2008c)

Moreover, only capital goods, industrial machineries, raw materials and other necessary goods are allowed to be imported. (ESCAP 2002:74)

Philippines

Agriculture is still an important sector of the Philippine's economy. Protection concentrates mainly on rice, fruit and meat products, whereupon quantitative restrictions for rice and strict SPS regulations for fruit and meat exist.

Sugar underlies bilateral restrictions and export taxes exist for plantation logs. Minimum export prices exist for rice and corn. These export taxes are subsidizing downstream processors.

A number of policy measures are aimed at protecting and achieving self-sufficiency in product categories like rice, sugar and corn. Price supports for rice and corn, high tariffs, rice import quotas and import and export restrictions should enable self-sufficiency.

A new initiative to support agricultural producers is that all banking institutions have to "set aside at least 25% of their total loanable funds to agriculture and fisheries credit". In order to support sugar producers, 10% locally sourced bioethanol has to be in gasoline and 2% in diesel.

For fisheries the policies exist that only Filipino citizens are allowed to be fishermen and only 40% of deep-sea-fishing vessels can be owned by foreigners. Imports of fish and fish products are only approved if the request cannot be fulfilled domestically. (WTO 2012e:ix-x)

Certified agricultural and fishery enterprise do not have to pay import duties until 2015 as noted in the Agriculture and Fisheries Modernization Act, RA 9281⁸⁴. Also organic farmers are exempted from import duties, as well as VAT. (WTO 2012e:67)

Tax and non-tax incentives are supporting export-oriented companies, for example duty exception, drawbacks, tax relief and EPZs. (WTO 2005:ix)

Tax incentives enable the government to select the support areas. (WTO 2012e:54)

Tax incentives exist for "... [producers of] ... non-traditional exports and ... activities that support exporters". Also import duties paid for material used for manufacturing export goods can be refunded after the export. (WTO 2005:56)

EPZs exist in order to enhance export performance. In these zones 100% foreign ownership is allowed. (WTO 2012e:52)

Duties paid for imported materials which are used for manufacturing export goods are refunded after the exportation, but only if domestic produced alternative materials do not exist. The WTO (2005:58) mentions that "According to the authorities, tax incentives are generally used to compensate for market imperfections and for weaknesses in domestic infrastructure, to promote investment in less-developed areas, and in industries that may have positive spillover effects (i.e. transfer technology to the rest of the economy)". However, tax incentives distort resource allocation as investments are undertaken even if they are not beneficial.

The automobile industry is supported substantially. Preferential tariffs from 1% to 3% are granted for the import of assembly parts. The rate for imported vehicles on the other hand is around 30%. Used vessels are not allowed to be imported. (WTO 2005:x)

The importation of used engines is limited and local components are favoured because of the Motor Vehicle Development Programme which aims to make the Philippines a regional centre for automobile machinery and parts. (WTO 2012e:51)

Requirements for exporters are akin to the ones for importers. The export tax for plantation logs is rated at 20% of f.o.b. This export tax should guarantee a stable supply of timber for the domestic market. One problem is that this export tax distorts world markets and makes logs available at costs lower than world prices. For rice and corn minimum export prices exist.

The exportation of endangered wildlife species and live animals, as well as naturally growing timber is forbidden. For regulated exports an export clearance has to be obtained.

There are export restrictions for rice, corn and sugar, as well as fish in order to guarantee food security.

⁸⁴ For more information conduct: <http://naafc.da.gov.ph/afma/about.php>

The president is allowed to impose export quotas on any merchandise whenever recommended by the National Economic and Development Authority. Rice and corn are only allowed to be exported by the National Food Authority, unless the goods are exported for market testing and research. Furthermore, the Philippines do not offer export subsidies. (WTO 2012e:50f)

Generally incentives focus on “specific activities, region and non-traditional exports”. The Omnibus Investment Code regulates the different incentives which exist for all economic participants, but there is a discrimination against foreign owned companies.

A special focus is put on SMEs, as in 2011 they made up 99.6% of all registered firms. For SMEs tax exemptions exist, they are excepted from the Minimum Wage law, special credits can be obtained and training and marketing assistance is available

Under the Omnibus Investment Code tax incentives exist for non-traditional exporters. Other export promoting or facilitating agencies are the Trade and Investment Development Corporation of the Philippines which facilitates access to credits for exporters, the Center for International Trade Expositions and Missions, which organises trade fairs and the Bureau of Export Promotion, which offers assistance to exporters. (WTO 2012e:53ff)

Singapore

In Singapore export permits are required for every export. Through TradeNet export permits are usually processed within ten minutes. There are no export taxes or levies in Singapore.

Some goods, like “...strategic goods, rubber, timber, granite, satellite dishes and receivers, and chlorofluorocarbons...” underlie export licensing and controls. Rubber is subject to export controls, as Singapore was a centre of rubber production, but nowadays the controls are only used to guarantee fair trade practices. (WTO 2008b:50f)

The main incentives Singapore uses are tax incentives. Statutory corporate tax rates have been reduced and tax incentives exist for important industries such as “...semiconductors, IT, biotechnology and genetic engineering and services”.

With the state ownership of land the government has control over industrial land; the statutory boards provide financial assistance to selected areas of the economy, such as knowledge based sectors and value-added activities, which are both important for maintaining economic growth. (WTO 2008b:ix)

Export assistance is provided in the form of duty drawbacks for exporters and companies which trade internationally are granted tax concessions.

International Enterprise Singapore has worldwide offices which promote Singaporean products and provide Singaporean companies with market information.

Five FTZs exist for the re-exportation of merchandise. These zones facilitate re-exportation and storage of goods. Only alcohol and tobacco cannot be stored for an unlimited time and must be stored in a licensed warehouse. (WTO 2008b:51f)

Thailand

Thailand eliminated export subsidies, but different programs like bonded warehouses, duty drawbacks and tax refunds, exist to facilitate exports.

The industry which receives most assistance through fiscal and financial support is the transport industry, whereby foreign investment is limited. The domestic shipping industry is protected through a cargo reservation policy, which says that Thai-flagged vessels have to transport imported merchandise. (WTO 2011c:viii-x)

In order to make Thailand a centre for environmentally friendly car production car parts for hybrid-electric vehicles are exempted from import duties. (WTO 2011c:46)

Agriculture is supported through a producer price support scheme for rice; sugar is protected through a 65% MFN tariff and other price support policies for agricultural goods exist.

The Cane and Sugar Board, which comprises government representatives, the milling industry and producers, sets maximum prices for producers and the amounts that are allowed to be sold. Domestic prices are higher than world market prices, which averts imports. Also for "... maize, manioc, some tropical fruits, and shallots..." price support policies apply. The producer price support scheme pays farmers the difference "... between an insurance price and a weekly benchmark price". (WTO 2011c:105f)

Export facilitation is fostered through bonded warehouses, which make it possible that goods are imported and exported without paying duties if they are used for exports purposes. (WTO 2011c:71) Also the duty drawback scheme, which allows exporters to have import duties on raw materials refunded focuses on export encouragement.

The Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act B.E. 2524 provides tax coupons which can be used by manufacturers to pay taxes.

Generally there are no export registration requirements. Goods exported need an approval from the Customs control, which can be obtained via the e-Export system. Export taxes are charged mainly in the form of statutory and applied rates for "... hides of bovine animals, wood, rice, metal scrap, rubber, raw silk and silk yarn, and certain fish..."

Statutory export duties on main export goods like rice and rubber are considerably higher than applied rates and specific export duties were introduced in 2011 on by-products of animal hides. As export taxes provide assistance to domestic downstream industries they have distortional effects and can also "... exacerbate world price fluctuations..."

The Thai Minister of Commerce "...has the authority to specify classes of goods that are subject to export (and import) controls in order to safeguard economic stability, public health, national security, public order and morals, or 'other benefits to the State'".

Export controls like export licensing, surcharges quotas or prohibition are also used to avoid domestic shortages. For sugar and rice export licences exist. Ministries which are enforcing export controls are the Ministry of Commerce, Agriculture, Defence, Finance, Industry, Public Health, and Science and Technology. For obtaining export licences sometimes membership in trade association is necessary.

The exportation of fake goods or goods which violate copyrights is forbidden. As reasons for requiring export licences for rice, elephants and timber security of domestic supply and the conservation of nature are mentioned. (WTO 2011c:67ff)

Exports of oil cakes are usually prohibited in order to supply the domestic market. (WTO 2011c:viii)

The legislation allows export taxes to be reintroduced at anytime if needed. This provides support to Thai downstream industries.

Export registration requirement, licensing, quotas and prohibitions exist for around 30 products. (WTO 2011c:46f)

Export financing and insurance assistance is provided by the EXIM Bank of Thailand, as well as by commercial banks.

The Industrial Estate Authority of Thailand (I-EA-T) Free Zones and other Free Zones provide investors with tax and non-tax incentives. Tax privileges for I-EA-T investors include "...exemptions from import duty, VAT, and excise tax on factory construction materials, machinery, equipment, components, and raw materials necessary for the production of goods or for commercial purposes, as well as exemption from export duties and taxes". Non tax-preferential treatment include "... the right to own land for their business operations, bring in foreign technicians and experts and their dependants, permission to remit foreign currencies, and the eligibility to bring supplies or raw materials for production into an I-EA-T Free Zone, without being subject to import permits, standard and quality controls, or any other control except for those under the Customs Act". (WTO 2011c:72f)

Vietnam

Specialised agencies control imports and exports which underlie restrictions, like "mineral goods, forest animals and vegetables, and live animals and vegetables, animal food, pharmaceutical products, ... publications, reviews and other printed products art works of high value under government control, coloured photocopying machines, recorded video tapes

for exportation ...” and technical equipment for the Post and Telecommunication sector. (ASEAN 2011b)

In order to “...protect national security, social order and safety, traditional culture, fine customs, health of human beings and animals and environment” imports of goods like arms and ammunition, military equipment, drugs, poisonous chemicals, reactionary cultural products, “... children toys that may have a negative effects on their dignity and social order and safety...”, firecrackers, cigarettes, cultural products of anti-government nature, second-hand consumer goods and vehicles, as well as cars and buses with the driver wheel at the right side are prohibited. (OECD 2004:123f, ASEAN 2011b)

For environmental and security reasons the exportation of arms, ammunition, explosives and military equipment, antiques, as well as wild animals, scarce natural plants, log and chipped wood, fire wood, charcoal made from wood, wood products in the first processing stages is forbidden. (OECD 2004:124)

China

Industrial policies are used by the Chinese government mainly for ten special sectors, namely “iron and steel, automobile, shipbuilding, petrochemical industry, textiles and clothing, light industry, non-ferrous metal, equipment manufacturing, electronics and information industry ... [as well as] ... logistics”. (WTO 2010:53)

The used industrial policies included lower enterprise taxes, adjusted VAT rebate rates and preferential loans or other financial assistance.

The WTO (2010:53) states that the Chinese government also “guides” important products and services such as electricity, medicine, rare natural resources, water supply, public transport, postal and telecom services and educational fees. The state also has “key reserve materials” including “...grain, cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizer. Other products subject to price controls at the central level are: state-monopolized tobacco, edible salt, civil explosive equipment, some fertilizers, some key medicines, educational materials, water-resource projects subordinated to the Central Government or constructed in more than one province, and military materials”.

China’s agricultural policies are especially production and trade-distorting through the use of market price support and input subsidies. (WTO 2010:71)

The ‘Comprehensive Subsidy on Agricultural Inputs’ which was established in 2006, provided in 2008 funds of Chinese Yuan (Y) 63.8 billion, which are used as an area-based subsidy for grain growers. Assistance for improved quality seeds was also provided in the amount of Y 12.07 billion. For agricultural machinery and tools subsidies exist as well.

Apart from direct subsidies China also exercises price control programmes which are “...intended to reduce the cost of fertilizers through preferential prices for electricity and natural gas used by fertilizer producers, preferential transport prices, and exemptions from VAT and the rail construction fund”. In 2008 around Y 15.1 billion were used for direct subsidy payments.

If market prices fall under a certain limit the government buys rice and wheat at a minimum procurement price. Sinograin, a state-owned China Grain Reserves Corporation is responsible for procuring grain in order to sustain China’s 95% self-sufficiency. Also the state-run China State Cotton Reserve Corporation intervenes in order to stabilize prices. (WTO 2010:71-75)

China is using export restrictions, prohibitions, licences, quotas, taxes and less-than-full VAT rebates in order to control exports. (WTO 2010:viiiif)

The WTO (2010:ix) states that “...export restraints tend to reduce export volumes of the targeted products and divert supplies to the domestic market, leading to downward pressure on the domestic prices of these products, and thus may implicitly assist domestic downstream processing of the products concerned”.

Exporters of animals and plants underlie SPS requirements comparable to import requisites. Before being able to make customs declarations, exports need to register with Customs. There are no pre-shipment inspections for exports.

China does not offer export subsidies. Export taxes are charged as statutory or interim rates and are applied on MFN basis. The value of export products is the f.o.b. transaction value.

In 2009 statutory export taxes applied to 95 tariff lines and mostly interim export duties are used. Interim export duties are sometimes higher than statutory export tax rates. The average export duty including special export duties charged was around 20%, ranging from zero to 40%.

Excise taxes are completely rebated on exports, but VAT just partially. This difference can “...constitute assistance to downstream processing of the products affected...”. China uses VAT rebate rates as an element of industrial policy. (WTO 2010:42f)

Quotas, export taxes, less-than-fully VAT rebates and state trading are used to ensure domestic supply, avoid price fluctuations and reduce China’s current account surplus. Export restrictions on the other hand redirect supplies to the domestic market and thus reduce the prices through fewer exports. The WTO (2010:44) states that “...The resulting gap between domestic prices and world prices constitutes implicit assistance to domestic downstream processors of the targeted products and thus provides them a competitive advantage”. Also

terms of trade might shift into China's favour if it uses export restrictions as it is a major supplier of many manufactured goods.

Due to China's high energy demand the government intervenes to secure energy supply. Imports of energy products face low tariffs, but they are often subject to automatic licensing and state trading. Exports of energy products on the other hand face very high barriers being subject to export quotas, licensing, state trading and export taxes. (WTO 2010:76f)

Products are exempted from import tariffs under 'processing trade', which applies to goods that are exported within certain time. Nevertheless some goods are prohibited from being exported under normal trade, which means import tariffs have to be paid for the imported inputs. China does not have tariff refunds, thus import tariffs can represent export taxes.

In 2009 export prohibitions existed for 1,016 tariff lines and 139 lines underlay import and export prohibition under 'processing trade'.

Export quotas are used as global quotas and destination-specific quotas. In 2009 export quotas were used for 173 tariff lines.

"... Maize, rice, coal, crude and processed oil, cotton, antimony and antimony products, tungsten and tungsten products, silver, and tobacco..." exports underlie state trading. Exports of "...soybeans, unbleached silk and cotton sewed thread..." can be put under state trading arrangements if China estimates it necessary. (WTO 2010:46)

China provides export facilitation through the EXIM Bank of China and export credit insurance from the China Export & Credit Insurance Corporation. MOFCOM provides online information for exporter and initiates export fairs. The China Council for the Promotion of International Trade provides consultation services and the International Market Exploration Fund helps SMEs to participate in trade fairs abroad. (WTO 2010:44-47)

Korea

The most distorted sector within the Korean economy is agriculture. Product-specific market price support and direct payments make up the main policies used in Korea. Also soft loans and cross-subsidised electricity prices distort the economy. Furthermore, farmers are being compensated for FTA liberalization obligations. (WTO 2008c:90)

Korea has no laws against anti-competitive subsidies. Mainly grants, tax concessions or concessional loans are used by the government to assist economic sectors such as agriculture, forestry, fishing, manufacturing R&D and environmental protection. (WTO 2008c:76)

Korea's R&D spending is one of the highest of all OECD countries. (The Economist 2011)

The agricultural sector, above all rice, is heavily subsidised. The WTO (2008c:76) states that "... Total domestic agricultural support notified by Korea (including green box, development

programmes subject to special and differential treatment and de minimis support not subject to reduction commitments), was W [South Korean Won] 6.9 trillion in 2004 ...”

If Korean manufacturers are negatively affected by bilateral free-trade agreements they can ask for compensation to the Ministry of Knowledge Economy and Ministry of Labour. Reimbursement is given if sales or production fall by over 25% because of import competition. In 2008 W 32 billion was budgeted for this kind of support. (WTO 2008c:77)

The WTO (2008c:91) states that “... Protection [in Korea] remains centred on self-sufficiency policies aimed at addressing food security concerns, especially for rice, and other "non-trade" objectives.”

The level of producer support in Korea remains high. Measured by the Producer Support Estimate⁸⁵ by the OECD, producer support in Korea is double the OECD average and one of the highest of all OECD members. (OECD 2007:43f)

Domestic price stabilization schemes, such as government purchases and public stockholding, as well as trade barriers provide market price support.

Agricultural prices are stabilized through publicly funded purchase and stockholding schemes at levels higher than in the world market. These schemes are managed by the state-run Korea Agro-Fisheries Trade Corporation or industry associations. The Korea Agro-Fisheries Trade Corporation operates schemes mainly for “red peppers, garlic, onions, and soybeans”, and industry associations operate schemes for crops such as maize and barley. (WTO 2008c:95)

According to the WTO (2008c:95f) “Direct payments, if sufficiently de-linked from production, are far less distorting than market price support, which, being output-based, distort trade and production most by contributing to over-production. Korea has no output-based direct payment schemes per se, but makes such payments based on overall farming income, area planted or animal numbers, and input use. Nevertheless, while likely to be less distorting than output-based assistance, such subsidies still stimulate production and input use, thereby distorting agricultural trade with potentially adverse effects on the environment, even though accompanied by new schemes to help reduce these harmful effects.”

Foreign participation and investment in coastal and offshore fishing ventures is limited to less than 50%, for coastal fishing permission is mandatory. There are bilateral agreements concerning access to Korean waters for fishing. Fishery subsidies support “...aquaculture,

⁸⁵The Producer Support Estimator as defined by the OECD (2007:43) “... is the monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm gate level, arising from policy measures that support agriculture. It includes market price support (MPS) and budgetary payments. ... The percentage Producer Support Estimator shows the degree to which farmers are supported in a way that is not influenced by the sectoral structure and inflation rate of the country concerned, making this estimate the most widely acceptable and useful indicator for comparisons of support across countries and time.”

deep-sea fishery, fish products processing and development; and support for fishing activities, old fishing vessel and equipment replacement, and vessel decommissioning”. (WTO 2008c:102f)

Direct production subsidies exist for coal production in Korea. Hereby “...insurance benefits, support for production reductions, social benefits, and health premiums...” are used as support. For low-income consumers consumption subsidies for briquettes for heating or cooking exist. The WTO states that “...Coal imports are duty free but a 10% discriminatory VAT is levied on imported coal.” (WTO 2008c:107)

In order to guarantee stable domestic supply the government periodically restricts and monitors exports of mainly rice and some other products and like this is “...assisting downstream processing of these products...”. Since 2007 quantitative export restrictions apply to rice. (WTO 2008c:39)

For agricultural products like fruits and vegetables, kimchi, ginseng and domestic animals direct export subsidies are used to reduce marketing costs. Drawback schemes exist in order to refund border taxes and reimburse internal taxes. The WTO report (2008c:39) mentions that “Exporters [in Korea] benefit from export credit insurance, finance, and the promotional activities provided by state-owned institutions.”

For assisting production and trade of a range of agricultural, fishing, forestry, manufacturing, SME, R&D and environmental-protection activities the Korean government offers a number of instruments, such as grants, tax concessions and low-interest loans. Particularly SMEs with information technology activities receive generous assistance. Agricultural activities are supported through financial assistance and agriculture and manufacturing profit from very low electricity tariffs. The high domestic support for agriculture and manufacturing distorts trade significantly, resulting in higher prices for Korean consumers.

There is state involvement in the gas and electricity sector; only since 2005 some companies are allowed to import gas directly for their own use and not buying gas from state monopoly firms. As already mentioned there are heavy subsidies for domestic coal manufacturing, which is largely used for power plants. Power generation prices are set by the state-owned exchange pool, whereby cross-subsidies distort consumer prices. (WTO 2008c:x)

The Korean state is involved in wide-ranging trade activities. A great number of enterprises are owned by the central government or local authorities and many public enterprises have strong ties to the government. Government agencies such as the MIFAFF and the Korea Agro-Fisheries Trade Corporation are able to set tariff quotas, in a consequence “... affecting quota utilization and price mark-ups...”. (WTO 2008c:56)

The MOSF may grant duty concession and exemptions in order to help companies with import duties. The reason for granting reductions or exemptions of import duties is mostly industrial development. (WTO 2008c:50)

Export prohibitions exist in order to meet international commitments and to conserve wildlife and protect the environment. Export restrictions are used periodically in order to ensure domestic supply. The MIFAFF is responsible for export authorization for some agricultural products. Quota allocation is based on a first-come-first-served basis.

