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SYRIA AT THE CROSSROADS

A review and comparative analysis of Syria's current trade policy reality

Abstract

Slowly but steadily Syria is emerging from several decades of economic seclusion. Syria currently finds itself in a period of cautious albeit unprecedented engagement with the global economy. These efforts are personified in terms of greater engagement within the region, manifested by its participation in the Greater Arab Free Trade Area or GAFTA as well as bilateral agreements with Turkey and Iran, tentative steps to engage with the European Union to a previously unimagined degree, as well as hitherto uneven progress in its long-standing bid to join the World Trade Organization (WTO).

The review conducted in this paper covers five agreements and one draft agreement. The five agreements are the Greater Arab Free Trade Area (GAFTA), the Cooperation Agreement with the European Community (1979), the Association Agreement with the European Union (2004), the Association Agreement with Turkey (2004), and the Preferential Trade Agreement with Iran (2006). The draft agreement reviewed is the one with Belorussia, still pending conclusion, signature and ratification by either party.

The review concludes with a discussion of the strategic implications of trade liberalization are for Syria, looking first at increased engagement bilaterally and regionally followed by a discussion on WTO accession.

The next few years, as Syria moves forward, involve challenges, risks and a certain degree of uncertainty, but they also bring with them the prospect of enormous rewards and benefits for the Syrian economy and its people. To be sure, the alternative of continued marginalization at the periphery of the global trading system and the limited influence this brings with it, is no real alternative at all.

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Glossary

ACP	African, Caribbean and Pacific countries
AD	Antidumping
ASCM	WTO Agreement on Subsidies and Countervailing Measures
ATC	WTO Agreement on Textiles and Clothing
CP	Contracting Party
CTPA	Centre for Trade Policy Analysis
DSU	Dispute Settlement Understanding of the WTO.
EiF	Entry into Force
EC	European Communities
EU	European Union
EUD	European Union Delegation (in Damascus)
EDPA	Export Development and Promotion Agency
EPA	European Partnership Agreement
FAO	Food and Agricultural Organization
FTA	Free Trade Agreement
GAFTA	Greater Arab Free Trade Area
GATT	General Agreement on Tariffs and Trade
GoS	Government of the Arab Republic of Syria
GPA	WTO Government Procurement Agreement
ICT	Information and Communication Technology
MAAR	Ministry of Agriculture and Agrarian Reform
MFN	Most Favoured Nation
MoET	Ministry of Economy and Trade
MoH	Ministry of Health
MoI	Ministry of Industry
NT	National Treatment
NTB	Non Tariff Barrier
PIU	Programme Implementation Unit
RoO	Rules of Origin
QR	Quantitative Restriction
SDR	Special Drawing Right
SOE	State Owned Enterprise
SPS	Sanitary and Phytosanitary Measures
TRQs	Tariff Rate Quotas
UNDP	United Nations Development Programme
UNCTAD	United Nations Conference for Trade and Development
VAT	Value Added Tax
WHO	World Health Organization
WTO	World Trade Organization

Executive Summary

Syria currently finds itself in a period of cautious albeit unprecedented engagement with the global economy. Both in terms of greater engagement within the region, personified by its participation in the Greater Arab Free Trade Area or GAFTA as well as bilateral agreements with Turkey and Iran, tentative steps to engage with the European Union to a hitherto unimagined degree, as well as hitherto uneven progress in its long-standing bid to join the World Trade Organization (WTO), Syria is emerging slowly but steadily from several decades of economic seclusion.

Syria was a founding contracting party of the GATT in the 1940, but withdrew from the General Agreement in the 1950s for reasons that are well known. From this point on its external economic relations seemed to lurch from relatively ineffective efforts aimed achieving deeper economic integration with its neighbours as well as seeking close economic ties with the Former Soviet Union which, in light of this block's collapse as well as the economic system on which it was founded, proved ultimately self-defeating.

Following the flare up in tensions which beset the region in 1973, and the ensuing oil crisis, the important of engaging with the Middle East and the Arab world in particular was not lost on Western policymakers and this led the then European Community to launch a series of initiatives culminating in some thirteen Cooperation Agreements with various governments in North Africa and the Middle East, which later evolved into the Euro-Med process. The Cooperation Agreements essentially extended preferential market access for industrial goods into the EC on a non-reciprocal basis to EC partner countries in the region, including Syria. These agreements were then largely superseded by the Association Agreements, which involved the mutual exchange of tariff preferences (mostly resulting in duty-free access) on agricultural and industrial goods, as well providing for a limited degree of mutual opening of services markets. The EC Association Agreements reflect in many ways the state-of-the-art in terms of global trade rules, and incorporate many WTO rules either by direct reference or by resorting to similarly worded language. By signing the Association Agreement with the EU Syria has very much joined the 21st Century in terms of the kind of trade rules it has agreed to be bound by.

The review conducted in this report covers five agreements and one draft agreement, selected for review on the basis of a request from the Beneficiary (GoS) The five agreements are the Greater Arab Free Trade Area (GAFTA), the Cooperation Agreement with the European Community (1979), the Association Agreement with the European Union (2004), the Association Agreement with Turkey (2004), and the Preferential Trade Agreement with Iran (2006). The draft agreement reviewed is the one with Belorussia, still pending conclusion, signature and ratification by either party.

The review begins with some explanations intended to put Syria's current trade policy initiatives and trade agreements into context, as well as providing some background information on each of the covered agreements.

In terms of the comparison of substantive commitments which forms the core of this review, the analysis focuses on the following issues:

- Agriculture;
- Non-Agricultural Market Access;
- Contingency Protection (antidumping, subsidies and safeguards);
- "New Issues" (investment, competition, services, intellectual property)
- Dispute Settlement

- SPS, TBT, Other Exception
- S&D and other Policy Space

The review concludes with a discussion of the strategic implications of trade liberalization are for Syria, looking first at increased engagement bilaterally and regionally followed by a discussion on WTO accession.

When discussing each of the substantive sections, a short discussion is also included on the implications of the commitments made in the context of the trade agreement in question and Syria's accession negotiations to the WTO. Here we also discuss how these issues typically play out in the WTO accession process and what the likely pressures on Syria will be here.

Finally a comparative table listing the differences and similarities between each of the covered agreements which lists the issues discussed above as well as some others is included as an annex to the report.

Agriculture

In terms of trade in agriculture, Syria has opted, in each of these agreements, to follow a cautious, positive list approach to exactly which products it chooses to liberalize trade in, as well as how quickly it chooses to open up market access with its trading partners. The exception to this is GAFTA, the scope of which is comprehensive, and which only allowed for limited exceptions under the so-called farmer's almanac during the transition period (expired since 2005). All trade in goods with GAFTA partners should now be duty free.

In terms of special safeguards for the agricultural sector, only the Association Agreement with Turkey contains specific language on this instrument, and in doing so refers directly to WTO rules, presumably meaning Art. 5 of the WTO Agreement on Agriculture. However, the Association Agreement with the European Union contains loosely-formulated language providing both contracting parties broad scope to re-impose restrictions if future changes to their agriculture policies should require. The so-called "lock-in" or "credible commitment" value of the already limited agricultural market access commitments exchanged between the EU and Syria can thus safely be said to be close to zero. The implications of this will not be lost on traders and those who rely on certainty and secure market access.

Non-Agricultural Market Access

Unlike agriculture, liberalization on industrial goods appears to have been fairly comprehensive. Some of Syria's partners in the agreements under review committed to extending Syria duty-free market access either on the date of entry into force of the respective agreement (EU Association Agreement, Turkey) or very shortly thereafter (EC Cooperation Agreement), while allowing Syria lengthy transition periods of up to 12 years on some items. Other partners chose to liberalize step-by-step, at roughly the same pace as Syria (GAFTA, Iran, Belorussia).

It is worth noting that in the Preferential Trade Agreement with Iran, that the preferential market access commitments on both agricultural and non-agricultural goods is on the basis of a positive list approach, so that any items NOT on the list are not subject to liberalization. As it is, the lists of covered products are not comprehensive, so that many products will not be covered.

Among the clauses governing liberalization of trade in industrial goods infant industry exceptions were common in all but one of the agreements reviewed (the Preferential

Trade Agreement with Iran). However GAFTA only provides that a contracting party may request the Arab League council which oversees the implementation and operation of the GAFTA Agreement for leave to impose some duties or quantitative/administrative restrictions where it is seeking to ensure the growth of a certain domestic product. The ability to take such measures is however subject to approval by the council and must be of a temporary nature only.

Contingency Protection

Contingency protection can mean different things to different people, but it generally tends to involve protection granted to domestic producers of a specific product or products in the face of import competition which has arisen under one of a number of contingencies, including dumping, illegal subsidization, and import surges as a result of unforeseen developments. All of the covered agreements contain **rules on dumping**, in one form or another. The EC Cooperation Agreement refers to GATT rules, whereas the EU Association Agreement and the Association Agreement with Turkey both incorporate WTO rules (which include GATT Art. VI and the WTO Agreement on Antidumping). The Preferential Trade Agreement with Iran contains its own, fairly detailed definition of what constitutes dumping, and the draft agreement on Belorussia does the same, while including some language on how to calculate fair value, presumably in an attempt to curb some of the more abusive practices which this instrument can be used for.

In terms of **rules on subsidies**, the different agreements under review take different and slightly nuanced approaches. The GAFTA refers to international rules and provisions when addressing case of subsidization. The EC Cooperation Agreement refers to subsidies and bounties and refers to GATT rules. The Association Agreement with the EU contains provisions on subsidies (basically seeking to apply WTO rules), but also on competition policy, such as collusive behaviour and abuse of dominant position. The Association Agreement with Turkey essentially refers to WTO rules when it comes to dealing with subsidies, particularly the ASCM. Neither the Preferential Agreement with Iran nor the draft agreement with Belorussia mentions subsidies or countervailing duties.

All of the agreements reviewed contain provisions on the use of **safeguard measures**. Some, like the Association Agreements with the EU and Turkey, explicitly refer to WTO rules, while others such as the Preferential Trade Agreement with Turkey and the draft agreement with Belorussia basically incorporate language that is very similar to that found in GATT Art. XIX, without explicitly referring to GATT or WTO rules. The GAFTA again refers to international rules and provisions (like it did in the context of subsidies). The EC Cooperation Agreement makes only very limited mention of safeguard measures, probably due to the fact that at the time of its negotiation and adoption, safeguard measures had largely fallen into disuse as a instrument of trade policy, having been replaced by such "grey area" measures as vertical export restraints and orderly marketing arrangements.

So-called "New" Issues

The concept of what constitute a "new issue" is open to various interpretations, but for the purpose of the present report, the notion of "new issues" shall include investment, government procurement, competition policy, trade in services and trade-related intellectual property rights.

Rules on investment are totally absent from all of the agreements under review except for the Association Agreement with the EU, which contains loosely formulated statements of intent with regard to cooperation on investment, including streamlining and improvement of investment procedures in Syria.

Although they have been a part of the multilateral system since the 1980s **rules on government procurement** have always existed outside of the Single Undertaking and thus have only been taken up by a limited number of – first - GATT Contracting Parties and - subsequently - WTO Members. Nevertheless, in many developing countries government procurement makes up a significant portion of GDP, which has been the main reason for a handful of developed countries to champion broader participation in the WTO Government Procurement Agreement. For Syria, only the Association Agreements with the EU and Turkey address the issue of government procurement. The Association Agreement with the EU contains detailed provisions on government procurement with the ultimate objective being the "effective, reciprocal and gradual opening of the government procurement markets". Nevertheless, all of the market access opportunities provided under this heading go one way, in favor of Syrian economic operators looking to benefit from government procurement contracts in the EU. Although this arrangement is up for review after several years, there is no requirement that Syria open up its public procurement markets to EU operators. The Association Agreement with Turkey contains two short paragraphs on public procurement, with the first being little more than a statement of intent, highlighting the desirability of each party opening their respective public procurement markets "on the basis of non-discrimination and reciprocity". The second paragraph on this issue contains an MFN clause, basically committing each party to extend to one another the same market access they afford to any third country with respect to their respective government procurement markets. Given that Syria has not yet accorded any third country access to its government procurement market, this provision entails little to no access to Turkish suppliers, at least for now

Multilaterally binding **rules on competition** are probably still some way off, at least at the WTO, despite the best efforts of some developed countries to have them as part of the Doha Round Single Undertaking. It is perhaps precisely for this reason (similar to investment and government procurement) that one increasingly finds rules on this issue in bilateral and regional trade agreements. Of the agreements reviewed here, the EC Cooperation Agreement, the Association Agreement with the EU and the Association Agreement with Turkey address the issue of competition policy in various ways. The GAFTA, the PTA with Iran and the draft agreement with Belorussia are all completely silent on this particular issue. The rules contained in the Association Agreement are the most meaningful of the three agreements which address this issue. In addition to rules on collusive behavior and abuse of dominant position, they also contain provisions on cooperation in enforcement. The Association Agreement with Turkey, given its close resemblance as a negotiating template to the EU Association Agreement, also has some rules on competition policy, including on collusive behaviour, abuse of a dominant position and on any state aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

Among all of the agreements subject to review, only the Association Agreement with the EU has very far-reaching commitments which require Syria to open its **services** markets to an extent hitherto not contemplated. The Association Agreement with the EU represents an ambitious attempt to assail Syria's hitherto highly protected and closed services markets, and approaches this issue from two directions, namely freedom of establishment and cross-border supply of services (essentially mode 3 and 1 under the GATS framework respectively).

Unlike services, multilateral rules on **intellectual property rights** have existed for over a hundred years. However, like services, they also became part of the treaty architecture governing the multilateral trading system with the conclusion of the Uruguay Round and the advent of the WTO Agreement on Trade Related Intellectual Property Rights (otherwise known as the TRIPS Agreement). Provisions on intellectual property rights are now a common feature of trade agreements, particularly with regard to the enforcement of such rights under domestic law. In the context of the agreements under review here, intellectual property rights are only the subject of substantive rights and obligations in the two Association Agreements (i.e. with the EU and Turkey), although the Agreement with the EU contains more detailed and actionable provisions than the one with Turkey (not surprising since the EU is a large-scale exporter of intellectual property whereas Turkey is not).

Dispute Settlement

Provisions on dispute settlement in the context of a bilateral trade agreement are primarily useful for their deterrent value than for anything else, especially when the trade agreement in question is characterized by an economic-power relationship of a highly asymmetrical nature. It is without doubt the WTO dispute settlement mechanism which is generally considered the world's most effective system for multilateral dispute settlement as well as being credited as one of the crowning achievements of the Uruguay Round. Because trade agreements typically lack direct effect, they nearly always provide some variation of State-to-State dispute settlement, and the rules governing such proceedings more often than not tend to resemble modern day commercial arbitration in one form or another. This is true of all of the agreements under review here, although the provisions and proceedings set out under some are more comprehensive and complex than others.

The GAFTA has only a very rudimentary framework on dispute settlement, set out in two short provisions. The EC Association Agreement lacks formal rules on dispute settlement *per se*. The Association Agreement with the EU has the most detailed set of provisions governing dispute settlement of all the agreements reviewed here. The procedural aspects of the EU Association Agreement's dispute settlement provisions resemble those of the WTO in many respects. The Association Agreement with Turkey contains only one article on dispute settlement, which is also the case of the Preferential Trade Agreement with Iran and the draft agreement with Belorussia equally only has one short article on dispute settlement.

SPS Measures, TBT and other Exceptions

With the demise of tariffs or at least their relative incidence as a barrier to global goods trade, the focus of trade liberalization efforts has increasingly shifted to other trade barriers, particularly so-called non-tariff barriers or behind-the-border policies which were seen as having an undue impact on trade flows. Sanitary and phytosanitary measures first became subject to multilateral trade rules with the completion of the Uruguay Round and the advent of the WTO SPS Agreement. All of the agreements reviewed here address this issue in one form or another. The GAFTA and the EC Association Agreement, both of which predate the WTO SPS Agreement, only address SPS issues in the context of the usual general exceptions clause. The Association Agreement with the EU provides for cooperation on SPS measures and otherwise merely incorporates the WTO SPS Agreement by direct reference thereto. This is the same approach to that taken under the Association Agreement with Turkey. The Preferential Trade Agreement with Iran frames these obligations in terms which essentially reiterate the guiding principles contained in the WTO SPS Agreement. The draft agreement with Belorussia mirrors the language contained in the PTA with Iran.

Technical barriers to trade first became a trade policy issue in the preparatory work done prior to the Tokyo Round of multilateral trade negotiations (1973-1979). At the time, an inventory of non-tariff barriers was assembled and standards figured prominently as a potential trade barrier. This resulted in the adoption, at the end of the Tokyo Round, of the so called Standards Code, a slightly modified version of which went on to become the WTO Agreement on Technical Barriers to Trade at the conclusion of the Uruguay Round.

Because such rules only appeared relatively recently in international trade agreements they are largely absent from both the GAFTA and the EC Cooperation Agreement except in the scope of the General Exceptions Clause. The Association Agreement with the EU addresses the issues of standards, technical regulations, and conformity assessment procedures essentially by incorporating the provisions of the WTO TBT Agreement by reference thereto. In addition, it provides that Syria shall move towards the adoption of European technical regulations and standards, and that the EU will provide technical cooperation with regard to achieving this objective. The Association Agreement with Turkey takes a slightly more nuanced approach than simply prescribing the provisions of the WTO TBT Agreement as such. It provides for cooperation between the parties in the field of technical regulations, standards and conformity assessment. It also incorporates the notification obligations contained in the WTO TBT Agreement into the Association Agreement, and requires both parties to notify each other of draft technical regulations. The Preferential Trade Agreement with Iran sets out rules on technical regulations and standards in the same article as sanitary and phytosanitary standards. With regard to standards and technical regulations in particular, it sets out a number of obligations, and in doing so essentially draws on the guiding principles underlying the WTO TBT Agreement, without invoking this agreement explicitly (Iran and Syria both being some way off from WTO membership). The draft agreement with Belorussia also handles technical regulations and standards in the same article as sanitary and phytosanitary measures and in doing so, provides for cooperation in the field of technical regulations and standards. Thus the draft agreement with Belorussia incorporates much of the language and thereby the obligations of the WTO TBT Agreement without making specific reference thereto.

General exceptions in trade agreement tend to follow the template established by the GATT in the late 1940s. This provides that, as long as such measures are not applied in a manner which is unjustifiably arbitrary or discriminatory, or which constitute a disguised restriction on trade, countries remain completely free, regardless of their obligations under a trade agreement, to apply measures in pursuit of a number of carefully prescribed policy objectives. The most important of these are: the protection of public morals; the protection of human, animal or plant life or health; and the protection of patents, trademarks and copyrights, and the prevention of deceptive practices; relating to the conservation of exhaustible natural resources. The exceptions clause in GAFTA accords contracting parties the right to ban imports of products for "religious, health, security or environmental reasons or because of agricultural and veterinary quarantine rules". However it does not contain the usual caveats on such bans not representing an unjustified arbitrary discrimination or a disguised restriction on trade. The exceptions clause under the EC Cooperation Agreement reflects to a great degree the substantive elements of GATT Art. XX, as does that of the Association Agreement with the EU. The Association Agreement with the EU contains a further carve-out with regard to the application of the Agreement's provisions on right of establishment and cross-border supply of services, stating that these provisions "shall be applied subject to limitations justified on grounds of public policy, public security or public health". The general exceptions clause under the Association Agreement with Turkey contains much the same language as the association Agreement with the EU. Both the PTA with Iran and the draft agreement with Belorussia contain largely the same language as GATT Art. XX, except that in addition to public morality, they also include religious values.

Special and Differential Treatment and other Policy Space

The GAFTA provides rudimentary S&D treatment in that it allows longer implementation periods for least developed Arab countries, of which Palestine, Sudan and Yemen have chosen to avail themselves. The EC Cooperation Agreement is essentially one large undertaking in favour of special and differential treatment for Syria, since under the Agreement the EC undertakes to open its market to Syria without reciprocal concessions by Syria towards the EC. In addition, the 1979 Agreement also included a protocol on technical and financial cooperation. Unlike the Cooperation Agreement, the Association Agreement with the EU is supposed to be based on reciprocity, but the phase-in periods for Syria to reduce its tariffs is longer, in some cases lasting up to 12 years. In addition the Agreement provides for technical cooperation and development assistance to Syria by the EU. A similar approach was taken under the Association Agreement with Turkey, which provides that Turkey remove all tariffs upon the entry into force of the Agreement, whereby Syria is given sometimes lengthy implementation periods of up to 12 years in order to reduce its tariffs. Technical cooperation and development assistance are also provided under the Agreement. Neither the Preferential Trade Agreement with Iran nor the draft agreement with Belorussia provide for special and differential treatment or any kind of development assistance between the parties, since these Agreements are considered by all parties to be agreements between countries at a similar level of economic development.

