

Implications of WTO Membership for Countries in Transition: International Political Economy Approach

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Abstract

Taking the Republic of Belarus as a case study, the paper explores sources and implications of systemic incompatibility between substantive provisions of the World Trade Organisation (WTO) and internal politico-economic structures of post-socialist countries. The sources of this incompatibility are twofold: first, the initial politico-economic structures of the central planning, alien, to those, assumed by GATT/WTO, and, second, the characteristics of the transitional process itself, i.e. non-linearity and quickness of time, the lack of internal systemic integrity, volatility of economic structures. Taken together, these characteristics objectively cause the emergence of a very liberal regime in domestic structures in former central-planning countries, especially at the early stages of systemic transformation. The danger for the prospective politico-economic development for these countries emerges, when, joining the WTO, the extreme neo-liberal regime of the countries in question is being bound, which means that transitional countries will be deprived of the possibility to change their policies to a lesser liberal direction in the future.

Prepared for MET-Network 3rd Research Seminar, 8th November 2000, MMU

Introduction

The World Trade Organisation (WTO) was created in 1995 as a successor of the General Agreement of Tariffs and Trade for the regulation of international trade and trade related issues. The effective enforcement mechanism, embedded in the WTO, makes this organisation a powerful body, able to impose effectively its philosophy on member-countries. For post-socialist countries, WTO influence has profoundly deep long-term implications, because these countries are at the stage of determining the future architecture of their whole socio-economic systems.

The question of compatibility between the substantive provisions of the WTO and transitional politico-economic structures of the former centrally planning countries has been a yawning gap in academic debates. Neither it has been adequately acknowledged empirically – i.e. in governmental policies of transitional countries. However, the uniqueness of the central-planning economic structures as well as the specificity of the transformational process itself create a qualitative, substantive difference between the present domestic economic structures of transitional countries, on the other hand, and those of developed and developing countries, on the other. This makes us reconsidering the accountability of WTO provisions with regards to countries in transition.

The paper aims to reveal the nature and implications of systemic incompatibility between WTO disciplines and domestic structures of transitional countries. Our analysis is restricted to GATT tariff-related articles only: “Most Favourite Nations Treatment” (Article I of GATT’94), “National Treatment” (Article III of GATT’94), Schedules and Concessions (Article II of GATT’94, Understanding on the Interpretation of Article II: 1(b) of GATT’94) and Fees and Formalities Connected with Importation and Exportation (Article VIII of GATT’94)¹.

The structure of the each of the sections of this paper, dealing with a separate WTO article, is as follows. First, a brief description of the substantive provision of WTO

¹ There are two more WTO articles that deal with tariffs - Modifications of Schedules (Article XXVIII of GATT’94, Understanding on the Interpretation of Article XXVIII of GATT’94) and Tariff Negotiations (Article XXVIII*bis* of GATT’94). We will not analyse these, however, due to their limited impact on the argument of the paper.

article will be provided. Then, we will look at the development of the relevant structure in Belarus during the years of transformation; here the nature of the systemic specificity of the structure in question will be examined. This will be followed by the analysis of the negotiation position of Belarus and the WTO over the structure during the accession of Belarus to the WTO; at this stage, the manifestation of the discovered specificity of the transient structures will be revealed. Further on, we will dwell on the experience of the application of the structure in question by other countries; this will give us a necessary comparative framework for strengthening the argument about the specificity and uniqueness of the transitional structures of post-socialist countries. The paper will be finished with a summary of some conceptual points relevant to present academic debates on transition theory, as well as resulting empirical implications of joining the WTO at the state of systemic implication for post-socialist countries.

1. Most Favourite Nations Clause (Article I of GATT'94)

Essence of the obligation

The Most Favourite Nation (MFN) clause, the pivotal substantial provision of the WTO, means that at the border, the products made in a country are treated by the country no less favourably than goods originating from any other country. The deviations from MFN provision include preferences, which is regulated by establishing the ceiling of a preferential rate², so-called “grandfather clause”³, quantitative restrictions in the case of balance-of-payments difficulties⁴; the exception in for customs unions, free-trade areas, and certain cases of frontier traffic and contiguous territory⁵, waivers⁶, releases for the purpose of developing countries⁷; departure from GATT obligations in case of

² This is qualified by such a notion as “margin of preference”, which is understood as “absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product”.

³ This provision, however, has lost its validity with time, see Jackson (1969).

⁴ Article XIV

⁵ Article XXIV

⁶ Article XXV:5.

⁷ Article XVIII:13.

“nullification and impairment”⁸; special provisions in accession agreements⁹, non-application of GATT Agreement or Schedules of GATT¹⁰, safeguards measures¹¹; “general exceptions”¹²; “security exceptions”¹³, exceptions for certain types of “frontier traffic”¹⁴, anti-dumping measures¹⁵, countervailing measures¹⁶.

Dynamics of the structure in Belarus in 1991-2000

For the first time, the MFN rate, as an instrument of foreign trade policy of sovereign Belarus started to be applied in 1993 with the adoption of the first basic legislative acts, regulating this area: The customs Code and the law “On Customs Tariff”, which entered into force on 1st July and 23rd March 1993 respectively.

On the basis of bilateral agreements, Belarus has managed to obtain MFN regime with its major trading partners; by 1995, i.e. by the beginning of negotiations with the WTO, about 30 bilateral agreements, providing MFN, were concluded by Belarus with countries: USA, Germany, Poland, France, UK etc. It is curious, that in addition to the providing MFN regime on a mutual basis in the frameworks on bilateral agreements, being under a strong Russian influence, Belarus has granted MFN status to a number of countries unilaterally¹⁷.

The exceptions from the MFN regime have been changing, or more precisely – have been added over the course of transformation. The early legislative base contained a very short and underdeveloped list of MFN exceptions, which included preferential rates applied on customs union, free trade area member-countries, on countries that benefit from the

⁸ Article XXIII.

⁹ Article XXXIII.

¹⁰ Article XXXV.

¹¹ WTO, Agreement on Safeguards Measures

¹² Article XX.

¹³ Article XXI.

¹⁴ Article XXIV.

¹⁵ WTO, Agreement on Implementation of Article II of the General Agreement on Tariffs and Trade 1994.

¹⁶ WTO, Agreement on Subsidies and Countervailing Measures.

¹⁷ Further to the conclusion of the treaty of the customs union in 1995, Belarus has adopted Resolution of the Cabinet of Ministers No 298 of 29.04.1994, which almost completely identical to a correspondent Russian legislative act, and which obliged Belarus to provide MFN regime, as well as preferential rates for a number of countries on a unilateral basis. During several years, following the adoption of the aforementioned Resolution, the Belarusian were unaware, which countries, benefiting from Belarusian MFN scheme, had provided a similar regime to Belarus.

General System of Preferences; on goods circulating on border trade; as a safeguard measure and as a counter-measure (or “nullification and impairment” in WTO terminology). The Belarusian legislation, did not provide clear operational definitions and methodology in implementing of these measures, and they were rather given as a general legal ground for deviation from MFN regime. Moreover, the legal base of Belarus was silent on a range of GATT/WTO permitted clauses - deviations from the MFN, like balance of payment provisions, security exceptions, general exceptions, antidumping and countervailing duties. The latter two have only appeared in 1997¹⁸, but even then the law lacked quantitative or detailed qualitative description of anti-dumping and countervailing duties¹⁹.

In 1998, the list of MFN exceptions was widened by the inclusion of those that referred, in WTO language, to “security” and “general” exceptions²⁰. However, many cases of implementation of these two clauses, codified in the WTO remained missing in Belarus legislation²¹. At the same time the legal ground for the introduction of quantitative restrictions on exports and/or imports for the purpose of “economic security” of Belarus and “protection of domestic market” was provided. These two clauses lacked concrete

¹⁸ With the adoption of the Law “on Introduction of Modifications and Additions to the Law of the Republic of Belarus “On Customs Tariff” of 13th of November 1997.

¹⁹ At the same a new notion – “seasonal duties” was introduced into Belarusian customs rules (see Law “on Introduction of Modifications and Additions to the Law of the Republic of Belarus “On Customs Tariff” of 13th of November 1997). In its essence, this instrument referred to safeguard measures, and it is unclear why the Belarusian law-makers decided to introduce this measure separately. This provision, however, was short-lived since it did not appear in the subsequently adopted legislative acts.