Refunds, also for internal taxes, are provided through a customs drawback scheme. This scheme also applies to vessels and aircrafts which operate internationally and to pelagic fishing vessels.

Export and trade finance is provided by the government-owned EXIM Bank of Korea⁸⁶. In 2007 the largest part of with export credits supported items was ships, followed by industrial plants and machinery. Also the state-owned Korea Export Insurance Corporation helps exporter with credit insurances.

The state-owned Korea Trade and Investment Promotion Agency helps Korean exporters by promoting their activities in trade fairs and establishing contacts. Moreover, the Ministry of Knowledge Economy runs 11 export centres in order to support SMEs with information and consulting services. (WTO 2008c:71)

Major roles in assisting industrial development in Korea have state-owned financial institutions. Mainly SMEs benefit from state intervention in the venture capital market. In 2005 the Funds of Funds was created which invests in limited partnership funds. In Korea venture capital exists in the form of venture capital firms and limited partnership funds. Nowadays the Korean government supports the Fund in an indirect way. Investment in future-growth industries such as biotechnology has increased. (WTO 2008c:69-74)

The WTO (2008c:75) states that “...In 2007, the volume of new venture investment registered a record high of W 1.2 trillion...”. The Industrial Bank of Korea and the Korean Development Bank, the two biggest public institutions play a key role concerning Korea’s industrial development. In the trade policy review of the WTO it is mentioned that, even though the government has no direct control over the two banks, it still uses them “...as an arm of industry and regional development policy”. The government also supports those two banks with capital injections and guarantees losses.

The assistance SMEs receive via the IBK includes low interest loans for mainly expansion and modernisation purposed.

⁸⁶ For more information about the EXIM Bank conduct: <http://www.koreaexim.go.kr/kr/index.jsp>

Also the Korea Credit Guarantee Fund (KODIT) and the KIBO Technology Fund provide credit guarantees, mainly for SMEs, in order to gain access to finance.

Japan

Japan uses export controls, export finance, insurance and guarantees in order to manage its export policies. Especially the agricultural sector continues to receive government support through a high average MFN tariff, tariff quotas, income support and production control. (WTO 2011f:viii)

Japan is the world's biggest net food-importing nation, thus the agricultural sector receives significant government assistance. (WTO 2011f:77)

Japan's share of agro-food exports is less than 1%, while imports account for around 9%. (OECD 2011:139)

The manufacturing sector receives government support through the Enterprise Turnaround Initiative Corporation⁸⁷ which is in force until 2016. (WTO 2011f:viii)

Especially the production of aircrafts receives substantial subsidies. (WTO 2011f:83)

State-trading is used in Japan for "... leaf tobacco, opium, rice, wheat and barley, and milk products". Import and export rights for these products are regulated and domestic manufacturing and supply might be controlled by monopoly.

An agreement between Japanese tobacco cultivators and the Japan Tobacco Inc. states that all leaf tobacco has to be sold to Japan Tobacco Inc., thus a monopoly situation exists for the domestic production concerning tobacco products.

Also rice, wheat and barley prices are controlled through the Law for Stabilizing of Supply-Demand and Price of Staple Food. Prices of dairy products are regulated by the Agriculture & Livestock Industries Corporation, which is a state-trading company. (WTO 2011f:47f)

Japan does not apply export taxes or levies. For exportation an export declaration, invoice and certifications, permits or approvals concerning various laws are required.

Export controls are mainly used to protect limited natural resources. Non-residents of Japan are not allowed to export technology, which also includes foreigners making business trips to Japan.

Japan does not provide export subsidies or tax concession schemes. The Japan Bank for International Cooperation and Nippon Export and Investment Insurance provide export credits. The Japan External Trade Organization supplies companies with information, market and company studies and offers participation in international trade fairs.

⁸⁷ More information about the Enterprise Turnaround Initiative Corporation can be found at: <http://www.etic-j.co.jp>

Tax incentives are very complex in Japan therefore a Tax Reform Programme was initiated. (WTO 2011f:57-61)

66 special subsidy programmes⁸⁸ exist in Japan, which mainly assist agriculture, forestry, fisheries, industry, finance and the transport sector. (Committee on Subsidies and Countervailing Measures 2009)

Subsidies for buying environmentally friendly vehicles exist in order to stimulate the domestic industry. (WTO 2011f:62)

The New Growth Strategy⁸⁹ centres on “...environment and energy, medical and health care, economic integration with other Asian countries, tourism and revitalization of regional

⁸⁸ The 66 subsidy programmes are: “Subsidy of Expense to Investigate the Development of Next Generation Airplanes, Assistance for Development of Civil Aircraft, Subsidy for the Bekko and Ivory Industries, Subsidy for the Leather and Leather Goods Industries, Subsidy for Supporting the Manufacture of Traditional Craft Products, Subsidy for Promoting the Manufacture of Traditional Craft Products, Subsidy to Promote Action to Improve Energy Efficiency of Buildings under the Leadership of Energy Suppliers, Subsidy for Wind Power Generation and Its Grid Connection, Subsidy for Demonstration of Fuel Cell Systems, Subsidy for Pre-Evaluation of Oil and Gas Exploration and Development Projects, Provision of Equity Capital for Overseas Exploration and Development of Oil and Gas, Liability Guarantees for Overseas Exploration and Development of Oil and Gas, Loans for Domestic Metallic Mineral Exploration, Loans for Overseas Metallic Mineral Exploration, Provision of Equity Capital for Overseas Metallic Mineral Exploration, Liability Guarantees for Overseas Mine Development, Grant for Joint Overseas Geological Surveys, Loans for Purchasing Petroleum and LPG for Stockpiling by Private Companies, Provision of Equity Capital and Loans to Joint Stockpiling Companies, Loans for Mine Pollution Control, Liability Guarantees for Mine Pollution Control, Subsidy for Exploration of Natural Gas, Subsidy for the Rationalization of Petroleum Refinery, Subsidy to the Cost of Projects for Improving Refining Technology of Oil Producing Countries and for Related Purposes, Subsidy for Major Oil Spill Response Programme, Subsidy for Loans to Purchase Petroleum and LPG to be Stored, Subsidy for Promotion of Coal Production Technology, Subsidy for development of facilities for demand and supply of petroleum, Subsidy for technologies for oil fuels contributing to the preservation of environment, Subsidies for Measures to Promote Conversion into Natural Gas Taken by Local City-gas Suppliers, Subsidies for Interest on Loans to Introduce Specific Facilities Suitable for Natural Gas, Subsidies for Small and Medium-scale Hydropower Development, Geothermal Energy Programme, Subsidy for the Technology Development of Integrated Coal Gasification Combined Cycle Power Generation Plant, Subsidies to Offset the Costs of Converting Old Coal-fired Thermal Power Generations to Natural Gas, Subsidy for the Innovative and Viable Nuclear Energy Technology Development Project, Grant for the Technical Development of a Full-MOX ABWR Plant System, Subsidy for Advanced Natural Gas Storage, Research for the Promotion of Natural Gas in Regional Area, Subsidy for Oil Well Abandonment, Special depreciation or tax credit in the case such as acquiring certain facilities to strengthen the management, Special deduction for expenditure on prospecting for mineral deposit in Japan and abroad, Reserve for Prevention from Mineral Pollution of Metal Mining, Reserve for prevention of certain disasters, Reserve for Special Repairs, Reserve for Searching out New Mineral Beds in Japan and abroad, Finance Measures for Single Distilled Shochu Manufactures, Measures for Rice, Wheat and Barley, Measures for Soybean, Measures for Sugar, Measures for Milk and Dairy Products, Measures for Bovine Meat, Measures for Eggs, Measures for Vegetable, Measures for Fruits, Measures for Cocoons, Farmer's Pension Fund Subsidy, Farming Modernization Fund Interest Subsidy, Agriculture, Forestry and Fisheries Finance Corporation Subsidy, Wood Industry Upgrading Funds, Fisheries Modernization Fund Interest Subsidy, Fund for the Measure to Supply Fishery Products Stably, Subsidy for Research and Development of Next Generation Technology, Subsidy for Promoting Stable Management of the Bekko Industry, Subsidy for Promoting the Manufacture of Traditional Craft Products and Subsidy for Leather Industry”. (Committee on Subsidies and Countervailing Measures 2009)

⁸⁹ On the homepage of the Prime Minister of Japan and his Cabinet the following presentation from December 2009 about the New Growth Strategy can be conducted: http://www.kantei.go.jp/foreign/hatoyama/actions/200912/___icsFiles/afieldfile/2010/02/10/1230strategy_image_e.pdf

economies, science and technology, human resources, and financial services”. (WTO 2011f:63)

The OECD states that producers support in Japan is still twice the OECD average. Especially market price support and border measures are used in Japan. (OECD 2011:138)

Between 2008 and 2010 total agricultural support amounted to 1.1% of GDP, whereby in 2009 the agricultural sectors contribution to GDP was 1.2%. (OECD 2011:140)

In the agricultural sector more and more direct income support for farmers is used. For beef and pork administered prices are applied. A ‘supply-demand adjustment’ is used by the Japanese government for rice; hence production limits are decided by the government in order to guarantee self-reliance. From the rice diversion programme farmers also receive subsidies if they plant other crops than rice on their paddies. (WTO 2011f:82)

5.6 Government Procurement

Brunei Darussalam

Government procurement policies have a large impact on trade in Brunei, due to the fact that the government is the largest operator within the whole economy. As Brunei is no party to the GPA, government procurement is used as an economic policy instrument, especially in the construction industry. (WTO 2008a: ix)

Brunei’s government is the major source of public works, as all of them are funded by the government. Foreign companies can take part in government tenders, but as corporate relationships with the government are important, they need a local agent. If foreign companies have no local agent, the chances of receiving a contract are very low.

Only government procurement over Brunei Dollar (BND) 25,000 is published in the Government newsletter and local newspapers. Foreign suppliers can submit bids, if the required goods are not available in Brunei, but they still need authorization from the State Tender Board or Mini Tender Board. (WTO 2008a:50f)

Cambodia

Cambodia has not signed the GPA so far. For urgent needs of procurement, for example after natural disasters, non-competitive procurement methods are use, otherwise competitive bidding is compulsory. Competitive bidding is advertised through newspapers and on the website of the Ministry of Economy and Finance. Problems hereby are the poor information infrastructure and that bidders must be registered at the Department for Public Procurement, otherwise they are not allowed to participate. Approval by the Council of Ministers is needed for environmentally or politically sensitive procurements. (WTO 2011b:42)

Indonesia

Government procurement is an important instrument of industrial policy in Indonesia, the use of domestic production, design and engineering is being pursued. The WTO (2007a:49) states that "... special preferences are granted to encourage domestic sourcing, and there are provisions on the maximization of local content in government projects, regardless of their source of funding". As Indonesia is no party to the WTO's GPA, foreign participation has special conditions. Foreign bidders are only allowed to participate if they have a joint partnership or are a subcontractor of a domestic firm. Local and provincial governments have their own procurement laws, which might pose even more barriers to foreign bidders.

The WTO (2007a:49) states that "Foreign firms bidding on high-value government-sponsored projects have been asked to purchase and export the equivalent value in selected Indonesian products. Government departments, institutes, and corporations are expected to use domestic goods and services to the maximum extent feasible, with the exception of foreign-aid-financed procurement of goods and services". Thus government procurement in Indonesia is used in a very restrictive way.

Lao PDR

The OECD (2006:5) mentions a lack of standard bidding documents and too basic procurement manuals, inadequate integration with governance systems, insufficient competition in public biddings, a missing system for collecting key data and monitoring performance and a weak external and internal control and audit at the agency level as the biggest obstacles in the Lao PDR's government procurement system.

The Ministry of Finance is responsible for government procurement policies (USTR 2007:376) and government procurement is administered by the Implementing Rules and Regulations on Government Procurement of Goods, Construction, Repairs and Services (IRRs).

A Procurement Committee, which complies with the IRRs, executes the procurement procedures. The IRRs is in charge of awarding contracts and for compensation for delays as well as dispute resolution. The IRRs supports four procurement methods in the Lao PDR: "(i) limited bidding where the number of bidders may be limited to 3 to 5 individuals or companies capable of meeting the terms of the contract; (ii) local price comparison which allows the procuring entity to compare the prices from at least three domestic suppliers; (iii) international comparison which allows the procuring entity to compare the offers of at least three companies from at least two different countries; and (iv) direct contracting which allows the procuring entity to negotiate terms and conditions directly with one or more suppliers." Bid invitations are advertised in Lao or English in newspapers in the Lao PDR or

internationally. The IRRs also is responsible for checking the suitability of the bidders. (WTO 2001:28)

Malaysia

The WTO (2009b:ix) states that locally owned businesses are favoured through government procurement policies in Malaysia. Only if goods or services do not exist at the domestic market, international tenders are welcome. Malaysia is no party to the WTO's GPA.

The WTO (2009b:42) states that "Malaysia's government procurement continues to be used as an instrument to support national objectives, such as encouraging greater participation of the Bumiputera⁹⁰ in the economy, transfer of technology to local industries, reducing the outflow of foreign exchange, creating opportunities for local service-oriented companies, and enhancing export capabilities". In 2008, 11.9% of the GDP was spent on government procurement.

GLCs are of importance in the Malaysian economy and they are expected to purchase from domestic companies in case of procurement. (WTO 2009b:24)

If a company wants to participate in government procurement it has to be registered at the Ministry of Finance. For procurement above Malaysian Ringgit (MYR) 30 million, tenders have to be advertised in local newspapers, websites of procuring agencies and in the MyGovernment portal⁹¹. For procurement up to MYR 50,000 ministries and agencies can buy materials directly from known suppliers, which do not have to register. (WTO 2009b:43)

Myanmar

The United Nations Asia and Far East Institute (UNAFEI) states that a tender system in Myanmar is used for public procurement, which is advertised in daily newspapers. In the newspapers information about the item to be purchased, the quantity, tender closing date and the required documents are specified. As the biggest obstacle in public procurement corruption is mentioned. (UNAFEI 2008:86f)

Philippines

The Philippines is no party to the WTO's GPA. (WTO 2005:49)

In 2001 an electronic procurement system was introduced in order the foster transparency and reduce costs. Usually procurement is handled by competitive bidding.

A Bids and Awards Committee (BAC) is set up for procuring and then the BAC advertises the invitation to bid. Before the invitation to bid a pre-procurement conference must be hold by

⁹⁰ Bumiputera is a Malaysian Term which refers to indigenous Malay people.

⁹¹ On the following website information about current Tenders can be found:
<http://www.malaysia.gov.my/EN/Pages/default.aspx>

the BAC. At the end the BAC advises the award of contracts to the procuring body. One requirement for bids is to contain a technical and financial component. The BAC is responsible to examine all components. (WTO 2005:50f)

Foreign participation in procurement is limited, especially if all services and goods are domestically available. The WTO (2005:52) states that the “Constitution provides for a strong preference to procure domestically”. Priority should be given to qualified Filipinos, Filipino labour, domestic materials and domestically produced merchandise. Most of the time only Filipino companies are allowed to take part in government procurement; a foreign company may only apply if the ownership is at least 75% Filipino and this just in some cases.

Furthermore the WTO (2012e:48) states that “The Philippines' procurement regime allows for the participation of foreigners ... (i) when provided for under any Treaty or International or Executive Agreement; (ii) when the foreign supplier is a citizen, corporation or association of a country included in Annex "I" of the laws or regulations issued by the GPPB granting reciprocal rights or privileges; and (iii) when the goods sought are not available from local suppliers”. Official uniforms, footwear and leather goods are being procured by the government from domestic producers in order to support local industries. Also a 15% price preference for domestic suppliers discriminates against foreign bidders in foreign-assisted assignments. For domestically funded projects, only companies with over 60% Filipino ownership are allowed to participate in the bidding.

Singapore

Singapore is a signatory of the GPA.

For 85% of all tenders open procedures are used and tenders are assigned on a non-discriminatory base.

Procurement in Singapore is the responsibility of individual ministries and agencies and some centralized procurement is done by the Ministry of Finance. The rules are laid out by the Ministry of Finance and are binding for all bodies.

Singapore has a 2.5% preference margin for suppliers from ASEAN members up to United States Dollar (US\$) 40,000 for each bidding. Members of bilateral FTAs are granted preferential treatment for government procurement activities.

Procurement takes place, depending on the value, through ‘small value purchase’, quotations or tenders. Procurement up to Singapore Dollar (S\$) 3,000 can be made directly by the government body or agency. Open quotations are used for procurement from S\$ 3,000 to S\$ 70,000 and for procurement over S\$ 70,000 a competitive open tendering has to take place. (WTO 2008b:48f)

Tenders are published on the Government Electronic Business System homepage⁹². (Civil Service College Singapore 2010:5ff)

Limited tendering is allowed when there was no response to tenders, when only one supplier is involved, when the procurement is very urgent and when the procurement is used for the development of prototypes for research. (WTO 2008b:49)

Thailand

Thailand is not a signatory of the GPA. (WTO 2011c:84)

An electronic government procurement system was implemented lately. Nevertheless the WTO (2011c:47) states that the system remains "... complex, as different government agencies are responsible for their own procurement, and several procurement methods are used, not all of which are open to competition".

The laws concerning government procurement are set out in numerous sets of rules; furthermore there are various government agencies⁹³ responsible for public procurement.

The Thai laws on Government Procurement imply favouritism for domestic companies, especially SMEs.

The Royal Gazette publishes Thailand's public procurement policies and contracts are published on the Thai Government Procurement website. (WTO 2011c:84-87)

Six different procurement methods are used by the Thai government, namely "...price agreement, or negotiation for procurements of less than B 100,000; price inquiry, or price search for contracts of between B 100,000 and B 2 million; open bidding for contracts of more than B 2 million; electronic bidding (e-Auction), also for contracts of more than B 2 million; special methods, which are used by government agencies specified in Regulations for Local Administrative Organisations B.E. 2538 (1995); and special-case methods for procurement contracts worth more than B 100,000 where other methods are not suitable, such as in cases of repeat procurements or where a delay may cause problems for the procuring agency". (WTO 2011c:85)

⁹² Current tenders and quotation of Singapore can be found at: <http://www.gebiz.gov.sg/scripts/main.do;wlsessionid=FjKLPWIBtWrWyVZN22VZ8nHmP10M1Zhh9qd8PxZ9yTYv8s3W87V!1903561458!660879742?sourceLocation=openarea&select=tenderId>

⁹³ The Public Procurement Management Committee, takes care of the procurement system, the Office of Public Procurement Management of the Ministry of Finance oversees the implementation and rules, the Bureau of Budget controls the budget, the Comptroller General's Department manages the budget expenses, the Department of Special Investigation checks the procurement process, the Thai Industrial Standards Institute is responsible for the registration of goods concerning standards to meet the requirements for preference margins, the Office of the Auditor General is the procurement audit, the Office of the National Anti-Corruption Commission takes care of the process, the Administrative Court handles procurement disputes, the Office of Ombudsman pays attention the complaints about procurement actions, the Department of Local Administration on the Ministry of the Interior is in charge of overseeing procurement practices of local government bodies and the State Enterprises Policy Office in the Ministry of Finance takes care of procurement by SOEs.

Khoman (2009:15ff) states that Part 2 Section 2 Articles 16 and 17 of the Office of the Prime Minister Regulations on Government Procurement B.E.2535 stress the importance of goods made in Thailand for procurement purposes. If the price difference is not more than 3 % preference is given to the Government Pharmaceutical Organisation when procuring pharmaceutical goods. Also the use of Thai advisors is encouraged in the Office of the Prime Minister Regulations.

Moreover, tenders, apart from construction procurement, have standards certification or goods come from factories which certify for Thai standards, preference is given to those bidders if the price is not more than 5 % higher than from other bidders.