Under all the agreements reviewed, provisions can be found which explicitly afford the parties a certain freedom of action. For example the GAFTA expressly provides that party-states are entitled to grant further advantages and preferences to any other Arab state or states through bilateral or multilateral agreements. The amount of policy space included in the EC Cooperation Agreement is so extensive that it essentially renders the value of any "credible commitment" effect all but meaningless. Because it involves the granting of unilateral market access preferences by the EC, it also provides that these can be withdrawn at any time. The Association Agreement with the EU provides for a considerable degree of policy space in trade in agricultural products and effectively gives each party carte blanche to unilaterally alter the arrangements concluded under the Agreement if this is required in order to implement agricultural policy objectives. The Association Agreement with Turkey provides some policy space for either party to suspend the liberalization program for up to one year in the event of serious difficulties for a given product. This freedom is, however, subject to the understanding that after the 12 year transition period, all duties will be removed.

Strategic Implications for Syria

The discussion in this report on the strategic implications of its liberalization commitments focuses on three core issues:

- Increased Engagement Bilaterally and Regionally
- WTO Accession
- Trade Liberalization and Economic Growth

On the issue of increased engagement bilaterally and regionally, the report finds that by engaging with Turkey and Europe, who are themselves in a customs union with one another and are both WTO Members, Syria will be in a position to gradually expose itself to learning what it is like to deal with advanced trading partners who are closely integrated into the global trading system and who possess a sophisticated understanding of global trade rules. The fact that GAFTA requires that any preferential treatment accorded a non-Arab country be automatically extended to GAFTA signatories ensures that GAFTA signatories will always enjoy the best market access conditions on offer into the Syrian market. This will make GAFTA a central element of Syria's trade policy considerations for decades to come. Because WTO accession is a still some way off, the easiest manner in which Syria can increase its export markets and benefit from MFN or better access to these markets, will be through a process of bilateral or regional engagement. These two processes do not need to be mutually exclusive.

The process of negotiating accession to the WTO generally takes several years and in a growing number of instances, can take well over a decade. For Syria, serious progress on its WTO accession bid is something that can be addressed over the medium to long term. In the short term, the technical process of assembling and submitting the Memorandum of the Trade Regime and the ensuing process of questions, answers and follow up questions will keep trade policy makers in Syria busy for the next 18 months at least. In light of this reality, the WTO accession process should take a back seat to the more pressing and urgent needs presented by implementing the two Association Agreements with the EU and Turkey. To the extent that these agreements incorporate WTO agreements and obligations, the process of doing so will be largely complementary to the ongoing process of preparing Syrian laws and institutions for the day that Syria finally becomes a WTO Member.

The process of economic reform, trade liberalization and transition to a market economy that Syria has now embarked upon will be one which should see market forces take a greater hold on economic activity and expose the Syrian economy (both consumers and producers) to greater competition. If done properly, the overall economic effects of this program could be welfare enhancing and thus highly beneficial for the economy as a whole. But there will be winners and losers from this process, since trade liberalization is inevitably redistributive. For Syrian policymakers, the challenge is not to oversell the benefits of trade liberalization, while still showing the strength of leadership to convince all stakeholders (potential winners and losers), of the inevitability of change and the need to embrace it. A growing body of evidence suggests that making trade liberalization work is to sequence it in such a manner so that domestic economic operators have a chance to adapt to the changing competitive environment. Trade liberalization is not some sort of panacea which automatically renders economies more dynamic and competitive, but it can be a powerful tool for facilitating such changes where it is managed properly.

Section 1 Context of Current Economic Integration Efforts

1.1. Historical Context

Syria currently finds itself in a period of cautious albeit unprecedented engagement in the global economy. Both in terms of greater engagement within the region, personified by its participation in the Greater Arab Free Trade Area (GAFTA) as well as bilateral agreements with Turkey and Iran, tentative steps to engage with the European Union to a hitherto unimagined depth, as well as progress in its long-standing bid to join the World Trade Organization (WTO), Syria is emerging slowly but steadily from several decades of economic isolation.

This represents both challenges and opportunities in almost equal measure. Trade integration can be beneficial but it can also have very negative and painful consequences for import-competing sectors if it is not sequenced properly, and where factors of production in uncompetitive sectors are not able to move into more competitive sectors.

Syria's approach to trade liberalization so far, as documented below, has been prudently cautious. Syria has yet to meet the challenges of maximizing the market opportunities it already enjoys under a long-standing preferential agreement it has had with the European Union since the late 1970s. By the same token, it has resisted the notion that it must open large swathes of its domestic industry to far-reaching competition from imports.. Syria's reluctance to ratify and begin trading under a new Association Agreement with the EU is testimony to this caution, although Syria showed no such hesitation when it came to ratifying a very similar agreement with Turkey.

The challenge for Syrian policy makers moving forward is to harness the limited degree of trade integration envisaged under its various bilateral and regional arrangements in order to prepare it for the day it accedes to the WTO.

1.2. Earlier Engagement with the Multilateral Trading System

Syria was a founding contracting party of the GATT in the 1940s. The earliest records publicly available from the GATT show Syria and Lebanon undertaking combined efforts to convince other GATT contracting parties to approve their customs union. However, Syria ceased to be a contracting party in the 1950s, as efforts towards allowing Israel to accede to GATT started to gain momentum, and from this point on, it focused its efforts largely on achieving deeper political and economic integration with its neighbours, particularly Egypt. However, after several years, this policy was reversed, and Syria found itself increasingly isolated in terms of trading partners. This changed with greater engagement being sought in the region as a whole by Europe, particularly in the context of the Euro-Med process beginning in the late 1970s.

1.3. Evolving Engagement with Europe

EU policy towards the Mediterranean was placed on a much more comprehensive basis with the formulation of the Global Mediterranean Policy (GMP), a strategy formulated by the European Commission in 1972. Escalating tensions in the Middle East which came to a head in 1973 and the ensuing oil crisis brought the Arab world to the forefront of the agenda in many capitals, including many in Europe.

The GMP envisaged concluding “Cooperation Agreements” with all Mediterranean non EC-member countries. The idea was that these countries would be able to benefit from improved access to European markets, the long-term objective being the establishment of a Mediterranean Free Trade Area. Although Arab leaders were themselves working towards closer integration of their markets with one another under the auspices of the Arab League, they were not hostile to the EC's overtures if these resulted in better access to the then rapidly developing single European market.

In addition to holding out the prospect of better market access, the Cooperation Agreements also included provisions on technical cooperation, technology transfer and capital movements, migration and environmental and financial cooperation. In addition, they were part of a broader framework subject to which loans and grants from the EC budget and the European Investment Bank (EIB) could be extended. Finally, this process also instituted the important process of regular and institutionalized trans-Mediterranean dialogue between the EC and the Arab world.

In the years leading up to 1977, the EC entered into some thirteen new Cooperation Agreements which covered all Mediterranean countries except Albania and Libya. Moreover, at the time accession negotiations were under way with Greece, Portugal and Spain (the UK, Ireland and Denmark having just joined the Community in 1973). With the accession of three new Mediterranean Member States, the EC itself heightened its strategic importance in the region and brought itself visibly closer to the to the Arab world. As part of this process, April 1976 saw Cooperation Agreements concluded with Algeria, Morocco and Tunisia. An Agreement with Lebanon followed in May 1976. Egypt and Syria finally concluded their own Association Agreement with the EC in January 1977. Starting in these years, the Arab countries which participated in this process enjoyed duty-free access to European markets for industrial products, with the exception of textiles and refined petroleum products, both of which are sectors where the Arab world has typically enjoyed a significant comparative advantage. Duties on a limited number of agricultural products were removed completely on some products and substantially lowered for others.

Significantly, although the Arab partner countries now benefitted from significant new market access into European markets, they did not have to concede any reciprocal market access to the EU into their own markets. The Association Agreements represented the unilateral granting of preferential market access by the EU in exchange for very little. Its benefits to Arab partner countries were immediately clear. However, this situation did tend to skewer trade flows in the region heavily in favour of exports to the EU, whereas intra-Arab trade remained largely stagnant, weighed down by numerous and complex restrictions.

Nevertheless, the Cooperation Agreements were soon seen as dated and perceived as failing to keep up with evolving needs and developments. Although restrictions hindering market access to the EC were much diminished, a number of important sectors remained all but closed or at least highly restricted, the most important one for Arab countries being textiles. In addition, large-scale outward immigration from the Arab world to Europe, economic stagnation in some countries from the Arab world and the rise of militancy started to push the importance of Arab-European relations to a level of concern they had not known since the 1970s. In particular France, Spain and Italy saw Mediterranean problems became a top foreign policy priority, so that once they held the rotating EU presidency in 1989 and 1990 they initiated and supported Commission proposals for a “Redirected Mediterranean Policy” (RMP) which aimed at a new generation of agreements.

It was against the background of this dynamic that all restrictions on textile imports from Mediterranean countries were eliminated in 1990 (fifteen years before they would be under the WTO Agreement on Textiles and Clothing). In addition, loans and grants from the EC budget and the EIB were increased almost three-fold. The Community also began to take an active interest in fostering and helping to underpin pan-Arab initiatives aimed at achieving closer integration of these countries.

In 1993 negotiations were initiated for the new generation of agreements that would supersede the 1970s Cooperation Agreements namely the Euro-Mediterranean Association Agreements. The first countries to negotiate were Morocco and Tunisia, followed by other Mediterranean non EC members including Jordan (with the exception of Libya). In 1994 these treaty negotiations were grouped under one framework, the "Euro-Mediterranean Partnership".

1.4. Regional Trade Policy Engagement

Whereas some countries in the region had been GATT Contracting Parties for many years (like Egypt) others managed to become signatories to the General Agreement only relatively late in the day, either in the course of the Uruguay Round (like Tunisia in 1990) or in the very closing days of the GATT system before it was superseded by the WTO (like the UAE and Qatar who both became GATT Contracting Parties in 1996). Still others have trodden the more difficult path of accession under the Article XXII procedures[1] and become WTO Members this way (like Jordan and Oman in 2000, and Saudi Arabia in 2005).

In addition to the focus on WTO, there has been an increase in bilateral free trade agreements in the region. Egypt has been particularly active, having negotiated agreements with Libya and Syria in 1990, as well as with Tunisia, Lebanon and Jordan in 1998, and finally with Iraq in 2001. But Egypt is not alone. Morocco also concluded trade agreements with Turkey (2005) and the USA (2006). Shortly after becoming a WTO Member, Jordan also concluded an FTA with the USA in 2002 (an initiative launched by President Clinton but signed into law by George W Bush). Finally, at the intra-Arab level, the Executive Program breathed new life into the hitherto flagging GAFTA process in 1997 (see below) whereas the Agadir Agreement was signed between Morocco, Egypt, Jordan and Tunisia in 2004.[2]

It seems as if the Arab world, like everywhere else, has left behind the import-substitution policies and heavy state intervention of the Cold War years and embraced trade liberalization to varying degrees. Syria joined this process somewhat late, but as we shall see in the next section, is catching up quickly.

[1] This is a reference to Art. XII of the Marrakesh Agreement Establishing the WTO which governs accession to the WTO.

[2] Javad Abedini and Nicolas Péridy, "The Greater Arab Free Trade Area (GAFTA): An Estimation of the Trade Effects", p. 3; available for download at: http://www.gate.cnrs.fr/uneca07/communications%20pdf/Peridy-Rabat-07.pdf

Section 2 Overview of Current Treaty Arrangements

2.1. Greater Arab Free Trade Area (GAFTA)

2.1.1. Establishment and Membership

In February 1981, twenty-one members of the Arab League[3] adopted an Agreement to Facilitate and Develop Trade Among Arab States.[4] The Agreement aimed at removing customs duties and other charges, as well as eliminating non-tariff barriers on agricultural and industrial goods originating in its member states. However, the 1981 agreement remained inoperative until it was revived in February 1997.

It was on 19 February 1997 that the Economic and Social Council of the Arab League, at a meeting at the headquarters of the General Secretariat in Cairo, adopted Resolution No. 1317 on a Pan-Arab or Greater Arab FTA establishing an "Executive Program" (or EP) for the 1981 Agreement to Facilitate and Develop Trade Among Arab States.

It was the 1997 Executive Program that established the GAFTA, and which saw the process of creating the envisaged free trade area launched on 1 January 1998, with a view to having all tariffs removed by 2008. As it turned out, in 2002, the Arab League's Economic and Social Council resolved to accelerate the gradual liberalization process, abolishing tariffs by January 1, 2005.

Thus as of 1 January 2005, GAFTA can be said to have achieved comprehensive trade liberalization of trade in goods by completely eliminating customs duties and charges having equivalent effect between all Arab country members of the GAFTA[5], except Sudan and Yemen, which, given their status as least developed countries, are only required to reduce customs duties and charges having equivalent effect by 16% annually, with the aim being to have completely removed tariff barriers by the end of 2010.

2.1.2. Substantive Provisions

Any attempt to gain an understanding of the substantive scope and implications of GAFTA requires that the 1981 Agreement and the 1997 Executive Program be read together.

2.1.2.1 The 1981 Agreement

The 1981 Agreement, entitled "Agreement to Facilitate and Develop Trade Among Arab States" sets out, in twenty-five articles, the rules under which the GAFTA is to operate

The Agreement's provisions stipulating how free trade is to be realized can be assumed to have largely been superseded by the corresponding provisions of the Executive Program.

The Agreement seems to set the stage for the future establishment of a customs union, in that it provides that signatories "shall hold negotiations with the aim of imposing uniform and appropriate minimum customs duties, taxes and restrictions of a similar

[3] Jordan, United Arab Emirates, Bahrain, Tunisia, Algeria, Djibouti, Saudi Arabia, Sudan, Syria, Somalia, Iraq, Oman, Palestine, Qatar, Kuwait, Lebanon, Libya, Morocco, Mauritania, the Yemen Arab Republic, the Democratic Popular Republic of Yemen.

[4] This initiative was based on Resolution No. 712 of February 22, 1978, of the Economic Council of the Arab League.

[5] These are Jordan, United Arab Emirates, Bahrain, Saudi Arabia, Oman, Qatar, Morocco, Syria, Lebanon, Iraq, Egypt, Palestine, Kuwait, Tunisia, Libya, Sudan, Yemen.

effect on goods imported from non-Arab States, which are competitive with or alternative to Arab goods".

The 1981 Agreement is largely devoid of other substantive provisions that go beyond those set out in the Executive Program, or which impose new obligations on the signatories. Its importance today will be limited to the provisions on such procedural matters as how to amend the Agreements provisions, withdrawal (Art. XXIII), etc.

2.1.2.2 The 1997 Executive Agreement

The 1997 Executive Program essentially serves to operationalize the 1981 Agreement, and contains nine articles each addressing a different implementation issue.

The Executive Program is intended to serve as a framework for implementation of the 1981 Agreement.[6] It provides for the creation of Greater or Pan Arab Free Trade Area over ten years as of 1 January 1998.[7] It also mandates the Economic and Social Council to conduct a semi-annual review of how signatories are implementing the Executive Program.[8] The EP requires national treatment of all Arab goods traded under the EP with respect to rules of origin, specifications and measurements, health and security safeguard clauses as well as local charges and taxes.[9] It states, rather ambiguously, that "international rules and provisions" shall be observed when it comes to the technical aspects of safeguard measures, addressing cases of subsidization, balance of payments measures and antidumping duties, although it remains open to interpretation as to whether this entails the application of WTO rules for these instruments.[10]

The goal of GAFTA is the liberalization of trade in goods among Party-States and the EP sets the timetable for doing so (1 January 1998 to 21 July 2007).[11] The EP gives signatories some policy space in that it provides a system of lists subject to which a number of products can be exempted from gradual liberalization (so-called "Farmer's Almanac"[12]) for a limited period of time. It also exempts products which are not subject to liberalization for the usual public policy reasons[13].

The Executive Program reiterates the definition of non-tariff barriers set out in the original 1981 Agreement[14] and sets out a ban on the use of NTBs against Arab goods traded within the framework of the Executive Program.

The Executive Program contains framework provisions on rules of origin, essentially delegating the elaboration of detailed rules by the Rules of Origin Committee under the Economic and Social Council and referring to an existing body of rules which are to apply provisionally until said Committee has completed its work.[15] The Arab rules of origin are being applied in the GAFTA agreement. These rules of origin require at least 40% value-added for non-originating products or materials to benefit from duty free access.

[6] Art. 1.1 EP.
[7] Art. 1.2 EP.
[8] Art. 1.3 EP.
[9] Art. 1.4 EP.
[10] Art. 1.5 and 1.6 EP. Iraq noted a reservation with regard to this clause, not wishing to be bound by "international rules and provisions".
[11] Art. 2.1 EP.
[12] Art. 2.2 and 2.3 EP.
[13] Products that are banned on the basis of religious, health, security or environmental reasons or because of agricultural and veterinary quarantine rules.
[14] See Art 1.6 of the 1981 Agreement: "Actions and measures that may be taken by a party-state to control imports, other than for organizational or statistical purposes. Specifically, such restrictions include quantitative, monetary and administrative restrictions imposed on imports".
[15] Art. 4 EP.

The EP also contains provisions on transparency and information exchange as well as reiterating the dispute settlement provisions of the 1981 Agreement, which foresee the establishment of a committee in the event of a dispute between member states. The EP also provides for special and differential treatment for least developed Arab countries (under the UN classification) as well as Palestine. Sudan and Yemen have availed themselves of such treatment but are expected to have implemented the gradual elimination of tariff and non-tariff barriers by the end of 2010.

The EP contains a statement of intent with regard to GAFTA extending its limited substantive scope beyond trade in goods to include trade in services and intellectual property rights. Reports indicate that negotiations have started among GAFTA members to broaden the scope of the Agreement to include services and investment. Many GAFTA members have begun implementing the protection and enforcement of intellectual and industrial property rights under other legal frameworks, such as the EuroMed Association Agreements or even the WTO.

The Executive Program also establishes the necessary institutional structures for monitoring and enforcing these rules, as well as the relevant institutional provisions required to give effect to the Agreement's dispute settlement mechanism. It designates the Economic and Social Council of the Arab League as the body responsible for implementing the Executive Program. In this capacity, the Council may conduct semi-annual reviews of the progress made in implementing the EP, adopt appropriate decisions to overcome any obstacles to implementation, settle disputes arising from implementation of the EP and finally to form technical and executive committees to assist it in carrying out its functions under the EP.

An Enforcement and Monitoring Committee, a Trade Negotiations Committee, an Arab Rules of Origin Committee, and a Technical Secretariat are also established under the EP.

2.1.3. Implementation and Economic Impact

From 1998 until 2005 GAFTA proved largely successful in eliminating non-tariff barriers and reducing tariffs on goods traded between signatories by the targeted average of 10% per annum, with the last two years seeing accelerated liberalization of a further 20% reduction in tariff rates for 2004 and 2005. In addition, goods traded under GAFTA now face faster and easier customs requirements, thus leading to a considerable reduction in non-tariff barriers.

Although statistical coverage is quite patchy in a number of the GAFTA states, studies seem to suggest that GAFTA resulted in an important increase in trade between its signatories, and its economic impact can thus be said to have probably been largely welfare enhancing.[16]

Local commentators within Syria also seem to agree that the benefits of GAFTA for Syria have been very positive.[17] Syria has consistently run a small trade surplus with its GAFTA partners since it implemented the agreement.[18] In GAFTA, Syria has found an outlet for its non-oil exports and thus has succeeded somewhat in diversifying its economy as a result of GAFTA.

Some of the implementation problems that have been raised, apart from the usual adjustment costs and distributive effects on some sectors of the economy, include the

[16] See Javad Abedini and Nicolas Péridy, cited above at footnote 2.
[17] See Phil Sands "A Regional Trade-off", published in: Syria Today, February 2010, available for download at: http://www.syria-today.com/index.php/february-2010/514-business-features/6401-a-regional-trade-off-.
[18] Ibid.

problem of transhipment of Chinese and other extremely low-priced goods, which have been able to benefit from tariff liberalisation , in violation of rules of origin requirements.

On the whole, GAFTA tends to be characterized by commentators as a "shallow" agreement, in the sense that it focuses almost solely on boarder measures, such as tariffs and non-tariff barriers. It is also an agreement that is not a true reflection of the times, since free trade agreements today focus on covering "substantially all trade", in order to maximize their economic impact and welfare enhancing effects, but also to ensure their compliance with WTO requirements.

Nevertheless GAFTA has provided positive benefits to the Syrian economy as a whole, and has provided Syrian policy makers with important lessons on the risks and rewards of trade liberalization, as well as the costs of implementing trade agreements. It can be said to have been a first tentative step towards greater openness, and to have been the start of a process of trade reform and liberalization the next step of which will involve ratification and implementation of the Association Agreement with the EU, culminating eventually in accession to the World Trade Organization.

2.2. Syrian - European Partnership

2.2.1. Context of Syrian European Economic Ties

Syrian-European economic cooperation can be viewed as having essentially taken place in two distinct phases, but has always been played out as part of the broader Euro-Med process, although more recently it has also become part of the EU's European Neighbourhood Policy (ENP).

The first phase of EU-Syrian economic cooperation took place in the late 1970's culminating in the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic of 18 January 1977.