²⁰ See Law “On State Regulation of Foreign Trade Activity” of 29th December 1998.

²¹ From the group of “security exceptions” (Art. XXI of GATT’ 94, the following provisions lacked in Belarus legislation: actions necessary “to furnish any information the disclosure of which [is considered] contrary to [country’s] essential security interests]; actions “relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment (XXI: (b): ii); and actions “taken in time of war or other emergency in international relations (XXI: (b): iii). From the “general exceptions” group (Art. XX of GATT’ 94, the following ones were missing: necessary to protect human, animal and plant life or health (XX: (b)), relating to the importations or exportations of gold or silver (XX: (c)), necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of [WTO Agreement], including those relating to customs enforcement, the enforcement of monopolies [...], the protection of patents, trade marks and copyrights, and the prevention of deceptive practices (XX: (d)), relating to the products of prison labour (XX: (e)), relating to the conservation of exhaustible natural resources [...] (XX: (g)), undertaken in pursuance of obligation under any intergovernmental commodity agreement [...] (XX: (h)), involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry [...] (XX: (i)), essential to the acquisition or distribution of products in general or local supply [...] (XX:(j)).

case-description, but they could well provide a ground for a broad deviation from MFN principle.

The latest (by now) substantial legislative change, referring to MFN, happened in 1999 with the introduction of a noticeably called Law “On Measures on Protection of Economic Interests of Belarus in the Course of Foreign Trade With Goods”²². This document contained, at last, a well-elaborated methodology of implementation of safeguards, anti-dumping and countervailing measures; in addition, it codified the practice of using protective measures in the case of balance of payment difficulties. A novelty of this piece of the legislation is the introduction of a new MFN escape clause, aiming at addressing the transitional specificity of Belarusian economy: protective measures can be used in order to conduct the programmes of production of new types of goods or protection of those branches of Belarusian economy that undergo structural transformation²³.

Thus, the dynamics of the development of MFN clause in Belarusian legislation has led us to the following observations. First, the structure concerned has been exposed to a very volatile legal basis (or, in the words of Russian theorists, the speed of time was quicker than in non-transitional countries). Second, the Belarus MFN clause has been having a very liberal regime due to its underdevelopment. This was revealed in the fact of provision by Belarus of MFN treatment on a unilateral base to a range of countries as well as in the lack of a number of protective measures - deviations from MFN regime over 1991-2000 years with some security or general exceptions to be missing until now. This underdevelopment deals with fact that the instruments concerned did not exist in the centrally planned system and, in addition, in the course of transition, there was no precedents in Belarus of using antidumping, safeguards, countervailing measures or border measures. Third, a strong Russian influences – a consequence of geopolitical transformation is felt in Belarus.

²² Adopted on the 2nd of December 1999.

²³ Art. 22 of the Law “On Measures on Protection of Economic Interests of Belarus in the Course of Foreign Trade With Goods”.

Negotiations between Belarus and the WTO

The analysis of the negotiation documents of the two working parties of Belarus accession to the WTO did not reveal any clashes between the sides, which deals with the very underdeveloped, and thus, liberal character of MFN clause in Belarus legislation. However, the newly introduced into Belarusian legislation clause – the usage of protective measures in the case the compliance with state programmes on industrial production and structural reforms, stemming from the transitional nature of Belarus - will inevitably become an obstacle while acceding to the WTO. This will happen for two reasons: first, there is a lack of the accountability of the transitional phenomena in the WTO and hence, in the absence of a concrete measure, the WTO does not provide even a general legal ground for introduction of such a measure; second, there is no precedent of referring to such a clause by the formerly acceded transitional countries.

2. National treatment (Article III of GATT'94)

Our analysis of the National Treatment (NT) obligation in the scope of GATT'94 will apply to VAT, excise taxes and pricing policy, since these measures are among those that mostly tend to violate NT. In addition, these are mainly the measures that are discussed by the WTO while analysing the tariff regime in relation to NT of an acceding country.

Essence of the obligation

Foreign goods – once they have satisfied whatever border measures are applied, including different duties and charges on the one hand, and laws and regulations, on the other, – be treated no less favourably in terms of taxes and measures with equivalent effect than domestic goods. The deviations from NT obligation include purchase by governments for their own use and granting of subsidies exclusively to domestic producers²⁴, as well as those which are valid in case of MFN (except those that are applied to MFN only).

²⁴ Articles III: 8a and III: 8b respectively

2.1 VAT and EXCISE TAX

Dynamics of the structure in Belarus in 1991-2000

VAT was first introduced in Belarus with the Law “On Value Added Tax”²⁵ and it charged on both domestic and imported goods at rate of 20 per cent. A lower rate of 10 per cent applied on agricultural products. Certain essential goods were exempted from VAT: some foods, children’s goods, fuel, municipal transport and educational services. Thus, at the early stages of Belarusian transformation, the VAT was quite liberal in the sense that it did not discriminate foreign goods against the domestic ones.

Each year, starting from 1991, changes to VAT regime were made. In 1991-2 the standard VAT rate was 28 per cent, in 1993 – 25 per cent, since 1994 – dropped to 20 per cent (IMF, 1998: 154). In 1996 the list of goods, eligible for 10 per cent rate was increased²⁶, and it is noticeable that this was widened *inter alia* by the inclusion of imported food products and children’s goods, which had been exempted from VAT before. Exemptions, meanwhile remained for domestically produced children’s articles, on sale of state, collective and private farms. On the other hand, certain VAT exemptions were used for imported articles, like equipment used for scientific research, technical equipment used exclusively for disabled people, imported items for the production of cars, buses, tractors and agricultural machinery. The rationale behind these exemptions for the imported articles lies in the persistent, inertial expression of one of the most typical features of the previous centrally planned economy – deficit of goods. In the period from 1996 until 2000, the VAT regime has been experiencing further changes, especially in terms of modification of the lists of beneficiaries from the reduced rate or exemptions, which aimed mainly to halt price increases or support certain groups of domestic producers²⁷.

²⁵ Adopted on the 19th of December 1991.

²⁶ It was set for plant-farming, livestock-raising, fishing and bee-keeping products by the kolkhozes, sovkhozes, and other agricultural entities producing them; on the sale of foodstuffs on a list approved by Resolution No. 509 August 2 1996 of the CM produced by economic agents in Belarus, and on the sale of products (work, services) in a list approved by the CM by the enterprises manufacturing these products using new and high technologies.

²⁷ President Edict No 744 “On the Exemption from VAT and Customs Duties from the Imported to the Customs Territory of Belarus the Goods used for the Production of Bread, Macaroni, Beer and Spirits” of the 20th of December 1999.

In 2000, an important change was made in the method of charging the VAT: the method of taxation was transformed from the previously used “direct subtraction method” to “off set method”, which is the most common in the majority of countries, including Russia²⁸. The usage of the method of direct subtraction over the years of transformation until 2000 was connected with past inertial structures in the transitional economic system of Belarus. In the conditions of state regulation of prices of factors of production, profitability and final goods, it was fairly easy for state agencies to monitor the VAT payment and, thus, - to decrease the tax evasion.

Like VAT, the excise tax was first introduced in 1991²⁹; its usual rate varies between 10 and 75 per cent. Normally, the excise tax legislation of Belarus does not contain any explicit exemptions, but it is subject to various ad hoc measures, which provide preferences for certain groups of tax-payers. Likewise VAT, the excise tax has been experiencing substantial changes over the years of transition in Belarus, and due to the slowness of the development it as a new structure, the most liberal regime of this tax could be observed in the early years of transformation. Indeed, by the beginning of talks with the WTO in 1995 and even over the following two years, the excise tax rates in Belarus were the same for domestic and imported products³⁰. In 1997 the national treatment was not strictly followed anymore, since certain imported goods were treated less favourably than the domestic ones³¹. In 1998, in an effort to harmonise the legislation with Russia³², the excise tax legislation has undergone serious changes: it started to be expressed mainly in physical values and the list of excisable goods was shortened. The

²⁸ Belarus (and Russia) used to calculate the VAT using the “direct subtraction method: the tax was paid on the value that enterprise added to the value of raw materials, suppliers or goods in the course of manufacturing goods, doing works, and rendering services. According to the offset method, the VAT is calculated on the basis of commercial invoices, i.e. this method requires a commercial invoice from supplier of goods or services.