Vietnam

Vietnam is not a signatory of the GPA. With the Law on Procurement, implied in 2006, better transparency is provided. The Vietnamese government has a preference to procure open source software locally and promotes this as well to its government agencies. However, Vietnam signed the APEC Technology Choice Pathfinder Agreement in 2006 and therefore should use a merit-based approach to software procurement as agreed on with. (USTR 2011b:379)

China

China is currently negotiating its accession to the GPA. (WTO 2010:viii)

The main laws concerning government procurement are the Government Procurement Law and the Law on Bid Invitation and Bidding or Tendering. (WTO 2010:39)

Under the Government Procurement Law it is specified that "... the Government should procure domestic goods, projects, and services. However, there are no provisions on local content, or rules of origin, to determine whether a product is produced domestically. Purchasing of foreign products may be allowed under exceptional circumstances; e.g., when the goods, projects, or services required are unavailable in China or unavailable on reasonable commercial terms, or when the goods, projects and services are procured for use outside China". (WTO 2010:40)

Goods and services can be procured through "... public invitation or tendering, invited bidding, competitive negotiation, single-source procurement, request for quotations, and other methods confirmed by the supervising department under the State Council (i.e. the Ministry of Finance), depending on the circumstances".

Government procurement is announced in the media⁹⁴ and public invitation is obligatory for procurements over Y 1.2 million for goods and services and Y 2 million for construction work. China is no signatory of any regional, bilateral or multilateral agreements. (WTO 2010:40f)

Korea

Korea is a signatory of the GPA, but some government procurement is not covered by the GPA, like procurement from SMEs. The WTO (2008c:ix) states that in Korea "...government procurement is still seemingly used as an instrument of economic policy, including regional and industrial development; new legislation has required priority to be given to environment-friendly products. Foreign suppliers appear to be losing ground in the government procurement market, due to the highly sophisticated and increasingly competitive domestic suppliers of manufactures and construction services, as well as the discontinuation of government purchases financed by international public loans, which require international competitive tendering." In 2005 foreign companies represented only 3.1% of the total tender recipients in public procurement.

Also APEC (2007:6) states that even though Korea's government procurements is trying to work through "value for money", it also tries to support SMEs and regional development.

Overseas competitors usually secure contracts for goods, barely every for construction, which would be the largest government procurement outlay in Korea. (APEC 2007:45)

More than 3% of the value of all contracts in 2004 awarded by GPA-covered entities was granted through restricted tendering. The WTO (2008c:66) states that "Procurement by GPA-covered entities represented 44.9% of Korea's total procurement (excluding defence equipment) in 2004".

Government procurement of agricultural, fisheries and livestock products does not underlie international tendering under the GPA. The 'Procurement Legislation and the Promotion of SMEs and Encouragement of Purchase of Their Products Act' supports SMEs, and the 'Law on the Law on the Promotion of Environmentally Friendly Product' obliges government entities and SOEs to mandatory purchase environmentally friendly goods. This law concerns 55 central government agencies, 444 local government entities and 220 enterprises which are associated with government entities.

⁹⁴ The official homepage concerning government procurement can be conducted at: <http://www.ccgp.gov.cn/>

Korea uses the Korea ON-line E-Procurement System which is a single window for government procurement and facilitates the process, provides transparency and openness. (WTO 2008c:67)

Usually contracts are granted through open competitive tenders, but restricted tenders and private contracts are still in use. The WTO (2008c:68) states that “Although defence procurement is covered by the procurement legislation (but not by Korea's WTO procurement obligations) and, in principle, conducted by open competition, procurement procedures tend to follow defence acquisition management practices, whereby restricted and private tendering is often used.” Private contracts can be used for procurement that does not exceed W 50 million and W 200 million for construction works.

The Public Procurement Service (PPS) is responsible for procurement from SMEs and other weak economic sectors, such as regional and female-owned companies. SME products can be procured through single tendering procurement. The PPS uses a “competitive bidding system restricted by region” which concerns projects with a value up to W 5 billion and allows only local companies in the construction area to participate in the open competitive tender. Furthermore, the ‘compulsory joint sub-contracting and single source contracting system’ of the PPS obliges a foreign bidder to form a joint venture with a local supplier. (WTO 2008c:68)

In 2010 new guidelines concerning procurement procedures were introduced by the Ministry of Knowledge and Economy which give preference to Korean SMEs. In 2009 a new regulation concerning public purchasing of encrypted network equipment was introduced, which implied the certification by Korea’s National Intelligence Service. The selling of private network and firewall systems to the Korean public sector is thereby restricted. (USTR 2012b:241)

Japan

Japan is a signatory of the GPA. (WTO 2011f:43)

Japan does not grant preference to domestic companies in government procurement. Nevertheless, the WTO (2011f:31) states that “...government procurement is used as an instrument of economic policy, particularly in some sectors (e.g. timber) and for promoting SMEs”.

Usually open tendering is used in Japan, but for contracts between “...the Government and a Cooperative Association or Federation of Cooperative Associations of small and medium enterprises (SMEs), the Government can use limited tendering procedures...”. Thus procurement from SMEs is promoted, also according to the “Law on Ensuring the Receipt of

Orders from the Government and Other Public Agencies by Small and Medium Enterprises (enacted in 1996) ... the Government, local authorities and other public agencies must endeavour to expand procurement opportunities for SMEs, by way of *inter alia*, providing information on procurement plans.” (WTO 2011f:46)

Central government entities underlie the Account Law and the Local Autonomy Law is responsible for local government procurement. Japan regards its procurement policies as non-restrictive and non-discriminative, however the ‘single tendering’ contract method allows procuring agencies to choose a specific contractor. In 2008 18% of government procurement was done by single tendering contracts. Japan currently tries to make single tendering contracts more transparent and efficient. (WTO 2011f:44)

In the New Growth Strategy of the Japanese government the policy to use domestic wood is mentioned, altogether the government wants to supply half of the domestic demand with domestic wood. In 2010 a new law was introduced which promotes “...the use of wood in the construction of public buildings”. Furthermore, the WTO (2011f:45) states that “...While government procurement is thus used as an instrument of economic policy in Japan, quantitative evaluations of the instrument are rarely published”.

The ‘Basic Guideline for Public Procurement of Information Systems’ regulates that procurement cannot exceed Japanese Yen (JPY) 500 million per procurement. If it exceeds the amount, the procurement project has to be split up. Procurement projects in 2008 were purchased in 63.5% of the cases through open tendering, in 1.5% thorough selective tendering and in 35% through single tendering.

The procurement of foreign goods and services, provided by domestic or foreign companies, decreased during the period of WTO review from 9.1% to 7.1% with regard to the procurement value.

Out of the 59,915 companies which are granted “central-government-wide unified qualification” for being able to participate in tendering, only 394 firms are wholly or partially foreign owned.

6 Comparison of Implemented Protectionist Strategies

The following chapter will compare and analyse the implemented protectionist strategies of the EU and the APT states.

In order to better understand the comparison of strategies, it is important to mention that according to conventional trade models, there is no reason for trade to occur between similar

economies, nevertheless trade within trade blocs is flourishing. This is being explained by Krugman's model (1979:477), as well as by other authors. Helpman (1987) additionally proved with his paper that trade takes place between similar economies, in contrast to what the conventional trade theory says.

Lancaster (1980:151f) even shows in his paper that more intra-industry trade takes place between entirely identical economies, between which, according to the comparative advantage theory, no trade would take place.

Furthermore, Krugman (1987:131f) states that the new model of trade theory questions if trade can be explained by comparative advantage and shows that it might be of national interest to have government interventions.

Accordingly, a nation can create a comparative advantage by improving its economic activity in the international market. (Salvatore 2007: 308f)

Generally one can state that nations protect weak industries and industries in decline, as well as large and politically important industries. One fact is that less protection is given to export industries and the reason for that could be that nations do not want to cause foreign retaliation. (Lee/Swagel 1997:372)

Moreover, public officials often try to meet demands for protection caused by high levels of unemployment and appreciated currency, because these actions have effects on election outcomes. (Mansfield/Busch 1995:726)

Therefore, one can state that NTBs are used when economic incentives and pressure groups exist. (Mansfield/Busch 1995:747)

The comparison of the implemented protectionist strategies takes place by means of arguments for restricting trade and the analysed policies in chapter four and five.

6.1 National Defence

As mentioned before, the national defence argument is centred on the production of crucial products in a national emergency. Self-sufficiency is in the foreground, thus the most important factors in descending order are food, energy supply and other crucial industries.

The argument of self-sufficiency in a national emergency is used as a reason for protection within the agricultural sector.

Another reason for protection and subsidization of the agricultural sector is price fluctuation due to environmental factors. As farmers can be put out of business due to plummeting prices, governments pay subsidies and offer other incentives to make being a farmer a desirable profession. (Trebilcock/Howse 2005:327)

Both of the mentioned trade blocs protect their agriculture and other crucial industries in many ways.

Subsidies within the EU focus mainly on agriculture, manufacturing of certain commodities and the defence industry. The total support European farmers receive remains high and also the granted MFN tariffs continue to be high. (WTO 2011a:ix)

Subsidies within the EU are granted at the EU and on the member state level, mainly grants, tax exemptions, soft loans and guarantees are offered. (WTO 2009a:4, 72)

Some sorts of subsidies do not even require prior notification and approval for state aid from the European Union. For example, for the General Block Exemption Regulation, for which in 2009 nearly € 11 billion were granted, and de minimis aid no notification is needed. (WTO 2011a:70)

Concerning import protection the EU uses import licensing for certain agricultural products. (WTO 2011a:44)

The right to export live animals and animal products to the EU is granted to only a few countries which have a SPS agreement with the EU. Exporters also have to be member of the OIE in order to guarantee that OIE listed diseases are reported in time.

Animal welfare has to be certified and the processing establishments of animal products have to be listed for export to the EU. Imports of plants and their products, and food of non-animal origin need pre-approval as well. Hereby it is notably that for first time approval there is no limitation concerning the process duration. (WTO 2011a:57f)

Currently, EU states are allowed to restrict or prohibit the cultivation and the import of GMOs. (WTO 2011a:60) Six member states of the EU make use of this law.

Furthermore, labelling requirements of the EU pose difficulties for importers. Labels have to contain warnings if foodstuff has been treated with packaging gases, if it contains sweeteners, GMOs, added sugar, aspartame, more than 10% added polyols and if confectionery or beverages contain alcohol. Apart from this, labels have to be written in the official languages of the member states. (USDA 2009a:8)

Due to the very high regulatory standards for food, as well as technical regulations and conformity assessment procedures the market access for foreign suppliers is limited in once another way. (WTO 2011a:ix)

The market access for pharmaceutical products is limited for foreign companies due to non-transparency of the government reimbursement and pricing policies. (USTR 2012b:144)

Concerning the defence sectors one can state that every country limits the access for foreign companies. Nevertheless, it is notably that in the UK some sectors of the defence market are restricted to partnerships between the Ministry of Defence and only specific national companies. The French government on the other hand maintains shares in defence contractors which makes it hard even for companies within the EU to participate in defence procurement of France. (USTR 2012b:159ff)

Export restriction can be implemented by the EU members themselves, worth mentioning is that especially the export of dual-use items is controlled.

Due to a lack of transparency concerning national general export authorisations, the list of exporters who were hampered concerning their export might be long. (WTO 2011a:61f)

The APT states use various policies as well to protect their crucial industries.

Brunei uses subsidies and price controls for essential food items and petrol. (WTO 2008a:vii)

Brunei's government tries to achieve self-sufficiency and limit the dependence on imports through assistance to domestic producers of rice, vegetables, poultry and live stock. Efforts can be seen in order to expand the agro-food industry by using new techniques. High subsidies are offered for agricultural inputs for water, energy and the telecommunication services. (WTO 2008a: 56)

Brunei applies NTBs such as import prohibitions, restrictions and licensing. It is forbidden, amongst others, to import indecent and obscene printed matter, fireworks, vaccines from Taiwan, cough mixture containing codine, munitions and alcohol. (WTO 2008a:44)

In Cambodia, the government tries to raise the productivity of the agricultural sector, with policies such as the "Rice - White Gold" policy, which focuses on increasing the production and export of rice. (WTO 2011b:x) Furthermore, Cambodia's SPS system poses a trade restriction with numerous unnecessary inspections. (WTO 2011b:54)

Indonesia offers assistance to nearly every sector of the economy through trade control or restrain. Domestic producers have an exclusive import right for products like sugar, rice, cloves, alcohol, sugar and iron and steel products. (WTO 2007a:36)

Farmers are protected by an import registration mechanism for sugar imports, which makes importers absorb at least 75% of Indonesian sugarcane. The fisheries sector is protected by the elimination of foreign vessels from operating in the Indonesian Economic Exclusive Zone. (WTO 2007a:21f)

Indonesia's complex tariff system allows raising tariffs for some commodities such as corn and soybeans substantially, which shows that tariffs are used very often in Indonesia in order to protect important economic sectors or goods. (WTO 2007a:40)

Additionally, Indonesia accomplished to put 400 products on the list of sensitive and highly sensitive goods, including, amongst others, motor vehicles, electronics, textiles, chemical products, rice, sugar, soy beans, corn and other food items. Imports of chicken parts are banned, meat and poultry imports underlie quantitative restrictions and rice imports are forbidden during the harvest time from January to June, during the other months restrictions apply. From July until the end of each year also salt imports are prohibited and salt importers must "source 50% of their raw materials locally".

The import of sugar is strictly restricted, only five companies are allowed to import and even for those companies limitations apply.

In order to be allowed to import some food stuff, textiles, shoes, electronics and toys a special importer identification code number must be obtained, otherwise the import is denied. (WTO 2007a:46f)

Within the Lao PDR tariffs are considerably high for a great number of goods and the Ministry of Commerce or provincial authorities request annual importation plans from importers. Only approved importers are allowed to import according to these plans, in addition to that all imports require licenses. The Lao PDR forbids importing agricultural products which are produced in a sufficient amount by domestic producers. (USTR 2007:375, USTR 2010)

Most of the licensing requirements in the Lao PDR are non-automatic, goods which are subject to non-automatic licensing are, amongst others, food, animal feeds, fuel, lubricants, steel bars for construction, media material, cement and motor vehicles. (USTR 2010)

The importation of goods which may offend the Lao culture or corrupt children, as well as nominated agricultural goods, weapons, certain medication and media material is prohibited. The import of petroleum products, construction material such as steel and cement, rice, motor vehicles, electricity, natural resources, tobacco and wood products underlies state control.

Export licences are required for all goods, apart from products on the AFTA Inclusion List and garments and for the exportation of electricity, the government charges a 20% duty. (WTO 2001:20ff)

Malaysia requires import licenses for some agricultural goods and rice is only allowed to be imported by BERNAS, and in addition to that restrictions are applied. (WTO 2009b:x)

Myanmar allows the import of capital goods, industrial machines, raw materials and other specifically as necessary goods defined products, the import of all other products is prohibited. (ESCAP 2002:74)

For rice and rice flour, bamboo and cereals export duties are charged. (ASEAN ICT Email 2008c)

The Filipino government protects its crucial economic sectors mainly through high tariffs, tariff quotas and NTBs. The offered protection concentrates on rice, fruit and meat products. For rice quantitative restrictions and for fruit and meat strict SPS regulations are used.

Sugar import is restricted and for plantation logs the government applies export taxes. Rice and corn underlie minimum export prices in order to sustain home supply and protect producers. Various policies exist in order to protect industries and achieve self-sufficiency, especially for rice, sugar and corn. Self-sufficiency should be achieved through price supports for rice and corn, high tariffs, rice import quotas and import and export restrictions. (WTO 2012e:ix-x)

National Food Authority is the only agency which can import rice and corn, moreover export restrictions for rice, corn and sugar, as well as fish should guarantee food security. (WTO 2012e:50)

Fisheries are protected through policies like the regulation which stipulates that only Filipino citizens are allowed to be fishermen and only 40% of deep-sea-fishing vessels can be owned by foreigners. Imports of fish and fish products are only allowed, if the domestically produced amount is not sufficient. (WTO 2012e:ix)

Furthermore, the Filipino president can impose export quotas whenever proposed by the National Economic and Development Authority. (WTO 2012e:50)

Singapore only allows imports from accredited countries or producers. For the import of processed food and electrical appliances import permits are required each time.

Singapore has very strict SPS measures. Foreign farmers exporting to Singapore are regularly checked upon in order to guarantee food safety. (WTO 2008b:45ff)

For every export a permit is required and some goods, like strategic goods, rubber, wood and so on, underlie export licensing and controls. (WTO 2008b:50f)

Thailand supports within the agricultural sector mainly rice and sugar producers. (WTO 2011c:ix) Maximum prices for sugar and the amounts that can be sold are set by the Cane and Sugar Board. Imports are averted by domestic prices higher than world market prices. Apart from that a 65% MFN tariff protects sugar producers.

For rice producers price support scheme exists and various other price support policies are used for the main agricultural goods like maize, manioc, shallots and fruits. (WTO 2011c:105f) Moreover, fuel prices in Thailand are controlled by the government. (WTO 2011c:ix)

Thailand has mandatory standards for construction material and electrical equipment, for which certification marks on the product have to indicate the compliance with standards.

Goods manufactured abroad require a licence to show conformity concerning standards. In order to obtain this licence importers and foreign manufacturers have to undergo lengthy procedures.

Thailand has very strict SPS regulations, many standards are more stringent than set by the OIE. During the period from 2007 until 2001 Thailand notified 42 regular and 14 emergency SPS Measures. (WTO 2011c:63ff)

Thailand prohibits the import of various products, amongst others some kind of sweeteners, stevia, a variety of food additives, puffer fish and its products as well as genetically modified corn and corn products. (USDA Foreign Agriculture Service 2010a:4)

Food labels have to be very detailed and genetically modified food has to be explicitly labelled. (USDA Foreign Agriculture Service 2010a:9-17)

For protecting economic stability, public health, national security, public order and morals, or for offering 'other benefits to the State' the Thai Minister of Commerce can specify classes of goods that underlie export and import controls. (WTO 2011c:68f)

In addition, export taxes are allowed to be reintroduced at any time needed. For wood, rice, scrap-iron, rubber, raw silk and silk yarn and various kinds of fish export taxes are charged and the export of oil cakes is prohibited. These policies provide significant support to domestic downstream industries.

Export restrictions such as export licensing, surcharges, quotas or prohibitions are applied in order to avoid domestic shortages. Domestic supply for sugar and rice is guaranteed through export licences. Trade association membership is required in some cases for acquiring export licences. (WTO 2011c:vii, 46, 67ff)

Vietnam only allows food with a Food Quality Registration Certificate to be imported. For obtaining this certificate, a range of documents is required and for the importation and sale of alcohol a trading permit is needed.

Another import requirement which exists for each article is a STAs certificate. Testing norms of this certificate are according to Vietnamese standards, which are being described as complex and used in a 'non-scientific' way.

GM food can be imported, nevertheless a bio-safety and irradiated safety certificate has to be shown and the food label has to specify the GM content. All product labelling has to be done in Vietnamese language. For food additives and nutritious infant food, a health or free sale certificate is mandatory. (SPRING Singapore 2010:2-7)

The MOH issued a decree concerning the food additives which are allowed to be imported and additionally an authorized agency has to certify the food additives' safety.

Many food products and beverages underlie compulsory examination upon importation.

For obtaining permission to use imported pesticides a registration at the Plant Protection Department has to be filed. This registration requires a field test and an analysis in cooperation with a local agency. The procedure is very costly and time consuming, as it takes around two years. (USDA 2009b)

It is prohibited to import weapons fireworks, cigarettes, "... military equipment, drugs, poisonous chemicals, reactionary cultural products, children toys that may have a negative effects on their dignity, social order and safety...", cultural products of anti-government nature, second-hand consumer goods and vehicles, as well as cars and buses with the driver wheel at the right side. (OECD 2004:123f, ASEAN 2011b)

Furthermore, it is forbidden to export weapons and military equipment, log and chipped wood, fire wood, charcoal made from wood, wood products simply manufactured, or fire wood from domestic natural forests. (OECD 2004:124)

Goods which underlie import and export restrictions are mineral goods, forest animals and vegetables and live animals and vegetables, animal feed, medicine, coloured photocopying machines and technical equipment for the post and telecommunication sector. (ASEAN 2011b)

The Chinese government controls important commodities like electricity, medicine, rare natural resources, water supply, public transport, postal and telecom services and educational fees. Key reserve goods, such as grain, "... cotton, sugar, silkworm cocoons, crude oil, processed oil, and chemical fertilizer..." are stockpiled by the government.

Price controls exist for "... tobacco, edible salt, some fertilizers, some key medicines, educational materials, water-resource projects..." and military materials. (WTO 2010:53)

In China market price support and input subsidies are used in order to assist the agricultural sector. Subsidies for grain growers, agricultural machinery and tools are offered. China also uses price control programmes in order to assist its agricultural sector.