The second and present phase of EU-Syrian cooperation was initiated in the late 1990s, with association talks being launched in 1998. These talks resulted in the successful conclusion of the Association Agreement in 2004. Ratification of the Agreement at that time was suspended due to the assassination of the Lebanese Prime Minister Rafik Hariri in February 2005. However, on December 14, 2009, a revised agreement was initialled.

It is still not totally clear as to when Syria will ratify or begin implementing the Association Agreement, so for now, trade relations between Syria and the EU are still largely governed by the Cooperation Agreement.

2.2.2. The 1977 Cooperation Agreement

The 1977 Cooperation Agreement comprises some forty-nine articles, two annexes, two protocols (the second of which has three annexes of its own), and is thus a relatively complex treaty structure, although not nearly as complex as its more modern counterpart the Association Agreement (see below).

The main substantive provisions governing market access to the European Community for Syrian goods are contained in Title II (Trade Cooperation). Here, the Agreement provides for the gradual elimination of customs duties and charges having equivalent effect on imports of industrial goods from Syria to the EC, with a 100% reduction being phased in per 1 July 1977 (actually before the entry into force of the Agreement in late 1978). A small number of goods were exempted from this liberalization, mostly some sugars, some alcoholic beverages, albuminoidal substances, modified starches, glues.

Agricultural products are in general excluded (with some exceptions[19]) from the scope of the Agreement, but these are generally able to enjoy duty free access into the EU under the GSP, at least in limited quantities.

The Cooperation Agreement also provides for the elimination of quantitative restrictions on imports from Syria, again with agricultural goods generally being excluded (because at the time the EU had not yet dismantled non-tariff barriers under the process of tariffication resulting from the Uruguay Round). The Agreement provides for annual ceilings for a limited number of petroleum products, which, when breached, the EC has the right to re-impose duties.

Another exception to the principle of liberalization states that for those agricultural products where tariff reductions were granted, these would only apply to the fixed component of the charge levied on imports of these products into the Community (at this time the EC used a system of variable levies to keep imports of agricultural products out depending on price fluctuations on the internal market for those products).

With regard to all of these concessions the EU reserved the right to withdraw or modify these concessions in no uncertain terms if it subsequently needed to do so[20]. Thus although the EU was being quite generous in the unilateral extension of preferential market access it was providing, it remained free to modify or withdraw such access as it saw fit. This is the same under GSP schemes, but is generally not true under free trade agreements or other reciprocal trade arrangements, where a balance of rights and obligations must be maintained.

In return for the seemingly generous market access given to Syrian exports into the EC under the Agreement, Syria agreed to extend MFN treatment to imports from the EC, with the exception of any free trade areas or customs unions it might subsequently enter into.[21]

The Agreement also affords Syria a great degree of what today is known as "policy space" in that it explicitly grants Syria the latitude to introduce new customs duties, or raise existing tariff levels or even impose new quantitative restrictions "where such measures are necessitated by Syria's industrialization and development requirements".[22]

Although primarily concerned with border measures, particularly tariffs and non-tariff barriers, both signatories are required to extend national treatment to each other's imports in matters of taxation, thus providing for some behind-the-border rights and obligations.[23]

The Cooperation Agreement, although a very out-dated agreement by today's standards, is still in force in Syria, since it has not yet been superseded by the Association Agreement, in light of reluctance on the part of Syria to sign the Agreement. In fact the Cooperation Agreement between Syria and the EU is the only one of its kind still in force, since the others the then EC concluded with its Euro-Med partners have all been replaced by the new generation of agreements.

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[19] The Cooperation Agreement allowed for varying degrees of liberalization on a limited number of listed agricultural commodities, with the tariff reductions in question ranging from as much as 80% (for example on seeds of anise, badian, fennel, coriander, cumin, caraway or juniper) to as little as 15% (on say onions).

[20] Art. 20: "Should specific rules be introduced as a result of the implementation of its agricultural policy or modification of the existing rules, or should the provisions on the implementation of its agricultural policy be modified or developed, the Community may modify the arrangements laid down in the Agreement in respect of the products concerned".

[21] Art. 22.

[22] Art. 23.

[23] Art. 28.

2.2.3. The 2004 Association Agreement

The Syrian-EU Association Agreement is a comprehensive and complex treaty, which runs to almost 500 pages with all its protocols, annexes and appendices. Its aim is to establish a free trade area between the EU and Syria, and is part of the broader Euro-Med and ENP initiatives. Unlike the 1977 Cooperation Agreement, the Association Agreement involves the exchange of tariff concessions (rather than the unilateral granting of tariff preferences) and seeks to cover substantially all trade (although it is strewn with numerous exemptions and exceptions). This would make it fully compatible with WTO requirements under GATT Article XXIV.

The Agreement provides for the reciprocal and progressive establishment of greater liberalisation of trade in agricultural, fisheries and processed agricultural products, while for industrial products it provides for the immediate elimination of customs duties by the EC upon entry into force whereas Syria is given an implementation period of up to twelve years, depending on the adjustment period required for the product in question.

The Association Agreement is a long way from “free trade” since it carefully manages trade liberalization by means of market access protocols (positive list approach), exemptions, tariff-rate quotas, and phase-in periods (at least for Syria), all of which potentially limit the Agreement’s trade-creating effects. These are in addition to the normal safety valves, such as contingency protection measures and generously formulated policy-space provisions which are otherwise not so common. The lock-in effect of liberalization can be debated, but the value of the Agreement goes well beyond the legitimate expectations of market access opportunities it may or may not create, since it exposes Syria to liberalization in a number of areas previously unfamiliar to it, such as, inter alia, trade in services, investment and government procurement.

Apart from the normal national treatment obligations when it comes to fiscal measures, the Agreement also prescribes national treatment for “all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use”[24], in much the same way GATT Art. III has since the very start of the multilateral trading system.

However, the behind-the-border measures don’t stop there, since the Agreement requires that Syria adopt a whole range of legislative and regulatory instruments in the areas of competition policy, standards and technical regulations, sanitary and phytosanitary measures, to name just a few. These requirements represent the real value of the Agreement, both to Syria and its trading partners, as they supposedly lock in long-overdue reforms to hitherto non-existent or existing but largely inadequate legal and regulatory frameworks.

The Association Agreement contains a number of provisions which were specifically designed to alleviate the worst fears of policy-makers in Syria, uncertain as to what the effect of liberalization with such a powerful trading partner might be. In this context it contains numerous opt-outs for development purposes (infant industry), for the restructuring of certain sectors or for when some sectors face serious difficulties, particularly if these give rise to "major social problems".[25] Nevertheless, there are limits to which any measures imposed to meet such needs can go, as well as being subject to certain ceilings (25% ad valorem), product coverage limitations (20 % of the total yearly average value of imports), and finally, temporal limitations (5 years). This puts the onus on Syrian import-competing sectors to adapt sooner or later. These are nevertheless quite generous provisions in comparison to other EU agreements with third countries.

[24] Art. 24.2.
[25] Art. 15.1 (a).

Finally it should be remembered that the trade provisions form only one of many substantive areas in which the Association Agreement governs cooperation between the two Contracting Parties. Others include Political Dialogue and Cooperation, Cooperation in Social and Cultural Matters, Cooperation in the Fields of Justice, Migration and the Fight against Organized Crime, Cooperation on Counter-Terrorism and Financial Cooperation.

2.3. Association Agreement with Turkey

The Association Agreement with Turkey was signed on 22 December 2004 and entered into force on January 1, 2007. Its aim is the gradual establishment of a free trade area on substantially all trade between the two Contracting Parties over a transitional period lasting a maximum of 12 years, starting from the entry into force of the agreement.

For industrial goods, the Agreement provides for the elimination of customs duties in Turkey upon its entry into force for goods originating in Syria. On the Syrian side, the Agreement also provides for elimination of customs duties for goods originating in Turkey but this takes place more gradually, over the course of the implementation period (12 years as mentioned above). With regard to all quantitative restrictions, these are to be removed between the Parties upon the agreement's entry into force.

The way liberalization of industrial goods is handled under the agreement is relatively straightforward. The agreement sets out a timetable for the gradual reduction of tariffs, based on the applied duty rates on these goods on the date of entry into force. The list of products exempted from the liberalization process is short and is the same for both Contracting Parties (Annex I). The provisions on industrial liberalization also contain a number of opt-outs, one of which allows Syria to slightly delay the removal of tariffs by up to one year if it encounters "serious difficulties" for a given product. There is also a lengthy article on structural adjustment in the section governing industrial products, which provides further policy space, and which allows Syria to increase or reintroduce customs duties during the transition period under certain circumstances (infant industry, difficulties in structural adjustment resulting in major social problems). However these opt outs only apply during the transition phase of 12 years, so that once this is over, the only options open to Syria will be the usual ones of contingency protection and balance of payment safeguards (presuming the conditions of the latter are ever met).

When it comes to basic agricultural and fisheries products, the liberalization program is more nuanced. Both parties recognize "the role of agriculture in their respective economies, the development of trade in agricultural products, the high sensitivity of agricultural products and the rules of their respective agricultural policy".[26] In as much, they do not commit to comprehensive liberalization. Instead, the products over which trade shall be liberalized and the amounts of these products which will enjoy duty-free access are carefully described in Protocol 1 to the Agreement. Each party has committed to providing only a limited amount of access on a limited number of products under the Agreement.

The rules on agricultural market access also bind the Contracting Parties to the principles set out in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, as well as incorporating WTO rules on a special agricultural safeguard, thereby presumably referring to Art. 5 of the Agreement on Agriculture.

The Agreement contains the usual ban on quantitative restrictions and measures of equivalent effect, as well as the usual language of extending national treatment in matters of internal taxation. It also explicitly allows both parties to enter customs unions or free trade areas with third parties, subject to the requirements to consult with the

[26] Art. 6.3.

other party when doing so. However, the Agreement requires Syria to automatically extend to Turkey any favourable treatment it accords to the EU, which enables Turkey to "piggy back" on the then ongoing negotiations with the EU.

WTO rules on contingency protection (antidumping duties, countervailing measures and safeguards) are incorporated by means of explicit reference to the relevant WTO provisions and agreements. The same is true for rules on intellectual property protection, by incorporating the WTO TRIPS Agreement.

The Agreement contains rules and commitments on a number of areas that Syria has hitherto not made commitments on in any international agreement. These include competition state aid and state monopolies. The competition provisions require Syrian authorities to take action against undertaking engaging in collusive behaviour which aims to or results in the prevention, restriction or distortion of competition. Abuse of a dominant position is similarly sanctioned. It also requires both contracting parties to refrain from using any state aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.[27] Discriminatory practices by state monopolies are to be phased out within 5 years.[28]

Finally, the Agreement contains detailed provisions laying out a framework for economic and technical cooperation, focusing on four priority areas, which are: industry, agriculture, services and small and medium-sized enterprises.

Generally, commentators agree that since implementation, trade between the two countries has been increasing significantly. In fact, the Agreement is credited by some as having had a "revolutionary" impact on trade between the two neighbours. For Syria, Turkey, in itself an interesting market, also offers the prospect of serving as a doorway to Europe. For Turkey, the same can be said with regard to Syria and the Arab world. The trade agreement is flanked by a bilateral investment treaty and a double taxation treaty, and taken as a whole, this framework has greatly increased the attractiveness of Syria for Turkish investors. Like the GAFTA, the Association Agreement with Turkey has also greatly facilitated customs requirements and procedures for the import of Turkish goods into Syria, which are often cited by Syria's trading partners as being disproportionately onerous.

The challenges for Syria now, in optimizing its relationship with Turkey under the Agreement, are to raise manufacturing standards so it can benefit from the market access opportunities the Agreement provides on industrial goods. . Finally the under-developed state of banking ties between the two countries is also reported to be dampening trade flows, to the extent that it affects access to commercially viable trade finance for exchanges between the two countries.

2.4. Preferential Trade Agreement with Iran

The Preferential Trade Agreement between the Syrian Arab Republic and the Islamic Republic of Iran was signed on 3 February 2006, and entered into force on June 1, 2010. It aims to increase the level of trade between the two countries, as well as to create a more predictable and secure environment for their economic relations, largely as a prelude to the future conclusion of a free trade agreement.[29]

The agreement's structure follows a fairly straight-forward pattern, with the actual treaty text being augmented by three annexes, the first setting out the goods on which Iran commits to accord preferential access to Syria (Annex A), the second setting out the

[27] Art. 24.1.
[28] Art. 26.1
[29] Art. 1.

goods on which Syria commits to accord preferential access to Iran (Annex B), and the third annex laying out rules of origin. (Annex C)

The preferential access each contracting party afford the other on industrial goods varies from between 15% to 50% off their respective applied customs duty rates at the date of entry into force of the agreement.

With regard to market access for agricultural products, each contracting party undertook to apply reductions on an item by item basis, with the applicable final preferential rates are indicated next to the product in each countries respective schedule (i.e. in Annex A for Iran, and in Annex B for Syria). These market access commitments are implemented without recourse to tariff-rate quotas, which is something of a rarity in agricultural trade.

In addition to the granting of preferences on applied tariffs for the products scheduled, the trade liberalization envisaged under the agreement also consists of the elimination of all non-tariff barriers and to bind what they refer to as "para-tariffs"[30] at the levels which existed at the date of entry into force.

The agreement contains standard language on the national treatment with regard to domestic laws, regulations and other measures and formalities applicable to imports, as well as on exceptions (public morality, religious values, public policy, national security, protection of human, animal and plant life and health, protection of national treasures possessing artistic, historic or archaeological value, protection of exhaustible natural resources and genetic reserves, regulations concerning gold or silver), for as long as any such exceptions are not applied so as to constitute arbitrary or unjustifiable discrimination or a disguised restriction on trade.[31]

As far as contingency protection measures are concerned, the agreement contains rules on antidumping, safeguards, balance of payments measures, but not countervailing measures. It provides that technical regulations and standards, as well as sanitary and phytosanitary measures shall not be prepared, adopted or applied so as to create obstacles to mutual trade or to protect domestic production and that these measures be applied in accordance with the principle of proportionality.

Because the agreement has only entered into force very recently, it is still too early to tell whether it will lead to much of an increase in trade between the two signatories. Some commentators insist that bilateral relations between the two countries are driven first and foremost by political and strategic interests rather than by economic considerations, and that this is equally true for the PTA.[32]

Some commentators have questioned the WTO compatibility of this agreement, given that, as a preferential agreement, is obviously violates the MFN principle, without, in its current form, being able to have recourse to one of the exceptions granted under WTO rules, like GATT Art. XXIV for free trade agreements and customs unions, since the agreement clearly fails to cover substantially all trade. Moreover, even under the Enabling Clause, it would be hard to sanction the breach of MFN perpetrated by the agreement, since it discriminates against other developing countries. These observations are equally pertinent with regard to the draft agreement with Belorussia discussed immediately below.

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[30] The agreement defines "para-tariffs" as "border charges and fees other than tariffs on foreign trade transactions of a tariff-like effect, which are levied solely on imports but not those indirect taxes and charges which are levied in the same manner on like domestic products" (Art. 2.2).
[31] Art. 8.
[32] Nimrod Raphaeli and Bianca Gersten, "The Iran-Syria Alliance: The Economic Dimension", published at: http://www.globalpolitician.com/print.asp?id=5060.

2.5. Draft Agreement with Belorussia

Still only in its draft stages, this agreement would, if implemented, seek to establish a free trade area over an implementation period of four years. Like the agreement with Iran discussed above, the specific market accession concessions, for both industrial and agricultural goods, are set out in country-specific schedules (Annexes A and B), whereas the rules of origin which are to apply are contained in Annex C.

Both contracting parties are to reduce their customs duties on the goods scheduled in their respective annexes over a period of four years, whereby at the end of the implementation period duties on these goods are to be zero. This is quite different from the free trade agreements Syria has with its other trade partners (Turkey, EC), since in these agreements Syria was given a lengthy implementation period while its counterpart essentially implemented the required elimination of tariffs immediately upon the agreement's entry into force.

The agreement's language on such issues as the ban on quantitative restrictions, general exceptions, and transparency obligations follow the usual templates and contain no surprises. In terms of contingency protection measures, the agreement recognizes safeguards and antidumping, as well as balance of payments measures, but no countervailing duties. The language in the agreement concerning these instruments resembles that in the agreement with Iran, which leads one to conclude that the same template served as the point of departure for both initiatives.

The rules on sanitary and phytosanitary measures, as well as technical regulations and standards, require that these shall not be prepared, adopted or applied so as to create unnecessary obstacles to mutual trade or to protect domestic production.

The Agreement is virtually devoid of any dispute settlement rules, merely stating that any disputes shall be settled amicably as far as possible through consultations or negotiations.

Because the agreement is still being negotiated, access to the product schedules which would show the extent of the planned liberalization is limited. It is thus not possible to make any assessment with regard to what the impact of the agreement might be. The treaty seems to be somewhat of a throwback to the old days of the 1970s and 80s, when Syria used to export a lot of agricultural produce to the Former Soviet Union, and import industrial goods. To what extent these long dormant trade ties can be revived through the conclusion of this trade agreement remains to be seen. With both countries only at the beginning of their WTO accession negotiations, the planned FTA really probably only serves to distract policy-makers' attention from more pressing concerns, such as getting on with accession negotiations, as well as, for Syria, implementing the commitments it has already entered into with more important trading partners like the EU and Turkey.

Section 3 Substantive Comparison of Commitments

3.1. Introductory remarks

This section seeks to explain some of the instruments typically used in trade agreements to manage market access and which thus inevitably have an impact on the degree to which these agreements represent genuine liberalization. Many of these instruments are also used in order to manage the pace and the degree to which liberalization may be allowed to occur. Finally some of these instruments govern what happens if the parties have a disagreement with regard to the operation of the agreement, and how such disagreements should be settled.

3.2. Agriculture

In agriculture, the typical instruments used to liberalize trade in the context of trade agreements (whether bilateral, regional or multilateral) are tariff concessions and sometimes tariff rate quotas (see below). The instruments typically used to give governments additional policy space to manage or even claw back some of these market access concessions, are special safeguards (applicable to agricultural goods only), or other, more broadly formulated opt-outs, which allow higher duties to be re-imposed at some point in the future in the event that one of the contracting parties deems this to be necessary or desirable. It is generally true of trade in agriculture today (whether in the framework of the WTO or in bilateral and regional trade agreements), that quantitative restrictions have been abolished and replaced with tariffs (a process known as tariffication).[33]

3.2.1. Tariff Concessions

Tariff concessions are a general feature of all the trade agreements Syria has entered into, with different modalities governing the scope of goods covered (or exempted), the degree to which tariffs on the covered goods are reduced and the speed at which these reductions take effect.

For **GAFTA**, reductions of tariff duties were envisaged by an aggregate of 10% over an initially envisaged implementation period of ten years, with the end result being accelerated reductions in the last two years in order to shorten the implementation period. Countries were given limited scope to exempt up to ten agricultural products during the harvest season (so-called farmer's almanac), but this exemption applied only for as long as the implementation period. As of 2005, all trade in agricultural goods between GAFTA members is supposed to be duty free.

Under the **EC Cooperation Agreement**, agricultural goods were *a priori* excluded from the scope of liberalization, although a limited number of agricultural goods, set out in Art. 18 of the agreement were allowed to benefit from tariff reductions of between 50 and 80% such as e.g. guts, bladders and stomachs of animals (other than fish), dried fruits, etc). Some vegetables and onions were granted a 15% reduction.

Of much greater significance in term of market access for Syrian agricultural exports to the EU in the years following the entry into force of this agreement (particularly after implementation of the Tokyo Round Enabling Clause after 1980), would have been the

[33] See: World Trade Organization, Understanding the WTO, Chapter 2 The Agreements, at pp. 4-5, available at: http://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap2_e.pdf

Generalized System of Preferences, which provides tariff preferences on a limited number of agricultural products to developing countries who meet certain criteria.[34]

Under the **EC Association Agreement**, agricultural products again would not benefit from the general liberalization enjoyed by industrial goods (see below), but would be subject to liberalization on an item-by-item basis. Separate protocols have been negotiated and agreed for each contracting party which stipulate the market access it offers imports of agricultural and fisheries products originating in the other contracting party. Trade in processed agricultural products is liberalized under another protocol, which stipulates on an item-by-item basis the product to be liberalized, as well as the quantity of this product which can benefit from such liberalized market access, in addition to the duty which is to apply to such quantities.

The **Association Agreement with Turkey** provides that trade in agricultural goods will be liberalized only on those goods set in Protocol 1 to the Agreement. Here, both Syria and Turkey essentially agreed to provide duty-free access to a limited amount of goods on the basis of a tariff-quota system (see below).

In the **Preferential Trade Agreement with Iran**, each country agrees to provide tariff concessions in the form of margins of preference ranging from 15 to 30 percent on a limited number of products set out in Annexes A and B to the Agreement. There is no phase in period for these tariff reductions. Iran agreed to extend margins of preference to Syria on some 24 tariff lines falling in the chapters 0 – 24 of the Harmonized System (at the sixth-digit level), and Syria made corresponding commitments to Iran also on some 24 product lines (many of which seem to be different types of dates, black tea and saffron).