²⁹ With the adoption of the Law “On Excise Taxes” of 19th of December 1991.

³⁰ The then excise tax rates were based on the Resolution of the CM No 252 of 12th May 1995 as amended by Resolution No 538 of 2nd October 1995.

³¹ For instance, the rates for alcoholic beverages and tobacco products were expressed in physical values, as opposed to ad valorem rates for the similar domestic goods; on some imported goods, like, gasoline, cars, tires for cars, the excise rates were higher than on the similar goods of domestic production.

³² Adoption of the new edition of the Law “On Excise Tax” of 1st of January 1998.

attempts to unify Russian and Belarusian domestic legislation did not impede the latter from introduction of new changes into the excise tax system³³.

In addition to the aforementioned specificity of excise and VAT tax in Belarus, three points can be mentioned: the imposition of VAT and excise taxes on the border; application of the “origin” principle while trading with CIS countries and “destination” principle while trading with non-CIS countries.

The first specificity refers to the imposition of VAT and excise tax at the border on imported goods on top of customs duties, as opposed to the imposition of these taxes on the point of sale for imported and domestic goods, as practised in developed countries. The advantage of this method deals with the usage of time factor to extract benefit from inflation, thus, putting the imported goods on a less preferable position. Thus, method, therefore, though not formally forbidden by the WTO, transgresses the principle of National Treatment of the WTO. The usage of this method, however, is a phenomenon that unites transitional and developing countries, since many developing and least developed countries are imposing the same regulation due to common inflationary problems³⁴.

The usage of “origin” principle while trading with CIS and “destination” principle with the rest of the world means that the taxes are collected when goods are exported to CIS countries, while goods imported from CIS countries are not taxed. On the other hand, exports to non-CIS countries are exempt from the taxes, while goods imported from these countries are subject to them. As it is seen, the transformation of this structure in Belarus has not finished yet, since it implies adequate measures from the rest CIS countries³⁵.

In addition to irregularities in imposition of VAT and excise taxes, the countries in transition practice a complex of other regulations that can also refer to NT regime, like the obligatory sale of currency by exporters on the domestic market. These rules, though

³³ See modifications to the law “On excise tax” of the 31st of January 2000, 20th May, Resolution of the Cabinet of Ministers No 724.

³⁴ The imposition, of VAT and excise tax is practised, for instance, by Romania, Kyrgyzstan.

³⁵ In accordance with the Presidential Decree No 282 23rd of May 2000, VAT is not levied on goods, imported from Azerbaijan, Armenia, Georgia, Russia, Turkmenistan, Uzbekistan. Goods that are exported to these countries are levied with VAT excluding the cases stipulated by Belarusian legislation.

imply the NT, discriminate against domestic producers against the foreign ones, since the former are forced to sell their currency at a low official rate.

Thus, the dynamics of the development of the VAT and excise tax systems has revealed, first, the confirmation of earlier discovered theoretical specificity of transitional structures. In particular, the extreme volatility, the persistency of old structures, as well as lack of systemic linkage. Second, the early stages of transformation and until mid 1990s have been characterised by quite a liberal regime for both taxes. The lately acknowledged need for structural reforms, support of crisis enterprises and halting the inflationary spiral has necessitated the introduction of certain measures which discriminated exporters in some cases. However, the increased monetary pressure has invoked some administrative measures for domestic producers, like obligatory sale of currency, which put the domestic producers, in turn, under the pressure.

Negotiating position of Belarus and the WTO

The major bone of contention between Belarus and the WTO regarding VAT and excises over the two working parties on Belarus accession to the WTO concerned the most obvious resilient elements of the previous system: “origin-destination” and “subtraction-off-set” methods of tax imposition. Since both of these items touched not so much substantial but mainly the issues of administrative transformation, the WTO requirement to bring these issues into conformity with its legislation did not meet principal objections from the Belarusian side. Moreover, as we have discovered above, the question about the direct subtraction versus off-set debate has been removed by Belarus from the agenda already in 2000 by the introduction of the necessary legislation.

Regardless of these points of compatibility between Belarus and WTO legislation, the modifications, recently introduced into VAT and excise, have violated in some instances the NT regime, and this will inevitably become an obstacle for Belarus’ accession to the WTO. However, the conclusion regarding the violation of the NT regime in favour of domestic producers will not look so simple if we recall that due to the persistent institutions and emergence of specific transitional macroeconomic environment in Belarus (the deficit of goods and money), it is often the domestic producers that are

getting discriminated against the foreign ones; we have revealed this when pointed on VAT exemptions for imported goods, being in deficit in Belarusian market, or on obligatory currency sale for Belarusian producers.

Experience of other countries

The experience of transitional countries in the area of VAT and excise tax policy has conformed our findings about Belarus as well paved the way for the possible future scenario of Belarus negotiations with the WTO. The experience of Kyrgyzstan is particularly vivid since this country had quite a liberal VAT and excise taxes regimes before entering the WTO. Certain existed incompatibilities were brought into conformity after joining the WTO³⁶, but more than that – Kyrgyzstan committed itself to an even stricter liberal regime than it is required in the WTO: it refused to impose excise and ordinary customs duties at the same time³⁷.

2.2 Price Regulation

Dynamics of the structure over 1991-2000

The price regulation refers to one of the most restless legislative areas in Belarus. Over the years of transformation, pricing policy has been covering various objects, like costs of production, profit, final prices, as well as various forms like fixed, ceiling, minimum prices, price declaration, trade margin regulation.

The first shifts in terms of price liberalisation took place at the end of 1980s – beginning of 1990s, when certain groups of goods were gradually exposed for free price formation³⁸. In the period from 1991 until 1995, all prices (except some alcoholic drinks) and all price subsidies (except for some essential consumer services) were liberalised. The following years were marked by rollback policy, since the unprecedented inflation

³⁶ For instance, the Government Resolution No 348 of 13th June 1998 “On Rates on Excise Taxes” has introduced uniform excise rates for domestic and foreign goods.

³⁷ Indeed, the Protocol of accession of Kyrgyzstan says “[...] no imported goods to the Kyrgyz Republic were subject to both excise taxes and import duties at the same time, although it was not contrary to international practice or WTO rules to have apply both taxes and import duties to an imported good” (WT/ACC/KGZ/26, p. 21).

invoked the use of administrative control measures by the Belarusian Government. However, the foreign producers were not eligible for pricing control at that time which means that National Treatment was not violated. The regulation of prices over the following years was mainly centred around the regulation of prices of enterprises with dominant position in the market, and of socially important goods. Further on, restrictive administrative measures were used for a wider nomenclature of products.

As far as the control over dominant enterprises is concerned, the specificity of the nature of these enterprises, which grew up from the concentration of production, initiated by the state in the centrally planned system, has caused difficulties of methodological character in defining the enterprises to be eligible for pricing control. Henceforth, the composition of the list of these enterprises was subject to numerous changes over the ten years of transformation³⁹.

Several entries were made in defining the list of socially important goods, which have been also eligible for price control⁴⁰. The list of these goods has dropped from thirty to eight in 1998 due to, according to IMF (1998), the shortages and depreciation of the parallel exchange rate. Two categories of goods ranked as socially important ones touched the interest of importers: alcoholic beverages⁴¹ and products for medical treatment⁴², since minimum prices were established for the first and ceilings for

³⁸ See, for instance, Resolution of the Belarusian SSR No 308 of 12th December 1990 “On the transition to the usage of free prices on certain types of goods”.

³⁹ The attempts to address this issue were codified, for instance, in the following acts: Recommendation on the defining of dominant position of economic agents on product markets of RB, adopted by the Order of the State Committee on Antimonopoly Policy of Republic of Belarus of 8th December 1993; Order of the Ministry of Antimonopoly Policy of 15th May 1996 No 43 “On the Establishment of Regulation on State Register of Economic Agents that Occupy a Dominant Position at Product Markets in Belarus” (it was changed by the Order of the Minister of Entrepreneurship and Investment of 25th March 1999 No 45 and Order of the Minister of Entrepreneurship and Investment of the 27th May 1999 No 77); Presidential Decree of 7 December 1996 No 590; Law “On Price Formation” No 255-3 of 10th of May, 1999; Resolution of the Ministry of Entrepreneurship and Investment of the 28th of December 2000 No 8 “On the establishment of instructions on the determination of the dominant position of economic agents on product markets in Belarus”.