The government buys rice and wheat at a minimum price of a certain limit if market prices fall. China sustains its 95% self-sufficiency in producing grain through the agency Sinograin,

which intervenes in grain procurement. Cotton prices are stabilized by the state-run China State Cotton Reserve Corporation. (WTO 2010:71-75)

For corn, rice, coal, oil, cotton, antimony, tungsten, silver and tobacco state trading is used. If the government estimates it as necessary, exports of soybean, unbleached silk and cotton sewed thread can be put under state trading arrangements.

Domestic supply is ensured through quotas, export taxes, less-than-fully VAT rebates and state trading. Export restrictions reduce prices through fewer exports and redirect supplies to the domestic market. (WTO 2010:44ff)

China's energy supply is also guaranteed through government interventions. Exports of energy products face very high barriers, such as export quotas, licensing, state trading and export taxes, imports on the other hand, face low tariffs, nevertheless they often underlie automatic licensing and state trading. (WTO 2010:76f)

In Japan various government support policies exist for the agricultural sector and the protection level is high. (WTO 2011f:ix) The manufacturing sector is comparably open, however, aircraft production receives substantial subsidies. (WTO 2011f:83)

High average MFN tariffs, tariff quotas, income support and production control protect the agricultural sector. (WTO 2011f:viii)

State trading is used for leaf tobacco, opium, grains and dairy products. In some cases, domestic supply and manufacturing of these commodities is controlled by monopoly and import and export rights are regulated by the government. The 'Law for Stabilizing of Supply-Demand and Price of Staple Food' controls staple food prices, such as rice, wheat and barley and also prices of dairy products are regulated by state-trading companies. (WTO 2011f:47f)

For beef and pork controlled prices are used and rice underlies production limits in order to guarantee self-reliance. Direct income support is used for supporting farmers and also subsidies for rice diversion programmes are offered. (WTO 2011f:82)

SPS regulations used by Japan are stricter than international norms and sometimes even exceed OIE guidelines and Codex standards.

Maximum residue limit for pesticides and food additives are regularly controlled. Food containing GMOs, food additives and allergenic substances has to have a notification on the label. The import of GM food is restricted and has to come up to Japanese safety standards. JAS organic standards are obligatory for organic food, which also has to be labelled with a JAS organic mark. For some other imported products JIS are mandatory.

It is of importance to state that non-residents of Japan are not authorized to export technology, which also includes foreigners making business trips to Japan. (WTO 2011f:49-58)

Korea's protection policies focus primarily on self-sufficiency policies addressing food security concerns. (WTO 2008c:91)

Korea offers protection on a high level for its farmers. (WTO 2008c:38) Mainly tariffs, as well as product-specific market price support, soft loans, cross-subsidised electricity prices, and direct payments are used. The average MFN tariff is more than eight times higher for agricultural products than for non-agricultural goods.

Furthermore, tariff quotas are allocated by industry associations and state-trading entities. (WTO 2008c:90)

Domestic supply is guaranteed through a periodical export restriction of mainly rice and since 2007 quantitative export restrictions are used for rice. (WTO 2008c:39)

Moreover, nuclear products, arms, missile technology and chemical weapons are not allowed to be exported.

Phytosanitary certificates are required for imports of plants and plant products, the importation of soil is prohibited and the import of plants for planting is harshly restricted.

For GMAPs strict guidelines apply and GM corn, soybeans, potatoes and processed food containing GMO have to be labelled.

KFDA regularly checks the safety of GMO products through evaluations; additionally environmental risk assessments are required for all biotechnology crops.

Pharmaceuticals have to be pre-approved by KFDA and widespread clinical testing and other prerequisites are necessary. For cosmetics special quality tests exist. (WTO 2008c:62-69)

By means of the above mentioned examples how the two trade blocs limit the access to some economic sectors, one can see how the national defence argument is in connection with restrictive trade policies.

The EU with its high regulatory standards for food and high subsidies for the agricultural sector tries to maintain its independence from imports. Imports into the EU of live animals and animal produces are highly restricted and the cultivation of GMOs is very limited, if not completely forbidden.

Strict technical regulations and conformity assessment procedures, limited market access for pharmaceutical products and for the defence sector, as well subsidies for manufacturing industries and the defence industry should protect crucial products and industries.

The APT states focus their protectionist policies mainly on essential food items, fisheries, the defence industry and other important sectors.

In some countries the importation and exportation of arms and ammunition and military equipment is forbidden.

Self-sufficiency concentrates mainly on rice, vegetables, fruit and meat, as well as dairy products.

Apart from the above mentioned policies which all APT states have in common, some unique policies are used as well.

In Brunei also petrol receives very high subsidies. Trade control in Indonesia assists the most important economic sectors and commodities such as rice, sugar, iron and steel, exclusive import rights for domestic producers exist. In the Lao PDR agricultural products, which are produced in a sufficient amount, are forbidden to be imported. In Myanmar only capital goods, industrial machines, raw materials and other necessary goods are allowed to be imported. At the Philippines, a number of policy measures are aimed at protecting and achieving self-sufficiency in product categories like rice, sugar and corn and fish imports are only allowed, if the domestically produced amount is not enough. In Thailand, the Cane and Sugar Board sets maximum prices for producers and the amounts that are allowed to be sold. Export licences for sugar and rice are used in order to secure domestic supply. China exercises price control programmes, offers direct subsidies and the government buys rice and wheat at a minimum procurement price. Quotas, export taxes and restrictions, less-than-fully VAT rebates and state trading are used to ensure stable domestic supply. The government also intervenes in the energy supply to secure its self-sufficiency.

Japan offers subsidies for the production of aircrafts and Korea has comparably high tariffs and its protection policies concentrate mainly on self-sufficiency policies addressing food security concerns. In order to guarantee stable domestic supply Korea periodically restricts and monitors the export of rice and some other products.

These measures prove the hypothesis that strategic industries are protected, however in this case not in order to enhance welfare, but due to the national defence argument.

6.2 Income Redistribution and Protection of Jobs

Domestic labour and domestic companies always support protectionism because of profit-shifting motives. (Brander/Spencer 1985: 194f)

Protection is said to reduce domestic unemployment by promoting declining industries and giving adjustment help or averting imports and thus helping import-competing companies. (Salvatore 2007:303)

The import redistribution argument is very similar to the argument of job protection, as both arguments favour disadvantaged groups within the domestic economy. Thus both arguments and the used policies by the different governments are being compared in this section.

Governments offer protection or adjustment help for declining industries, as workers from these industries have less income or might lose their jobs. Rising imports, but also internal factors can make industries decline. (Diamond 1982:139)

Industries hurt by foreign competition can be supported through protection, which reduces domestic unemployment through substituting imports with domestic goods. (Salvatore 2007:303)

When an industry is declining because of internal factors, workers have a lower income and output subsidization by the government raises the income. (Diamond 1982:125)

Subsidies are used by every government to help domestic companies and industries. Domestic subsidies lower the world price of the given products, thus domestic profit is being increased and foreign profit decreased.

Even though terms of trade move against a subsidizing country, the export expansion still raises domestic welfare.

This is why export subsidies are an attractive policy from a domestic point of view, as large foreign market shares can be captured, jobs can be created and income can be re-distributed. (Brander/Spencer 1984:6-19)

Within the EU the biggest aid expenditures are spent for agriculture, structural operations and research. Subsidies are granted on the EU or on a national level. (WTO 2009a:4)

Agriculture and manufacturing received most assistance; hereby mainly grants, tax exemptions, soft loans and guarantees were used. (WTO 2011a:72)

The sectors which receive the highest amount are manufacturing and services, the non manufacturing sector, coal, agriculture, fisheries and the transport sector. The railway sector by itself receives a significantly high amount of assistance. (European Commission 2010:12)

France, Germany, Spain and the UK offer subsidies for Airbus-affiliated companies, which boost the international competitiveness of the EU civil aeronautics industry. (USTR 2012b:161)

Producers of agricultural commodities receive subsidies and assistance from the EU in order to promote their goods outside of the EU.

Export promotion schemes for various other goods can be granted on a national or sub-national level. (WTO 2011a:64)

The CAP renders export refunds possible. Price difference between the Community price and international price is being compensated in order to make exports more competitive. The amount of the refund paid to the exporter is set periodically by the Commission. (WTO 2009a:15)

Notwithstanding the lately reduces role of the CAP, the total support remains extraordinarily high. Also, MFN tariffs granted by the EU remain high, especially for the agricultural sector. (WTO 2011a:ix)

The EU Common Market Organization for fruit and vegetables covers dozens of products which receive subsidies and payments to farmers are only slowly being reduced.

Different subsidy policies apply to fresh and processed fruit and vegetables. A flat rate payment exists for processed fruit and vegetables. These funds are de-linked from specific commodities and thus seen as 'green box' payments. However, after receiving such subsidies, member states frequently spread them over specific and non-related commodity sectors. (USTR 2012b:147)

The states which granted most aid in 2009 were, in the following order, Germany, France, Italy, Spain and the United Kingdom. (European Commission 2010:11)

Within the APT states, governments mainly subsidise their agricultural sectors, SMEs and the transportation sector.

In Brunei export restrictions for products like rice and sugar support domestic producers.

Domestic producers are protected from foreign competition through import restriction for commodities like salt, sugar and rice paddy. Eggs which are imported have to be marked.

Price controls exist for rice, sugar, motor vehicles and cigarettes.

Domestic producers of meat products receive advantages due to the regulation that foreign slaughterhouses have to be approved by the Minister of Religious Affairs.

Priority concerning loans and other help from the state is given to SMEs, which have business in the areas of industrial sites, agricultural development sites, fisheries development sits and operators of tourist activities. (WTO 2008a:37-57)

In Cambodia export prohibitions assist domestic producers. Export taxes on unprocessed raw materials encourage local production and the export of finished goods, furthermore for processed wood products, sand and various other goods export permits are required.

The highest tariffs are applied to semi-processed goods, processed or semi-processed meat and dairy products, fruits and vegetables, beverages, tobacco, shoes and motor vehicles. With

each processing stage the tariff structure rates increase, which supports local producers. (WTO 2011b:vii-ix)

Especially high tariffs are applied to fully processed goods, such as fully processed food, beverages, tobacco, soft goods, leather, chemicals and non-metallic mineral products. (WTO 2011b:35)

SEZs promote exports, mainly in the fields of garments production, shoes, bicycles, food processing and electrical equipment industries. (WTO 2011b:ix)

In Indonesia, the commodity sugar is protected through regulated imports, moreover importers have to absorb at least 75% of domestic sugarcane.

Trade control or restraint protect nearly all important sectors of the Indonesian economy. Domestic producers are granted exclusive import rights for rice, alcohol, sugar and iron and steel products.

The import of rice and sugar is regulated according to the time of the year. Verifications and other requirements are needed for the export of tin and granite; and the export of logs and sand is prohibited. Domestic producers are also protected through an importer registration licensing scheme and exceeding requirements, which are needed in order to obtain import licences for textiles. Merely local companies are able to obtain these licenses, furthermore State-enterprise importers, importer-producers and sole agents are the only entities allowed to import restricted goods.

Non-automatic licensing protects commodities such as alcohol, "...nitrocellulose, precursors, optical discs, rice, sugar, edible salt, and unworked diamonds". (WTO 2007a:21-46)

Price controls exist for "petrol, electricity, liquefied petroleum gas, rice, cigarettes, cement, hospital services, potable/piped water, city transport, air transport, telephone charges, trains, salt, toll-road tariffs, and postage services".

The Department of Health requires certificates concerning Halal regulations, food additives, food safety, degree of radiation and alcohol for imported food, also the release of food from customs depends on the BOPM. For processed food, a registration number is needed, for which trader have to undergo lengthy and costly procedures.

Food supplements are only allowed to be imported by "licensed pharmaceutical companies or local-government-licensed food supplement companies". (WTO 2007a:55-61)

Assistance to domestic producers, especially through tax incentives, is provided by Indonesia. (WTO 2007a:60)

A new scheme of fisheries management eliminates foreign vessels from operating in the Indonesian Economic Exclusive Zone, thus protecting jobs within the important fisheries sector. (WTO 2007a:22)

Unbound tariffs or tariffs exceeding 40% apply to the agricultural sector, automobiles, iron, steel, certain chemical products, alcohol and transport equipment. Tariff escalations affect processed food, beverages, tobacco and semi-processed media products, because of a tariff reduction on final goods. High tariffs also exist for “textiles and leather, chemicals, non-metallic mineral products, and basic metal products”.

Within WTO negotiation rounds Indonesia’s aim is to achieve “... special exemptions from tariff reductions for rice, sugar, soybeans and corn”.

Goods which are on the list of sensitive and highly sensitive goods are excluded from free trade agreement tariff reductions. Products on the list of sensitive goods are currently, amongst others, cars, electronics, textiles and chemical products. Indonesia also often uses licensing requirements and quality-control standards to control imports of these commodities. Products such as “rice, sugar, soya beans, corn and other food items, motor vehicles motorbikes, ethyl alcohol, and ceramics” can be found on the list of highly sensitive goods. (WTO 2007a:41-46)

The Lao PDR offers infrastructure provision, research and diversification of farming systems as domestic support measures. The production of rice is being enhanced through the enlargement of soil irrigation area. (WTO 2001:30)

Agricultural products and raw materials which are produced locally are not allowed to be imported. (USTR 2007:375, WTO 2007b:35f)

The Ministry of Commerce or Provincial Authorities require annual importation plans, which all importers have to follow and in some cases import licences are required. (USTR 2007:375)

Apart from these requirements only importers approved by the government are allowed to import goods. (USTR 2010)

It is forbidden to import weapons, right-hand-drive vehicles, animal parts, drugs, certain medicines and nominated agricultural products. Goods such as petroleum products, construction materials, rice, vehicles, electricity, minerals, tobacco and wood products underlie state control. (WTO 2001:20)

In the Lao PDR, all imports underlie licensing requirements of which most are non-automatic. Especially products such as food products and animal feed, fuels and lubricants, construction materials, motor vehicles and media material are subject to non-automatic licensing. (USTR 2010)

Government support is provided in order to create jobs, as well as reduce the amount of imported electricity by fostering projects such as hydro and thermo power plants and mining projects. (Lindelov et al. 2011:7)

The Lao PDR seems to use the turnover tax in a discriminatory way in order to support domestic products. Goods like distilled spirits and beer are subject, in addition to the turnover tax, to a 50 to 70% excise tax, soft drinks and beverages to a 30%, cigarettes to a 55%, perfume and other cosmetic products to a 30% and vehicles to a 65% to 90% excise tax. (USTR 2007:376)

In Malaysia mainly within the automobile industry and government procurement protectionist policies are applied. (WTO 2009b:23)

Especially the automotive sector is protected heavily, for example, cash rebates are given to buyers with cars older than ten years if they buy national brands.

Export licences, taxes and promotions are used by the government as economic policies. Export taxes or licenses reduce domestic prices by discouraging exports. (WTO 2009b:ix-x)

Export licences are needed for goods like palm oil, natural rubber, pepper, pineapple, cocoa and wood. (WTO 2009b:34)

Export taxes are applied for wood, scrap-iron, “live animals, ash and residues, precious metals, copper”. These export taxes are, according to local authorities, used to support “...locally produced commodities in domestic downstream industries...”.

Incentives for specific industries and other types of support are an important industrial policy instrument that compensates the lack of export subsidies in Malaysia. (WTO 2009b:ix)

Manufacturing, agriculture, tourism, some service sectors, R&D, training and environmental protective actions benefit from tax incentives with the purpose of attracting and enhancing the amount of investments. In order to promote exports, processing zones were established, concessionary credits, insurance, guarantees and government-sponsored promotion and marketing assistance are offered. (WTO 2009b:23)

As import restrictions Malaysia uses import licensing and import permits. Many products in Malaysia require import licensing, which is mostly non-automatic. Non-automatic licensing is used to support selected strategic industries and products, amongst others passenger and commercial vehicles and motorcycles. (WTO 2009b:ix)

Furthermore, non-automatic licences are used for animal and vegetable products, wood, machines, vehicles, transport equipment and arms. In order to be allowed to import foreign-build cars, trucks and motorcycles an importer has to apply for APs from the MITI. The AP system can be seen as a quota restriction system.

Tariff protection for processed goods is higher than for raw materials.

For agricultural products non-*ad valorem* rates exist for protectionist purposes. Meat and meat products require Halal certificates, for which slaughterhouses and processing plants in countries which export to Malaysia are regularly checked. (WTO 2009b:29-40)

In Myanmar only very few products, mainly capital goods, are allowed to be imported, among those goods, industrial machines, raw materials and other necessary goods can be found. The government in Myanmar uses different strategies to promote the exportation of exportable surpluses and tries to diversify exports. (ESCAP 2002:74)

In order to be allowed to import or export commodities, every enterprise must be registered as an exporter or importer at the Export Import Registration Office, Directorate of Trade. Foreign companies are only allowed to register as joint venture corporations. A license is required in order to carry out the import process of any type of good. This license has a validity of only six months. If import permits are not obligatory then import license fees have to be paid. The lowest fees can be MMK 250, while the highest one can be up to MMK 50,000.

The Philippines focus incentives on some regions and non-traditional exports. Discrimination against foreign owned companies can be found. Mainly tax incentives are used which enables the government to select the supported areas.

A special focus is put on SMEs, tax exemptions exist, SMEs are exempted from the Minimum Wage law, special credits can be obtained and training and marketing assistance is available. (WTO 2012e:54f)

At the Philippines tax and non-tax incentives, such as duty exception, drawbacks, tax relief and EPZs are supporting export-oriented companies. (WTO 2005:ix)

According to Filipino authorities these tax incentives should compensate market imperfections and weaknesses in domestic infrastructure, enhance investment in less-developed areas and create spill-over effects. (WTO 2005:58)

Only Filipino citizens are allowed to be fishermen and no more than 40% of deep-sea-fishing vessels can be owned by foreigners. Imports of fish and fish products are merely approved if the request amount cannot be fulfilled domestically. (WTO 2012e:ix)

Certified agricultural and fishery enterprises do not have to pay import duties until 2015 and also organic farmers are exempted from import duties, as well as VAT. (WTO 2012e:67)

Under the Omnibus Investment Code tax incentives exist for non-traditional exporters. Agencies which facilitate access to credits for exporters, organise trade fairs and offer assistance to exporters exist. (WTO 2012e:53)

The automobile industry is supported substantially through measures such as preferential tariffs from 1% to 3% for the import of assembly parts. The rate for imported vehicles on the other hand is around 30%. Used vessels are not allowed to be imported. (WTO 2005:x)

The Motor Vehicle Development Programme favours local components and limits the importation of used engines. This programme intends to foster the local industry, making the Philippines an important centre for automobile machinery and parts in the region. (WTO 2012e:51)

SPS regulations in the Philippines are very strict. (WTO 2012e:viii) The importation of GM plants must be approved by the Bureau of Plant Industry and a certificate of GMO content must accompany the importation. (WTO 2012e:46)

The information contained on the label of imported goods should include among other aspects the ICC Mark or PS Mark. (WTO 2012e:46)

Food security in the country is very important and in order to secure that aspect restrictions are imposed on the exportation of rice, corn and sugar, as well as fish. (WTO 2012e:50) For rice and corn minimum export prices exist and sugar underlies bilateral restrictions. The export tax for plantation logs is rated at 20% of f.o.b. These export taxes are subsidizing downstream processors. (WTO 2005:ix)

Singapore uses as main industrial policy tools tax measures, state-ownership of land and financial support by public bodies. (WTO 2008b:53)

Tax incentives exist for important industries for the state. Statutory corporate tax rates have been reduced as well. With the state ownership of land, the government has control over industrial land; the statutory boards provide financial assistance to selected areas of the economy such as knowledge based sectors and value-added activities, which are both important for maintaining economic growth in Singapore. (WTO 2008b:ix)

Export assistance is given in two different ways, on the one hand duty drawbacks for exporters are provided and on the other hand, tax concessions are offered for companies which are involved internationally.

Some strategic goods underlie export licensing and controls. (WTO 2008b:51)

In Thailand price support policies exist for all agricultural goods.