3.2.2. Tariff Rate Quotas

Tariff-rate quotas (also known as tariff quotas) are a very common instrument in agricultural trade, and have been used liberally in a number of the agreements Syria has signed, including the Association Agreements with the EU and Turkey. Essentially they allow countries to provide preferential or duty-free market access to a limited quantity of imports (the quota), whereas imports in excess of said quota are subject to non-preferential (and often commercially unviable) tariff rates.

Tariff-rate quotas are a common feature for countries who grant tariff preferences to some of their trading partners. They are also a common feature of agricultural liberalization efforts at the WTO, where following the Uruguay Round, they were used to implement minimum market access commitments that Members had agreed to as part of the tariffication process.[35]

The **1977 Cooperation Agreement with the EC** provides for only limited liberalization on agricultural products, which are generally excluded from the Agreement's scope. Art. 17 and 18 provide for some tariff preferences on a very small number of goods, but these are not administered by means of any tariff-rate quotas.

The **2004 Association Agreement with the EC** on the other hand makes extensive use of TRQs. The arrangements applicable to imports into the Community of agricultural products originating in Syria are scheduled in Protocol 1 to the Agreement. The relevant schedule is a table of six columns, with the first two dedicated to HS codes and the

[34] For more on the EU's GSP scheme see: http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/.

[35] Typically between 3 and 5 % of domestic consumption, see: Donald MacLaren, *The Uruguay Round Agreement on Agriculture: A New Order*?, published in: "Agenda", Volume 2, Number 3, 1995, pp. 281-290, available at: http://epress.anu.edu.au/agenda/002/03/2-3-A-2.pdf.

product description, and the last four columns setting out the conditions of market access, as depicted below:

Table 1 Market Access Schedule for the European Union on agricultural products originating in Syria

CN Code (1)	Description (2)	a Reduction of the MFN customs duty %	b Tariff quota (tonnes net weight) (**)	c Reduction of the MFN customs duty beyond current or possible tariff quota %	d Specific provisions
0706 10 00	Fresh or chilled carrots and turnips	100	1 060	26	
0706 90 10	Fresh or chilled celeriac (rooted celery or German celery)				
0706 90 30	Fresh or chilled horseradish			29	
0706 90 90	Fresh or chilled salad beetroot, salsify, radishes and similar edible roots (excluding carrots, turnips, celeriac and horseradish)			26	
0707 00 05	Cucumbers, fresh or chilled	100 (*)	1 060	0	
0707 00 90	Fresh or chilled gherkins				

Source: Protocol 1 to the Association Agreement between the European Union and the Syrian Arab Republic.

As can be seen, the tariff reductions for the in-quota amount are generous, at 100% of the MFN customs duty. The reductions applicable to any out-of-quota quantities is considerably less, ranging from between 0% to 26%, and is thus very likely to be commercially unviable, especially considering that EU producers of the like products will be benefitting from generous subsides under the Common Agricultural Policy, and any LDC producers of these products will be benefitting from duty-free and quota-free access into the EU market under the Everything But Arms initiative.[36] Thus the commercial value of the market access concessions available to Syria under the Association Agreement will be limited to the value of the quota, assuming of course the quota can actually be filled during the course of the quota period (in general, so-called "quota-fill" rates tend to be significantly below 100%).

With regard to the conditions of market access that Syria has extended to agricultural products originating in the **EU** under the **Association Agreement**, Syria opted to make little use of TRQs , and in fact uses this instrument on only three tariff lines, namely oranges, mandarins and apples. For the remaining agricultural goods (listed in Annex I to the agreement), Protocol 2 sets out a time table subject to which Syria has committed to reduce tariffs. According to this timetable, agricultural products subject to customs duties between 0 % and 5 % shall benefit from duty-free access into Syria immediately on entry into force of the Agreement. Depending on the customs duty on a specific agricultural product listed in Annex I, the extent and speed of tariff reductions varies, so that agricultural products subject to custom duties between 40 % and 50 %, the custom duty shall be reduced to 40 % from the entry into force of the Agreement and shall be dismantled linearly to reach zero duty within twelve years of its entry into force.

Thus Syria has essentially committed to eliminate customs duties on all the scheduled agricultural goods originating in the EU within 12 years, whereas the EU has made no

[36] For more on the Everything But Arms initiative see: http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/everything-but-arms/.

such commitment towards Syria, offering rather duty-free access on only a limited quantity of any given agricultural product per year, on an item-by-item basis. Some commentators have pointed out that liberalizing trade in agriculture towards the EU, which subsidizes the production and export of many agricultural goods on a massive scale, can be dangerous for domestic production if adequate trade defence mechanisms are not in place, particularly safeguards, special agricultural safeguards or countervailing duties. Syria should thus ensure it has such instruments readily available and is well schooled in their use before it starts to open up its market to agricultural imports from the EU on too large a scale.

The **Association Agreement with Turkey** also makes use of the tariff-rate quotas for trade in agricultural goods. Both parties have tabled a limited number of agricultural products (in Protocol 1 to the agreement), which represents the extent to which trade in this sector is to be liberalized under the terms of the agreement. Table A in Protocol 1 lists some 25 tariff lines on which Syria has committed to extend duty-free access of limited quantities of the respective agricultural goods. In Table B, Turkey has committed to do the same on some 21 agricultural products. On aggregate, this embodies a very cautious approach to liberalization in this sector.

In the **Preferential Trade Agreement with Iran**, both countries eschewed the use of TRQs in favour of a linear and gradual reduction of a positive list of scheduled products, For Iran, some 30 tariff lines fall within the first 24 chapters of the Harmonized System[37] have been granted margins of preference but there is no provision mandating the use of TRQs to manage the quantity of products benefiting from these preferences. For Syria, this number is 24, and again, no TRQs have been scheduled.

3.2.3. Special Safeguards and other Sector-Specific Policy Space

Of the five agreements surveyed, only the **Association Agreement with Turkey** provides for a special safeguard which the contracting parties can avail themselves of "if imports of [agricultural] products originating in the territory of either Party, which are subject to concessions granted under this Agreement, cause serious disturbance to their markets or domestic regulatory mechanisms"[38]. The language in the applicable clause refers to the "relevant WTO rules", which can only be construed as a reference to Article 5 of the WTO Agreement on Agriculture.

Table 2 The Special Agricultural Safeguard under Art. 5 of the WTO Agreement on Agriculture

Special safeguards: who has reserved the right?

In 2004, 39 WTO members currently have reserved the right to use a combined total of 6,156 special safeguards on agricultural products. The numbers in brackets show how many products are involved in each case, although the definition of what is a single product varies.

Australia (10)	Indonesia (13)	Poland (144)
Barbados (37)	Israel (41)	Romania (175)
Botswana (161)	Japan (121)	Slovak Republic (114)
Bulgaria (21)	Korea (111)	South Africa (166)
Canada (150)	Malaysia (72)	Swaziland (166)
Colombia (56)	Mexico (293)	Switzerland-Liechtenstein (961)
Costa Rica (87)	Morocco (374)	
Czech Republic (236)	Namibia (166)	Chinese Taipei (84)
Ecuador (7)	New Zealand (4)	Thailand (52)
El Salvador (84)	Nicaragua (21)	Tunisia (32)
EU (539)	Norway (581)	United States (189)
Guatemala (107)	Panama (6)	Uruguay (2)
Hungary (117)	Philippines (118)	Venezuela (76)
Iceland (462)		

Source: http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm#secretariat

[37] The first 24 chapters of the Harmonized System are generally perceived to represent the scope of agricultural products, based on a corresponding definition in the WTO Agreement on Agriculture (Paragraph 1 (i) of Annex 1 to the AoA).
[38] Art. 9 entitled "Specific Safeguards on Agricultural Products".

Article 5 of the WTO Agreement on Agriculture allows those countries who scheduled the use of the special safeguard in their market access tables to impose additional duties on the goods thus indicated if imports of the agricultural product in question exceed a specific quantity during a given year (volume trigger) or where prices of the product in question drop below a specific amount on a given shipment (price trigger). This mechanism was seen as a vital *quid pro quo* for getting WTO Members to agree to convert all quantitative restrictions into tariffs during the Uruguay Round. It is only available to those countries who have reserved the right to use it and can only be used on those products for which it was reserved on the schedule. As it stands, there are currently some 39 WTO Members (counting the EU as one Member and Switzerland-Lichtenstein as one Member), who reserved the right to use the special agricultural safeguard under Art. 5 of the Agreement on Agriculture (see table 2).[39]

In the context of the **Association Agreement with Turkey**, there is no requirement that the contracting parties reserve this right with regard to certain products. Rather they can avail themselves of this mechanism on any product on which they have offered market access concessions under the agreement.

Applying the price-trigger is relatively simple, to the extent that the only information customs authorities need is the c.i.f. import price of the shipment concerned. However applying the quantity trigger requires the existence of reliable and relatively up-to-date data on imports, which may well be lacking in Syria.

The **Association Agreement with the EU** does not contain a specific safeguard clause for agricultural products, but it does contain loosely formulated language granting contracting parties broad scope to re-impose restrictions whenever a change in their respective agricultural policies should require such action.[40] Only the most rudimentary notification obligations apply in the event a contracting party decides to take such action.

3.2.4. Summary of Commitments in Agriculture

As can be seen from the survey above, both Syria and its trading partners are reluctant to liberalize trade in agriculture, and consider the sector to be both sensitive and of sufficient strategic significance to shelter it from the brunt of liberalization. Although the reasons for choosing this path are obvious enough, the danger inherent to such a course of action is obvious, namely that when the time comes to join the WTO, Syria's agricultural sector could be woefully unprepared to compete with the likes of the Cairns Group and other big agricultural exporters.

Another area of policy constraints in the field of agriculture completely lacking from any of Syria's bilateral or regional agreements is of course domestic support for agricultural producers. Nevertheless, this issue will undoubtedly consume a lot of time and energy during the course of WTO accession negotiations once they begin, since certain members of Syria's working party will inevitably require that it binds trade-distorting forms of support at very low levels, possibly even only allowing it the so-called *de minimus* levels that all developed-country WTO Members get under the Agreement on Agriculture.[41] This is unfortunately something that implementation of its commitments under the various

[39] See: World Trade Organization, *WTO Agriculture Negotiations, The issues, and where we are now*, 2004, at p. 39, available at: http://www.wto.org/english/tratop_e/agric_e/agnegs_bkgrnd_e.pdf

[40] Art. 22: "In the event of specific rules being introduced as a result of the implementation of its agricultural policy, any alteration of the current rules or any alteration or extension of the provisions relating to the implementation of its agricultural policy, the Party concerned may amend the arrangements resulting from this Agreement in respect of the products concerned".

[41] See: Miho Shirotori, *WTO Accession Negotiations on Agriculture*, published in: United Nations Conference on Trade and Development (ed), "WTO Accession and Development Policies", 2001, pp. 191 – 203, particularly pp. 197 ss, available at: www.unctad.org/en/docs/ditctncd11_en.pdf.

bilateral or regional trade agreements will not prepare Syria for. Only if it moves steadily but unequivocally towards a truly competitive agricultural sector which relies on economies of scale and comparative advantage will Syria manage to mitigate the sudden negative impact of WTO membership on its agricultural producers.

3.3. Non-Agricultural Market Access

As in the case for market access commitments for agricultural products, liberalization for non-agricultural or industrial goods also tends to be achieved by means of tariff concessions. Unlike agriculture, however, quantitative restrictions on industrial goods in the multilateral trading system were largely phased out in the very earliest days of the GATT (i.e. in the late 1940s), whereas for agricultural products this was only achieved in 1995 with the advent of the Uruguay Round (see remarks above on tariffication). The big exception to this was of course textiles and clothing, a sector long dominated by a complex system of quotas which was only phased out on 1 January 1996 pursuant to Art. 9 of the WTO Agreement on Textiles and Clothing.

One sector that has achieved almost universal liberalization, i.e. removal of all QRs, tariffs and TRQs, is information and communications technology products. This is the case within the context of the WTO's 1996 ICT Agreement (the only "new" WTO Agreement since the end of the Uruguay Round), but it is also the case in a number of Syria's trade agreements, as we shall see below.

Finally, this section also discusses in brief the treaty commitments Syria has undertaken to eliminate quantitative restrictions, non-tariff measures and any measures with equivalent effect.

3.3.1. Tariff Concessions on Non-Agricultural Goods

The **GAFTA** sets out a ten-year, incremental liberalization program after which all duties on all goods should be reduced to zero. As discussed above in the section on agricultural market access, this ten-year program was actually completed after eight years, and the only exceptions provided, all of which were to be phased out after the implementation period, applied to a very limited number of agricultural products (farmer's almanac). Industrial goods did not benefit from any such provision, although Article XV of the Agreement[42] does provide that "Any party-state may request the imposition of some duties and taxes of a similar effect or quantitative or administrative restrictions, or maintenance of existing ones, on a temporary basis, to ensure the growth of a certain domestic product". However, it is the Council[43] which ultimately must approve any such measures, and these are to be subject to strict time limits. Thus use of this article will be highly constrained among GAFTA contracting parties.

The **EC Cooperation Agreement** sets out liberalization commitments consisting of tariff reductions on the applied tariff rate used by the EC on products originating in Syria as per 1 January 1975. The envisaged reductions were namely 80% per entry into force of the agreement and subsequently a 100% reduction per 1 July 1977, although the Agreement only ended up entering into force on 1 November 1978. A limited number of industrial products were exempted from tariff reductions altogether (in addition to the

[42] Readers should recall that the treaty forming the basis of the GAFTA essentially constitutes two separate documents, the 1997 Executive Program and the 1981 Agreement to Facilitate and Develop Trade Among Arab States.

[43] Art. 1(4) of the Agreement specifies who the "Council" is, namely "The Economic Council established under Article (8) of the Joint Defense and Economic Cooperation Treaty among Member-States of the League of Arab States, approved by the League's Council on April 13, 1950, and any amendment thereto."

exceptions discussed above on agricultural goods), such as albuminoidal substances, modified starches, and glues.

The **EC Association Agreement** provides in principle for the elimination of customs duties on imports between the contracting parties. For the EU, such duty-free access is provided to goods originating in Syria upon the entry into force of the agreement, whereby Syria has an implementation period during which to phase in tariff reductions ranging from between zero and 12 years.[44] This means that on some goods, Syria has committed to providing duty-free access immediately upon the agreement's entry into force, whereas for others, it will be free to phase in liberalization much more gradually. The goods covered by the provisions on market access for industrial products[45] are those falling within Chapters 25 to 97 of the Combined Nomenclature (CN) and of the Syrian customs tariff (set out in Annex I to the agreement). A small number of industrial products are exempted from duty-free access, and these are set out in Annex II[46].

Similar to the Association Agreement with the EU, the **Association Agreement with Turkey** provides for the elimination of customs duties in Turkey upon the entry into force of the agreement for goods originating in Syria. The elimination of customs duties in Syria for goods originating in Turkey takes place more gradually over a period of up to twelve years for some products. By way of example, goods that already benefit from very low *ad valorem* duty rates (1%, 1.5%, 1.7%, 3% and 3.5%) are fully liberalized immediately. On the other hand, those products with very high applied duty rates (29%, 35% and 47%) only benefit from duty free access after 12 years. A limited number of products are completely excluded from the liberalization program (for both countries) and listed in Annex I to the agreement. Similar to the list of excluded products under the Association Agreement with the EU, this list covers goods ranging from such items as say mannitol, to glues, to uncarded or uncombed cotton.

The **Preferential Trade Agreement with Iran** provides for tariff concessions on the basis of margins of preference ranging from 15% to 30% depending on the applied *ad valorem* tariff levels as set out in Annexes A and B to the Agreement. Annex A contains the preferences granted by Iran to goods originating in Syria. Annex B contains the preferences granted by Syria to goods originating in Iran. Both schedules represent a so-called positive list approach, whereby the goods on which preferential treatment is extended are explicitly listed. Any goods not on the list are thus not covered by the liberalization program. Given that any normal tariff schedule will easily comprise over 100 pages (at the six-digit level), and that the positive lists scheduled by each contracting party to the agreement are spread across some nine pages, it is clear that several hundred product lines are thus exempted from any kind of preferential treatment. The liberalization envisaged between the two parties is thus a very cautious and limited one.

3.3.2. Duty-Free Access for Certain Sectors

As a rule, it is only the most recent agreements that Syria has concluded which target certain sectors for immediate duty free access. The **GAFTA** provides for across-the-board duty free access on all Arab goods after the 12-year transition period. The **EC Cooperation Agreement** entails no such commitment and nor does the **Preferential Trade Agreement with Iran**.

However both the **EC Association Agreement** and the **Association Agreement with Turkey** are relatively recent agreements concluded with WTO Members that have signed

[44] The timetable for gradual reductions to zero by Syria is set out in Art. 13 of the agreement.
[45] Section 1 of Chapter 1 of the agreement, comprising articles 11 to 15.
[46] These mainly comprise products such as mannitol, sorbitol, glycerol, hides and skins, raw cotton, waste and cotton carded or combed *et al*.

on to the WTO Information Technology Agreement. It is for this reason that the EC Association Agreement provides, in Art. 13 (g) that "[f]or products covered by the Information Technology Agreement of the World Trade Organisation, [...], all duties shall be abolished at the date of entry into force of this Agreement". The Association Agreement with Turkey has similar language in Art. 3 (g).

In addition to information technology products, both the **EC Association Agreement** and the **Association Agreement with Turkey** provide for the immediate elimination of customs duties for goods in a number of HS Chapters, namely Chapter 28 (inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes), Chapter 29 (organic chemicals), Chapter 30 (pharmaceutical products), Chapter 31 (fertilizers), Chapter 35 (albuminoidal substances; modified starches; glues; enzymes), Chapter 36 (explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations), Chapter 37 (photographic or cinematographic goods) and Chapter 38 (miscellaneous chemical products). These commitments correspond in large measure to the so-called "zero-for-zero" and "harmonization" approaches adopted during the Uruguay Round in many sectors between a number of industrialized countries, including chemicals and pharmaceutical products.

Neither the **Preferential Trade Agreement** with Iran nor the **draft agreement with Belorussia** contain any provisions aimed at achieving duty-free access on a sector-wide basis or otherwise aim to harmonize tariffs across a given product sector or sectors.

3.3.3. Non-tariff Barriers and Quantitative Restrictions

All the reviewed agreements contain a general ban against quantitative restrictions. Under **GAFTA**, Paragraph 3 of the Executive Program sets out a definition of measures deemed to be illegal non-tariff restrictions: "[a]ctions and measures that may be taken by a party-state to control imports, other than for organizational or statistical purposes. Specifically, such restrictions include quantitative, monetary and administrative restrictions imposed on imports". It then goes on to ban the use of such restrictions on any Arab goods traded under the Executive Program.

For the **EC Cooperation Agreement**, this ban is set out in Art. 12, but it only applies to the EC (Syria was not required to enter into a corresponding commitment vis-à-vis the EC), and it only applies to non-agricultural products.[47] In addition, the agreement provides for annual ceilings for a limited number of petroleum products, but otherwise, it provides that quantitative restrictions on imports into the EC of products originating in Syria were to be removed on the date of the agreement's entry into force (1 November 1978, with again the big exceptions being agricultural products and textiles).

The Association Agreement with the EU sets out, in Art. 23 (Common Provisions applicable under Title II, Free Movement of Goods) that "[a]ll import or export prohibitions or restrictions in trade between the Parties, other than customs duties and taxes, whether made effective through quotas, import or export licenses or other measures, shall be eliminated upon the entry into force of this Agreement. No new such measures shall be introduced". Given that Syria relies extensively on the use of import licenses for its trade with the EU, this commitment will require extensive changes once the agreement is ratified and implemented. The provisions in the agreement on national treatment also provide that "[n]either Party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount

[47] This is because the EC Cooperation Agreement with Syria predates the Uruguay Round and the corresponding comprehensive dismantling of non-tariff barriers (including quantitative restrictions) in the agricultural sector.

or proportion of any product which is the subject of the regulation must be supplied from domestic sources". This is a commitment that will further limit the policy space of Syrian policymakers and their ability to use internal quantitative regulations as a means of affording protection to domestic industry.[48]

The **Association Agreement with Turkey** provides, in Art. 13, that "[a]ll quantitative restrictions and prohibitions on imports or exports and measures having equivalent effect shall be abolished between the Parties upon the date of entry into force of this Agreement". In the same Article, it also sets out a ban against the imposition of any such measures in the future.

The **Preferential Trade Agreement with Iran** provides, in Art. 8.3, that "the Contracting Parties [...] agree to eliminate from the date this Agreement enters into force, all non-tariff barriers and any other equivalent measures on the movement of goods, other than those imposed in accordance with Article 8 of this Agreement.[49] The **draft agreement with Belorussia** contains, in Art. 5, a similarly-worded clause to that found in the PTA with Iran, namely a paragraph requiring elimination of QRs and measures with equivalent effect, as well as another paragraph banning the imposition of such measures in future.