⁴⁰ See, for example, the Presidential Decree No 590 of December 1996; Law “On Price Formation” of 10th of May No 255-3; Resolution of the Cabinet of Ministers No 943 of 18th July 1999 “On the Establishment of the Lists of Socially Important Products (works and services) and Medicine, prices thereof are regulated by the Ministry of Economy, Regional Municipal Councils and State Municipal Councils”.

⁴¹ Resolution of the Cabinet of Ministers No 249 of 15th December 1994.

⁴² Resolution of the Cabinet of Ministers No 148 of 28th of February 1996 “On State Regulation of Prices on Medicine, Medical products and Medical equipment”; it was changed on the Resolution of the Cabinet

wholesale margins were established for the second. The National Treatment rule was not undermined by these measures, however; even more so, the domestic producers were put in a less favourable position since they were exposed to tighter measures of control: fixed prices were established for domestic producers of alcoholic drinks and lesser wholesale margins – for the Belarusian producers of medicine.

Finally, the hyperinflation, persisting over the years of transformation, has provoked the Belarusian Government to introduce administrative, non-economic measures of suppression of price increase: the regulation of prices by the input of costs⁴³, which was the method of the previous system, the establishment of internal quotas for domestic producers⁴⁴. The increase of prices has been allowed within a certain limit⁴⁵. Finally, the state measures of rule enforcement of the adopted regulations have been tightening⁴⁶. These measures were imposed only on domestic producers which meant the undermining of their position as compared with the foreign ones.

The revealed dynamics of price regulation over the years of transformation in Belarus has led us to the following considerations. First, the features of the transitional system are well indicated. The non-linearity of time is well seen, for instance in the fact of change of tight price control policy of 1980s by a liberal measures until mid-1990s, which was

of Ministers No 938 of 16 June 1998 “On State Regulation of Prices on Medicine, Medical products and Medical equipment”.

⁴³ Apart from the justifiable cost calculations as a reason for price increase (Resolution of the cabinet of Ministers No 209 of 10 February 1999 “Measures to Strengthen Control over the Price Discipline”) the regulation took a closer control over the salary, see Resolution of the Cabinet of Ministers No 449 of 31st of March 1999.

⁴⁴ See, for instance, 28 November 1997 “On Establishment of Quotas on Manufacture and Wholesale Realisation of Alcoholic and Tobacco Products” - Resolution of the Council of Ministers No. 1570; 24 November 1997 “On Import Quotas on Alcoholic Products and Spirit of Ethyl and Food Raw Material and on Cost in 1998”- Resolution of the Council of Ministers No. 1553. The attempts to halt exports from Belarus were made also by price measures, see the Resolution of the Price Committee for the Ministry of Economy of 12th march 1996, according to which minimum prices were set for exported alcoholic drinks.

⁴⁵ For instance, the President Decree No 590 of ? December 1999 established the monthly increase of prices at 2%. In addition, the half-yearly or quarter-yearly indexes for prices were established, see, for instance, the Resolution of the Cabinet of Ministers of 18th June 1999 “On the Establishment for the Second half-year ceiling indexes for retail prices on goods (works, services) in the territory of the Republic of Belarus.

⁴⁶ In August 1997 the President issued a decree imposing penalties and even dismissals, if prices were raised beyond the monthly 2% rate.. Resolution of the CM No: 209 of February 10th 1999, “Measures to strengthen control over the price discipline” rules that firms are to justify their prices by appropriate economic calculations (with an exact description of expenses). According to the Resolution, violation of

followed further on by the reintroduction of centrally planned instruments of regulation. The idea of volatility of transitional structures with pricing policy to be an example in this case is well vindicated from the uncountable number of legislative acts over the years of Belarus transition. The lack of systemic balance is seen, for instance, from the incompatibility between cost-based method of price formation – the central planning way of price formation, provoking ineffective usage of resources against the background of the increased competition with foreign producers, the halting of price levels with the lack of state subsidies for the support of enterprises; the anti-mercantilist system of allocation of quotas on domestic market for Belarusian products, thus halting exports, and, on the other hand, - need for currency for the conduct of structural reforms.

Second, the remaining ashes of the command-administrative system against the background of the emerging structures of the market in pricing policy related areas, create a situation where the national producers are discriminated against the foreign ones. The remaining structures of central planning create over-regulated environment for domestic producers, distracting them from the economic freedom in decision making on the one hand, without adequate compensation with funds, as it was in the previous system, on the other hand. The foreign producers do not experience these regulatory measures and the only two measures they are eligible for refer to a small category of goods (alcoholic and socially important ones) on which the measures of state control are much stricter for domestic producers anyway.

Negotiating position of Belarus and the WTO

The depicted outlook of the pricing policy over the years of transition in Belarus has revealed that the violation of the National Treatment regime did not happen. More than that, it is, in fact, the Belarusian producers which are put in a more discriminative position in the comparison with the foreign ones.

The position of the WTO over the two working parties was to make Belarus eliminating the existing measures of minimum prices on alcoholic drinks and, possibly, in the next

this norm may result in a fee of 10% sales. On July 9th, 1999 the CM made changes to this document and increased the fee to 30% (the Resolution No 1059).

working parties in Belarus accession - the margins control for socially important products, justifying it by the necessity to conform to the National Treatment requirement. Since the existing measures in Belarus discriminate against Belarusian producers, the reference to the NT by the WTO is not rightful, therefore. Price regulation, though complying to the technical rule of the WTO – National Treatment – contradicts, however, the core of the ideology of the WTO, that has been underpinning this organisation. Nevertheless, this justification of the elimination of the existing price controls on imported products cannot be formally invoked, since none of WTO articles codify the principles of price regulation.

Experience of other countries

What Belarus has to expect from the WTO is the maximum elimination of price regulation, as it was in the case of other recent transitional entries into the WTO: Georgia, Kyrgyzstan, Albania, Estonia, Latvia. In Kyrgyzstan, all the monopolies are divided into three categories: natural (7 enterprises), permitted and temporary (134 enterprises). The first category of enterprises is exposed to price and profit restrictions (20% is the profit margin). The rest of Kyrgyz companies, having a monopolistic position are subject to profitability control (25-50 is the allowable margin). Kyrgyz Republic has aggravated its chances for any future changes in legislation in terms of price regulation by stating that they “wished to avoid the application of such measures and intended to do it in the future”⁴⁷.

3. Schedules and concessions (Art II GATT and WTO Understanding on the Interpretation of Article II: 1(b) of GATT’94)

Essence of obligation

Tariff rates, bound in countries’ schedules should fulfil the following requirements: MFN treatment⁴⁸; the tariff maximum or ceiling expressed as the “bound” duty rate in the

⁴⁷ See WTO document WT/ACC/KGZ/26, p. 13.

⁴⁸ Article II: 1

schedule⁴⁹; prohibition to alter the method of determining value or of converting currency, other charges and specific duties referring to IMF obligations⁵⁰; limits on the protection that can be afforded by use of an import monopoly⁵¹; adjustment of specific duties due to inflation. The Understanding to the Article II of GATT, appeared in Uruguay Round has included “other duties and charges” into bound commitments in Schedules, which has not been the case before.

The dynamics of the structure in 1991-2000

The tariff system of Belarus has undergone a countless number of changes over the last ten years. In fact, the elaboration of the tariff system started in 1993, since before that time the norms of the USSR were still in force. In 1993, the two adopted basic legislative acts in customs regulation – the Customs Code and the Law “On Customs Tariff” – have established a legal framework for the conduct of an independent tariff policy by sovereign Belarus.

The lack of tariff regulation in Belarus has preconditioned slowness in the elaboration of this instrument of regulation, and hence – its very liberal character. In 1992-5 the majority of tariff rates (about 80 per cent) was set at 5-10 per cent level, other - at 20-25 per cent, and only on a small number of items higher rates were applied (for spirits – 100-150 per cent). The trade average import duty was 4.1 per cent in 1995 and after several modifications⁵² – raised up to 7.65 per cent in the first quarter of 1996⁵³. The changes, made in the Belarusian trade regime were to a large extent influenced by Russian customs policy, and as a result, the Belarus tariff was almost identical to the Russian one.