The Cane and Sugar Board sets maximum prices for producers and the amounts that are allowed to be sold. Thus domestic prices are higher than world market prices, which averts imports. Price support policies are applied for some other food products as well. Furthermore, fuel prices are controlled through the Oil fund. (WTO 2011c:105f, ix)

The Thai Minister of Commerce is able to specify classes of goods subject to export and import controls if needed and the Thai legislation allows export taxes to be reintroduced at anytime if necessary. This provides considerable support to Thai downstream industries. (WTO 2011c:46-68)

Export taxes are currently charged for fur and leather, wood, rice, scrap-iron, rubber, raw silk and certain kind of fish. (WTO 2011c:67) Oil cakes are not allowed to be imported, like this local suppliers are being supported. (WTO 2011c:viii)

Statutory export duties on main export goods like rice and rubber are considerably higher than applied rates and specific export duties were introduced in 2011 on by-products of animal hides.

Export licensing, surcharges, quotas and prohibitions are used as export control measures. For example, for sugar and rice export licences are needed. For obtaining these export licences trade association membership is necessary in some cases. (WTO 2011c:68)

Thailand eliminated export subsidies, but different programs like bonded warehouses, duty drawbacks and tax refunds facilitate exports.

The transport industry is the industry that receives most assistance through fiscal and financial support. Amongst other protection instruments used for the domestic shipping industry a reservation policy was implemented, which specifies that Thai-flagged vessels have to transport imported merchandise. (WTO 2011c:viii-x)

Thailand wants to become a centre for environmentally friendly car production, therefore products like car parts for hybrid-electric vehicles are exempted from import duties. (WTO 2011c:46)

I-EA-T Free Zones and other Free Zones represent an important option to attract investment and foster the industry because they provide investors with tax and non-tax incentives. (WTO 2011c:72)

In Vietnam, an import licensing regime, named Circular 24, for consumer goods, food and agricultural goods, textile and clothing merchandise, was implemented in 2008. Circular 24 is an automatic import licensing requirement which covers main agricultural and food products, textile and apparel products and certain industrial goods. However, it is claimed that the license is not automatic, because products cannot move until the license is obtained by the importer, which often takes longer than the specified seven days and also the possibility to apply early for the license is limited. (USTR 2011b:378)

The import licences granted to applicants have a validity which is limited for 30 days, a reapplication for same period of time is possible. This short validity, as well as the reapplication increase administrative burden significantly. (EuroCham Vietnam 2010)

Some products, such as cigars and cigarettes, crude oil and media materials can only be imported by state trading enterprises.

In May 2011 Notice 197 was issued by the MOIT which controls the import of wines, spirits, cosmetics and mobile phones. Furthermore, Circular 122 is in charge of price controls and registrations for goods like "... cement, steel, liquefied petroleum gas, clean water for commercial use, chemical fertilizers, plant protection products, animal drugs and vaccines, salt, milk/nutritional powders for children under six years old, sugar, rice, animal feed, coal, paper, textbooks, and railway transport". (USTR 2011b:379)

In any situation when domestic prices increase or decrease the MOF has the total capability of applying price controls without a justifiable reason. (USTR 2012a:402)

Especially high tariffs exist for many food products, as well as coffee, tea and distilled spirits. In 2008 and 2009 tariffs for meat, poultry, automobiles, paper, steel and fertilizer were raised. Apart from that a TRQ exists for salt, tobacco, eggs and sugar. (USTR 2011b:377f)

It is not allowed to export, amongst others, weapons, explosives and military equipment, wood and wood products, as well as charcoal made from wood. (OECD 2004:124)

Specialised agencies control imports and exports which underlie restrictions, like mineral goods, live animals and vegetables, as well as animal food, pharmaceutical products, publications under the government control, coloured photocopying machines, recorded video tapes for exportation and technical equipment for the Post and Telecommunication sector. (ASEAN 2011b)

As manufacturing is a very important sector for China, the government intervenes through the allocation of capital and resources, taxes and other sector-specific policies.

China uses industrial policies mainly for the following sectors: "iron and steel, automobile, shipbuilding, petrochemical industry, textiles and clothing, light industry, non-ferrous metal, equipment manufacturing, electronics and information industry ... [and] ... logistics". (WTO 2010:53)

In order to control the distribution of resources, China makes use of diverse methods such as trade policies, tariffs, NTB, export restraints and state-ownership.

The used industrial policies included lower enterprise taxes, adjusted VAT rebate rates and preferential loans or other financial assistance.

Important products and services like electricity, medicine, rare natural resources, water supply, public transport, postal and telecom services and educational fees are 'guided' by the Chinese government. Products subject to price controls are, amongst others, "tobacco, edible salt, maize, rice, coal, oil, cotton, antimony, civil explosive equipment, some fertilizers, some key medicines, educational materials, and water-resource projects".

If in specific situations if the government considers it necessary, exports of products such as soybean, unbleached silk and cotton sewed thread can be put under state trading arrangements. (WTO 2010:24-69)

China uses market price support and input subsidies to assist the agricultural sector. The 'Comprehensive Subsidy on Agricultural Inputs' is mainly used as an area-based subsidy for grain growers, but also for agricultural machines and tools subsidies exist.

China uses direct subsidies for products and industries but also exercises price control programmes which intend "...to reduce the cost of fertilizers through preferential prices for electricity and natural gas used by fertilizer producers, preferential transport prices, and exemptions from VAT and the rail construction fund". The government buys rice and wheat at a minimum procurement price if prices fall. Sinograin and China State Cotton Reserve are two organizations that play an important role in the country due to the fact that the first one is responsible for procuring grain in order to sustaining China's 95% self-sufficiency, while the later one intervenes in the stabilization of cotton prices. (WTO 2010:71-75)

Exports are controlled through export restrictions, prohibitions, licences, quotas, taxes and less-than-full VAT rebates. (WTO 2010:viii f)

Excise tax in China is completely rebated on exports, but VAT just partially. This difference can "...constitute assistance to downstream processing of the products affected...". This is why it can be said that China uses VAT rebate rates as an industrial policy. (WTO 2010:43)

Price fluctuations and the current account surplus are controlled through quotas, export taxes, less-than-fully VAT rebates and state trading.

The government also intervenes in Chinas energy supply, imports of energy products face low tariffs, but they are often subject to automatic licensing and state trading, on the other hand exports of energy products face very high barriers being subject to export quotas, licensing, state trading and export taxes. (WTO 2010:76 f)

In Japan export controls, export finance, insurance and guarantees are used in order to manage export policies. Especially the agricultural sector continues to receive significant government support through a high average MFN tariff, tariff quotas, income support and production control. (WTO 2011 f:viii)

Leaf tobacco, opium, rice, wheat, barley and dairy products are goods which are managed specifically under state-trading. Import and export rights for these products are regulated and domestic manufacturing and supply are controlled by monopoly, as for example, in the case of tobacco. Prices of rice, wheat, barley and dairy products are controlled. (WTO 2011f:47f)

Subsidy programmes mainly assist agriculture, forestry, fisheries, industry, finance and the transport sector. (Committee on Subsidies and Countervailing Measures 2009)

In order to stimulate the domestic industry, subsidies for buying environmentally friendly vehicles are offered. (WTO 2011f:62)

Producer support in Japan is still twice the OECD average and market price support and border measures are frequently used in Japan. (OECD 2011:138)

Direct income support is used for farmers and for beef and pork administered prices are applied. A 'supply-demand adjustment' is used by the Japanese government for rice and farmers also receive subsidies if they plant other crops than rice on their paddies. Also the production of aircrafts receives substantial subsidies. (WTO 2011f:82f)

The Korean Ministry of Knowledge Economy and Ministry of Labour offer compensation for Korean manufacturers who are negatively affected by bilateral free-trade agreements and farmers are also compensated for FTA liberalization obligations.

Korea has no laws against anti-competitive subsidies. Especially the commodity rice receives substantial subsidies. Korea's agricultural sector is heavily protected with average agricultural MFN tariffs more than eight times higher than for non-agricultural products. Furthermore, state-trading entities or industry associations direct tariff quotas. (WTO 2008c:77-90)

The Minister of Strategy and Finance is in charge of protecting domestic industries from import flows, for this reason annual duty adjustments are made by this government body. This instrument is mostly used for products like fish, rice preparations, sauces and plywood. Korea has the right and capability to take special safeguard actions for products like grains, potatoes, ginseng and soybeans. (WTO 2008c:49)

Goods with fluctuating seasonal prices receive seasonal tariff protection in order "... to protect domestic industries against competing imports that threaten to 'disrupt' production."

Products like cereals and dairy products, as well as other agricultural products have very high bound tariffs. The WTO (2008c:51) declares that "Korea uses this scope mainly to raise MFN tariffs annually by applying higher adjustment duties ... on a number of products to temporarily protect domestic producers."

Product-specific market price support, direct payments, soft loans, grants, tax concessions and cross-subsidised electricity prices are used in order to support the domestic economy, with a

special focus on agriculture, forestry, fishing, manufacturing, SMEs, R&D and environmental protection. (WTO 2008c:76, 90) Moreover, SMEs involved in the sector of information technology activities receive singular and generous assistance and agriculture and manufacturing businesses profit from very low electricity tariffs. (WTO 2008c:39)

The government encourages certain manufacturing activities through 'usage tariff rates', autonomous tariff quotas and duty concessions on inputs. (WTO 2008c:51)

Market price support is given through purchases by the government and public stockholding, as well as the introduction of trade barriers. The state-run Korea Agro-Fisheries Trade Corporation or other industry associations manage publicly funded purchases and stockholding schemes in order to stabilize agricultural prices at levels higher than in the world market. (WTO 2008c:95)

Coastal and offshore fishing ventures limit foreign participation to less than 50% and high 'adjustment tariffs' protect domestic seafood producers from imports. (USDA 2010b:9, WTO 2008c:103)

For the coal producing sector direct production subsidies are offered. (WTO 2008c:107)

To reduce marketing costs, export subsidies are provided for fresh food and ginseng. (WTO 2008c:39)

The state is involved in the gas and electricity sector and before 2005 every company had to buy gas from state monopoly firms. Nowadays still only a few companies are allowed to import gas directly for their own use. (WTO 2008c:x)

Korea also has a screen quota which obliges movie theatres to show domestic movies at least for 73 days a year. Foreign programs may as well not exceed 20 % of the total TV or radio broadcasting time.

For motor vehicles Korea applies an 8% tariff and NTBs to protect the home market. NTBs include amongst others taxes based on engine size, distinctive and extraordinary standards and insufficient regulatory transparency. (USTR 2012b:242-246)

The Korean state is involved in wide-ranging trade activities. In order to illustrate this, it can be said that in Korea plenty of enterprises are owned either by the central government or local authorities and many public enterprises have strong ties to the government. (WTO 2008c:56)

By means of the above mentioned examples the idea of strategic trade policy which says that interventionist policies are used by the government in order to shift excess returns from foreign to domestic firms was illustrated. On the basis of the alluded examples of the EU and

the APT states one can see that the governments use various policies in order to redistribute income and protect jobs within their domestic economy. (Krugman 1987:134)

As seen in the given examples it can be observed that the EU subsidises mainly agriculture, structural operations and expenditure of research. Agricultural goods are promoted outside of the EU through subsidies and export refunds eliminate the price difference between EU and non-EU prices.

Apart from the railway sector, manufacturing and services, the non manufacturing sector, coal, fisheries and the transport sector receive considerably high subsidy amounts. The EU civil aeronautics industry is supported mainly by France, Germany, Spain and the UK.

The APT states primarily subsidise their agricultural sector; hereupon a special focus is put on rice and sugar, as well as fisheries, furthermore the transportation sector, transport equipment and SMEs.

In Brunei imports of salt, sugar and rice are restricted to protect domestic producers from foreign competition. Imports of meat products have to be Halal, which gives preference to domestic producers. In Cambodia export taxes on unprocessed goods and high tariffs on processed goods assist local production and in Indonesia, the import time of rice and sugar is regulated, so that during harvest times imports are limited. Also the access to the automobile, iron, steel and chemical sector is limited. Like in Brunei, food imports in Indonesia need to be Halal. In the Lao PDR agricultural products and raw materials, which are domestically available, are not allowed to be imported.

In Malaysia, especially the automotive sector is heavily protected, above all passenger and commercial vehicles, as well as motorcycles. Tariffs for processed goods are very high. The importation of meat requires Halal certificates. Myanmar does not allow the importation of agricultural goods and luxury goods. At the Philippines discrimination against foreign owned companies exists and the sector which receives most support, apart from agriculture, is the automobile industry. Singapore's use of state-ownership of land, government-linked companies and tax incentives for the sectors of semiconductors, IT, biotechnology, genetic engineering and service industries protects jobs in the country. In Thailand price support policies are used for all agricultural commodities which help national producers. Vietnam, as one of the biggest textile producers, protects amongst others this industry through various policies. China protects mainly its manufacturing sector, the iron and steel sector, automobile and shipbuilding sector, petrochemical industry, textiles and clothing, electronics and logistics.

In Japan subsidies for the agricultural sector, forestry, fisheries, industry, finance, and the transport sector, as well as state-trading make up the main industrial policies in order to redistribute income. Also the production of aircrafts receives high subsidies.

In Korea manufacturers and farmers are compensated for losses caused by FTA agreements. High subsidies for the agricultural sector, market price support and tax concessions for manufacturing and R&D supports domestic industries. Export subsidies are offered for numerous agricultural goods.

Many countries support declining industries through subsidization or import restrictions, but also government procurement can be used for favouring and supporting domestic industries. The following examples will show how the individual countries use government procurement in order to protect and create jobs and support specific economic sector

Within the EU around 85% of government procurement is under national legislation of the member states. Government procurement makes up a significant part of economic activity. (WTO 2011a: viii, 77)

For purchases in the “water, transportation, energy, and postal services sector”, bidders have to have 50% EU content if they are not covered by any agreement. (USTR 2012b:158)

Exceptional rights are given to state trading enterprises in countries such as Finland and Sweden for the importation of products like alcoholic beverages, Greece and Luxembourg grant these sort of rights to state trading enterprises for the importation of gas and Luxembourg to the importation of electricity. (WTO 2011a:67)

In the case of the Austrian procurement processes the upper limit for non-competitive tenders is EUR 100,000 and government owned power utilities are exempted from public tenders. The process of government procurement differs between the European countries. Whereas in some of them, the process seems to be shorter and devoid of irregularities, in others the procedures are carried out under certain abnormalities, such as in the case of Bulgarian public procurement where a lack of transparency is present. The process establishes certain practices that make some tenders perfectly fit for specific companies. In the Czech Republic laws were modified and a newly introduced law allowed the creation of improvements in procurement processes; however, loopholes were also created that permit anonymously-held companies to get hold of public money.

In Greece numerous qualification requirement for bidders exist. All the requirements have to be approved by competent authorities, which do not exist in every country.

In Hungary, the process is filled with ambiguous practices making procurements suitable for only a certain group of companies. This style of procurement is also practiced in countries like Italy, Slovenia and Lithuania, countries that are continuously criticized for their procurement process irregularities. In Lithuania, the government procurement process is so narrowly defined, making average companies unqualified for fitting the specified requirements.

Countries like Lithuania, Romania, the United Kingdom, Austria and Greece have various requirements concerning their contracts for acquiring military equipment from companies. In the case of Portugal, certain procedures are followed that make European bidders more attractive than others, no matter if the European ones have lower technical standards and higher prices.

In Slovenia, the conditions are not favourable for companies which wish to prepare their offers due to the short period of time for preparation, as well as the poor transparency of the process. For any dispute arising from government procurement, the NRC intervenes evaluating all the relevant arguments. Nevertheless, it is stated that its decisions cannot be appealed and doubts concerning the impartiality of the NRC which favours European companies, especially Slovenian ones, is mentioned.

These examples show that government procurement in the EU in some cases is used to favour domestic companies, whereupon foreign companies generally may only bid on public tenders in the EU which are covered by the GPA. (USTR 2012b:159ff)

The APT states use government procurement also in ways to support domestic industries which will be shown by the following examples.

Due to the fact that in Brunei the government represents the major operative force in the national economy, any policy implemented in the field of government procurement has a great impact on the country. Since Brunei is not affiliated to the GPA, the country influences its economic policy, in particular construction industry, by controlling the process of government procurement. (WTO 2008a: ix)

Foreign companies which want to take part in government tenders need a local agent, as corporate relationships with the government are of great importance.

If the required goods or services are not available in Brunei, foreign companies can submit bids; nevertheless, they still need authorization from the State Tender Board or Mini Tender Board. (WTO 2008a:50f)

Cambodia is no signatory of the GPA. The poor information infrastructure in Cambodia and the fact that bidders must be registered at the Department for Public Procurement pose impediments to foreign participation. (WTO 2011b:42)

In Indonesia, the use of domestic production, design and engineering is being pursued through government procurement. Provisions on the maximization of local content in government projects exist and as Indonesia is no party to the WTO's GPA, foreign participation has special conditions. Foreign bidders need a joint partnership or have to be a subcontractor of a domestic firm in order to be able to bid. Local and provincial governments have their own procurement laws, which in some cases pose even more barriers for foreign bidders.

As stated before, the WTO (2007a:49) furthermore declares that in Indonesia "Foreign firms bidding on high-value government-sponsored projects have been asked to purchase and export the equivalent value in selected Indonesian products."

Lao's government procurement system lacks standard bidding documents, shows inadequate integration with governance systems, insufficient competition in public biddings, a missing system for collecting key data and monitoring performance and a weak external and internal control and audit at the agency level. (OECD 2006:5)

In Malaysia locally owned businesses are favoured through government procurement policies. Only if goods or services do not exist in the domestic market, international tenders are welcome. Malaysia is also no party to the WTO's GPA. (WTO 2009b:ix)

Government procurement in Malaysia is used to encourage "...greater participation of the Bumiputera in the economy, transfer of technology to local industries, reducing the outflow of foreign exchange, creating opportunities for local service-oriented companies, and enhancing export capabilities". (WTO 2009b:42)

As GLC's are important in the Malaysian economy they are expected to purchase from domestic companies in case of procurement. (WTO 2009b:24)

The Philippines is no party to the WTO's GPA either. Not many foreign companies participate actively in government procurement in the Philippines, since there are certain limitations in the country, predominantly in the situation when national companies can offer the required goods and services with national resources. The WTO (2005:52) indicates that the "Constitution provides for a strong preference to procure domestically". National companies benefit from preferential treatment when Filipino labour and domestic materials are used. It is interesting to note that in the Philippines foreign companies are only given the possibility to participate in government procurement, if at least 75% of the ownership belongs to Filipino capital.

The most important products provided by domestic suppliers are official uniforms, footwear and leather goods. One of the disadvantages experienced by foreign companies in the Philippines is a 15% price preference for domestic suppliers in foreign assisted assignments. (WTO 2012e:48-52)

As stated earlier, Singapore is a signatory of the GPA. The country has a 2.5% preference margin for suppliers from ASEAN member states, up to US\$ 40,000 for each bidding, and for members of bilateral FTAs a preferential treatment for government procurement activities is offered. (WTO 2008b:48f)

In the case of Thai laws on government procurement, domestic companies and especially SME's enjoy preferential treatments and benefits over foreign companies like explained before in the case of the Philippines. (WTO 2011c:86)

Preference is given to bidders, if the price is not more than 5% higher and if tenders have standards certification or for goods that come from factories which certify for Thai standards. (WTO 2011c:47) In another case, if the price difference is not more than 3%, preference is given to the Government Pharmaceutical Organisation when procuring pharmaceutical goods. (Kohoman 2009:15ff)

Vietnam is no signatory of the GPA. The Vietnamese government has a preference to procure open source software from domestic suppliers and promotes this as well to its government agencies. (USTR 2011b:379)

The step China is taking nowadays is looking for its accession to the GPA. Procurement laws in China specify that domestic companies should be the only companies providing products and services for the government. (WTO 2010:viii)

Only if goods, materials or services are not available or "... unavailable on reasonable commercial terms...", purchases from foreign companies are possible. (WTO 2010:40)

Japan is a signatory of the GPA. Japan uses government procurement to direct some sectors, such as timber, and in order to promote SMES.