3.3.4. Summary of Commitments in Non-Agricultural Goods

Although liberalization in the non-agricultural sector is slightly more open than in the agricultural sector, Syria's commitments show its cautious approach to engaging with its trading partners in more open trade relations. Apart from the ban on quantitative measures, most of the liberalization foreseen under the covered agreements (GAFTA, EU, Turkey) is done by the elimination of tariffs so as to afford duty-free access either upon the agreement's entry into force and/or after a transition period. With Iran, this is achieved by means of the reciprocal granting of tariff preferences on a carefully selected list of tariff lines.

3.4. Contingency Protection

Contingency protection can mean different things to different people, but it generally tends to involve protection granted to domestic producers of a specific product or products in the face of import competition which has arisen under one of a number of contingencies, including dumping, illegal subsidization, and import surges as a result of unforeseen developments. Contingency protection is thus only ever meant to provide temporary relief (which can admittedly last for many years), and is usually only provided in response to a petition by the affected domestic industry.

The GATT and more recently the WTO agreements set out extensive and highly technical substantive and procedural requirements that governments wishing to use such measures (and domestic industry seeking to benefit from such protection) must adhere to. Because such protection can have a sudden and dramatic impact on market access opportunities hitherto enjoyed by exporters of the products in question, many of the substantive requirements are intended to ensure that contingency protection measures are not imposed without sufficient justification. For the same reason, the procedural

[48] EU Member States have gradually but consistently been eliminating policies, laws and measures such as these over the course of more than 50 years of closer economic integration with one another and over 60 years of compliance with GATT rules.

[49] Article 8 of the agreement contains the usual exceptions for such policy objectives as public morality, religious values, public policy, national security, protection of human, animal and plant life and health, protection of national treasures possessing artistic, historic or archeological value, protection of exhaustible natural resources and genetic reserves, regulations concerning gold or silver, or involving restrictions on exports of products whose prices are held below world price (i.e. that are being dumped).

requirements involved with the imposition of such measures are intended to give the exporters of the products in question commensurate due process rights.

In this section, we first look at whether or not the covered agreements contain provisions intended to combat dumping. Secondly we examine whether the covered agreements contain language on subsidization. Finally we look at any escape clauses or safeguard measures the agreements contain. The existence of language on balance of payments measures is examined separately when reviewing special and differential treatment and other policy space (Section 3.8).

3.4.1. Antidumping

All of the covered agreements contain rules in one form or another on dumping. Under **GAFTA**, the first paragraph of the Executive Program states that [i]nternationally applicable rules for defining and dealing with cases of dumping shall be applied in respect to anti-dumping measures". The reference to "international rules" is ambiguous but would most likely be construed to mean WTO rules since these are some of the most detailed, and enjoy a growing body of jurisprudence.

The **EC Cooperation Agreement** refers, in Art. 31, to GATT Article VI and also sets out, in Art. 33 a number of procedural obligations, including a duty to notify and consult with the Cooperation Council prior to imposing any such measures. Article 33 also sets out the principle of proportionality when imposing measures, which, in the context of dumping, means that any antidumping duties must only be imposed to the extent necessary to remedy the injurious effects of dumping (i.e. not be in excess of the correctly calculated dumping margin). Finally, Art. 33 also provides that in cases of urgency, provisional dumping measures may be taken.

The **Association Agreement with the European Union** refers to both GATT Art. VI and the WTO Antidumping Agreement. It provides, in Art. 29, that "If one of the Parties finds that dumping is taking place in trade with the other Party within the meaning of Article VI of the GATT, it may take appropriate measures against this practice in accordance with the WTO [Antidumping] Agreement [...] and related internal legislation". Article 29 also excludes the application of the agreement's dispute settlement procedures to any antidumping measures a contracting party may resort to, which essentially means that these measures could potentially be open to abuse by either party.

The **Association Agreement with Turkey** also refers to both GATT 1994 Art. VI and the WTO Antidumping Agreement. Article 16 provides that "[i]f either of the Parties finds that dumping, within the meaning of Article VI of the GATT 1994, is taking place in trade governed by this Agreement, it may take appropriate measures against this practice in accordance with the WTO [Antidumping] Agreement. Article 22 contains notification and consultation obligations, as well as requiring that any measures taken be proportional to the injury suffered. In fact, although Art. 22 does provide that in the case of urgency, precautionary measures can be imposed immediately, it otherwise sets our procedural requirements before a contracting party takes unilateral action which will significantly constrain the use thereof. It should be noted that the notification and consultation obligations set out in Art. 22 apply to several measures including, *inter alia*, the specific safeguard on agricultural products, measures taken against dumped or subsidized imports, and escape clause actions.

Article 2 of the **Preferential Trade Agreement with Iran** contains a fairly detailed definition of what constitutes dumping under the agreement.[50] Article 11 then goes on to

[50] Article 2.10 defines dumping as "the introduction of a product into the commerce of the other Contracting Party at less than its normal value which is the comparable price in the ordinary course of

allow the use of antidumping measures in language that is broadly similar to that found in GATT Art. VI.[51]

The **draft agreement with Belorussia** only deals with dumping in one article (Art. 11), and the language used largely resembles that found in the Preferential Trade Agreement with Iran, i.e. is thus similar to GATT Art. VI. Nevertheless, the second paragraph of Art. 2 of the draft agreement with Belorussia contains language on how fair value is to be calculated[52], presumably in an attempt to curb any potential excesses in using this provision to restrain imports by means of using what can only be described as "creative accounting techniques" which have on occasion been favoured by some of the more prolific users of this particular instrument in the multilateral trading system.

The **WTO** has detailed rules and an ever increasing body of jurisprudence on antidumping measures. However, apart from requiring that an acceding country adopt the WTO Antidumping Agreement (which is in any event part of the Single Undertaking), there is no binding requirement for an acceding country to implement the AD Agreement by adopting corresponding domestic legislation. Several WTO Members, both developed and developing countries, make no use of antidumping measures whatsoever.[53] However, because Syria has chosen to make use of this particular trade defence instrument, it will need to ensure that any legislative or regulatory instruments and procedures it adopts in this context are in conformity with the substantive and procedural requirements set out in the WTO Antidumping Agreement.

WTO Members will also be interested, in the course of factual discussions in Syria's accession working party, to learn as much as possible about the domestic rules governing the conduct of such investigations, and are likely to ask some very detailed and technical questions if they suspect that there may be compliance issues with the WTO Antidumping Agreement. If Syria has any antidumping duties in place against goods from WTO Members who also happen to be on its accession working party, the chances are that the WTO Members in question will make removal of these measures a condition for Syria to accede to the Organization.[54] On the other hand, if WTO Members who are also on Syria's accession working party have antidumping measures in place against products from Syria, they might seek assurances from Syria that it will not challenge the legality of such measures once it becomes a WTO Member.[55]

3.4.2. Subsidies and State Aid

Similar to the approach taken on addressing cases of dumping, paragraph 1.5 of the Executive Program under **GAFTA** provides that "[i]nternational rules and provisions shall

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trade for the like product destined for consumption in the exporting country , or in the absence of such domestic price, is either the highest comparable price for the like product for export to any third country in the ordinary course of trade, or the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit."

[51] It states, namely "If either Contracting Party determines that dumping is taking place in trade with the other Contracting Party, it may levy an anti-dumping duty on the importation of the products dumped if it determines that the effect of the dumping, as the case may be, is such as to cause or threaten to cause material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.

[52] It states namely, "[w]ith respect to antidumping investigation a normal value of the imported product subject to this antidumping investigation shall be calculated on the basis of records on sales of this product on the domestic market of the country of origin of the product".

[53] Examples include Switzerland and Singapore.

[54] This was the case with the accession of Ukraine, which had antidumping duties in place against imports of light bulbs from the Kyrgyz Republic.

[55] This was the case with China and Mexico, who was the very last country to sign a bilateral agreement with China, thereby removing the final obstacle to its accession, after more than ten years of negotiations. The issue the Mexicans were seeking reassurances on was a series of antidumping measures it had in place against Chinese exports.

be observed in respect to [...] addressing cases of subsidization". Otherwise, GAFTA by no means makes any attempt to constrain governments in their use of subsidies in either the agricultural or non-agricultural sectors.

The **EC Cooperation Agreement** refers, in Art. 31.2, to "subsidies and bounties" and requires contracting parties "to respect the provisions of Article VI of the General Agreement on tariffs and trade". It should be noted that the EC Cooperation Agreement predated the WTO and thus the WTO Agreement on Subsidies and Countervailing Measures.[56] The notification and consultation obligations set out in Art. 33 of the Cooperation Agreement (discussed above in the context of antidumping), also apply to measures a contracting party wishes to take in the context of subsidies and bounties as described in Art. 31.2. Again, these requirements were intended to have a significant dampening effect on the use and abuse of such measures.

The **Association Agreement with the EU** contains provisions on subsidization, but also includes provisions on competition policy.[57] In terms of rules on measures adopted to combat subsidization, Art. 30 of the Agreement provides that the WTO Agreement on Subsidies and Countervailing Measures (ASCM) shall apply. However, similar to the approach taken in the context of dumping, any such measures are excluded from the scope of application of the agreement's dispute settlement procedures. This essentially gives *carte blanche* to both parties to use countervailing measures or to adopt other practices to counter the entry or impact of subsidized goods as they see fit. The Association Agreement does not set out extensive consultation and notification obligations for measures taken against subsidized imports, but in any event these are already set out in the ASCM, so they apply *mutatis mutandis* to Syria and the EU under the Association Agreement.

The **Association Agreement with Turkey** refers to GATT 1994 Art. VI and XVI and the WTO Agreement on Subsidies and Countervailing Duties, essentially authorizing either contracting party, in Art. 16, to “invoke appropriate measures” if it finds that “subsidisation, within the meaning of Articles VI and XVI of GATT 1994, is taking place in trade governed by this Agreement”. Article 16.3 requires that either contracting party, when invoking such measures, shall adhere to the notification and consultations obligations set out in Art. 22 (discussed above in the context of dumping). Article 22 has obviously been included in an effort to curtail the abuse of such trade defence measures. In addition to setting out procedural steps and timeframes for action, Art. 22 requires that trade defence measures “shall be restricted, with regard to their extent and duration, to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the damage caused by the practice or the difficulty in question.”[58] This language essentially codifies the universally-recognized legal principle of proportionality, which has also been discussed in the context of trade defence measures imposed by some WTO measures.[59] Article 24 contains some language on state aids, but these are uniquely relevant in the context of competition policy, and will be discussed in brief below (under competition).

The **Preferential Trade Agreement with Iran** is strangely silent on the subject of rules governing either subsidization or measures taken to combat imports which have been unfairly advantaged by the granting of subsidies. This seems odd given that the Agreement provides for rules on antidumping measures (see above), safeguard

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[56] The EC Cooperation Agreement even predated the Tokyo Round Subsidies Code, of which the EC was a signatory, whereby Syria, no longer being a GATT Contracting Party, obviously was not.
[57] We discuss the competition aspects in more detail below under “New” Issues.
[58] Art. 22.4.
[59] See for example, the Report of the Appellate Body in *United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea* (AB-2001-9) particularly paragraphs 223 ss. where the AB sets out its reasoning on “The Application of the Line Pipe Measure: Express Justification and Permissible Extent”.

measures (see below), and balance of payments measures (see the section below entitled "S&D and other Policy Space"). It seems that the drafters of the Agreement either felt is unnecessary to include rules on countervailing measures and/or undesirable to enter into binding constraints on subsidization. Given that neither country is a particularly prolific user of countervailing measures as well as both being in the painful process of transitioning their industrial and agricultural sectors to the rigours of closer integration into the global economy (not least through a cautious degree of engagement with the WTO), the lack of rules on this area of policy is quite understandable.

Similar to the Preferential Trade Agreement with Iran (after which it seems to have largely been modelled), the **draft agreement with Belorussia** is completely silent on the subject of both subsidization and the imposition of countervailing duties. This is most likely for the same reasons articulated above in the context of the Iran-Syria agreement. Rules on antidumping, safeguards and balance of payments do, however, figure in the draft agreement, and have been/shall be discussed here accordingly.[60]

Subsidies and countervailing duties are a topic of some contention at the **WTO**, and have been the focus of both major dispute settlement proceedings as well as strong ideological differences among the Membership during the various negotiating rounds. For Syria, as it moves forward in its bid to accede to the WTO, subsidies and countervailing duties could pose problems on up to four distinct policy fronts.

The first will be the issue of general compliance with WTO rules with respect to whether and how Syria has institutional structures and procedural mechanisms in place for the imposition of countervailing measures. Similar to what has been stated above in the context of antidumping duties, the Single Undertaking does not require Syria to in fact use countervailing duties as a trade defence tool. However where it opts to do so, it must comply with GATT Art. VI and the WTO ASCM.

The second front on which this issue is likely to cause Syria some consternation in the course of its WTO accession bid, will be where Members scrutinize existing industrial subsidization program and require that they either be discontinued or brought into line with the ASCM, i.e. removed of their injurious effects. This will particularly be the case if any industrialization policies are perceived as giving an unfair advantage to domestic production over imports or if they are perceived as giving an artificial boost to exports.

Another, third front where subsidies could be an issue for Syria is if any Members of its accession working party have countervailing duty measures in place against Syria. They may seek assurances that these measures would not be challenged by Syria or at least not until they are due to expire.

Finally, the fourth front on which subsidies are likely to be a cause of consternation in the context of Syria's accession to the WTO will be how it provides domestic support to its agricultural producers. A number of - predominantly Cairns Group - Members, many of whom are active on a systemic basis in all WTO accession working parties, will want to review Syria's agricultural support practices on a policy-by-policy and dollar-by-dollar basis to ensure that it is not providing trade-distorting forms of domestic support to its agricultural producers. This is indeed an issue, and a process, that many WTO accession countries find one of the most onerous of the entire WTO accession odyssey.

[60] The drafters of the draft agreement with Belorussia seems to have taken the Iran-Syria PTA as their template. This is a fairly common occurrence when countries negotiate trade agreements, which is why say, many of the free trade agreements negotiated by the United States during the late 90s and more recently contain structures and treaty language in many ways very similar to NAFTA.

3.4.3. Escape Clauses

The political-economy rationale behind escape clause actions (otherwise known as safeguard measures) has been well documented by commentators and does not need to be elaborated upon here in much detail.[61] Suffice to say that Syria, whose approach to trade liberalization is justifiably cautious, has included language on the use of safeguard measures in all of the agreements subject to the present review. We begin our analysis with the GAFTA.

Section 1 of the Executive Program implementing **GAFTA** refers, in paragraph 5, to "international rules and provisions" which are to "be observed in respect to the technical bases for safeguard measures". Given the date (1997) of this clause, it can really only be referring to the WTO rules, which include GATT Art. XIX ("Emergency Action on Imports of Particular Products") as well as the WTO Agreement on Safeguards. Although it is not completely clear what the term "technical bases" refers to, it is likely this just means Art. 4 of the Safeguards Agreement ("Determination of Serious Injury or Threat Thereof") which provides technical guidance to the investigating authority on how to determine the existence of such conditions as a surge in imports, injury to the domestic injury (or threat thereof), and causal link between the import in question and the injury being suffered (or which is threatening the domestic industry). Article 5 of the Safeguards Agreement also provides some technical guidance on the application of safeguard measures, to ensure they do not unfairly penalize imports beyond what is necessary to remedy injury (or alleviate the threat thereof), and this is also likely covered by the reference in Section 1, paragraph 5 of the Executive Agreement to "international rules and provisions" to be applied to the "technical bases for safeguard measures". Otherwise, the Agreement proper makes no further mention of this particular trade policy instrument.

Article 32 of The **EC Cooperation Agreement** uses the term "serious disturbances", stating that "if difficulties arise which might bring about a serious deterioration in the economic situation of a region", either of the contracting parties may "take the necessary safeguard measures". In the same way as the Agreement requires for antidumping measures and countervailing duties, the use of safeguard measures is subject to additional notification obligations and the obligation to observe the principle of proportionality as set out in Art. 22 of the Agreement. At the time the EC Cooperation Agreement was being negotiated and ratified, safeguard measures as an instrument of contingency protection had largely fallen into disuse and had been replaced by other, so called "grey area measures" such as vertical export agreements or orderly marketing agreement.[62] This might explain the paucity of the language governing their use contained in the Agreement.

Article 31 is the key operational provision on the application of safeguard measures under the **Association Agreement with the EU**. In essence, it merely seeks to incorporate the applicable WTO rules into the Agreement by means of a reference to these rules (specifically to the provisions of Article XIX of the GATT and the WTO Agreement on Safeguards). It also sets out a number of procedural and notification requirements that Parties much meet before applying such measures and also, very interestingly excludes the use of such measures from challenge under the Agreement's dispute settlement provisions (as was also done for other trade defence measures). The use of safeguards as an instrument of contingency protection is much more popular

[61] See, for example, Joseph M. Finger and Andrei Zlate, *Antidumping: Prospects for Discipline from the Doha Negotiations*, available at: http://fmwww.bc.edu/EC-P/WP632.pdf; particularly p. ii ss., which discusses different trade defense measures and addresses the reality of trade policy as a means for "managing pressures for exceptions – for protection for a particular industry".
[62] Known as "grey area measures" because their legality under GATT was doubtful, for more on this, see Finger and Zlate, cited in the footnote immediately above.

today than it was towards the closing decades of the GATT system, despite a number of controversial rulings by the dispute settlement organs of the WTO which have rendered their use somewhat less attractive. Nevertheless, by excluding safeguard measures from dispute settlement as it has done under the Association Agreement, the EU will clearly face less constraints in using this instrument against troublesome import surges from Syria, which could potentially put a serious brake on trade if such imports start competing with politically influential and well organized interests in the EU (such as in textiles, agriculture or fisheries). By the same token, this will be a policy instrument that Syria will also be able to use relatively liberally if the need arises, without having to worry about the EU looking over its shoulder (unless of course the EU makes an issue of such actions in the context of Syria's WTO accession – see below).

Just like GATT Art. XIX, Article 17 of the Association **Agreement with Turkey** is entitled "Emergency Action on Imports of Particular Products", and the Agreement refers in this article to both the corresponding GATT provisions and the WTO Safeguards Agreement. In addition, it subjects the use of safeguard measures to a number of other obligations set out in Art. 22 of the Agreement. These obligations primarily concern the notification of any intention to impose such measures, the requirement to consult with the other party before imposing them, and finally to only impose such measures to the extent necessary to remedy the injury suffered. Turkey is a relatively frequent user of this particular trade policy instrument and has a number of measures currently in place against such products as footwear, vacuum cleaners, motorcycles, smoothing irons, matches and salt, to name just a few.[63] This could bode both ill and well for Syria; ill because as its trade increases with Turkey, and as its exports threaten to or actually succeed in displacing Turkish production, it will increasingly bear the brunt of such measures; well because, as an experienced user of these measures, there is a lot Turkey could potentially teach Syrian investigators and policy makers about the use thereof.

Article 10 of the Preferential **Trade Agreement with Iran** is entitled "Safeguard Measures" and as such, it contains the key operational language governing the use of this instrument. Instead of referring to international rules or the WTO treaty architecture (neither parties being Members), the language in this article merely restates much of the terminology found in GATT Art. XIX and as a result, reads largely the same as the latter. Interestingly, the only kind of safeguard measure envisaged under the Agreement, is the withdrawal of the preference originally granted. This article also contains some basic notification and consultation obligations in much the same way as they were originally envisaged under the corresponding GATT provisions.

In Art. 10, the **draft agreement with Belorussia** sets out a number of requirements on the use of safeguard measure which essentially resemble GATT Art. XIX. Interestingly, paragraph 2 of this article contains a *de minimus* provision, under which any imports representing less than 10% of all imports of the like product shall not be subject to safeguard provisions. Although a corresponding provision was absent from the GATT rules, it did find its way into the WTO Safeguards Agreement, namely in Art 9, where it represents special and differential treatment to developing countries Members.[64]

The **WTO** rules on the use of safeguards have been the subject of some controversy since the adoption of a new Safeguards Agreement at the end of the Uruguay Round[65]. Nevertheless, many of these issues can now be considered settled, and even if some

[63] See: http://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm.
[64] Under this provision, if a developing country Members' imports represent less than 3% of total imports of the product in question, and provided combined imports from developing country Members do not exceed 9%, then they cannot be subject to a safeguard action.
[65] This is particularly the case for the language on "unforeseen developments" found in GATT Art. XIX but absent from the Safeguards Agreement; or the interpretation attributed to the causation standard under which authorities are required to make an explicit and reasoned link between the increased imports and the injury suffered by the domestic industry.

Members are not satisfied with how the dispute settlement organs of the WTO have chosen to interpret these rules, they will have to wait until the next round of multilateral trade negotiations to do anything about it, since the provisions on safeguards do not fall within the remit of the Doha Round negotiations.