As far as the degree of liberalisation of Belarusian tariffs is concerned, this can be judged, having compared them with other countries. In 1996, 20 per cent of EU tariffs were higher than in Belarus. A similar situation could be observed with Japan. Taking the

⁴⁹ Article II:2.

⁵⁰ Article II: 3 and 6

⁵¹ Article II: 4

⁵² See 19.04.1995 - Resolution of the Council of Ministers No. 219; 29.04.1994 - Resolution of the Council of Ministers No. 298; 13.04.1995 - Resolution of the Council of Ministers No. 624; 29.06.1995 - Resolution of the Council of Ministers No. 340.

newly industrialised countries, we come to an even more striking discovery: in 1996 over 75 per cent of Thai tariffs were higher or equal than those in Belarus. Finally, if we take developing countries, especially those that joined GATT system some time ago, when the entrance conditions were not as strict as thereafter, the comparison with Belarus turns into even more curious picture: in India, for instance, all tariff rates were higher than those in Belarus in 1996 (see Table 1).

Another argument, testifying about the high degree of underdevelopment, and hence, - liberalisation of Belarusian tariffs is the poor differentiation of tariffs items in Belarus. In 1996, the Belarusian tariff included only 789 tariff items⁵⁴; to compare the USA, for instance, had over 10000 tariff items, Bangladesh – over 7000.

The next important state in the development of the Belarusian tariff was undertaken in 1997, which has resulted from another integration initiative between Belarus and Russia. Henceforth, about 40 per cent of Belarusian tariff rates were increased whereas the maximum rate has dropped down up to 30 per cent. The average tariff rate, according to different estimations, was 12-14 per cent.

It should be noted that in some tariff positions Belarus started to crystallise its economic interests and those, therefore differed from the Russian ones. For example, industrial goods, transport vehicles, leather, foodstuffs, building materials and wooden products were charged at rates higher than those applied in Russia; on raw materials the rates were lower than in Russian. Nevertheless, the tariff regime was still loosely developed. According to the position of the Ministry of Foreign Economic Relations, the existed in 1997-8 tariff system did not protect the producers of automobiles, tractors, other agricultural machinery, textile garments, agricultural production and chemical industry⁵⁵. The analysis of the document of Belarusian ministries dealing with tariff regulation further supports our conclusion. The then inter-ministerial documents contain the

⁵³ Accordingly, only 10.4 of tariff items were subject of tariff rates from 0 to 5%, 41.7 – to 5-15%, 39.6 – 15-30%.

⁵⁴ It took only 34 pages in the Annex to the Memorandum of the Foreign Trade Regime of Belarus to locate all tariff positions.

⁵⁵ For instance, the import duty for some automobiles competing with domestic producers was 5% (only), on tractors and other agricultural machines – 5% etc. On the other hand, on some tariff positions, the rates are unjustifiably high: on some see products – 25%, on some automobiles – 30%, on natural pearl – 50%.

discussions about the "necessity to formulate the system of protection of domestic producers in consistency with world standards". In other words, the discussion concerned not the nuances of the improvement of the tariff system, but only the necessity to create such. Further, it is noted, that the existed then tariff system "provid[ed] the solution of short-term fiscal problems, filling the budget with revenues, whereas the protectionist function – the defence of the interests of producers [was] not practically fulfilled". Therefore, by 1997-8, the tariff system of Belarus was characterised mainly by the increased fiscal role of tariffs, which is mainly a developmental objective, and only a secondary place was given to tariffs as a protective instrument.

Starting from 1997, the tariff system has experienced a number of changes⁵⁶, with an important one to be the adoption of Customs Code in 1998. Some of these changes resembled measures of the command-administrative system, namely, the creation of tariff concessions as a stimulus for importation of certain deficit goods to Belarus⁵⁷ and imposition of export duties as a impediment of the outflow of certain categories of products from Belarus⁵⁸.

The dynamics of the development of tariff regime in Belarus has conformed the conceptual characteristics of transitional structures, namely non-linearnes of time, volatility and lack of systemic balance.

Negotiating position of Belarus and the WTO

Before coming to the analysis of concrete tariff offers of Belarus, it is very important to acknowledge the problems of systemic-transformational character, which impede the formulation of negotiating position for Belarus. First, the lack of systemic linkage

⁵⁶ For example, in the period from 1997 until March 2000. 13 modifications were made to the Resolution of the Cabinet of Ministers No 72 adopted in 1997.

⁵⁷ Edict of the President of the 20th of November 1998 No 554 "On Delay on payment of customs duties and VAT", which had allowed such a delay for spare parts, materials, other production, imported to Belarus and used for the production of items for export.

⁵⁸ See, for instance, the Decree of the President No 15 of 4th of September 1998 "On Urgent Measures on the Protection of the Market", Resolution of the Cabinet of Ministers No 1849 of 26th of November 1999 "On the introduction of export customs duties".

between the existing structures greatly complicates the task of calculating of the prospective level of customs protection using the often recommended by Western advisers methodology of quantitative analysis. The fact that tariffs, as an element of market structures of foreign trade regulation do not perform their normal functions, as well as contradictions between the existence of tariffs per se and various measures of administrative control, breaks the logic of the system, which is neither central planning nor market-type at the moment. As a result, the usage of quantitative methodology, which operates with market conceptions and presupposes market logic is incorrect in the transitional structures of foreign trade in Belarus⁵⁹. The lack of systemic linkage between the elements of structures of foreign trade regulation does not allow to estimate the necessary level of prospective protection due to the lack of retrospective base. In 1991-3 and earlier, the structures of foreign trade regulation in Belarus were subject to central-planning logic to a greater extent than in the following years, And the period from 1994 until 2000 has been characterised by a-systemic, contradictory existence of the resilient central planning structures and emerging market type ones. In addition, the macroeconomic crisis, persisting in the years of transformation also cannot make this period as a representative one for the application of the quantitative methodology of market equilibrium models.

Second, the quick and non-linear course of time in transitional structures does not allow to foresee the direction of economic policy even for a foreseeable future, as well as a range of necessary conjunction indicators (like the purchase power of the population, the exchange rate, the level of inflation etc), necessary for the calculation of the prospective level of tariff protection⁶⁰.

⁵⁹ We do not possess accurate empirical data to justify this argument, but the fact that the logic of the system is broken by the lack of the systemic linkage between the elements of foreign trade structures of regulation, can be conformed by an official of the Ministry of Foreign Affairs of Belarus, who claimed that there was no strong link between the dynamics of tariff rates and volumes of foreign trade in Belarus (the interview was conducted in June 2000). Finally, the fact that the recommended methods of quantitative estimation of the prospective level of tariff protection are not suitable for the transitional structures can be conformed by unsuccessful so far attempts to apply these methods in the Ministry of Economy of Belarus so far. In addition, according to unofficial information, there was an effort to calculate the prospective level of tariff protection in Russia; the results were irrational: the model suggested negative rates of tariff protection.

⁶⁰ This view was particularly stressed by the deputy-chair of foreign trade department of the Ministry of Industry of Belarus in his internal letter to the Ministry of Foreign Affairs (interviewed in February 2000).

Finally⁶¹, the persisting factor of geopolitical transformation generates a substantial influence on negotiating position of Belarus. The influence of this factor causes mainly confusion and inconsistency so far, since the countries of the customs union (Russia, Belarus, Kazakhsatan, Kyrgyzstan and Tadjikistan) have not been able to elaborate a common negotiating strategy with the WTO by 2000. It is noticeable, that Belarus has sent two editions of its initial tariff offers to the WTO – in 1998 and 2000, since the first offer did not address the interests of Russia to a sufficient extent⁶². By the way, the tariff offers of Kyrgyzstan and Kazakhstan were prepared and directed to the WTO without discussion with other customs union members⁶³.

Having identified the problems of systemic-transformational character, impeding the elaboration of the negotiation position of Belarus while joining the WTO, we will move now on to the discussion of concrete levels of protection, offered by the Belarusian side. These offers were mainly elaborated by the Ministry of Food and Agriculture, the Belarusian Concern of Light Industry, and the Ministry of Industry, the Belarusian Concern of Oil and Chemistry, the Belarusian Concern of Timber and Paper. As for the first two, their position will be analysed below in the frameworks of specific WTO agreements.