The New Growth Strategy of the Japanese government specifies to use domestic wood and in 2010 a new law was introduced which promotes "...the use of wood in the construction of public buildings". Also favouritism can be seen, this is supported by the fact that only 394 firms out of the 59,915 companies, which are granted "central-government-wide unified qualification" for being able to participate in tendering, are wholly or partially foreign owned. Procurement from SMEs is promoted through the law that the government can use limited tendering procedures when purchasing from SMEs. (WTO 2011f:31-46)

Korea is a signatory of the GPA, but some government procurement is not covered by the GPA, like procurement from SMEs or procurement of agricultural, fisheries and livestock products. (WTO 2008c:ix, 66)

Government procurement is used for regional and industrial development. Foreign suppliers have lost opportunities in the participation due to the fact that international public loans, which required international competitive tendering for financing government purchases, were discontinued. (WTO 2008c:ix)

Korea's government procurement policy tries to support SMEs and regional development. (APEC 2007:6) Products procured from SMEs can be purchased through single tendering procurement. For projects valued up to W 5 billion the PPS utilizes a "competitive bidding system restricted by region" in which only local companies are allowed to participate in the open tender, especially if it is for the construction area. Concerning foreign bidders looking for an opportunity to participate in the open tender, the PPS established a "compulsory joint sub-contracting and single source contracting system" which specifies that foreign bidders must take part in a joint venture with a local supplier. (WTO 2008c:68)

Overseas competitors barely ever secure contracts for construction, which, in fact, is the largest government procurement outlay in Korea. (APEC 2007:45)

Usually contracts are granted through open competitive tenders, but restricted tenders and private contracts are still in use, as for example, for defence procurement. (WTO 2008c:68)

Concerning government procurement the following conclusions can be drawn.

Government procurement is a very important economic sector within the EU, in which restrictions offer support to domestic companies. Especially the procurement of military equipment favours domestic producers.

For government procurement in the sectors of water, transportation, energy and postal services bidders have to have 50% EU content if they are not covered by any agreement. Foreign companies generally may only bid on public tenders in the EU which are covered by the GPA. (USTR 2012b:158ff)

As mentioned before, one of the APT states' strategies for benefiting and supporting domestic production is the use of government procurement; nevertheless the policies focus mainly on sustaining and creating jobs and supporting domestic industries, not so much on strategic industries.

In Brunei government procurement is mainly used as an economic policy instrument, especially in the construction industry.

Indonesia's government procurement law contains provisions on the maximization of local content. Government purchases in Malaysia favours locally owned businesses and only if goods or services do not exist in the domestic market, international tenders are welcome. At the Philippines foreign participation in government procurement is limited if goods and services are domestically available. In Thailand domestic companies, especially SME's are favoured for government purchase contracts. China's government procurement law specifies that the Chinese government should procure domestic products and services. In Japan government procurement is used to direct some economic sectors and promote SMEs, and in Korea government procurement is used for regional and industrial development and procurement from SMEs, furthermore agricultural, fisheries and livestock procurement is excluded from the GPA.

On the basis of the implemented policies analysed in this chapter the hypothesis that countries use trade policies in order to enhance their national welfare is being proved. As shown by the various examples, domestic support, subsidies, export policies and government procurement are used in order to redistribute income and/or protect jobs.

6.3 Optimum Tariff

An optimum tariff is known as a beggar-thy neighbour policy, as terms of trade are improved at the costs of others. (Hillman 2004:130)

Nevertheless, it can be said that protection through tariffs can shift profits from foreign to domestic enterprises and tariffs can also "...transfer foreign rents to the domestic treasury in the form of tariff revenue." (Brandner/Spencer 1985:194)

Improvement in the terms of trade increases a nation's welfare and this can be reached through optimum tariffs.

Hillman (2004:130) say that if a nation has monopsony power in the world market over an imported good, the terms of trade of a nation improve if the domestic demand of a country decreases through tariffs or other protectionist measures. Therefore, world demand is lowered by this country and also the price of the imported good on the world market. On the other hand, the amount of trade declines and there will be domestic inefficiency because of a tariff, but an optimum tariff can balance the losses against the improvements in terms of trade.

The conclusion that tariffs always raise the domestic price of the imported good is not always true. As tariffs improve the terms of trade, international prices of protected goods should decrease, thus the terms of trade improve and can offset the rise of prices. (Dixit/Norman 1980:25)

The two trade blocs use tariffs in various ways to protect their domestic industries and raise domestic welfare.

The EU's simple average applied MFN tariff rate in 2011 was 6,4%; for agricultural goods 15,2%, and the average MFN rate for non-agricultural goods was 4,1%. The WTO (2011a: viii) states, that "...the structure of the EU's MFN tariff remains complex, and around 9% of tariff lines have peak rates of more than 15%."

The EU uses, apart from *ad valorem* duties, most of the time non-*ad valorem* duties for agricultural goods, as well as watches, watch and clock movements and watch cases. In addition to that, the EU also has seasonal duties and uses an entry price system for the fruit and vegetable sector, for which duties are reduced, if the price of the good reaches a certain level. Entry prices apply, for example, to tomatoes, cucumbers, zucchini, citrus fruits, grapes, apricots and plums. Dairy products have very high average tariff rates, as well as tobacco, live animals and grains. Furthermore, the usage of the 'Meursing Table', which determines customs tariffs for processed agricultural products based on their ingredients, results in many possible combinations of tariffs, which poses an immense administrative burden. (WTO 2011a:35)

It is also mentioned that even though customs laws govern all EU member states, the EU has various administrations for customs laws, which makes it impossible that valuation rules, customs procedures or rules of origin are applied uniformly throughout the EU. Also, customs agencies do not have to follow the decisions of other member states concerning materially identical issues. (USTR 2012b:165)

Each of the APT states has different applied tariffs, which not only protect their agricultural sectors, but also other important economic areas.

In Brunei almost all tariffs are *ad valorem*, special rates only apply to matches, cigarettes, coffee, tea, petroleum oils and lubricant. AVEs in Brunei are high and are used to cover high tariff rates.

Regarding tariff levels in Brunei it can be observed that tariffs are generally low, in the country nearly 93% of tariffs are bound while the average bound rate stays at 25.8% allowing national authorities to raise tariffs up to the bound level.

Making a comparison between the bound tariff of 25.8% in Brunei and the MFN tariff of 4.8%, it can be observed that a huge difference exists; regarding other sectors such as agriculture, the difference between those two tariffs reaches even higher levels, considering the 23.4% bound tariff compared to a MFN tariff of zero.

Tariff exceeds are mainly found for wood and furniture, fabricated metal products, machinery and chemicals, thus granting high protection.

Due to the fact that tariffs for finished furniture are considerably high, certain producers are protected, such as producers of raw materials and semi-processed goods.

Also transport equipment, tea, coffee, alcoholic products and tobacco have very high tariff rates. (WTO 2008a:37-43)

As import duties in Cambodia were decreased due to the WTO accession, excise taxes were raised in order to maintain a revenue neutral tax reform. (WTO 2011b:33)

The highest tariffs were eliminated, leaving the existing ones in four different tiers: 0%, 7%, 15% and 35%. The highest tariffs correspond to groups of products comprising "... semi-processed goods and consumer goods, such as processed meat and dairy products, processed vegetables and fruits, beverages and tobacco, footwear and motor vehicles". In Cambodia more than half of all tariffs are set at the 7% rate or are duty free. On the other hand, the MFN rate on agricultural goods and industrial merchandise are 14.5% and 11.3% correspondingly. In Cambodia, the tariff structure rates are established and rise accordingly to the stage of processing. 100% of tariffs lines are bound, the average duties and the average applied rate are set at 20.1% and at 11.7% respectively. (WTO 2011b:vii)

As mentioned before, tariffs are set according to the stage of processing, for this reason the ones applied on fully processed such as food, beverages, tobacco, textiles, leather, chemicals and non-metallic mineral products are particularly high.

Granting licences in Cambodia follows an automatic process; nevertheless, there are some products, like narcotics or fish, for which only a specific amount of licenses are granted. (WTO 2011b:35-41)

In Indonesia tariffs are an important policy tool, they are very complex, with over 11,000 lines and 19 rates. Bound tariff rates present two different tendencies, on the one hand the tendency to be higher than applied rates, and on the other hand, a tendency exists in which the gap between the two rates gets wider since 2003 as a result of planned tariff cuts. This situation gives authorities the possibility to raise tariffs of commodities which are important for the government. Such a case took place in 2005 when the government raised import duties on corn and soybeans from 0% to 5% and 10%, correspondingly.

There are certain products for which tariffs are bound at 40%, this group comprises 94.6% of all tariffs. Other products have tariffs that exceed this amount, for instance, automobiles with tariffs of 60%, iron, steel, alcoholic beverages with tariffs between 80 and 90%, as well as

some chemical products. Tariff escalations exist for processed food, tobacco, textiles and leather.

Only 31.4% of tariffs are bound for transport equipment. For agricultural products and some others, like marine products, petroleum oil, textiles and clothing, tariffs are bound. There are crucial areas for which higher levels of protection exist, for this reason for agricultural goods 1,341 tariff lines with bindings at or above 40% are applied.

As indicated before, there is a group of products for which the process for granting import licences is non-automatic; those products comprise “alcoholic beverages, nitrocellulose, precursors, optical discs, rice, sugar, edible salt, and unworked diamonds”. (WTO 2007a:40-46)

Within all ASEAN member states the Lao PDR is the one which boasts the highest number of goods for which tariffs remain high. The simple average bound tariff for agricultural products is 22.4%, for non agricultural products 13.7%. The simple average MFN rate for agricultural goods is 19.4% and for non-agricultural products 8.2%. (The World Bank 2009/10, USTR 2007:375)

In Malaysia, the main import obstacles are the high tariff levels for certain products. As indicated before, the simple average MFN tariff in 2009 was 7.4%, around 60% of tariffs lines are duty free and about 20% of all tariff lines are unbound. The applied rate is half of the simple average bound MFN rate, which means that the government can raise tariffs within the bound level.

Import licenses for products comprised in numerous tariff lines are required. (WTO 2009b:viii-ix) Non-automatic licensing is used for “...animal and vegetable products, wood, machinery, vehicles and transport equipment, and arms”. Malaysia is also one of the countries which protects strategic industries, such as the automotive industry, specifically passenger and commercial vehicle and motorcycles. A non-automatic license needs to be obtained for importing these commodities. In the same way the MITI has to grant APs if importers want to import foreign-build cars, trucks and motorcycles into the country. The WTO indicates that the AP system is used as quota restriction system.

For agricultural products non-*ad valorem* rates exist. Around 80% of Malaysia’s tariffs are bound. The average bound rate in 2005 was 15.6%, for agricultural goods 11.0% and for non-agricultural goods 16.5%.

The tariff protection for raw materials is generally lower than for processed goods. (WTO 2009b:27-32)

In Myanmar, the maximum tariff rate applied is 40%. For imports of machinery, spare parts and inputs usually 0.5% to 3% of duty is applied. (ASEAN ICT Email 2008c)

A sign that shows Myanmar's openness concerning international trade is that the average tariff the country applied in 2005 was 4.5%. (Alamgir 2008:985)

Tariffs remain an important economic policy tools in the Philippines. As indicated before, the simple average applied MFN tariff is 6.4% and the simple average bound rate 25.7%. The tariff average is 10.2 % for agricultural goods and 5.8% for non-agricultural products. Over 60% of all tariff lines are bound. (WTO 2012e:viii)

Tariffs of most agricultural products are bound, whereas industrial products have a low frequency of bound tariffs. The simple average bound rate is 25.7%, whereupon the tariff rate is 35.6% for agricultural products and 23.3% for non-agricultural products.

The highest tariffs are applied to rice and sugar, as well as fully processed goods, "textiles and leather, wood and furniture, paper and printing, chemicals, and non-metallic mineral products". (WTO 2012e:27-31)

The simple average applied tariff was 6.4% and the highest tariff was 30%, the first ones applicable for manufactured products and the second one for automobiles, motorcycles and waste materials. (WTO 2012e:72)

The president of the Philippines is able to remove, reduce or raise duties up to 100% *ad valorem* and change classifications. (WTO 2012e:27)

In Singapore 69.9% of all tariffs are bound at 6.9%. (WTO 2008b:viii,38) 100% of all agricultural tariff lines are bound. Bindings are only limited for very few articles. The bound rate for agricultural goods is 9.4% and for non-agricultural goods 6.4%. (WTO 2008b:36)

In Thailand, a certain intricacy can be encountered in the tariff structure, mostly because of the diverse application of duties and alternate duties, as well as the different *ad valorem* duties. As stated earlier, more than a quarter of all tariff lines are unbound, also for some agricultural goods unbound tariffs are used. (WTO 2011c:viii)

For importing goods which can be locally produced, for instance, farm products, automotive parts, motorcycles, and so on, high *ad valorem* rates are applied.

The average applied MFN tariff and the highest tariffs are 11.2% and 26% respectively, the last one corresponding to products like agricultural goods. Especially high tariffs of around 49% apply to beverages, spirits and tobacco. Transport equipment with tariffs of around 33% is also highly protected. 74% of all tariff lines are bound. The difference between bound and applied tariffs is considerably high. (WTO 2011c:49-52)

Non-automatic licence requirements exist for 24 agricultural goods, which are subject to tariff quotas, and processed goods such as "... fishmeal, raw silk, used diesel engines, certain buses, chainsaws, marble, plastic wastes, and certain antiques or objects of art...". (WTO 2011c:61)

TRQs exist for 23 agricultural products. (USDA Foreign Agriculture Service 2010a:31)

The simple average MFN tariff applied in Vietnam in 2010 was 9.8%, 17% for agricultural products and 8.7% for non-agricultural goods. 100% of all tariff lines are bound, the average tariff duty is 11.4%, whereupon the tariff duty for agricultural goods is 18.5% and for non-agricultural products 10.4%. (WTO 2011e:174)

The average tariff for imports can be as high as 15%. Fresh and dried food products, teas and coffee, as well as distilled spirits underlie high tariff rates. Simultaneously in 2008 and 2009 products such as meat, poultry, automobiles, paper, steel and fertilizer encountered a raise concerning the applied tariffs. TRQs exist for salt, tobacco, eggs and sugar. (USTR 2011b:377f)

Among special and general tariffs China applies MFN tariff rates and non-MFN tariff rates. MFN treatment is granted to WTO Members, apart from some EU states and El Salvador.

China did not increase any MFN tariffs lately, but in order to save energy, tariffs for fuel oil and jet fuel were raised.

The average MFN tariff in 2009 was 9.5%. Although there is not much difference between bound and applied rates, tariffs in China show complexity in their structure due to the fact that 60 different *ad valorem* rates exist. 100% of all tariffs in China are bound. Bound rates for agricultural goods range from zero to 65% and from zero to 50% for non-agricultural goods.

The average MFN tariff for agricultural products was 15.2% and for non-agricultural goods 8.6%. (WTO 2010:24-29) Especially high tariff protection exists for cereals, sugar, tobacco and some beverages. (WTO 2010:72)

The same way as in other ASEAN countries, tariffs increase accordingly to the stage of production, in the case of fully processed products, tariffs are high. (WTO 2010:29)

Manufactured goods enjoy certain benefits, as the applicable tariffs remain on average low, and most of the time *ad valorem* duties are used. In 2009, the average tariff for manufactured commodities remained at 9.5% while the one applied for automobiles was 16.2%.

The import of vehicles can only be done at four coastal ports, two terrestrial ports and the Alataw Pass. (WTO 2010:78)

In 2009 TRQs applied to corn, sugar, wool, cotton and chemical fertilizers. No matter whether the import process is done by WTO members or no-members China requires import licenses.

95 tariff lines are subject to non-automatic licensing. This group comprises products like ozone-depleting substances, old mechanical and electronic products and chemicals for military purposes.

Automatic import licences are granted for "...poultry, vegetable oil, tobacco, chemical fertilizers, coal, natural rubber, iron ore, crude and processed oil, steel, machinery products, automobile components, and ships". (WTO 2010:32ff)

In 2008, the average applied MFN tariff in Korea was 12.8%. (WTO 2008c:38)

Very high tariffs are applied on agricultural and fishery products, tariffs over 30% apply to nuts and tariffs of 35% or higher for dairy products. For some vegetable products, tariffs of around 45% or even higher are applied. (USTR 2012b:240)

Agricultural goods are protected by an average tariff of 53.5%, whereas the tariff corresponding to non-agricultural goods was 6.5%. It can be clearly seen that the first one is considerable higher than the second one. Agricultural and non-agricultural tariff lines are bound at 98.7% and 89.5% respectively. (WTO 2008c:viii)

In the manufacturing sector shoes, headgear and garments receive substantial protection. Tariff escalations can be found for products such as "semi-processed food, beverages, tobacco, textiles and leather, basic metal products, and non-metallic mineral products". For semi-manufactured goods lower tariff duties apply.

90.8% of all tariffs are bound, however, a considerable difference can be recognized between applied and bound MFN tariffs.

There are high bound tariff rates for dairy products and cereals. Agricultural goods have average bound tariffs of 62.5%, whereas tariffs of 9.4% correspond to industrial merchandise. (WTO 2008c:38-51)

Korea utilizes TRQs as trade policies, as a result of which in-quota tariffs are very low whereas over-quota tariffs generally are excessively high. Honey, for instance, no matter if it is natural or artificial, carries an over-quota tariff rate of 143% and for milk powder, barley and malting barley tariffs are 176%, 324% and 513% respectively. (USTR 2012b:240)

Quotas are assigned by different organizations, of which several are owned or controlled by domestic producers. (WTO 2008c:54, USTR 2012b:240)

Non-*ad valorem* duties exist, amongst others, for movie films and film tapes and raw silk. Alternate duties apply to some agricultural products.

One of the most important tasks of the Minister of Strategy and Finance is the protection of domestic production and industries from products coming from foreign markets, for this reason an annual duty adjustment is performed. The products which are protected with these

annual adjustments are fish, rice preparations, sauces and ply wood. Furthermore, Korea has the capability of taking special safeguard actions for other essential products like grains, potatoes, ginseng and soybeans.

Goods which underlie fluctuating seasonal prices have seasonal tariff protection, so that domestic production is not being influenced. (WTO 2008c:46-51)

In Japan, the average MFN rate in 2010 was 5.8%. For agricultural products the average bound rate with 16% is significantly higher than for non-agricultural goods with 3.5%. Around 98.8% of all tariff lines are bound in Japan. Unbound rates comprise mainly fish and fish products, petroleum oils, wood and goods made out of wood.

Non-*ad valorem* rates are used for, amongst others, shoes, prepared foods, animals and animal products, textiles and vegetables. High MFN tariffs apply to the already mentioned product groups, as well as headgear, hides and weapons.

In order to protect primary agricultural goods, high tariffs are used; for the group of semi processed and final goods tariff escalation takes place comprising textiles, petroleum refineries and industrial chemicals. Fully processed articles are protected; however, there is even a higher protection for semi-processed food products, as well as for manufactured products like leather goods, wood, paper and chemicals. (WTO 2011f:34-38)

Concluding it can be said that the EU's average MFN tariffs are comparably low; nevertheless non-*ad valorem* duties, mainly for agricultural products, are used, as well as seasonal duties and an entry price system for fruits and vegetables. Furthermore the usage of the 'Meursing Table' for processed food is a big administrative burden. (WTO 2011a:viii, 35)

Most of the APT states apply, compared to the EU, higher tariffs, which are aimed mostly at the agricultural sector including fisheries, as well as other important economic areas, such as wood and wood products, textiles and clothing, footwear, transportation and transport equipment. Producers of raw materials and semi-processed goods generally receive high protection. Tariffs for fully processed goods are usually especially high, with each stage of processing tariffs rise. Tariffs distort competition by favouring some sectors, industries or activities, especially in the agricultural sector of the two trade blocs. The scope between applied MFN tariffs and bound MFN tariffs is often used to raise tariffs in order to temporarily protect domestic industries and producers. TRQs are frequently used as quantitative restrictions, whereby out-of-quota tariffs avert out-of-quota imports. (WTO 2008c:53)

The above mentioned examples show that each trade bloc and the various countries protect first of all their agricultural sector through tariffs, as the applied tariffs for the agricultural sectors are higher than for the manufacturing sector in each country. In the manufacturing sector the crucial industries also receive high protection through tariffs.

Through the usage of tariffs, terms of trade can be improved and thus profits can be shifted from foreign to home companies. An optimum tariff thus enhances a nation's welfare considerably.

6.4 Balancing the Balance of Trade

The argument for protection focused on the mercantilist approach in which the most important policy for countries is that "... larger trade surpluses are beneficial from a national perspective...". (Coughlin et al. 1988:8)

Larger trade surpluses can be achieved through measures which were already mentioned in the chapters before, such as tariffs or other protectionist measures. However, also AD measures and CVD can be used in order to restrict market access for foreign countries.

In Brander's model trade even arises from a "dumping or price discrimination motive". (Brander 1981:7) Krugman and Brander (1983:1f, 9) consider in their model that the rise of dumping is a clear result of the existing rivalry among oligopolistic firms. Two-way trade of the same product is a consequence of a mutual dumping competition. When two-way trade takes place and the price of products decreases two different situations occur, on the one hand welfare rise, and on the other hand, resources are wasted.