In the context of accession, safeguards generally do not tend to figure as an issue except that WTO Members will want to assure themselves that, if the applicant is availing itself of this instrument, it is doing so in conformity with the substantive and procedural requirements set out under WTO rules. If a Member of Syria's working party has safeguard measures in place against imports from Syria, it may wish warranties and representations from Syria in the working party report that Syria will not challenge these upon becoming a Member or at least not before they are due to expire.

3.4.4. Summary of Contingency Protection Provisions

Despite their standing among economist as a second-best policy option and despite their negative implications in terms of economic efficiency, contingency protection instruments play an inordinately important role in the world trading system today. Given that Syria is acceding to the WTO under the Art. 12 procedures of the Marrakesh Agreement, it will likely only be allowed to accede if it is prepared to liberalize its trade regime significantly beyond the degree of openness it provides at present. In light of this fact, contingency protection measures will inevitably be the instruments of choice for Syrian policy makers attempting to sequence the impact of liberalization on import-competing sectors.

For Syria, the challenge in this context will be for policymakers to learn to balance the short-run benefits of resorting to such measures against their long-term cost, and for those civil servants tasked with imposing them to learn the often highly complex technical details of conducting corresponding investigations in conformity with WTO rules. The EU funded Trade Enhancement Programme will be assisting the experts from government departments and the private sector in conducting and preparing such investigative cases and ensuring that they are in full conformity with the WTO requirements.

Seen in the context of this dynamic, the fact that the Association Agreements with the EU and Turkey both incorporate WTO rules on contingency protection measures by reference to the relevant WTO provisions, and that both these countries are sophisticated users of these instruments, represents a unique opportunity for Syria to learn how to use these measures before it accedes to the WTO.

3.5."New" Issues

The concept of what constitute a "new issue" is open to various interpretations, but for the purpose of the present report, the notion of "new issues" shall include investment, government procurement, competition policy, trade in services and trade-related intellectual property rights. Whereas government procurement has been the subject of different plurilateral agreements since the 1980s, trade and services and trade-related intellectual property rights formed part of the Single Undertaking in the Uruguay Round. Multilateral rules on investment and competition have been vigorously advocated by some developed countries and just as strenuously resisted by some developing countries. Nevertheless, all these "newer issues" tend to figure in recent bilateral and regional trade agreements involving at least one developed country contracting party.

3.5.1. Investment

Rules on investment are totally absent from all of the agreements under review except for the **Association Agreement with the EU**, which contains loosely formulated statements of intent with regard to cooperation on investment, including streamlining and improving investment procedures in Syria.[66] However, the EU Association Agreement also contains significant provisions on establishment and services which are relevant to investment, but which will be discussed below under Trade in Services. In addition to this, the Association Agreement does contain some provisions on payments and capital movements, one of which requires that "capital relating to foreign direct investments in Syria in companies formed in accordance with current laws and investments made in accordance with the provisions of Title III (Establishment and Services) can move freely".[67] These rules do create rights and obligations which policy makers at all levels need to be familiar with.

In terms of **WTO** rules on investment, these is still probably some time away from ever seeing the light of day. In accession negotiations, discussions relating to investment generally tend to be limited to so-called trade-related investment measures or TRIMS, which an acceding country may still have on the statute books at the time of its accession talks. TRIMS are usually measures that favour local content or which promote exports, and they are usually configured in a way that violates either the rules on non-discrimination or the ban on export subsidies. If Syria has any such measures in effect as part of an industrialization strategy, it can be certain that Members will insist on their removal before Syria is invited to join the WTO.

3.5.2. Government Procurement

Although they have been a part of the multilateral system since the 1980s, when the results of the Tokyo Round of multilateral trade negotiations came into effect, rules on government procurement have existed outside of the Single Undertaking and thus have only been taken up by a limited number of – first - GATT Contracting Parties and - subsequently - WTO Members. Nevertheless, in many developing countries and especially the so-called BRIC emerging market economies, government procurement makes up a significant portion of GDP, which has been the main reason for a handful of developed countries to champion (so far with only limited success) broader participation in the WTO Government Procurement Agreement or, failing that, at least a greater degree of transparency in government procurement.

For Syria, only its Association Agreements with the EU and Turkey address the issue of government procurement. The **Association Agreement with the EU** contains detailed provisions on government procurement in Art. 68 to 72, with the ultimate objective being the "effective, reciprocal and gradual opening of the government procurement markets".[68] These rules are further fleshed out in Annex VII, itself a comprehensive document divided into Part 1A and Part 1B, whereas Part 1B also has an Appendix. These more detailed rules cover such issues as rules of procedure, technical definitions, value thresholds (expressed in SDRs or Special Drawing Rights), institutional scope in terms of which EU and Member State public bodies are subject to the Agreements government procurement rules, as well as substantive coverage (i.e. what kinds of goods and services are subject to the Agreement's scope). For its part Syria has not tabled any public bodies whose procurement decisions are to be subject to the provisions of the Agreement, which means that from the outset, the market access afforded here is all one-way (in favour of Syrian suppliers).

However, Art. 68.6 states that the contracting parties shall regularly review the opening of government procurement markets under the Agreement and that at the latest after three years, they shall negotiate to extend the scope of institutional coverage. It is thus at the latest after three years that the EU will start to exert pressure on Syria to table its

[66] Art. 99.
[67] Art. 63.
[68] Art. 68.

own list of covered public entities. Otherwise, the market access being granted here to Syria appears to be relatively comprehensive and the onus will very much be on Syria, following its own ratification of the Agreement, to exploit the market access afforded to EU government procurement markets under the Agreement, something that its economic operators will no doubt struggle to do without help from the government. Significantly, Art 72.3 holds out the prospect of the Syrian government obtaining technical assistance to do just this, but this will almost inevitably come with some strings attached, the most likely of which being a reciprocal commitment by Syria to gradually open its own government procurement markets.

Article 27 of the **Association Agreement with Turkey** contains two short paragraphs on public procurement. Paragraph 1 contains what amounts to little more than a statement of intent, highlighting the desirability of each party to open their respective public procurement markets "on the basis of non-discrimination and reciprocity". Paragraph 2 contains an MFN clause, basically committing each party to extend to one another the same market access they afford to any third country with respect to their respective government procurement markets. Given that Syria has not yet accorded any third country access to its government procurement market, this provision entails little to no preferential access to Turkish suppliers, at least for now. However, as soon as Syria does extend such access to the EU as a result of the negotiations mandated under Art. 68.6 of the Association Agreement with the EU, it will automatically be required to extend this access on an MFN basis to Turkey, under Art. 27.2 of the Association Agreement with Turkey. Turkey, for its part, although having trade agreements with several countries, as well as its own Association Agreement with the EU, has been very reluctant to provide anything more than loosely-formulated statements of intent about the long-term desirability of opening up its government procurement markets at some future point in time. It is also not a signatory of the WTO GPA, although it is an observer.

In the context of Syria's accession to the **WTO**, government procurement is unlikely to be a major issue unless Syria is already providing meaningful and economically significant access to its own government procurement markets to the EU (and Turkey, see above), in which case other WTO Members might feel inclined to demand the same (especially its regional trading partners that are already WTO Members, like, say, Oman, Jordan or Saudi Arabia). Otherwise, accession to the WTO GPA is never a make or break issue for acceding countries, and WTO Members are usually satisfied with a vague commitment to begin negotiations on signing the GPA at some unspecified future date. Syria might deem this to be in its own interest, since by declaring such intent, it automatically becomes an observer to the GPA and can thus attend corresponding committee meetings at the WTO.

3.5.3. Competition

Multilaterally binding rules on competition are probably still some way off, at least at the WTO, despite the best efforts of some developed countries to have them as part of the Doha Round Single Undertaking. Because they have been denied the chance to bring binding rules on competition into the WTO framework, developed countries particularly keen on their inclusion have simply changed their focus to include them in bilateral and regional agreements.

Of the agreements reviewed here, the EC Cooperation Agreement, the Association Agreement with the EU and the Association Agreement with Turkey address the issue of competition policy in various ways. The GAFTA, the PTA with Iran and the draft agreement with Belorussia are all completely silent on this particular issue.

The **EC Cooperation Agreement** essentially predates efforts to include competition rules in trade agreements[69], but it nevertheless contains some very rudimentary provisions, that belong, in a broader sense, to competition policy. The first is Art. 43, which requires that "the arrangements applied by Syria in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, or their companies or firms." The second provision contained in this Agreement which belongs, in a broader sense, to competition policy is Art. 42, which is the security exception clause. Art. 42 provides that "Nothing in the Agreement shall prevent a Contracting Party from taking any measures ...", whereas indent (b) further clarifies "which relate to trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes". This clause is admittedly somewhat unusual and is not a common feature among provisions on security exceptions (which are normally quite sweeping and contain few if any caveats). It can perhaps best be explained by the fact that at the time of the Agreement's adoption (1977) the military played an inordinately important role in the Syrian economy (some would argue that this phenomenon continues to this day) and the EC was seeking to obtain reassurances that military procurement policies would not otherwise distort competition in markets for non-military goods.

The **Association Agreement with the EU** has the most comprehensive framework on competition rules of the three agreements discussed in this section, and this is largely in keeping with the EU's recent drive to include competition rules in as many of its trade agreements as possible, a policy it has pursued with single-minded tenacity in both the Euro-Med and EPA processes as well as in the context of other bilateral FTAs. Article 65.1 of the Agreement prohibits collusive behaviour, and abuse of a dominant position, much in line with contemporary legislative efforts to curtail anticompetitive behaviour by firms. Article 65.2 provides for mutual cooperation in enforcement efforts as well as information exchange, whereby the modalities for such cooperation are further fleshed out in Annex V to the Agreement (11 pages, 9 articles). Article 66 contains a commitment "to progressively adjust any State monopolies of a commercial character, so as to ensure that, by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Syria." This commitment will have far-reaching implications for the Syrian economy as a whole. The same article also contains a commitment to ensure, after five years following the entry into force of the Agreement, that "with regard to public enterprises and enterprises to which special or exclusive rights have been granted, [...] there is neither enacted nor maintained any measure distorting trade between the Community and Syria to an extent contrary to the Parties' interests". This will also have important implications in light of the role public enterprises still play in the Syrian economy.

The **Association Agreement with Turkey**, given its close resemblance as a negotiating template to the EU Association Agreement, also has some rules on competition policy. Art. 24 prohibits collusive behaviour, abuse of a dominant position and any state aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods. Article 24 also calls on both parties to observe the principle of transparency in the context of state aid (Art. 24.2), as well as exhorting them to exchange information (Art. 24.5). Interestingly, the Association Agreement with Turkey addresses the issue of state aid (i.e. subsidies) not in the immediate context of trade defence measures, but rather in the context of competition policy. Many observers, have long been advocating such a stance, as well as extending it to other trade defence measures such as antidumping and even safeguards.

[69] A trend which arguably only gained real traction after the US defeat to Japan in the iconic Kodak-Fuji dispute in 1998.

Because competition policy is not strictly a **WTO** issue, one would expect it to barely figure at all as a point of contention in WTO accession. However, in accession negotiations involving a number of transition economies, such as China, Vietnam, and Ukraine (to name just a few), where state owned enterprises have played a significant role in the economy, WTO Members have pressed applicant countries to demonstrate that, despite their presence in the economy, such SOEs do not compete on unfair terms with private sector operators. Syria will be no exception in this regard. The provisions contained in the Association Agreement with the EU already address this issue, and give a foretaste of the kind of questions and pressures Syria can expect in this regard from other WTO Members equally hostile to the role of SOEs in a market economy.

3.5.3. Trade in Services

Of all the agreements subject to review, only the Association Agreement with the EU has very far-reaching commitments which require Syria to open its services markets to an extent hitherto not contemplated (discussed immediately below). Section 8 of the Executive Program opens the way for **GAFTA** to extend its substantive scope to include trade in services and intellectual property rights, but this only represents a statement of intent. Article 35 of the **Association Agreement with Turkey** has language under which the "Parties agree to cooperate with the aim of achieving a progressive liberalization and mutual opening of their markets for trade in services, taking into account relevant provisions of the WTO-General Agreement on Trade in Services (GATS)", but this also represents little more than a statement of intent.

The **Association Agreement with the EU** represents an ambitious attempt to challenge Syria's hitherto highly protected and closed services markets. Title III of the Agreement (Art. 44 thru 61) is entitled "Right of Establishment and Services". We look first at the rules on right of establishment before turning to those on cross-border supply of services.

The right of establishment under the Association Agreement with the EU is governed in some 16 articles (Art. 44 thru 50), and essentially takes a hybrid form between the classical models of a negative and positive list approach.[70] With regard to the EU, Article 44 (1) (a) sets out its commitment to grant Syrian companies "treatment no less favourable than that accorded to like companies of any third country". Article 44 (1) (c) contains similar language with regard to branches of Syrian companies. Article 44 (1) (b) provides national treatment to subsidiaries of Syrian companies, but subjects this right to a number of scheduled reservations, set out in Annex III to the Agreement. These reservations, of which there are only a few, comprise such issues as "mining and mineral rights for non-Community controlled companies", fishing, the acquisition of real estate by non EU nationals, audio-visual services (including radio), telecommunications services including mobile and satellite services, agriculture and news agency services. These reservations by the EU do not preclude Syrian-owned subsidiaries from operating on these markets per se, but they do release the EU from the obligation to extend national treatment to such operators.

With regard to Syria, it has undertaken, in Art. 44 (2) (a), to provide either national treatment or MFN (whichever is more favourable) to the establishment of EU companies in Syria, albeit subject to a long list of reservations contained in Annex III to the

[70] A so-called "positive-list" approach in services liberalization entails that each party explicitly lists those service sectors which are to be subject to market access, national treatment and any other liberalization commitments. Any sectors not listed, are not included. The most commonly cited example is the WTO General Agreement on Trade in Services or GATS. A so-called "negative-list" approach is where the assumption is that all services sectors are subject to market opening and non-discrimination obligations UNLESS explicitly listed as being exempted. The most famous example of this approach is the North American Free Trade Agreement or NAFTA.

Agreement. These reservations cover many sectors, and set out a number of bans or conditions subject to which foreign-owned companies may or may not operate in Syria. It lists a number of government monopolies, as well as setting out foreign equity ceilings, nationality requirements and other conditions of market access to various services sectors. Article 44 (2) (b) Syria grants national treatment to subsidiaries of EU companies, and in Art. 44 (2) (c), it provides MFN treatment to branches of EU companies.

The remaining provisions under this title (i.e. on right of establishment) preclude air transport, inland waterways transport and maritime transport (albeit subject to some limited concessions) from the scope of the commitments set out in Art. 44 (discussed immediately above). The remaining provisions under this title are largely limited to definitions of certain legal terms, as are generally found in the horizontal section of a WTO Member's schedule of specific commitments in services (i.e. terms such as "subsidiary", "branch", "establishment", "operation" etc). These provisions also state the right of EU and Syrian companies to employ their own nationals as long as they are deemed "key personnel" (another term which is defined in the Agreement). Finally, Art. 50 contains a carve-out provision which allows the application of differentiated rules when "justified by legal or technical differences" or for prudential reasons (in the context of financial services).

Cross-border supply of services under the Association Agreement with the EU is governed by Art. 51 thru 61. The articles in this section can be divided into three broad categories. After a general statement of intent on the desirability of liberalizing services trade in this mode of supply (Art. 51), Art. 52 and 52 then go on to lay out a series of best-endeavour obligations in the cross-border supply of services in air, road and rail transport, as well as inland waterways and maritime transport. Finally, Art. 54 to 61 contain a series of general obligations applicable under this title, and which resemble similar provisions contained in the GATS on such issues as security exceptions, domestic regulation and which include Art. 61, giving each Party the explicit right to take whatever prudential measures it deems necessary to ensure the integrity and stability of its financial system.

Trade in services has been covered by the multilateral trading system since the end of the Uruguay Round and the advent of the GATS (1995). **WTO** accession negotiations on services are often protracted and difficult and involve the exchange of offers and requests, followed by counter offers. Whereas some WTO Members can be expected to make requests on purely market access grounds, others will require wide-ranging market access and national treatment commitments in most or all services sectors on purely systemic grounds. For Syria, the limited, albeit unprecedented market access and national treatment commitments it will be required to make towards EU companies upon ratification of the Association Agreement should be used to the greatest extent possible to prepare Syrian operators (and regulators) for the increased conditions of competition that will inevitably result once the long road to WTO accession has been completed. The EU Association Agreement offers policy makers in Syria a chance to sequence the opening of services markets in an orderly and controlled manner, but will also represent the base line (and thus not the end point) from which negotiations will take place with working party members once WTO accession negotiations begin in earnest.

3.5.4. Trade-Related Intellectual Property Rights

Unlike services, multilateral rules on intellectual property rights have existed for over a hundred years. However, like services, they also became part of the treaty architecture governing the multilateral trading system with the conclusion of the Uruguay Round and the advent of the WTO Agreement on Trade Related Intellectual Property Rights (otherwise known as the TRIPS Agreement). Provisions on intellectual property rights are now a common feature of trade agreements, particularly with regard to the enforcement of such rights under domestic law.

In the context of the agreements under review here, intellectual property rights are only the subject of substantive rights and obligations in the two Association Agreements (i.e. with the EU and Turkey). As is the case for services, Section 8 of the **GAFTA** Executive Program touches on the potential for expanding the scope of the Greater Arab Free Trade Area to include intellectual property rights, but again, only represents a statement of intent. The **EC Cooperation Agreement** only mentions intellectual property rights in the context of the general exceptions, but does not set out any obligation to adopt and implement rules on IP protection.

The **Association Agreement with the EU** sets out, in Art. 75, a general obligation on both parties to "grant and ensure adequate and effective protection of intellectual, industrial and commercial property rights in accordance with the highest international standards including the rules set by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)". A footnote to this article clarifies the scope of the terms "intellectual, industrial and commercial property rights".[71] Annex VI to the Agreement (2 pages), further fleshes out the obligations incumbent upon Syria by setting out a timetable subject to which Syria is to join a list of multilateral intellectual property agreements. Otherwise, the Agreement is strangely silent on the measures it shall require of Syria to ensure effective implementation and enforcement of these intellectual property rights.

The **Association Agreement with Turkey** contains similar language (in Art. 25) as that discussed above in Art. 75 of the Association Agreement with the EU. However the Agreement with Turkey is missing the clarifying footnote of the EU Agreement and also fails to place any requirement on Syria to adhere to any international agreements as is done in Annex VI of the EU Agreement. It seems that Turkey took the standard template of the EU Association Agreement and was content to leave things at that. This is hardly surprising given that Turkey is not a large-scale exporter of intellectual property.

In the context of **WTO** accession negotiations, this is another area where some WTO Members push acceding countries hard to not only ratify but also fully implement state of the art intellectual property protection as imbedded in the TRIPS and the various WIPO treaties it refers to. Thus the timetable provided for under Annex VI of the Association Agreement with the EU would prove illusory if Syria were to step up and accelerate its WTO accession talks, to the extent that it would be required to adhere to all of the agreements listed in Annex VI (and others) before being allowed to join the WTO and not subject to such a generous implementation period as envisaged by the Association Agreement (up to seven years for some agreements).

3.6. Dispute Settlement

Dispute settlement provisions are an often-overlooked or under-regulated aspect of any contractual relationship and trade agreements are no exception. Earlier trade agreements, including the GATT, failed to set up a comprehensive and detailed framework for the settlement of trade disputes which become increasingly frequent the more closely integrated two or more economies become (since economic integration inevitably causes all kinds of friction as inefficiencies are eliminated). Under GATT, dispute settlement provisions gradually evolved and many of the lessons learned were

[71] These include: "[…] copyright, including copyright in computer programs and in databases, and neighbouring rights, the rights related to patents, industrial designs, geographical indications, including appellations of origin, indications of source, trademarks, service marks, trade names, layout- designs (topographies) of integrated circuits, plant varieties, protection of undisclosed information and the protection against unfair competition […]".

incorporated into a wholly revamped system under the WTO. Since the advent of the WTO (in fact since slightly before under NAFTA), free trade agreements have also tended to increasingly contain more expansive rules on what to do in the event of a disagreement. This is certainly the case with most of the trade agreements entered into by advanced trading partner such as the EU and the US and this trend is reflected in the agreements under review here, with newer agreements with more sophisticated trading partner also tending to contain more detailed provisions on dispute settlement.

3.6.1. Dispute Settlement in Contemporary Trade Agreements

Provisions on dispute settlement in the context of a bilateral trade agreement are primarily useful for their deterrent value than for anything else, especially when the trade agreement in question is characterized by an economic-power relationship of a highly asymmetrical nature.[72] Nevertheless, dispute settlement provisions in regional agreements can be considerably more effective than they are in merely bilateral agreements, as evidenced by, say, NAFTA. However, it is without doubt the WTO dispute settlement mechanism which is generally considered the world's most effective system for multilateral dispute settlement as well as being credited as one of the crowning achievements of the Uruguay Round. The WTO system of dispute settlement has been effectively invoked and utilized by both dozens of WTO Members, both developed and developing since its advent on January 1, 1995.