⁶¹ In addition, another factor of systemic nature – the technico-administrative element of transformation, being secondary for our analysis, also preconditions slowness and difficulties of the transformation of structures we are concerned with. For instance, until 2000, there is no complete compatibility between the Products Nomenclature of Foreign Economic Activity and Harmonised System of Description and Codification of Products of 1996 edition. At the moment only six first digits of eight are compatible between these two systems. A different dimension – an administrative transformation also creates obstacles for policy-making in customs area. Some of the Belarusian ministries still find themselves at the stage of formulating their functions. For example, the emergence of a number of concerns (on the base of the existed or still existing ministries) - state agencies of regulation of certain branches, like the Belarusian, Concern of Oil and Chemistry, the Belarusian Concern of Light Industry, the Belarusian Concern of Timber and Paper, has created the problem of information flow. The recent take over of the Ministry of International Economic Relations by the Ministry of Foreign Affairs has created the situation when some important functions of foreign economic regulation became neglected. The similar process can be observed in Russia – the recent merge of the Ministry of Trade and the Ministry of Economy illustrates the point.

⁶² According to the officers of the Ministry of Foreign Affairs of Belarus, the second tariff offer contained the following changes. Rates on some items were increased, “zero” rates were eliminated. The simple mean is lower for initial and final binding in Belarus by approximately 10%. In industrial goods – slightly higher. The overall simple mean is slightly higher in Belarus.

⁶³ It is interesting that, according to the observations of M. Luecke (Kiel University, Germany), the people working in Belarus and in Russia on integration and WTO issues are far from having a common position.

As far as the tariff proposals of the Ministry of Industry are concerned, the problems of transformational character, outlined below, have enabled it to extract mainly the most vulnerable tariff items⁶⁴, whereas the quantitative parameters of tariff protection have been estimated very loosely⁶⁵. While comparing the maximum tariff proposals on products of this Ministry with the existing corresponding products of different WTO countries we will see, that Belarusian rates are considerably lower than those applied in newly industrialised countries, like Malaysia and Thailand or developing countries – Turkey and India, for instance (see Table 2).

Many products of the Belarusian Concern of Oil and Chemistry are considered as sensitive since they play an important role in industrial output and export earnings of Belarus⁶⁶ and thus, many of these items are proposed to be left unbound. Comparing, however the available proposals on maximum tariff rates of the Concern, we will see that they are lower than the existing ones in Romania, India, Brazil, Malaysia, Thailand, Turkey and in some positions – EU and USA⁶⁷. Finally, the maximum rates proposed by the Belarusian Concern of Timber and Paper⁶⁸ are lower than in India, Thailand Turkey.

⁶⁴ the most sensitive goods refer to those from the “Nuclear reactors, boilers, machinery and mechanical appliances, parts thereof” (group 84 Chapter of HS96: refrigerators and deep-freezers (8414 code of HS96), mashing machines (845019000), sewing machines (845210), cash machines (847050000)); “Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and accessories of such articles (85 Chapter of HS96: Electric transformers, static converters (for example, rectifiers) and inductors and throttles (8504), electro-mechanical domestic appliances, with self-contained electric motor (8509), electrical apparatus for line telephony (8517), magnetic tape recorders (8520), reception apparatus for radio-telephony (8527), reception apparatus for television (8528), electrical capacitors, fixed, variable or adjustable (8532), electrical resistors (8533), electric filament or discharge lamps (853922), diodes and transistors (8541), electronic integrated circuits (8542), insulated wire (8544).), “Vehicles other than railway or tramway rolling-stock and parts and accessories thereof”(87 Chapter of HS96: Motor vehicles for the transport of goods (870422910 and 870423910), special purpose motor vehicles (8705), motor-cycles (8711), bicycles (8712), trailers and semi-trailers (871639)), “Optical, photographic cinematographic, measuring checking, precision, medical or surgical instruments and apparatus, parts and accessories thereof (90 Chapter of HS96): Electricity meters (902830), wrist-watches, pocket-watches and other watches (9101), watch cases and parts thereof (9111), watch straps and watch bands and watch bracelets and parts thereof (9113)).

⁶⁵ The officials of the Ministry of Industry made a minimalist proposition: to raise the tariff only on two items (852812560 -(reception apparatus for television and 854411100 – insulated wire) up to 60 and 30% correspondingly.

⁶⁶ The Belarussian Concern of Oil and Chemistry supplies 18-20% of the industrial production and 62% of currency earnings to Belarus (usually though 30– 50%).

⁶⁷ Sub-chapters 28-38 of HS96.

⁶⁸ It is proposed to increase the tariff rates on furniture (94 Chapter of HS96) up to 50%, wall paper (481490900), exercise books (482020000) and composite paper (4807) up to 30%.

Thus, the analysis of tariff proposals of Belarus has revealed that these are often much lower than the applied rates in developing countries, NICs and in some cases – in developed countries. Moreover, we need to bare in mind that information referring to Belarus level of protection refers to its offer (initial and final binding), which means that it includes already the necessary negotiating “potential” and which will be inevitably eliminated in the course of negotiations. Hence, the actual binding level of tariff rates (both initial and final) as a result of negotiations will be lower than the one, proposed by Belarus and depicted in Table 2.

Therefore, the existing extremely liberal tariff regime in Belarus is reflected in its very liberal tariff proposals. The same conclusion applies to Kyrgyzstan, whose tariffs are either lower or identical to those of developed countries, not to mention that they are unmeasurably lower than tariffs applied in newly industrialised or developing countries.

The next WTO obligation from GATT Article II is the binding obligation. In the second working party Belarus differentiated all the goods in accordance with the sensitivity to liberalisation. For the most sensitive category, Belarus proposes not to take binding commitments⁶⁹. This group comprises about 15 percent of the whole trade nomenclature of Belarus⁷⁰. To compare, the number of unbound tariff tares in Romania (as to 1999) accounted to 0 per cent, Kyrgyzstan – 0, Latvia – 0, USA- 0, EU – 0, Japan – 0, India – 33, Brazil – 0, Malaysia – 33.1, Thailand – 26.3, Turkey – 54. As we see, the countries in transition well gravitate to the most developed countries, leaving behind even the newly industrialised ones, and especially, the developing countries. In this connection, we need to stress, that taking a binding obligation, and especially as high as in Kyrgyzstan and Romania, first, contradicts the essence of transitional period – volatility and, second, the taken level of binding fixes, as a rule a very liberal level of tariff regime, which is also one of the objective specificity of the initial stages of transformation, as we have discussed above.

⁶⁹ The first category includes goods, production of which in Belarus requires strong support and protection in a long-term outlook, as well as goods which have strategic importance. This category includes mineral resources (oil, and oil products), a number of inorganic and organic chemical combinations, forest products, some kinds of ferrous metals, products of non-ferrous metals, number of vehicles (WT/ACC/BLR/12).

⁷⁰ Here we also have to keep in mind that this level of binding is only Belarus proposal, and the final obligations of Belarus will be more stringent.

The next WTO obligation refers to binding of “other duties and charges”. These duties and charges are understood in the context of Article VIII of GATT “Fees and Formalities connected with Importation and Exportation”, which, in turn, mainly obliges countries to limit the amount of fees and charges to the approximate of costs of services rendered by customs offices. Thus, this amount of services rendered has to be fixed in the frameworks of the binding obligation of Article II GATT’94. The major problem with this commitment is that it deals again with binding at a very liberal level of obligation, since this structure did not exist in the previous command-administrative system and has been slowly developing thereafter. Indeed, until 1998 the scope of “fees and formalities connected with importation and exportation” was limited in Belarus to the imposition of customs clearance charge with the maximum to be not higher than 15USD. This estimation was pegged to minimum salary, which was a useful and simple way in the conditions of high inflation in Belarus. This way of determination of fees clashed with the main WTO of Article VIII, namely the correspondence of the amount of fees to the cost of services rendered by the customs office. Following WTO inquiry to eliminate this inconsistency⁷¹, Belarus has started to change its methodology of fees calculation in 1997-8 years. In addition, the adoption of the Customs Code in 1998 differentiated the fees imposed at customs border between customs charges for customs registration, customs charges for storage of goods, customs charges for customs expedition of goods and payment for informing and consulting. The new methodology, however, has not been successful so far since it in 1998 it covered only 88 per cent of customs services costs.