The WTO allows AD measures or CVD, if "... dumped imports cause injury to a domestic industry in the territory of the importing contracting party." (WTO 2012i)

Dumping is a practice whereat it is hard to define why a party is performing it, moreover because it is complicated to define the type of predatory practice. Domestic producers continuously demand from the national government to implement protection policies, thus CVD and AD provisions can be used as protectionist measures as they restrict market access of foreign enterprises. (Salvatore 2007: 295f)

Especially the EU remains a heavy user of AD measures. Even though the number of adopted measures has decreased, in 2011, there were still 125 measures in force. CV measures, on the other hand, are barely used by the EU and no safeguards were applied since 2005. (WTO 2011a:viii)

AD measures affected imports from 27 countries, whereby 44% concerned imports from China. (WTO 2011a:40)

The products which are mainly affected by the practice of AD duties are chemicals, base metals, mineral products, garments and shoes. (WTO 2011a:ix)

The APT states do not use CVD, AD or safeguard measures in such an extensive way as the EU, some countries do not even have laws or regulations concerning them.

Brunei, for example, does not have any laws or regulations concerning CVDs, AD duties or safeguards measures. (WTO 2008a:44)

Cambodia is currently drafting laws concerning AD duties and CV measures. (WTO 2011b:41)

In Indonesia CVDs are applied if subsidies are given by the exporting country, if the good causes material injury to domestic producers, and if the good greatly holds back the establishment of domestic industries. Between 2002 and 2006 29 AD investigations were initiated and between 2003 and 2006 15 SPS notification were submitted to the WTO Committee on SPS Measures. (WTO 2007a:50-54)

The Lao PDR is currently on the way to implement AD, CVD and safeguard legislations. (WTO 2001:22)

Malaysia took a number of AD actions against 10 WTO members from 2006 to 2008. (WTO 2009b:33)

In the period comprised between 1999 and 2003 the Philippines initiated thirteen AD investigations, additionally to three AD investigations initiated in 2005. Moreover, seven measures are at this time in force. (WTO 2012e:viii)

At the Philippines the president has the power to apply additional *ad valorem* duties up to 100 % if foreign policies induce discrimination against exports from the Philippines and he/she can also forbid the importation of merchandise from the discriminating countries if the unfairness persists. (WTO 2012e:42)

As stated before, Singapore hardly ever uses contingency measures and it has no safeguard legislation. (WTO 2008b: ix,42)

In Thailand six AD investigations were initiated between 2007 and 2011 and 19 AD measures continued to be in force, mostly steel products are concerned. Currently, there are no CVD in force. (WTO 2011c:56f)

In order to protect the domestic market against dumping practices China implemented in total 16 AD measures between 2007 and 2008, taking place number six on the list of the most frequent users. In 2009, China implemented the first CV duties, totalling three investigations in that year. (WTO 2010:35)

Japan barely uses contingency measures; one safeguard measure was imposed since 2001 and six AD measures are currently in force. (WTO 2011f: viii, 43)

Korea initiated 47AD investigations in the period between 2003 and 2007, giving place to ten final measures imposed by June 2007.

Korea makes use of SSGs, in 2008 the country put 33 SSGs in place. AD provisions are mainly used against the imports of "... chemicals, machinery, paper and paperboard..." and wood articles. (WTO 2008c:38-57)

The comparison of the usage of CVD, AD and safeguard provisions shows that the EU uses comparably more AD and safeguard provisions than the various APT states. Also China and Korea frequently use these policies; however some of the other ASEAN members do not even have laws and regulations concerning AD, CVD and safeguard provisions.

Salvatore (2007:296) states that industrial nations, particularly the EU, have a tendency to dump agricultural products, because of heavy subsidies the farming industry receives.

Sometimes dumping is an attempt to adapt to local conditions, as there might be a price difference in production costs, or local companies might receive government subsidies. Also home prices might be higher because of trade restriction, and therefore the exporter can charge higher prices in the home market due to no competition.

If this is the case, foreign exporters cannot compete in other countries' markets because of their monopoly position in the home market. AD duties imposed by the importing country serves hereby merely protectionist aims. (Dam 1970: 168ff)

6.5 Infant Industries

The central argument for protection because of infant industries declares that some countries have industries which, due to a lack of knowledge, know-how or infrastructure, have not entirely developed or the results are not as expected. For this reason the so called infant industries obtain temporary trade protection that allows them to become well established and also meet foreign competition.

One has to mention that this argument for protection is more valid for developing countries and that it is always difficult to choose which industry is eligible for protection. (Salvatore 2007:303)

The infant-industry argument is accepted by the GATT Article XVII as a reason for protection. (WTO 2012d)

Infant industries concern not only import-competing industries but also export industries and other ones. Learning occurs in every type of industry, but more frequently in industries which are new for the country. Typically, this argument is linked to manufacturing, because developing countries try to shift the focus from agriculture to manufacturing. (Corden 1997: 153f)

Just lately established companies have a disadvantage compared to other firms, thus Grossman and Horn (1988:767ff) argue, that infant industries should be temporarily protected.

Krugman (1985:75) states that countries can provide several arguments concerning the motivation of imposing quotas and/or tariffs, imposing these types of measures have a vast numbers of advantages as "... they are assured of the economies of large-scale production, of selling enough over time to move down the learning curve, of earning enough to recover the costs of R&D. While charging high prices in the domestic market, they can 'incrementally price' and flood foreign markets with low-cost products."

As this argument is more valid for developing countries, it can be said that within the EU subsidies for the various sector can be seen, in some cases, as a support for infant industries, nevertheless it is hard to distinguish which subsidies are aimed at infant industries and which are supposed to protect domestic sectors because of other reasons.

Within the APT states many member states have special conditions and policies for SMEs and other industries which are not well established yet.

For example, Brunei heavily supports its SMEs in order to diversify the market. (WTO 2008a: ixf)

Loans are granted to SMEs by the Enterprise Facilitation Scheme and businesses in the areas of industrial sites, agricultural and fisheries development sites and operators of tourist activities receive priority. (WTO 2008a:57)

In Cambodia, the government has recognized the need to develop a supportive regulatory environment for SMEs, as the private sector consists mainly of SMEs, which operate informally and have low-productivity. The Private Sector Development Steering Committee therefore was founded in order to support SMEs. (WTO 2011b:50)

Cambodia's industrial policy and an escalating tariff structure protect on the one hand domestic producers from import competition and on the other hand encourage exports. (WTO 2011b:76)

The Indonesian government offers subsidised loans for SMEs in order to increase their exports. (WTO 2007a:57f)

The Lao PDR uses non automatic licensing to protect small and infant industries in the steel bar and cement sector. (WTO 2001:76) The Industry-Handicraft Development Plan should improve production technology and the infrastructure on the country side by promoting processing industries, cottage, handicrafts, power generation, mining, agro-forestry industry, textiles and construction material industry. (WTO 2001:23f)

In Malaysia 18 TRQs were introduced in order to support domestic small producers. (WTO 2009b:29)

At the Philippines mostly tax incentives are used in order to support economic sectors; this enables the government to select the supported areas very precisely. Furthermore, special incentives exist for specific regions and non-traditional exports. In the same way SMEs benefit from different types of incentives in order to increase their productivity, for instance, tax exemptions, exemptions from the Minimum Wage law, obtaining special credits and different kinds of trainings. (WTO 2012e:54f)

In Thailand import restrictions are complex, whereupon licensing and prohibitions seem to be used as quantitative restrictions. Generally speaking infant industry protection is the main reason for applying these measures.

Non-automatic licence requirements exist for various agricultural goods and processes goods. (WTO 2011c:61-57) TRQs are used for agricultural products, amongst others, dairy products, potatoes, onion, garlic, coconut, copra, coffee beans, tea, pepper, corn, rice, soybeans, palm oil, sugar, tobacco leaves and raw silk. (USDA Foreign Agriculture Service 2010a:31)

In China, a stimulus package in order to achieve industrial restructuring, more efficient energy use and to help SMEs was introduced. (WTO 2010:8)

It can be said that mainly government procurement in China favours SMEs in order to help them being more competitive. (WTO 2010:41f)

In Japan, SMEs receive special treatment, which makes them a dominant force in the service sector. Moreover, government procurement is used in order to promote SMEs. (WTO 2011f:4-31)

In Korea, the MOSF can grant duty concession and exemptions in order to help companies with import duties. The reason for granting reductions or import duty exemptions is mostly industrial development. Furthermore, the New Excellent Product certification system exists since 2006 and offers government support for products with new or improved technologies developed by Korean companies. Additionally, New Excellent Product certified goods receive preference for government procurement purposes. (WTO 2008c:50-63)

On the basis of these examples it can be seen that nearly all APT governments focus their policies on SMEs in order to make them more competitive, to diversify their industries or to achieve more industrial development.

Different measures are used, such as TRQs, import restrictions, tax incentives, non automatic licensing, tariffs, as well as government procurement which favour some sectors, in order to develop and establish infant industries and help them to meet foreign competition.

It can be concluded that the infant industry argument for protection does not concentrate on strategic industries, even though it does contribute to a nation's welfare, as jobs are created by helping an industry to become established.

6.6 Spillover Effects

This argument centres on protected industries which offer spillover benefits to other home industries. As there is always a diffusion of innovations, there is a case for protection, because the more knowledge there is to diffuse, the more external economies there will be. For that reason protecting these industries is a strategic measure for promoting investigation and knowledge development. Governments are able to identify those areas which are capable of performing research, creating knowledge and imparting training, hence subsidies and further supports are given. (Corden 1997:149)

Also, the New Growth Theory, which is linked to the New Trade Theory, summarizes that international trade and endogenous growth are linked by technology and knowledge spillovers. Grossman and Helpman (1991) stated that the enhancement of a country's R&D sector can expand the size of the market (Fine/Deraniyagala 2001:814), thus governments try to enlarge R&D spending in order to create more jobs and achieve a knowledge-based economy. (European Parliament 2000)

In this section also the different regulatory practices, such as technical regulations concerning imports are mentioned, as these regulations impede trade significantly and thus offer a form of protection for national economies.

Within the EU, the strategic goal is to realize a pan-European research zone. In order to achieve this, the 'European Research Area' (ERA), by implementing the Lisbon Strategy for growth and competitiveness, set the goal of spending 3% of the GDP on R&D.

Member states of the EU themselves can set their national R&D investment objectives, whereupon Finland and Sweden have set the highest goals with 4%. Also Denmark, Germany

and Austria have a R&D spending of around 2.5% and the UK, France and Germany have a continuous growth in their R&D spending.

In the last few years, R&D spending of the newer member states is also growing.

ERA policies are being implemented according to the regional conditions, and regional authorities are responsible for research and innovation. Resources are provided on the local, national and European level. Assistance is given by the Innovation Framework Programme, the Research and Technological Development Framework Programme and Structural Funds. (European Commission 2009:6-13)

The new Europe 2020 growth strategy is the current growth strategy the EU which should activate the economy and achieve different targets, including a higher R&D spending. (European Commission 2012)

Within the APT states, most of the nations have special support programmes for their R&D sector as well.

Brunei's government provides numerous tax incentives in order to diversify economic activities, encourage investment to promote technology and R&D. A new legislation encourages 'pioneer service companies' in the fields of engineering or technical services, laboratory and R&D activities. As an incentive a full corporate tax holiday of up to eight years is offered. (WTO 2008a:55f)

In Cambodia very few companies have R&D capacity, most companies have little access to technology and produced goods have low quality, this is why the government is putting a focus on these challenges. (WTO 2011b:6)

The Indonesian government offers financial assistance and tax incentives for R&D activities. (WTO 2007a:36)

The Lao PDR introduced an Industry-Handicraft Development plan in order to improve production technology, as well as infrastructure on the country side. (WTO 2001:23f)

In Malaysia the government offers direct and indirect tax incentives for investments in sectors such as "manufacturing, agriculture, tourism, R&D, training, and environmental protection activities". (WTO 2009b:23f)

Filipino authorities state that tax incentives are used for, amongst others, industries that have positive spillover effects, like the transfer of technology to the rest of the economy. (WTO 2005:58) Tax incentives are in particular used for the automobile industry and agriculture. This is why the Motor Vehicle Development Programme was introduced, which favours local components, prohibits the import of used vehicles and parts and provides an industry fund for

R&D activities, as well as for improving equipment and technologies. Especially for the sugar industry R&D and extension services are provided. (WTO 2012e:51-70)

Singapore puts a great focus on higher value activities, upgrading workers skills and investing in R&D as a response to strong competition from low-cost producing countries. Fiscal policy concentrates on indirect taxation and investments in economic infrastructure and R&D. The five year Science and Technology Plan of 2010, for example focused on research in order to increase economic development, to promote R&D activities and to promote local human resources talents and attract global endowment. (WTO 2008d:6f)

Investment in infrastructure and R&D is being promoted in order to move Singapore's economic activities to higher-value-added manufacturing and services. Gross spending on R&D should increase to 3% of GDP, which shows that Singapore is focusing not only on using technology, but also developing it. (WTO 2008b:vii)

For achieving this goal, a Research, Innovation and Enterprise Council was founded. (WTO 2008b:4f)

The WTO (2008b:20) states that "...According to the authorities, R&D efforts are being intensified to build Singapore into a knowledge hub."

Furthermore, the Income Tax Act and the Economic Expansion Incentives Act provide incentives for the foundation of pioneer industries. Non-tax incentives support high-value-added sectors, training, high-skilled activities and R&D.

Apart from long-time programmes for high-value-added industries, new incentives for companies in high tech sectors are offered.

Also for new technologies for farm application R&D is supported through the Agri-Food Veterinary Authority, which is a statutory board.

New potentials in semiconductor equipment, chemicals, industrial design and R&D for new technologies are fostered within the electronics industry.

Another goal is to turn Singapore into a biomedical hub. For achieving this research infrastructure is being established, the industry is being supported and financial capital support is being provided. Public research initiatives, as well as private sector manufacturing is supported by the Biomedical Research Council, the Biomedical Science Groups and the Bio*One Capital. (WTO 2008b:32-77)

In Thailand the focus lays on production development, whereupon production efficiency should be increased, production costs lowered, R&D is supported and value added agricultural products are being fostered.

Various projects implemented by the government focus on the application of R&D results. (WTO 2011g:17-28)

In China, especially the automobile industry receives support for R&D activities. (WTO 2010:53)

In Japan tax incentives are offered in order to promote R&D. (WTO 2011f:61f)

In Korea different measures, such as grants and tax concessions are used for encouraging R&D activities. (WTO 2008c:39)

The Korean Development Bank offers industrial capital, as well as loans for financing R&D investments. (WTO 2008c:75)

The manufacturing of "... highly innovative, R&D-intensive high-technology products and related services..." is supported in order to make the economy more service oriented and technology based. (WTO 2008c:108)

This comparison shows that the EU states are fostering to increase the R&D spending in order to achieve a pan-European research zone. Within the APT states especially Singapore focused on R&D activities, nevertheless most of the other APT nations also offer tax incentives, as well as other kind of supports for R&D activities.

By enhancing R&D activities and thus creating knowledge-spillover, jobs are created; however in the mentioned examples barely any measures applied by the various governments limit the market access for foreign companies.

Concerning regulatory practices like technical regulations and conformity assessment procedures of the EU it can be said that these regulations pose avoidable barriers to trade with the EU. The numbers of requirements constantly increase and technical regulations and conformity assessment procedures can be implemented by the member states or on EU levels. Especially "household appliances, electric and electronic equipment, machinery, motor vehicles and parts, fuels, construction materials, measuring devices, textile and apparel, chemicals, fertilizers, food, water, wine, vitamins and minerals, cosmetics, seal products, and genetically modified plants" are subject to regulations.

The EU has several legislations concerning GMOs. Lately a European proposal gave EU member states the faculty of restricting and prohibiting the cultivation of GMOs in their own territory. (WTO 2011a:45-60)

Within the APT member states technical regulations do not pose as many trade barriers as within the EU. Nevertheless some standards and technical regulations in some countries likewise constrain trade.

In Brunei there are only 42 voluntary standards based on construction and food, however imported meat and meat products have to have Halal certificates. (WTO 2008a:ix, 49)

In Cambodia the SPS system in force induces unnecessary inspection for imported food. (WTO 2011b:54)

In Indonesia only around 3% of all standards are binding, nevertheless the BPOM has to approve all imported food before being released from customs. A registration number from the BPOM is needed for processed food, which makes trader undergo cumbersome procedures. The Department of Health requires in some cases certificates concerning Islamic purity and genetically modified food has to be labelled. (WTO 2007a:12-55)

In Malaysia nearly all standards are voluntary, only 3.2% of all standards in 2008 were obligatory. Of great importance are Halal certificates and standards for meat and meat products. (WTO 2009b:38ff)

Around 80% of Filipino standards are in line with international standards. In some cases, even if imports comply with international standards, BPS requires extra testing and the entry might be denied. It is imperative that the ICC Mark or PS Quality/Safety Mark is on the label of imported goods. (WTO 2012e:44f)

Furthermore, Filipino SPS regulations are very strict and the importation of GM plants requires the approval of the Bureau of Plant Industry. (WTO 2012e:viii, 46)

In Singapore more than 80% of all standards are adjusted to international norms. Various products, such as electrical, electronic and gas home devices have to be registered before they can be advertised and sold.

It should be stated that SPS measures are exceptionally strict in Singapore and foreign farmers exporting to Singapore are regularly tested.

To carry on the import process in Singapore special attention should be paid as only products from accredited countries or producers are allowed to be imported. For the import of food and food appliances, it is required that for each delivery import permits are presented. (WTO 2008b:43-47)

In Thailand most of all mandatory standards are for construction material and electrical equipment. A certification mark on the product is required for obligatory standards.

The OIE has set specific animal health standards, however, Thailand has introduced even more strict measures and for the importation of chilled and frozen meat an import permit is required. (WTO 2011c:63-66)

Food manufacturing and import licences, which are valid for three years, are necessary in Thailand. If GMO food stuff has more than 5% of GMO ingredients the label has to indicate that information. (USDA Foreign Agriculture Service 2010a:5-17)

For importing food into Vietnam, a Food Quality Registration Certificate is required.

In the case of radiation-treated food and GM food certificates like bio-safety and irradiated safety certificates have to be shown and in addition to that a reference has to be enclosed on the label. (SPRING Singapore 2010:2)

Decision 23/2007/BYT by the MOH requires testing of various imported food by STAs. Without a STAs certificate imported goods cannot enter. Imported pesticides have to be registered at the Plant Protection Department, which includes a field test. This procedure is very costly and time consuming. (USDA 2009b)

In China only around 15% of national standards are obligatory, nevertheless the CCC system poses cumbersome trade barriers for foreign exporters due to its complexity, the costs and the length of the process. (WTO 2010:viii, Committee on TBT 2009:1f) There are certain technical products that are supposed to contain a CCC mark, if this mark is not contained then the goods are not able to be sold or imported. (WTO 2010:38)

In Korea standards increased considerably during the last few years. (WTO 2008c:ix) The importation of biotechnology crops requires environmental risk assessments. In order to eliminate importation risks of GMO and pharmaceutical products the KFDA conducts several tests and evaluations including clinical tests. There are also special quality tests for cosmetics. (WTO 2008c:62)

Japanese SPS regulations are stricter than international guidelines and under some circumstances even exceed OIE guidelines and Codex standards.

With the purpose of assuring food safety in Japan, the Food Sanitation Law is regularly revised and adjusted. In the same way regarding food additives maximum residue limits for pesticides and additions are recurrently checked. GM Food has to be labelled and its importation is restricted by the Ministry of Health, Labour and Welfare if the products do not come up to Japanese safety standards. (WTO 2011f:52-56)

By means of the above mentioned examples it can be concluded that standards, testing, labelling and certification requirements pose barriers to trade, however it cannot be concluded

that nations use standards solely for protectionist purposes as some requirements, e.g. Halal certificates are based on cultural or religious backgrounds.

Nevertheless, technical regulations and conformity assessments in the EU are being mentioned as very cumbersome barriers to trade. Within the APT states technical regulations and standards differ greatly. Some states, such as Japan, the Philippine and Singapore have very stringent SPS regulations, Muslim countries require all imported meat and meat products to be Halal, Thailand has very strict animal health requirements and in China trade barriers exist because of the CCC mark. This shows that each nation applies standards, technical regulations and other requirements for imports according to its own needs, however in some examples protectionist backgrounds can be seen.