Because trade agreements typically lack direct effect[73], they nearly always provide some variation of State-to-State dispute settlement, and the rules governing such proceedings more often than not tend to resemble modern day commercial arbitration in one form or another. This is true of all of the agreements under review here, although the provisions and proceedings set out under some are more comprehensive and complex than others.

3.6.2. Grounds for Action, Standing and Procedures

The typical grounds for action under any trade agreement are generally nullification and impairment, or impediment of an objective. Nullification and impairment is a situation where an act or omission on the part of one of the contracting parties is nullifying or impairing the benefits the other contracting party may reasonably have expected to enjoy under the agreement. It should be recalled that trade agreements inevitably strive to achieve what is known as a "balance of rights and obligations", and if one party feels that this balance is being undermined by the act or omission of the other party (typically by said other party itself failing to comply with its obligations), then this is grounds for action under the agreement's dispute settlement provisions. Some agreements, although this is rather rare, may provide the possibility of a so-called non-violation complaint, subject to which the complainant may allege that, although no provisions of the agreement *per se* are being explicitly breached by an act or omission of the other party, the complainant's legitimate interests are still being nullified or impaired or the objectives of the agreement are still being impeded.

[72] See Christina L. Davis, *Do WTO Rules Create a Level Playing Field for Developing Countries*? published in: John S. Odell (ed), "Negotiating Trade: Developing Countries in the WTO and NAFTA", Cambridge University Press, 2006, also available for download at: http://www.princeton.edu/~cldavis/files/davis_WTO_and_developing_countries.pdf. In this article, Davis compares two trade disputes, namely Vietnam under its bilateral trade and investment agreement with the US on the one hand, and Peru versus the EU under the WTO on the other. Davis clearly shows the efficacy of litigating in a multilateral forum as opposed to within the flawed dynamics of an asymmetrical power relationship under a bilateral agreement.

[73] Meaning that private citizens and corporations are unable to directly avail themselves of the rights and obligations trade agreements create before the authorities or a court of law, in order to advance their own legitimate commercial interests.

Standing under most trade agreements rests solely with the contracting parties, i.e. the sovereign States that are signatories to the agreement. This is also the case with all of the agreements under review here. Private citizens in both Syria and its trade agreement partners have no right to invoke the provisions of any of the agreements in order to assert their own commercial interests. The most they can do is petition their respective governments to do this on their behalf.

The **GAFTA** has only a very rudimentary framework on dispute settlement, set out in two short provisions. The first provision is in Section Six of the Executive Program, which, in reference to Article XIII of the Agreement, establishes a committee in order "to settle disputes in all cases associated with the enforcement of the Agreement to Facilitate and Develop Inter-Arab Trade as well as any dispute over the implementation of this Program". Article XIII of the Agreement itself provides that "disputes arising from the enforcement of this Agreement shall be submitted to the Council for resolution. It may refer them to a committee or sub-committees to which it shall delegate some of its powers. It may also apply thereto the dispute settlement provisions set forth in Chapter Six of the United Agreement for the Investment of Arab Capital in Arab States and its annex. In each case, the Council shall determine the method of settling a dispute".

Thus the provision of the Executive Program, which was enacted later than the Agreement proper, seems to give effect to the provision in the Agreement empowering the Council to establish a committee for the resolution of disputes. In terms of procedural rules, the Agreement defers to another legal text, namely the United Agreement for the Investment of Arab Capital (a 1980 agreement enacted under the auspices of the Arab League).

The **EC Cooperation Agreement** lacks formal rules on dispute settlement *per se*. Instead, Article 41 sets out some very loosely formulated provisions authorizing each contracting party to take whatever measures it deems appropriate if it finds the other party is not fulfilling its obligations. Thus this Agreement seems to let the contracting parties determine themselves as to when a violation has occurred and what measures to enact against such a violation. The only constraints seem to be an obligation to inform the Cooperation Council where such measures are enacted and to observe the principle of proportionality when enacting them (Art. 41 [3]).

The **Association Agreement with the EU** has the most detailed set of provisions governing dispute settlement of all the agreements reviewed here. Title V, entitled "Dispute Settlement" sets out, in some eleven articles, detailed provisions on the settlement of disputes arising under the Agreement. The objective of these provisions is to assist in finding a "mutually agreed solution" (Art. 75). The substantive scope of these dispute settlement provisions is limited to any differences concerning the application and interpretation of the Agreement's provisions contained in Titles II to V[74], but precludes from the outset the Agreement's provisions on dumping[75], subsidies[76], safeguards[77].

The procedural aspects of the Association Agreement's dispute settlement provisions resemble those of the WTO in many respects. Thus it is that formal dispute settlement is preceded by consultations (Art. 77), which are organized in much the same way as consultations under Art. 4 of the WTO Dispute Settlement Understanding (DSU). Where consultations fail to achieve a mutually agreed solution, the contracting parties have the choice of either arbitration or mediation under Art. 78. Although *prima facie*, this might look like a departure from WTO rules, it should be recalled that Art. 5 of the DSU,

[74] Title II is Free Movement of Goods; Title III is Right of Establishment and Services; Title IV is Payments, Capital Movements and other Economic Matters; and Title V is of course Dispute Settlement.
[75] This carve-out pursuant to Art. 29 (2).
[76] This carve-out pursuant to Art. 30 (3).
[77] This carve-out pursuant to Art. 31 (5).

entitled "Good Offices, Conciliation and Mediation", offers a similar alternative to simply pursuing the panel process, with the WTO Director General being able to act *ex officio* in these roles.

Articles 79 to 85 govern the next step in proceedings, namely resort to litigation before an arbitration panel. Article 82 refers to "Rules of Procedure, agreed between the Parties and set out in Part A of Annex VIII to this Agreement", although this author was not able to find any Annex beyond Annex VII (discussed above in the context of government procurement). Thus it is likely that precise procedural rules applicable for the conduct of arbitration before a panel are still to be elaborated.

The dispute settlement articles of the Association Agreement with the EU contain a number of general provisions governing the relationship between dispute settlement under the Agreement and WTO dispute settlement once Syria becomes a WTO Member. Finally, these provisions contain some rules on the language of submissions, confidentiality, and one or two other general provisions.

The **Association Agreement with Turkey** contains only one article on dispute settlement. Article 44 contains some seven short paragraphs outlining the process to be followed. In essence, the first instance in the event of a dispute is the Association Council, with the possibility of recourse to an arbitration panel of three arbitrators. The agreement fails to outline what steps and measures can be taken in the event of non-compliance with the panel ruling. Nor does it contain any rules on procedure or any reference to other procedural rules that may apply. It would seem that neither party felt that disputes were ever going to be very likely under the Agreement. This is surprising given the frequency with which Turkey has been involved in dispute settlement at the WTO, both as claimant and - considerably more often - as defendant.

The **Preferential Trade Agreement with Iran** contains one article on dispute settlement, namely Article 17, which comprises some 7 paragraphs. These rules provide for initial consultations, followed by recourse to a three-person arbitration panel if consultations are unsuccessful in resolving the dispute. In an interesting twist, the Agreement calls on the assistance of the International Court of Justice in the event of any log-jams in appointing the chair person of the panel. Decisions of the arbitral tribunal are binding, with the winning party authorized by the Agreement to withdraw equivalent preferential treatment in the event of non-compliance with the arbitral award.

The **draft agreement with Belorussia** equally only has one short article on dispute settlement (Art. 20), which essentially provides that any differences of opinion relating to the application or interpretation of the Agreement shall be "settled amicably as far as possible through consultations or negotiations". This in effect denies the parties the opportunity to have recourse to formal dispute settlement at all.

The **WTO** of course has detailed rules on dispute settlement, but these are of no significance whatsoever in the context of WTO accession. Applicants to the WTO have no access to the system until after they have completed their accession process and become full WTO Members. The only commitments accession countries are likely to have to give with regard to dispute settlement is to waive their rights to use it against particular measures of particular working party Members (as was the case with China and Mexico discussed above in the context of antidumping).

3.6.3. Enforcement and Implementation

Rules on enforcement and implementation in the context of State-to-State dispute settlement are something of a novum and were only introduced into the multilateral context under the Results of the Uruguay Round of Multilateral Trade Negotiations (i.e.

the WTO Agreement). Although procedures had evolved over time on compliance with panel rulings under the GATT, and although GATT Art. XXIII (Nullification and Impairment) did provide for suspension of concessions to the non-compliant contracting party (albeit it only as a forerunner to withdrawal from the GATT by the offending party), it was only with the advent of the DSU that a formal framework was adopted by all WTO Members setting out the procedural steps to be followed in order to ensure compliance with panel and Appellate Body rulings[78]. In the WTO context, these rules are set out in Art. 21 (Surveillance of Implementation of Recommendations and Rulings) and 22 (Compensation and the Suspension of Concessions) of the DSU.

Only the **Association Agreement with the EU** addresses any of these issues. Articles 86 governs compliance with rulings of arbitration panels, and contains provisions on such matters as reasonable period of time for implementation, offer of compensation, authority to suspend concessions and other issues also covered by the corresponding provisions of the WTO DSU. In general it is fair to say that the dispute settlement provisions of the Association Agreement were modelled to the greatest extent practicable after the relevant WTO rules.

3.6.4. Dispute Settlement Priorities for Syria going forward

Going forward, understanding and perhaps even resorting to the dispute settlement procedures under the Association Agreement with the EU represent the best opportunity policymakers in Syria may have to experience firsthand how such rules operate, and to start building the necessary capacity within the government to manage and participate in such disputes. In reality, even in the WTO there are only a handful of countries that have the in-house legal know-how to fully represent themselves in the context of WTO dispute settlement, with the majority of countries seeking (and paying for) outside legal counsel, either from the private sector or from the Advisory Centre on WTO Law (ACWL). Becoming a Member of the Advisory Centre and thus gaining access to its expertise in all matters pertaining to the law of the WTO is something Syria could do quickly and easily, and should be seriously considered by policymakers. Although the Advisory Centre is primarily known for its support to developing countries in the context of dispute settlement, the truth is that its expertise extends along the whole gambit of the law and policy of the WTO, and as such it could also be availed of by countries such as Syria as an independent and reliable source of expertise in such matters as accession negotiations.

3.7. SPS, TBT, Other Exceptions

With the demise of tariffs or at least their relative incidence as a barrier to global goods trade, the focus of trade liberalization efforts has increasingly shifted to other trade barriers, particularly so-called non-tariff barriers or behind-the-border policies which were seen as having an undue impact on trade flows. Traditionally, the main non-tariff barrier was the quantitative restriction (QR), but QRs were all but outlawed (on non-agricultural goods) with the advent of the GATT in 1948. It was in the Kennedy Round (1960s) and particularly the run up to the Tokyo Round (1970s) that non-tariff barriers such as standards began to attract the attention of trade policy makers. The focus on sanitary and phytosanitary measures really started to pick up momentum in the 1980s, after the United States lost some high-profile GATT dispute settlement cases to the EU on meat and poultry exports (beef and chicken). In this section, we look first at if and how the agreements under review address the issue of sanitary and phytosanitary measures, before turning to technical barriers to trade. We finish our analysis under this

[78] In fact, formally it is compliance with a decision of the Dispute Settlement Body adopting such rulings of the panel or the Appellate Body, since these latter two organs have no authority to require WTO Members to do anything; only WTO Members, sitting in their capacity as the Dispute Settlement Body, have the authority to compel other WTO Members to take action.

heading with a brief review of other exceptions, particularly security exceptions and general exceptions from one covered agreement to the next.

3.7.1. Sanitary and Phytosanitary Measures

Sanitary and phytosanitary measures first became subject to multilateral trade rules with the completion of the Uruguay Round and the advent of the WTO SPS Agreement. Some commentators refer to SPS as the fourth pillar of agricultural rules under the WTO system, the first three being market access, domestic support, and export competition respectively. The importance of rules on SPS measures in the trade policy context, is to be viewed very much in the context of balancing the rights of big agricultural exporting countries against the obligations of (importing) governments to protect their citizens, animals and plants from food-borne pathogens and other diseases.

Sanitary and phytosanitary measures are measures necessary to protect human, animal or plant life or health. The WTO recognizes the need for governments to legislate and regulate in order to achieve this policy objective, but it requires that Members must do so in a manner which does not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

All of the agreements reviewed here address this issue in one form or another. **The GAFTA and the EC Association Agreement**, both of which predate the WTO SPS Agreement, only address SPS issues in the context of the usual general exceptions clause (see below). The **Association Agreement** with the EU provides for cooperation on SPS measures and otherwise merely incorporates the WTO SPS Agreement by direct reference thereto in Art. 21. This is the same approach to that taken under the Association Agreement with Turkey in Art. 8.

The **Preferential Trade Agreement with Iran** provides, in Art. 15 (which governs both technical barriers to trade and SPS measures), that "sanitary or phytosanitary measure shall be applied only to the extent necessary to protect human, animal or plant life or health, shall be based on scientific principles and shall not be maintained without sufficient evidence, taking into account the availability of relevant scientific information and regional conditions". By choosing to formulate these obligations in this language, the PTA with Iran essentially reiterates the guiding principles contained in the WTO SPS Agreement. The **draft agreement with Belorussia** mirrors the language contained in the PTA with Iran, especially Art. 14 (2) (a) which reproduces the language cited above in the PTA verbatim. Paragraph 1 of Art. 14 of the draft agreement with Belorussia provides for cooperation in the sphere of SPS measures, whereas paragraph 2 provides that such measures "shall not be prepared, adopted or applied so as to create unnecessary obstacles to mutual trade or to protect domestic production". This is largely similar, in substantive terms, to the rules set out in the WTO.

In terms of **WTO accession**, sanitary and phytosanitary restrictions can be a source of genuine difficulty for applicant countries on two main fronts. The first is that they will be required to adopt and implement the provisions of the SPS Agreement as per the day of their becoming WTO Members. Transition periods, although foreseen for developing and least developed countries under the SPS Agreement itself, are somewhat of a rarity in WTO accession. This is because Members tend to argue that the accession process is itself normally so long, that applicant countries have, by the time they actually join, had ample time to implement the provisions of the SPS Agreement in full. The second front on which SPS measures can be problematic for accession countries is where they actually have such measures in place against exports from members of their accession working party. Where this is the case, the applicant country will most likely have to remove such restrictions or at least remove their trade-impeding affects, before they will be allowed to accede to the Organization.

For Syria, given that under the terms of both the Association Agreement with the EU and that with Turkey, it is required to apply the WTO SPS Agreement from the day of entry into force of these agreements, it should have ample time to implement the WTO rules on SPS measures before this issue becomes a point of contention in market access negotiations under its WTO accession bid.

3.7.2. Technical Barriers to Trade

Technical barriers to trade first became a trade policy issue in the preparatory work done prior to the Tokyo Round of multilateral trade negotiations (1973-1979). At the time, an inventory of non-tariff barriers was assembled and standards figured prominently as a potential trade barrier. This resulted in the adoption, at the end of the Tokyo Round, of the so called Standards Code, a slightly modified version of which went on to become the WTO Agreement on Technical Barriers to Trade at the conclusion of the Uruguay Round.[79]

The objective of rules on technical barriers to trade is to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade. Again, the WTO does not contest the rights of sovereign governments to legislate and regulate in this areas, or to take whatever measures they deem necessary to ensure the quality of their exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices. However, they should not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Because such rules only appeared relatively recently in international trade agreements they are largely absent from both the **GAFTA** and the **EC Cooperation Agreement** (except perhaps in the scope of the General Exceptions Clause – see below).

Under the **Association Agreement with the EU**, Art. 74 addresses the issues of standards, technical regulations, and conformity assessment procedures. In essence, this article incorporates the provisions of the WTO TBT Agreement by reference thereto. In addition, it provides that Syria shall move towards the adoption of European technical regulations and standards, and that the EU will provide technical cooperation with regard to achieving this objective. This article also holds out the prospect of concluding agreements on conformity assessment "when the circumstances are appropriate" (Art. 74 [3]). Having its trade partners adopt the same or similar technical regulations and standards as those it uses, is a key strategic trade policy objective of the EU, since it allows its goods to pass more freely into export markets.[80]

The **Association Agreement with Turkey** takes a slightly more nuanced approach than simply prescribing the provisions of the WTO TBT Agreement *telle quelle*. In Art. 28, it provides for cooperation between the parties in the field of technical regulations, standards and conformity assessment. Paragraph 2 of this article provides for the prospect of holding "immediate consultations" under the Association Committee where either party feels that its exports are being impeded by a TBT imposed by the other party, with a view to finding "an appropriate solution in conformity with the WTO Agreement on Technical Barriers to Trade". Finally, paragraph 3 of Art. 28 incorporates

[79] Unlike the Tokyo Round Standards Code, which was a plurilateral agreement, the Uruguay Round TBT Agreement is part of the Single Undertaking.
[80] Both the EU and the US typically vie with one another to have countries in their respective "spheres of influence" adopt their respective standards. One of the key battlegrounds on which this contest is played out is in the area of technical assistance aimed at helping beneficiary countries implement the obligations contained in the WTO TBT Agreement.

the notification obligations contained in the WTO TBT Agreement into the Association Agreement, and requires both parties to notify each other of draft technical regulations.

The **Preferential Trade Agreement with Iran** sets out rules on technical regulations and standards in the same article as sanitary and phytosanitary standards (Art. 15 already discussed above). The main obligations are that such measures not be "prepared, adopted or applied so as to create obstacles to mutual trade or to protect domestic production". With regard to standards and technical regulations in particular, Art. 15 (b) sets out a number of obligations, namely that these "not be prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to mutual trade". In addition, this article provides that standards and technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking into account the risks non-fulfilment would create". It also stipulates that "such legitimate objectives include those measures described in Article 8 (the general exceptions clause). Finally, this clause provides that "in assessing such risks, relevant elements of consideration include available scientific and technical information, related processing technology or intended end-uses of products". In formulating these obligations in these terms, the PTA with Iran essentially draws on the guiding principles underlying the WTO TBT Agreement, without invoking this agreement explicitly (Iran and Syria both being some way off from WTO membership).

The **draft agreement with Belorussia** also handles technical regulations and standards in the same article as sanitary and phytosanitary measures (Art. 14, already discussed above). In doing so, it provides for cooperation in the field of technical regulations and standards. It also provides that these "shall not be prepared, adopted or applied so as to create unnecessary obstacles to mutual trade or to protect domestic production" (Art. 14 [2]), thereby availing itself of identical wording to the PTA with Iran. Also in identical terms to the PTA with Iran is the obligation that technical regulations and standards "not be prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to mutual trade" (Art. 14 [2] [b]). Thus the draft agreement with Belorussia incorporates much of the language and thereby the obligations of the WTO TBT Agreement without making specific reference thereto (since Belorussia's WTO accession has also been dragging on for quite some time and prospects for a rapid conclusion of negotiations are dim).

3.7.2. Other Exceptions

In this section, we limit our discussion to the general exceptions common to most, if not all trade agreements. All of the agreements covered by this review contain such exceptions, and they are all more or less in the usual format, with few, if any surprises.

General exceptions in trade agreement tend to follow the template established by the GATT in the late 1940s[81]. This provides that, as long as such measures are not applied in a manner which is unjustifiably arbitrary or discriminatory, or which constitute a disguised restriction on trade, countries remain completely free, regardless of their obligations under a trade agreement, to apply measures in pursuit of a number of carefully prescribed policy objectives. The most important of these are: the protection of public morals; the protection of human, animal or plant life or health; and the protection of patents, trademarks and copyrights, and the prevention of deceptive practices; relating to the conservation of exhaustible natural resources.

The exceptions clause in **GAFTA** is contained in Section 2.4 of the Executive Program and accords contracting parties the right to ban imports of products for "religious, health, security or environmental reasons or because of agricultural and veterinary quarantine rules". However it does not contain the usual caveats on such bans not

[81] GATT Art. XX.

representing an unjustified arbitrary discrimination or a disguised restriction on trade (this would be the case if imports of a product were banned but domestically manufactured like products were freely circulated in the territory of the banning contracting party.

The exceptions clause under the **EC Cooperation Agreement** (Art. 30) reflects to a great degree the substantive elements of GATT Art. XX (described above), as does that of the **Association Agreement with the EU** (Art. 33). Article 55 of the Association Agreement with the EU contains a further carve-out with regard to the application of the Agreement's provisions on right of establishment and cross-border supply of services, stating that these provisions "shall be applied subject to limitations justified on grounds of public policy, public security or public health". The general exceptions clause under the **Association Agreement with Turkey** (Art. 19) contains much the same language as the association Agreement with the EU under Art. 55.

Both the **PTA with Iran** (in Art. 8) and the **draft agreement with Belorussia** (in Art. 7) contain largely the same language as GATT Art. XX, except that in addition to public morality, they also include religious values.