The final WTO obligation is the conversion of specific duties to ad-valorem ones. Though this obligation does not have a formal status in the WTO, it is widely believed that this obligation has become a standard requirement for the acceding country. Belarus was asked to eliminate several specific duties⁷² following the example of other countries in transition, especially the later entries. For instance, the amount of specific and

⁷¹ Trying to eliminate the inconsistency in fees calculation in Belarus the WTO pressed Belarus even to eliminate the fees themselves – in the first working party on Belarus accession, the WTO stated the following: “ please confirm that no duties and charges are levied on imports other than ordinary customs duties” (WTO/ACC/BLR/7, P. 17).

⁷² For instance on the first working party, the Belarusian delegation was asked the question, whether Belarus intended to eliminate the use of combined tariffs for cars, machinery and furs (WT/ACC/BLR2).

compound duties in Kyrgyzstan and Latvia are 1 per cent and 0.01 per cent correspondingly. It is interesting to note, that in some developed countries the number of specific duties is very impressive as compared with those in transitional and developing countries. For instance, the percentage of non-ad-valorem duties in Switzerland was over 80 per cent, in USA – over 10, in Norway – about 15, in EU – over 10, in OECD – about 12, in non-OECD countries – about 1 per cent (OECD, 1999, 66).

Thus, the analysis of tariff proposals in the framework of Article II of GATT'94 has led us to the following conclusions. First, the specific features of transformational structures – volatility, non-linearness and lack of systemic linkage can be well observed in the dynamics of the development of tariff regime in Belarus in 1991-2000. Second, it is these features that impede Belarus to formulate its negotiating position and especially – to provide a quantitative estimation of the perspective level of tariff protection. Second, these systemic features cause remarkably liberal tariff offers of Belarus in negotiations with its WTO counterparts. Third, the danger of the high degree of liberalisation of market structures becomes evident when these liberal structures are getting fixed due to the binding obligation of the WTO.

Conclusion

The conducted analysis of several WTO articles, dealing with tariff obligations of GATT, has led us to the following conclusions. First, dynamics of the structures concerned in 1991-2000 have vividly illustrated the theoretical specificity of transitional economies – quickness, non-lineanness of time and lack of systemic linkage between the domestic structures.

Second, as a result of the empirical analysis, an important theoretical regularity was discovered: **disregarding the influence of regional and international factors, at**

the initial stages of systemic transformation a very liberal regime in the emerging structures of a new (market-type) system is created. This regularity is the extension of the theoretical findings of Abalkin and Radaev, namely the a-systemic character of transitional structures. In particular, it is the emerging market elements in these structures that are bound to be liberal due to their initial state of development in transitional countries. The remaining elements of the command-administrative system do not create a protectionist pressure, regardless of the wide-spread belief. These resilient structures, left in the crisis transitional economy to perform command-administrative, controlling functions, are distracted from the economic base that underpinned them – the provision of funding. In such conditions, the persistent centrally-planned structures generate the pressure mainly against domestic producers. This logical conclusion is well supported by the available empirical data in transitional countries.

Third, accession to the WTO of countries undergoing systemic transformation creates a dangerous situation when their liberal structures, meaning, therefore, a minimal state in conduct of economic policy, are being bound in the WTO, i.e. fixed without the possibility of change to a lesser liberal direction in the future.

Finally, the undertaken work on writing the historical dynamics of each structure is not perfect and some of the legislative acts can be and are, in fact, missing in the analysis. This is because of the unexpected unmeasurability of the amount of work since the transitional economy is characterised, by theory, by a great number of legislative acts adopted in each of the regulatory areas (in foreign trade regulation we can speak about hundreds), and, in addition, we are unaware of anyone (or were unable to fund anyone, at least) in Belarus who has managed to keep a precise chronological record, especially with analytical notes on the development of any of the structures discussed in our analysis. In addition, some of the data, especially referring to tariff offers of Belarus refers to a confidential information, since Belarus is still negotiating with the WTO.

Table 1 Pre- and post-Uruguay Round compared

HS Chapters	Bel	Japan			EU			USA			Switzerland		
	MFN (1996)	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change
01 Life anim. & prod.	11.3	12.2	8.1	-4.1	33.5	25.5	-8	7.2	5.4	-1.8	1.1	28.9	27.8
02 Vegetable products	6.8	9.4	6.8	-2.6	18.2	13.5	-4.7	6	3.3	-2.7	3	66.2	63.2
03 Fats and oils	15.0	7.6	5.0	-2.6	16.5	12.8	-3.7	5.4	4.2	-1.2	0.8	0.2	-0.6
04 Prepared food	13.9	22.2	17.4	-4.8	25.4	19.2	-6.2	13.6	7.1	-6.5	11.2	27.7	16.5
05 Mineral products	5.0	1	0.8	-0.2	1.3	1.0	-0.3	1	0.6	-0.4	6.2	4.9	-1.3
06 Chemical & prod.	6.5	2.9	2.4	-0.5	5.7	4.7	-1	4.9	3.2	-1.7	1.4	6.2	4.8
07 Plastics & rubber	5.0	3	2.7	-0.3	6.6	5.0	-1.6	3.9	3.3	-0.6	1.4	1.2	-0.2
08 Hides & skins	12.8	12.8	10.3	-2.5	3.2	2.7	-0.5	5.6	5.5	-0.1	2.3	1.4	-0.9
09 Wood and articles	19.4	4	2.9	-1.1	3	1.9	-1.1	3.3	2.0	-1.3	3.1	2.5	-0.6
10 Pulp, paper, etc.	15.0	1.8	0.0	-1.8	5.1	0.0	-5.1	1.7	0.0	-1.7	3.2	2.3	-0.9
11 Textiles and cloth.	20.0	8.6	6.6	-2.0	9.5	7.9	-1.6	11	8.0	-3	6.7	4.5	-2.2
12 Footwear	20.0	28.3	26.0	-2.3	8.8	8.0	-0.8	15	13.0	-2	5.5	4.3	-1.2
13 Articles of stone	17.4	1.6	1.2	-0.4	4.9	3.9	-1	6.3	4.6	-1.7	1.9	1.5	-0.4
14 Precious stones	50.0	1.6	1.4	-0.2	1.3	0.7	-0.6	4.4	3.1	-1.3	0.5	0.4	-0.1
15 Base metal & prod.	16.1	2.5	0.9	-1.6	3.9	1.7	-2.2	4	1.8	-2.2	1.6	1.1	-0.5
16 Machinery	10.0	0.1	0.1	0.0	3.5	2.6	-0.9	3	1.7	-1.3	1	0.6	-0.4
17 Transport equipm.	26.3	0.1	0.1	0.0	5.5	4.6	-0.9	3.4	2.4	-1	3.3	2.2	-1.1
18 Precision instrum.	15.0	0.4	0.3	-0.1	3.7	2.6	-1.1	5.2	3.5	-1.7	1.1	0.7	-0.4
19 Arms & ammunit.	100.0	7.6	6.7	-0.9	3.4	2.5	-0.9	3.2	1.4	-1.8	1.1	0.8	-0.3
20 Misc. manufact.	26.0	2.3	1.7	-0.6	4.3	2.4	-1.9	4.6	3.1	-1.5	2.9	1.9	-1.0
21 Works of art	-	0	0.0	0.0	0	0.0	0	0	0.0	0	0.1	0.1	0.0
Agriculture	-	-	11.7	-	-	19.5	-	-	5.5	-	-	-	-
Industry	-	-	3.6	-	-	4.1	-	-	3.8	-	-	-	-
All lines	12.3	-	5.1	-	-	7.4	-	-	4.1	-	-	-	-
Absolute difference	-	-	-	-1.6	-	-	-2.1	-	-	-2.1	-	-	6.2
Percentage change	-	-	-	-24.2	-	-	-22.4	-	-	-33.9	-	-	27.0

Sources: Calculations made on the data from the Centre of World Economic Analysis (Minsk, Belarus); OECD (1999) data.

Notes.