7 Limitations of the Research

During the research very limited information was obtained about Myanmar, even sources claim that "...It is virtually impossible to obtain information about national standards systems and processes in Myanmar." (TKN 2010:11)

This is why, even though Myanmar is a member state of ASEAN, only very few information concerning trade and protectionist policies can be found in this thesis.

8 Conclusion

In the previous chapters the research question on which this thesis is based on, was addressed, aiming to give a clear image of the different types of protectionist policies used by both trading blocs. Moreover, a comparison was made in order to discover on the one hand the links and similarities and on the other hand the differences between them. Chapter 6 'Comparison of Implementer Protectionist Strategies' evaluates the different protectionist strategies used by the EU and APT.

Concluding it can be stated that in general the welfare effect would be higher if subsidies and trade restrictions were reduced, however if one country uses trade policy tools, the other countries are at a strategic disadvantage and in order to prevent this, every country tries to intervene in its economic performance, even though the outcome represents a decrease in world welfare.

It can be said that regional trade organizations fall in a contradiction because, as Yeung et al. (1999:x) mentions, on the one hand regional trade organizations are founded on the principles

of liberalization, on the other hand they are also increasing protectionisms within the non-members of the trading organizations.

Trade barriers are lowered or disappear within regional trade organizations, but non-member states still have to face high barriers when trading with the EU or APT states.

Summing up it can be said that the main reasons why the EU and APT make use of protectionist measures are national defence, balancing the balance of trade and job protection, as well as income redistribution.

The main difference between the EU and the APT states is that within the EU there is mainly a common trade policy, whereas the APT states can implement their own regulations.

However, what both blocs have in common is that the agricultural sector is protected for the same reasons.

In order to protect the agricultural sector high tariffs are used, subsidies and other incentives are offered, and furthermore standards for imports of agricultural goods and food products can be found as a barrier to trade.

The levels of protection for agriculture, food products and beverages are extremely high in the EU, China, Japan and Korea. The above mentioned industries of these countries are protected from import competition to a large extent.

Within the manufacturing sector, the ASEAN states, as well as China have a high level of protection for industries like paper, chemicals, machineries and transportation equipment.

Singapore is an exception within the ASEAN states, as there are almost no trade barriers, apart from a low level of protection for agriculture, food products and beverages. (Urata/Kiyota 2005:227f)

As stated by Razeen (2007:13), as well as Saqib and Taneja (2005:27) there is a big difference within product standards, investment restriction, custom procedures, bureaucratic red tape and other labour-market restrictions even among ASEAN countries, which makes it more difficult for exporters to meet individual country demands.

The mentioned arguments for restricting trade and the examples given in this thesis highlight why the EU and APT are implementing trade restrictions.

Both trading blocs try to maintain self-sufficiency concerning food and energy demand. In order to achieve this, different policies such as subsidies, incentives, tax concessions and grants are used. Regulatory standards and the nearly complete ban of GMOs within the EU can be seen as part of the national defence argument, but also as part of the income redistribution argument due to the provided protection for national producers.

The limited market access concerning pharmaceutical products and the defence market protects crucial products. There is also restricted access to the defence sector of the APT states.

The APT states mainly try to achieve self-sufficiency in the production of rice, vegetables, fruit, dairy products, meat and fish. Some of the nations forbid the importation of products which are produced domestically in a sufficient amount or during harvest time of some products. It is noteworthy that sugar receives special assistance and protection by numerous ASEAN nations.

Subsidies are used in order to protect jobs and redistribute income from foreign countries to the home country. The EU states mainly subsidise agriculture, structural operations and spending for R&D. Agricultural goods are promoted through subsidies outside of the EU and export refunds are offered to eliminate the price difference between EU prices and prices outside of the EU in order to maintain farmer's jobs. The reason for subsidizing the R&D sector is also connected to the spill-over argument.

Another sector which receives high subsidies is the railway and transportation sector, as well as the civil aeronautics industry.

The APT states mainly subsidise their agricultural sector; hereupon a special focus is put on rice, sugar and fisheries. The transportation sector, transport equipment and SMEs receive a considerable amount of assistance as well.

In Brunei for example imports of salt, sugar and rice are restricted to protect domestic producers from foreign competition. Imports of meat products have to be Halal, which gives preference to domestic producers. In Cambodia export taxes on unprocessed goods and high tariffs on processed goods assist local production. Indonesia regulates the import time of rice and sugar, so that during harvest times imports are limited. Also the access to the automobile, iron, steel and chemical sector is limited. Like in Brunei, food imports in Indonesia need to be Halal. In the Lao PDR agricultural products and raw materials which are available domestically, are not allowed to be imported.

In Malaysia especially the automotive sector is heavily protected, above all passenger and commercial vehicles, as well as motorcycles. Tariffs for processed goods are very high. The importation of meat requires Halal certificates. Myanmar does not allow the importation of agricultural goods and luxury goods. At the Philippines discrimination against foreign owned companies exists and the sector, apart from agriculture, which receives most support, is the automobile industry. Singapore's use of state-ownership of land, government-linked companies and tax incentives for the technical and chemical sector and for service industries

protects jobs within the country. In Thailand price support policies are used for all agricultural commodities which helps national producers. Vietnam, as one of the biggest textile producers, protects, amongst others, this industry through various policies. China protects mainly its manufacturing sector, the iron and steel sector, automobile and shipbuilding sector, petrochemical industry, textiles and clothing, electronics and logistics. In Japan subsidies for the agricultural sector, forestry, fisheries, industry, finance and the transport sector, as well as state-trading make up the main industrial policies in order to redistribute income. Also the production of aircrafts receives high subsidies.

In Korea manufacturers and farmers are compensated for losses caused by FTA agreements. Amongst others, high subsidies for the agricultural sector, market price support and tax concessions for manufacturing and R&D supports domestic industries. Export subsidies are offered for numerous agricultural goods.

The above mentioned policies are the most important policies used by the various APT nations, however in chapter 6 all different types of policies used by the EU and the APT states were analysed more thoroughly. The conclusion which can be drawn from the analysis is that every nation and trading bloc protects its crucial industries within the agricultural, manufacturing and service sector for the reason of national defence, but also for the redistribution of income and job protection, thus trying to enhance the nation's welfare.

Furthermore, government procurement is used by both trading blocs in order to redistribute income, protect jobs and also related to the national defence argument.

Government procurement is a very important economic sector in the EU, in which restrictions offer support to domestic companies. Especially purchases of military equipment favour domestic producers.

Foreign bidders are required to have 50% EU content if they want to participate in government procurement in the sectors of water, transportation, energy and postal services. These crucial sectors are protected by the EU mainly because of the national defence argument. Furthermore exceptional rights are given to state trading enterprises by various EU states, especially for the gas and electricity sector. Public procurement of military equipment is most of the time limited to national companies or tenders are defined very narrowly so that just a few companies can bid.

These mentioned examples in chapter 6 show that government procurement in the EU in some cases is used to favour domestic companies, whereupon foreign companies generally may only bid on public tenders which are covered by the GPA. (USTR 2012b:160)

Within the APT countries it can be observed that government procurement is used in order to support not only domestic industries, but also to sustain and create jobs within domestic industries instead of focusing on strategic industries as the EU does.

The way APT countries use government procurement differs from country to country depending on their specific targets and objectives, as well as the requirements and needs of the different industries; however, what can be concluded is that the majority of the APT countries favour largely their domestic tenderer.

In Brunei, for example, government procurement is predominantly employed as part of the economic policies designated to the protection of the construction industry.

The strategy of the government in Indonesia aims to protect the local industries by establishing certain provisions within the procurement law which aim at maximizing local content. In Malaysia the opportunities for international tenders are greater than in other APT countries, however international tenders are welcome to bid under specific conditions, one of which is the possibility of applying only if goods or services do not exist in the domestic markets. The result of these conditions represents a clear preference for locally owned business. At the Philippines the conditions for international tenders are similar to the ones in Malaysia. Foreign firms intending to participate in government procurement have limited opportunities, as they are only allowed to take part in the process if goods and services are not available in the domestic market. In the case of the Thai market companies which are favoured by the application of legal provisions in government procurement are not only domestic companies but especially domestic SMEs. Due to the government regime in China, government procurement law clearly specifies that the Chinese government should only procure products and services originating from the domestic market. The same way as in Thailand, in Japan domestic companies, especially SMEs receive benefits when submitting tenders. The Korean government procurement is used for regional and industrial development and procurement from SMEs.

Thus it can be concluded that the APT states use this mechanism in order to direct some economic sectors and promote the growth of specific companies.

The analysis of taxes and tariffs applied shows that the EU's average MFN tariffs are comparably lower than from the APT states, however alternatively non-*ad valorem* duties applicable for agricultural products are used, as well as seasonal duties and an entry price system for fruits and vegetables. Moreover, the usage of the 'Meursing Table' for processed food is a big administrative burden.

Most of the APT states apply, compared to the EU, higher tariffs, which are aimed mostly at the agricultural sector including fisheries, as well as other important economic areas, such as wood and wood products, textiles and clothing, footwear, transportation and transport equipment.

Producers of raw materials and semi-processed goods usually receive high protection. Tariffs for fully processed goods are especially high, with each stage of processing tariffs rise.

As a result of the analysis of the different tariff measures used it can be concluded that the implementation of tariffs distort competition by favouring some sectors, industries or activities, especially within the agricultural sector of the two trade blocs. The scope between applied MFN tariffs and bound MFN tariffs is often used to raise tariffs in order to temporarily protect domestic industries and producers. TRQs are frequently used as quantitative restrictions, whereby out-of-quota tariffs avert out-of-quota imports.

The mentioned examples show that each trade bloc and the various countries have different priorities concerning the protection of their home industries. However, it can be seen that all countries, or at least the majority of them, protect first of all their agricultural sector through tariffs due to the fact that the applied tariffs for the agricultural sectors are higher in each country than for the manufacturing sector. Within the manufacturing sector the crucial industries also receive high protection through tariffs.

The comparison of the usage of CVD, AD and safeguard provisions shows that the EU states use comparably more AD and safeguard provisions than the APT states. Nevertheless it can also be seen that China and Korea frequently use these policies; whereas some of the other ASEAN members do not even have laws and regulations concerning AD, CVD and safeguard provisions.

Furthermore, on the basis of the examples analysed before one can see that almost all APT governments focus policies on SMEs in order to make them more competitive, to diversify their industries or to achieve more industrial development.

Different measures are used, such as TRQs, import restrictions, tax incentives, non-automatic licensing, tariffs, as well as government procurement, in order to develop and establish infant industries and help them to meet foreign competition.

Within the EU states government procurement is not so much used for economic development, but more on grounds of the national defence argument.

Moreover, this comparison shows that the EU states are fostering to increase the R&D spending in order to achieve a pan-European research zone. Within the APT states especially Singapore puts special focus on R&D activities, in contrast with the practices of other APT

countries which mostly offer tax incentives, as well as other types of support mechanisms related to R&D activities.

Concerning technical regulations and conformity assessments it can be concluded that the regulations from the EU states are posing especially cumbersome barriers to trade. Within the APT states technical regulations and standards differ considerably. Some states, such as Japan, the Philippines and Singapore have very stringent SPS regulations. Other APT countries have diverse special constraints which make their market distinctive and exclusive. For instance the special requirements related to the production and importation of meat products, which have to have Halal certification; the Thai market demanding very strict animal health requirements, or China requiring the CCC mark for all electrical goods. These conditions show that each nation applies standards and technical regulations for the import of products in different economic sectors according to the relevance of their particular needs and requirements; nevertheless they represent a huge obstacle to free trade practices.

Summing up, this thesis has analysed all various protectionist policies used by the member states of the EU and APT and has thoroughly answered the question why protectionist policies are being used by the two trade blocs by highlighting the arguments for restricting trade.

However, it is noteworthy that, even if a nation's welfare can be increased by using trade policies, the principle of free trade would still augment the overall worldwide economic situation.

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10 Abbreviations

AD	Anti-Dumping
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Agreement
AHTN	ASEAN Harmonized Tariff Nomenclature
AISP	ASEAN Integrated System of Preferences
AP	Approved Permit
APEC	Asia-Pacific Economic Cooperation
APT	ASEAN Plus Three
APTA	Asia Pacific Trade Agreement
AQSIQ	General Administration of Quality Supervision, Inspection and Quarantine
ASEAN	Association of Southeast Asian Nations
AVA	Agri-Food and Veterinary Authority
ASEM	Asia-Europe Meeting
AVEs	<i>Ad Valorem</i> Equivalents
B	Thai Baht
BAC	Bids and Awards Committee
BND	Brunei Dollar
BOC	Bureau of Customs
BPOM	Balai Pengawasan Obat dan Makanan (National Agency for Drug and Food Control, Indonesia)
BPS	Bureau of Product Standards (Philippines)
BTA	Bilateral Trade Agreement
CAC	Codex Alimentarius Commission
Camcontrol	Cambodia Import Export Inspection and Fraud Repression Directorate-General
CAP	Common Agricultural Policy
CARIFORUM	Caribbean Forum
CCC	China Compulsory Certification
CEPT	Common Effective Preferential Tariff
CM	Common Markets
CU	Customs Union

CVD	Countervailing Duties
DVS	Department of Veterinary Services
EBA	Everything But Arms
EC	European Community
ECB	European Central Bank
EFTA	European Free Trade Association
EHP	Early Harvest Program
ENS	Entry Summary Declaration
EORI	Economic Operator Registration and Identification
EPA	Economic Partnership Agreement
EPZ	Export Processing Zone
ERA	European Research Area
ERP	Effective Rate of Protection
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
EuroCham Vietnam	European Chamber of Commerce in Vietnam
EXIM Bank	Export-Import Bank
FDI	Foreign Direct Investment
FTA	Free Trade Area
FTZ	Free Trade Zone
GATT	General Agreement on Tariffs and Trade
GLCs	Government-Linked Companies
GM	Genetically Modified
GMAPs	Genetically Modified Agricultural Products
GMO	Genetically Modified Organism
GMP	Good Manufacturing Practice
GDP	Gross Domestic Product
GPA	Government Procurement Agreement
GSP	Generalised System of Preferences
GST	Goods and Service Tax
HS	Harmonized Description and Coding System
ICC	Import Commodity Clearance
I-EA-T	Industrial Estate Authority of Thailand
IEC	International Electrotechnical Commission

IPPC	International Plant Protection Convention
IRRs	Implementing Rules and Regulations on Government Procurement of Goods, Construction, Repairs and Services
IRS-MC	Increasing Returns to Scale and Monopolistic Competition
ISO	International Organization for Standardization
JAKIM	Department of Islamic Development Malaysia
JAS	Japan Agricultural Standards
JIS	Japanese Industrial Standards
JPY	Japanese Yen
KCS	Korea Customs Service
KFDA	Korean Food and Drug Administration
KHR	Khmer, Cambodian Riel
LDCs	Least Developed Countries
LPI	Logistics Performance Index
MFN	Most Favored Nation
MIFAFF	Ministry of Food, Agriculture, Forestry and Fisheries (Korea)
MITI	Ministry of International Trade and Industry (Japan)
MMA	Minimum Market Access
MMK	Myanmar Kyat
MOFCOM	Ministry of Commerce
MOH	Ministry of Health (Vietnam)
MOIT	Ministry of Industry and Trade (Vietnam)
MOSF	Minister of Strategy and Finance (Korea)
MOSTI	Ministry of Science, Technology and Innovation (Malaysia)
MYR	Malaysian Ringgit
NRC	National Revision Commission (Slovenia)
NRP	Nominal Rate of Protection
NTBs	Non-Tariff Barriers
OECD	Organization for Economic Co-operation and Development
OIE	World Organization for Animal Health (Office International des Epizooties)
PTA	Preferential Trade Agreement
PET	Polyethylene Terephthalate
PHP	Philippine Peso

PPS	Public Procurement Service
PS	Philippine Standard
RASFF	Rapid Alert System for Food and Feed
R&D	Research and Development
RAM	Random Access Memory
S\$	Singapore Dollar
SEP	Trans-Pacific Strategic Economic Partnership Agreement
SEZ	Special Economic Zone
SMEs	Small and Medium Enterprises
SOEs	State Owned Enterprises
SPS	Sanitary and Phytosanitary
SPT	Special and Preferential Treatment
SSG	Special Safeguard Provisions
STAs	State Control Testing Agencies
STEs	State-Trading Enterprises
SWAp	Sector-Wide Approach
TAC	Treaty of Amity and Cooperation in Southeast Asia
TBT	Technical Barrier to Trade
TFEU	Treaty on the Functioning of the European Union
TISI	Thai Industrial Standards Institute
TRQs	Tariff Rate Quotas
UK	United Kingdom
UNAFEI	United Nations Asia and Far East Institute
USDA	United States Department of Agriculture
VAT	Value Added Tax
VCRC	Valuation and Classification Review Committee
VER	Voluntary Export Restriction
VLSI	Very Large Scale Integration
VND	Vietnamese Dong
W	South Korean Won
WTO	World Trade Organization
Y	Chinese Yuan

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12 Appendix

Appendix 1

Kurzzusammenfassung

Das Ziel dieser vorliegenden Masterarbeit ist es, auf Basis von Literaturrecherche, die unterschiedlichen Protektionismus Maßnahmen, welche von den EU Ländern, sowie den ASEAN Ländern und China, Korea und Japan implementiert werden, zu analysieren.

Literatur bezüglich der verwendeten Politiken und Strategien über jedes einzelnen Land der zwei Handelsblöcke existiert bereits, allerdings zielt diese Studie darauf ab einen Vergleich der angewendeten Methoden zu ziehen, sowie die Gemeinsamkeiten und Unterschiede heraus zu arbeiten.

Diese Untersuchung wurde im Bereich der Volks- und Betriebswirtschaftslehre, unter Berücksichtigung von einem etwaigen Beitrag für weitere Analysen und Entwicklungen von Märkten in den genannten Ländern, entwickelt.

Bereits vorhandene Literatur beschreibt individuell die protektionistischen Maßnahmen und Strategien der beiden Handelsblöcke, jedoch werden die Maßnahmen nur aufgezählt, aber nicht analysiert. Diese Arbeit erklärt nicht nur die Aspekte der protektionistischen Strategien, sondern führt auch die Hauptgründe für Protektionismus von Regierungen auf und zeigt die Einflüsse auf die verschiedenen wirtschaftlichen Bereiche.

Die Analyse umfasst Aspekte wie Import- und Exportbeschränkungen, administrative Barrieren wie spezielle Anforderungen bezüglich Etiketten, Zertifikaten, etc., Anti-Dumping Maßnahmen und Ausgleichszölle, Exportstrategien, Subventionen und das öffentliche Beschaffungswesen.

Jeder der soeben genannten Aspekte wird einzeln analysiert und durch die Erklärung der politischen Umsetzung dem Leser verständlich dargelegt.

Diese Studie konzentriert sich auf die Gegenüberstellung der verschiedenen protektionistischen Maßnahmen, welche durch Argumente für Protektionismus verglichen werden können. Diese Argumente basieren auf nationale Verteidigung, der Handelsbilanz, dem Schutz von Arbeitsplätzen, Einkommensumverteilung, Jungindustrien, dem optimalen Zolltarif, sowie Übertragungseffekten.

Appendix 2

Abstract

The purpose of the present master thesis is to make an analysis based on literature research of the different protectionist policies implemented in the countries incorporated in the EU, as well as in the countries comprising APT. There is already existing literature in this field indicating the policies and strategies of each single country of the two trading blocs. Nevertheless, the current thesis aims to make a comparison of these policies and moreover focusing, highlighting and bringing up the similarities and differences. This thesis is developed in the fields of economics and business, taking into consideration the potential assistance for professionals in the area of new business market analysis and development in the countries mentioned.

Existing literature analyses individually the protectionist policies and strategies of the two trading blocs, however reducing the investigation to only mentioning the information comprised in those strategies. This thesis, however, analyses not only the aspects comprised in the protectionist strategies of the countries but also breaks down the main objectives of the governments, as well as pointing out the impacts on the different economic industries. The analysis covers aspects like import and export barriers, administrative restrictions, such as labelling, testing and certification requirements, AD and CV measures, export policies and domestic support, as well as government procurement.

Each of the aspects mentioned before are analysed individually, giving an enhanced notion of the policies implementation and like this making it more comprehensible to the reader. This study centres its attention on the comparison of the implementation of protectionist strategies based on the arguments of national defence, balance of trade, protection of jobs, income redistribution, infant industries, optimum tariff and spill-over effects. What is more, this analysis also conducts a comparison of the protectionist strategies used by the EU and APT.

Appendix 3

Lebenslauf

Angaben zur Person

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