1. The source of tariffs on countries except Belarus and Kyrgyzsan did not specify whether post-Uruguay tariffs refer to initial or final binding.
2. According to OECD (1999) "Other duties and charges", though supposed to be included into bound tariff items according to Understanding on Article II GATT, are not always included.
3. Pre-Uruguay Round tariff data of countries refer to 1996 which makes it well comparable with the latest available Belarusian data-of 1996 as well.

HS Chapters	Thailand			Korea			India			Tunisia			Hungary		
	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change	Pre-UR	Post-UR	UR change
01 Life animals and prod.	46.7	21.3	-25.4	18	27.1	9.1	68.4	87.2	18.8	35.5	116.7	81.2	38.6	27.3	11.3
02 Vegetable products	46.2	38.2	-8.0	19.7	109.6	89.9	70	110.2	40.2	33.5	128.1	94.6	43.7	28.2	15.5
03 Fats and oils	26.5	39.6	13.1	11.2	24.9	13.7	98.9	215.0	116.1	69	120.5	88.5	82.3	15.5	5.1
04 Prepared food	39	34.6	-4.4	20.7	38.2	17.5	95.4	136.5	41.1	37.2	113.4	76.2	25.1	11.4	13.7
05 Mineral products	7.3	23.4	16.1	3.8	5.9	2.1	56.8	38.8	-18	17.6	25.5	7.9	3.7	2.8	0.9
06 Chemical & prod.	12.5	29.2	16.7	7.9	9.7	1.8	73.2	46.4	-26.8	54.8	38.3	14.5	28.8	4.9	2.7
07 Plastics & rubber	29.8	33.9	4.1	7.8	9.1	1.3	90.7	53.8	-36.9	26.5	36.0	9.5	13.5	7.6	5.9
08 Hides & skins	20.3	29.2	8.9	6.3	18.0	11.7	45.1	61.5	16.4	32.7	68.5	35.8	9.5	6.3	3.2
09 Wood and articles	15.3	18.5	3.2	5.2	10.7	5.5	50.2	41.5	-8.7	59.2	36.5	5.9	23	4.8	5.1
10 Pulp, paper, etc.	18.5	25.1	6.6	6.4	0.0	-6.4	79.4	57.2	-22.2	33	34.2	1.2	8.5	5.5	3.0
11 Textiles and clothing	30.9	29.3	-1.6	7.7	18.5	10.8	97.5	88.3	-9.2	36.7	57.7	21.0	10.9	8.2	2.7
12 Footwear, headgear	42.1	30.1	-12.0	8	13.0	5.0	100	100.0	0	69.7	41.6	3.3	19.4	8.9	-3.6
13 Articles of stone	26.1	30.8	4.7	7.9	15.5	7.6	90.8	51.4	-39.4	31	35.6	4.6	8.7	6.4	2.3
14 Precious stones	25.4	30.4	5.0	5.5	8.4	2.9	75	54.2	-20.8	-	-	-	8.5	4.4	4.1
15 Base metal & prod.	15.8	26.2	10.4	7.4	7.5	0.1	87.7	61.8	-25.9	-	-	6.2	17.2	4.9	2.0
16 Machinery	12.4	26.4	14.0	7.9	13.2	5.3	61.5	39.6	-21.9	27.2	29.1	1.9	10.3	8.4	1.9
17 Transport equipment	26.9	40.7	13.8	6.6	23.3	16.7	68.5	53.0	-15.5	23	27.4	4.4	11.7	9.0	2.7
18 Precision instruments	14.3	30.4	16.1	8	11.0	3.0	75	55.5	-19.5	50.2	28.6	6.2	22	7.2	3.3
19 Arms & ammunition	28.2	32.4	4.2	4.1	7.4	3.3	100	100.0	0	-	33.3	-	9.6	6.5	3.1
20 Misc. manufactures	30.9	26.6	-4.3	8.1	10.1	2.0	96.8	96.7	-0.1	-	-	5.8	10	7.8	2.2
21 Works of art	10	17.5	7.5	0	0.0	0.0	57.1	57.1	0	-	41.0	-	19.6	4.2	1.5
Agriculture	-	34.6	-	-	62.2	-	-	124.3	-	-	116.7	-	-	22.2	-
Industry	-	28.4	-	-	11.4	-	-	59.0	-	-	41.2	-	-	6.8	-
All lines	-	29.1	-	-	-	-	-	67.4	-	-	59.0	-	-	9.8	-
Absolute difference	-	-	6.2	-	-	9.2	-	-	-11.2	-	-	30.2	-	-	4.4
Percentage change	-	-	27.0	-	-	101.2	-	-	-14.3	-	-	104.9	-	-	30.7

Table 2 Maximum Bound tariff rates (ad valorem)

HS Chapters	Belarus (offer)		Kyrgyzstan		USA	EU	Jap	Rom	Ind	Bra	Mal	Tha	Tur
	Initial	Final	Initial	Final									
01 (1-5)	70.0	60.0	-	20.0	18.9	198.3	50.0	333.0	150.0	55.0	167.8	216.0	225.0
02 (6-14)	25.0	20.0	-	20.0	23.7	89.5	47.3	240.0	150.0	55.0	95.8	142.0	180.0
03 (15)	30.0	20.0	-	15.0	18.7	97.4	29.8	225.0	300.0	35.0	10.0	146.0	58.0
04 (16-24)	35.0	30.0	-	30.0	98.5	76.3	126.4	315.0	150.0	55.0	45.0	133.0	166.8
05 (25-27)	50.0	30.0	20.0	10.0	14.3	5.9	4.1	35.0	117.0	35.0	50.0	50.0	91.0
06 (28-38)	70.0	50.0	30.0	10.0	7.0	50.2	72.3	150.0	150.0	35.0	55.0	80.0	200.0
07 (39-40)	60.0	50.0	20.0	15.0	8.0	6.5	6.5	35.0	100.0	35.0	50.0	60.0	360.0
08 (41-43)	40.0	30.0	20.0	15.0	18.8	9.0	25.0	175.0	100.0	35.0	30.0	100.0	200.0
09 (44-46)	35.0	30.0	10.0	10.0	4.8	7.0	8.1	35.0	60.0	35.0	35.0	80.0	70.0
10 (47-49)	30.0	30.0	10.0	10.0	0.0	0.0	0.0	35.0	200.0	35.0	30.0	50.0	100.0
11 (50-63)	50.0	40.0	50.0	12.0	26.4	12.0	14.2	270.0	160.0	55.0	40.0	226.0	200.0
12 (64-67)	30.0	20.0	20.0	10.0	34.5	17.0	49.0	35.0	100.0	35.0	42.5	40.0	100.0
13 (68-70)	50.0	40.0	20.0	10.0	14.0	12.0	8.0	35.0	100.0	35.0	55.0	45.0	150.0
14 (71)	65.0	50.0	20.0	10.0	9.8	4.0	5.4	35.0	100.0	35.0	30.0	60.0	93.0
15 (72-83)	55.0	40.0	25.0	10.0	11.7	9.0	7.5	35.0	300.0	35.0	33.3	60.0	100.0
16 (84-85)	60.0	50.0	20.0	15.0	8.9	14.9	4.8	35.0	110.0	35.0	40.0	60.0	70.0
17 (86-89)	55.0	55.0	15.0	10.0	24.9	16.0	8.4	35.0	150.0	35.0	47.0	80.0	60.0
18 (90-92)	40.0	30.0	20.0	10.0	28.4	6.7	9.7	35.0	100.0	35.0	30.0	60.0	100.0
19 (93)	*	*	50.0	15.0	3.3	3.2	8.4	35.0	100.0	35.0	55.0	40.0	100.0
20 (94-96)	55.0	50.0	25.0	10.0	20.4	7.7	6.6	35.0	150.0	35.0	52.5	40.0	150.0
21 (97)	15.0	15.0	50.0	15.0	0.0	0.0	0.0	35.0	100.0	35.0	27.5	30.0	79.3
Total	70.0	60.0	50.0	30.0	98.5	198.3	126.4	333.0	300.0	55.0	167.8	226.0	360.0
Agriculture	70.0	60.0	-	30.0	98.5	198.3	126.4	333.0	300.0	55.0	167.8	226.0	225.0
Industry	65.0	55.0	50.0	15.0	34.5	22.0	49.0	220.0	300.0	35.0	55.0	100.0	360.0

Note: Sign * in 19th Chapter means that all tariff items are meant not to be bound