In terms of **WTO accession**, bans on certain goods for public morality, religious values or even on security grounds can give rise to difficulties in the bilateral market access stage of accession negotiations. For example, the Kingdom of Saudi Arabia has a ban on the importation and sale of pork-products. This gave rise to a certain degree of tension with some large pork-exporting countries, who petitioned Saudi Arabia to replace the import ban with a prohibitive tariff (more for systemic reasons that any genuine hopes of exporting pork to Saudi Arabia). In the end, the Kingdom was able to maintain the ban. Similar pressure is likely where an accession country has what may be perceived as two stringent restrictions on the importation and sale of alcoholic beverages. Also, some countries that export handguns have also been known to exert pressure on accession countries to try and loosen restrictions on gun laws. Such efforts can usually be successfully resisted if existing restrictions do not discriminate between imports and domestically produced products.

3.8. S&D and other Policy Space

Special and differential treatment (S&D) for developing countries has been part of multilateral trade rules for much of the post-war period but really started to pick up momentum in 1965, when Part IV of the GATT on Trade and Development was adopted.[82] Much of the S&D which exists under the WTO agreements provides for longer implementation periods for developing and least developed countries under the various agreements. Other provisions merely state that the needs of developing country Members must be given special consideration in the application, by developed country Members of different measures as governed by the various WTO agreements.[83]

[82] See Alexander Keck and Patrick Low, *Special and Differential Treatment in the WTO: Why, When and How?*, Staff Working Paper ERSD-2004-03, May, 2004, available for download at: http://www.wto.org/english/res_e/reser_e/ersd200403_e.htm.

[83] A "good" example is Art. 15 of the WTO Anti-dumping Agreement which provides "[i]t is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti dumping duties where they would affect the essential interests of developing country Members." This is a "good" example because, in effect, it obliges developed countries to do nothing, and does not offer any specific or actionable remedy to developing countries affected by antidumping duties imposed against their exports by developed countries (in excess of those offered, say, under the WTO's dispute settlement provisions).

Other policy space within the meaning of the present report covers those provisions contained in the covered agreements which afford signatory governments the opportunity to backtrack on some of the market opening and trade liberalization commitments they make as part of the balance of rights and obligations in a trade agreement. The escape clause (discussed above under Contingency Protection) is only one of several such "claw-back" [84] provisions which allow governments to better sequence the scale and pace of liberalization where its adverse affects prove to be particularly acute. Here, we discuss a number of other provisions which afford the contracting parties, and Syria in particular, the benefit of such policy space.

3.8.1. Special and Differential Treatment for Developing Countries

Under the **GAFTA**, Section 5 of the Executive Program provides special and differential treatment for least developed Arab countries (under the UN classification) as well as Palestine, of which Sudan and Yemen have availed themselves. Such treatment consists of longer implementation periods for the elimination of tariffs on Arab goods. The Agreement proper also provides, in Art. VII.3 for the possibility of "the products of party-states determined by the Council to be less developed shall be granted preferential treatment in accordance with the criteria and limits it may determine", although it remains unclear what preferential treatment can be provided beyond the already duty-free access these goods enjoy under the GAFTA program of duty-free market access in force already since 2005.

The **EC Cooperation Agreement** is essentially one large undertaking in favour of special and differential treatment for Syria, since the trade liberalization envisaged in the context thereof see the EC open its market to Syria without reciprocal concessions by Syria towards the EC. In addition, the 1979 Agreement also includes a Protocol (Protocol 1) on technical and financial cooperation, and sets out that the Community would "participate in the financing of any measures to promote Syria's development" in line with the Protocol (Art. 6).

Unlike the Cooperation Agreement, the **Association Agreement with the EU** is supposed to be based on reciprocity, but the phase-in periods for the liberalization envisaged under the Agreement is much faster for the EU, whereas Syria is given longer implementation periods of up to 12 years to reduce its tariffs. In addition the Agreement provides for extensive technical cooperation and development assistance to Syria by the EU, to assist it in the implementation of the Agreement and to benefit from the market access opportunities the Agreement is intended to provide. In this vein, the Agreement provides for economic cooperation in various fields including encouragement of regional cooperation, education and training, scientific and technological cooperation, cooperation with regard to the environment, industrial cooperation, standards, technical regulations and conformity assessment procedures, intellectual, industrial and commercial property rights (Art. 101).

A similar approach was taken under the **Association Agreement with Turkey**, which provides that Turkey remove all tariffs upon the entry into force of the Agreement, whereby Syria is given sometimes lengthy implementation periods of up to 12 years in order to reduce its tariffs. Technical cooperation and development assistance are also provided under the Agreement. The Agreement provides that "shall give priority for providing Syria with technical assistance in the primary fields of economic co-operation namely industry, agriculture, services, as well as small and medium-sized enterprises" (Art. 29).

[84] The term "claw-back" here refers to the ability of governments to claw back market access that has been given away as part of the mutual exchange of tariff concessions or other market opening concessions.

Neither the **Preferential Trade Agreement with Iran** nor the **draft agreement with Belorussia** provide for special and differential treatment or any kind of development assistance between the parties, since these Agreements are considered by all parties to be agreements between countries at a similar level of economic development.

3.8.2. Other Policy Space

Under the covered agreements, provisions explicitly affording the parties a certain freedom of action despite the constraints a trade agreement usually places can be found in all of the agreements in one form or another.

For example, in the framework of the **GAFTA**, Art. III of the Agreement expressly provides that party-states are entitled to grant further advantages and preferences to any other Arab state or states through bilateral or multilateral agreements. This is essentially the opposite of a so-called MFN clause, which features prominently for example in the EPAs that the EU is negotiating with its ACP partners, requiring them to automatically extend any preferential access they provide in future to other trading partners to the EU. The GAFTA clause contains the important qualifier that this policy space only exists with regard to other *Arab* states. Art. VII.5 contains the important constraint that "No party-state may grant any preferential advantages to a non-Arab state that exceeds those granted to party-states". Thus the preferential treatment subsequently extended to Turkey by Syria, must automatically be extended to its GAFTA partners. The same would apply for the EU.

Under Art. XV of the Agreement, "[a]ny party-state may request imposition of some duties or quantitative or administrative restrictions or maintenance of existing ones on a temporary basis to ensure the growth of a certain domestic product, subject to approval by the Council". The fact that this provision, which allows GAFTA signatories to go back on any previous liberalization efforts, is subject to approval by the Council will ensure that it is not abused and that it is use sparingly.

The amount of policy space included in the **EC Cooperation Agreement** is so extensive that it essentially renders the value of any "credible commitment" effect all but meaningless. Because it involves the granting of unilateral market access preferences by the EC, it also provides that these can be withdrawn at any time. The lack of any reciprocal concessions by Syria effectively removed the lock-in effect of the commitments the EC made, since they were given away for free. This is really the main problem with one-sided preferential market access schemes in general, be they under the GSP or any other initiatives. Market access that is given away for free can always be withdrawn. In the EC Cooperation Agreement, the EU reserved the right to withdraw or modify the concessions given in no uncertain terms if it subsequently needed to do so.

For its part, Syria is also entitled under the Agreement to "introduce into its trade arrangements with the Community new customs duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect and to increase the duties and the quantitative restrictions or charges or measures having equivalent effect applied to products originating in or going to the Community, where such measures are necessitated by Syria's industrialization and development requirements" (Art. 23). The only obligation incumbent on Syria is to notify the Community of such measures.

The **Association Agreement with the EU** provides for a considerable degree of policy space in trade in agricultural products and effectively gives each party *carte blanche* to unilaterally alter the arrangements concluded under the Agreement if this is required in order to implement agricultural policy objectives (Art. 22). Otherwise the Agreement gives both parties freedom of action to maintain or enter into "customs unions, free trade areas or arrangements for frontier trade" as long as they do not negatively affect the trade arrangements provided under the Association Agreement (a similar non-MFN clause as discussed above under GAFTA, although more liberally formulated).

The **Association Agreement with Turkey** provides some policy space for either Party to suspend the liberalization program for up to one year "in the event of serious difficulties for a given product" (Art. 3 [3]). This freedom is, however, "subject to the understanding that after the 12 year transition period, all duties will be removed." (although in effect this benefit will only be open to Syria since Turkey has agreed to eliminate tariffs upon entry into force). In reality, one year is not a lot of time to provide adjustment assistance to a domestic industry struggling to adapt to new conditions of import competition, so the practical implications of this policy space will be very limited indeed.

Article 5, entitled "Structural Adjustment" recognizes that trade liberalization can impose both costs and benefits, and provides that "exceptional measures of limited duration that derogate from the provisions of Article 3 (which governs the timetable and scope for the liberalization envisaged under the Agreement) may be taken by Syria in the form of an increase or reintroduction of customs duties during the transition period. This freedom is, however, carefully prescribed, and may only be applied with regard to "infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce major social problems" (Art. 5 [1] [a]). In addition, where such exceptional measures involve the imposition (or re-imposition) of tariffs, these may not exceed 25% *ad valorem* and must maintain an element of preference for Turkish products. They may also not be imposed on more than 20% of the total yearly average value of imports over the last three years for which statistics are available (Art. 5 [1] [b]). Another constraint on the imposition of such exceptional measures is that they may not exceed 5 years unless the Association Council authorizes a longer duration (Art. 5 [1] [c]). Finally, no exceptional measures may be introduced reinstating protection where more than three years has elapsed since the removal of tariffs on the product in question (the assumption being that import competing industries will have adjusted during this time, and should not need protection in the form of exceptional measures thereafter).

Like the Association Agreement with the EU, the Agreement with Turkey affords both parties freedom of action to maintain or enter into "customs unions, free trade areas or arrangements for frontier traffic" (Art. 15). A similarly worded clause is contained in both the Preferential Trade Agreement with and the draft agreement with Belorussia.

The Preferential Trade Agreement with Iran does not contain any specific provisions on policy space, but it does provide that "[c]ontracting Parties, they shall not be eligible to benefit from tariff rate quotas or tariff concessions granted by each Contracting Party to some other country within the framework of a specific free trade agreement, preferential trade agreement, regional trade agreement or border trade agreement" (Art. 5). This is essentially a variation on a non-MFN clause.

The draft agreement with Belorussia contains a similar non-MFN clause in Art. 16, but beyond that does not set out other policy space of which either party could avail itself if it deemed this to be politically expedient.

Section 4 Strategic Implications for Syria

4.1. Increased Engagement Bilaterally and Regionally

Like many countries Syria faces a choice of which trading partners to engage with more closely. Its decision to engage closely with Turkey and Europe, who are themselves in a customs union with one another and are both WTO Members, allows Syria to experience firsthand what's it's like to deal with advanced trading partners closely integrated into the global trading system and with a sophisticated understanding of global trade rules.

At the regional level, Syria faces a choice between closer integration into the Arab world and continued engagement in the context of the Euro-Med process. To the extent that it is possible to do both at the same time, this represents no choice at all, but Syria, like many developing countries, faces capacity constrains in terms of how many trade agreements it can negotiate and implement at one time, as well as efforts to assist producers to make the most of existing or new market access opportunities. The fact that GAFTA requires that any preferential treatment accorded a non-Arab country be automatically extended to GAFTA signatories ensures that GAFTA signatories will always enjoy the best market access conditions on offer into the Syrian market. This will make GAFTA a central element of Syria's trade policy considerations for decades to come. This will be even more so the case in the event that GAFTA should extend its scope to include trade in services.

Because WTO accession (see immediately below), is a still a relatively far-off prospect, the easiest way for Syria to increase its export markets and benefit from MFN or better access to these markets, will be through a process of bilateral or regional engagement. These two processes do not need to be mutually exclusive, but they will be subject to the inherent capacity constraints that Syria, like any developing country inevitably faces.

4.2. WTO Accession

WTO accession is a process that can be done relatively quickly if the applicant country is pursuing a rapid accession and is willing to pay almost any price to achieve this. More often than not, however, the process of negotiating accession to the WTO takes several years and in a growing number of instances, well over a decade.

For Syria, serious progress on its WTO accession bid will involve improving working political relations with the United States and perhaps some other countries in the region. This is something that can be addressed over the medium to long term. For now, the technical process of assembling and submitting the Memorandum of the Trade Regime and the ensuing process of questions, answers and follow up questions will keep trade policy makers in Syria busy for the next 18 months at least. After this, market access negotiations and the formulation and implementation of a legislative action program will also take several years.

In light of this dynamic, the WTO accession process will clearly take a back seat to the more pressing and urgent needs presented by implementing the two Association Agreements with the EU and Turkey. To the extent that these agreements incorporate WTO agreements and obligations, the process of doing so will be largely complementary to the ongoing process of preparing Syrian laws and institutions for the day that Syria finally becomes a WTO Member.

4.3. Trade Liberalization and Economic Growth

For several decades now, Syria has chosen to remain on the periphery of a rapidly evolving global trading system, something that it could afford to do given its relative wealth in terms of mineral reserves. It has now chosen the path of cautious engagement with a limited number of trading partners, some of which are also at the periphery of the global trading system (Iran, Belorussia), some of which represent developing countries with long-standing linguistic and cultural ties (GAFTA), and some of which represent advanced developing countries or even developed countries who are closely integrated into the global trade architecture and who have had varying degrees of influence in shaping the rules underpinning this system (EU, Turkey).

The process of economic reform, trade liberalization and transition to a market economy that Syria has now embarked upon will be one which should see market forces take a greater hold on economic activity and which will inevitably expose the Syrian economy (both consumers and producers) to greater competition. If done properly, the overall economic effects of this program could be welfare enhancing for the economy as a whole. But there will be winners and losers from this process. Trade liberalization is inevitably redistributive.

For Syrian policymakers, the challenge is, on the one hand not to oversell the benefits of trade liberalization, while on the other hand having the strength of leadership to convince all stakeholders (potential winners and losers), of the inevitability of change and the need to embrace it. A growing body of evidence suggests that the trick to making trade liberalization work is to sequence it in such a manner so that domestic economic operators have a chance to adapt to the changing competitive environment. Too slow and domestic economic operators will fail to feel the urgency of change; too fast, and they will be overrun by the pace of change and their inability to adapt their business models in time.

Trade liberalization is not some sort of panacea which automatically renders economies more dynamic and competitive, but it can be a powerful tool for facilitating such changes where it is managed properly. The link between trade liberalization and economic growth, although well established, is also a tenuous one, and like any process of chance, if it is managed poorly, its consequences can be as detrimental as they can be beneficial.

Section 5 Conclusions and Recommendations

Syria is still very much at the beginning of a lengthy process of economic reform and trade liberalization. The limited number of trade agreements and the cautious approach to liberalization that they embody will be a sound basis on which to approach this process slowly and steadily.

In all of its trade agreements except GAFTA, Syria has seen fit to sequence its liberalization commitments carefully and to limit these commitments in their substantive scope. Although it may shield some inefficient sectors from some much-needed competition, this approach is undoubtedly more prudent and will also help to facilitate an orderly transition for many other sectors to greater competitiveness.

Syria seems to be understandably weary about the implications of ratifying and implementing the Association Agreement it has already concluded with the European Union. Without doubt, the EU will be the most advanced free trade partner Syria has, with the most sophisticated understanding of global trade rules. Its abilities as an exporter of agricultural and industrial goods, of services and intellectual property are likely to challenge Syrian producers and force them to adapt to a changing competitive environment. To a certain extent this is something that is already happening due to unilateral liberalization efforts by Syria, as well as being the result of commitments entered into with other trading partners such as Turkey, or under the GAFTA.

But if the Association Agreement with the EU brings challenges it also brings opportunities. The EU is the world's biggest importer of agricultural products as well as representing a huge market of over half a million consumers. Up to now, Syria has had only limited success in exploiting existing market access opportunities for its goods into the EU. If policymakers are to sell the benefits of increased engagement with its trading partners, particularly the EU, they will need to assist Syrian producers to overcome supply-side constraints and increase their exports to markets they already enjoy duty-free access to, like Europe and Turkey.

Over the next few years, as these agreements begin to impart their economic effects on the Syrian economy as a whole, some sectors will adapt to the evolving market conditions while others will struggle to do so. Some of these struggling firms will succeed in reforming themselves and others will inevitably go under. The prospect of this latter scenario is something policymakers need to face and need to prepare the broader public for. Losing an inefficient firm or even an entire industry does not have to be seen as a negative development if other firms and other industries (perhaps in completely different sectors of the economy) spring up to take their place. This is an inevitable and even desirable part of the process of economic reform and economic liberalization.

Trade liberalization brings change and so policymakers as well as other stakeholders need to be ready to embrace such change and to meet head-on the challenges that change brings. Policymakers in an economy like Syria, who have relied on government planning and heavy state intervention in the past, will need to resist the urge to try and pick winners and opt instead in favour of policies that allow the economy to adapt quickly and fluidly to evolving competitive conditions. This essentially means getting out of the way and letting factors of production (particularly labour and capital) flow from inefficient import competing sectors to sectors and industries focused towards exports or that are able to compete. Where such adjustment is likely to be problematic and socially difficult, the government should step in and facilitate it to the greatest extent possible.

For now, Syria should focus on implementation of its existing commitments under the agreements covered by this review. This means developing the institutional structures to manage the changes that are coming Syria's way, as well as assisting its exporters to overcome barriers that impair their ability to make the most of the new market access opportunities these agreements bring with them.

In addition, implementing the agreements it has already signed will serve as a useful complement to Syria's WTO accession process and could even speed up this process considerably if it leads to early implementation of such agreements as the WTO SPS and TBT Agreements, as well as implementation of many of the commitments required under the TRIPS Agreement, as is mandated under the Association Agreements with both the EU and Turkey.

In terms of whether or not Syria should focus its energies on seeking out new partners with whom to conclude trade agreements or on concluding the WTO accession process as soon as possible, these two policy options do not need to be mutually exclusive and can in fact be largely complementary. However, seeking out new trade agreement partners is a process that also comprises its own set of risks, since any preferential market access Syria gives to its existing trade agreement partners today or future trade agreement partners tomorrow, will also be expected by the members of its WTO working party once they sit down with Syria in the context of bilateral market access negotiations (and will need to be extended to the entire WTO Membership on accession). In fact there is a very real danger that the preferential market access Syria has already extended to its trade agreement partners might represent the starting point from which WTO Members wish to negotiation further cuts to tariffs and further market opening.

The next few years, as Syria moves forward, involve challenges, risks and a certain degree of uncertainty, but they also bring with them the prospect of enormous rewards and benefits for the Syrian economy and its people. To be sure, the alternative of continued marginalization at the periphery of the global trading system and the limited influence this brings with it is no real alternative at all.

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Annex

Summary Table of Different Agreements and Commitments in Different Areas and Sectors

Agriculture

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
Tariff concessions	Reduction of customs duties by equal annual percentages by 2005	The Agreement provided a quickly phased in reduction of 100% on applied tariff rates into the EC of Syrian goods, although agricultural products subject to the EC's Common Customs Tariff were a priori excluded from the liberalization However a limited number of agricultural goods, enumerated in Art. 17 and 18, provide for tariff reductions of between 50 and 80% such as e.g. guts, bladders and stomachs of animals (other than fish), dried fruits *et al*). Some vegetables and onions enjoy a 15% reduction.	The Community and Syria shall progressively establish a greater liberalization of their reciprocal trade in agricultural, fisheries and processed agricultural products. Separate protocols for each CP on the market access it offers imports of agricultural and fisheries products originating in the other CP (protocols 1, 2, 3 and 4). Trade in processed agricultural products subject to another protocol (5).	Elimination of customs duties in Turkey upon EiF of the Agreement for goods originating in Syria Elimination of customs duties in Syria for goods originating in Turkey takes place more gradually over a period of up to twelve years for some products.	Tariff concessions on the basis of margins of preference ranging from 15% to 30% depending on the applied ad valorem tariff levels as set out in Annex A to the Agreement.	Tariff concessions are expected to be "commercially viable", "meaningful in trade terms" or "appropriate to the level of economic development".
TRQ concessions	None	None for agricultural products.	TRQs on a numerous products as set out in the market access protocols.	Extensive TRQ commitments by both parties subject to which duty free or low duty access is given.	None	Generally not available to acceding countries unless part of a transition arrangement.
Other NTBs	All types of non tariff measures (seasonal restrictions, import licenses, and other quantitative measures) have been eliminated.	None	All import or export prohibitions or restrictions in trade between the Parties, other than customs duties and taxes, whether made effective through quotas, import or export licenses or other measures, shall be eliminated upon the EiF of the Agreement	No specific language on NTBs but see SPS and TBT measure below.	Elimination of all non-tariff barriers on the date of EiF of the Agreement	Tariffication generally seen as one of the biggest successes of the UR, no exceptions (but see SPS and TBT below).
National Treatment	NT for all Arab goods with respect to rules of origin, specifications & measurements, health and security safeguard	NT with regard to fiscal measures.	NT with regard to internal taxes or other internal charges, also with in respect of all laws, regulations and	NT with regard to domestic taxation and fiscal measures.	Domestic laws, regulations and all other measures and formalities applicable to imports from the other CP shall not be applied in a	There are no exceptions to national treatment under the WTO AoA and thus no exceptions beyond the usual WTO-compliant

	clauses as well as local charges and taxes.		requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.		manner so as to afford protection to domestic products.	exceptions (e.g. Enabling Clause, GATT Art. XXIV) will be granted to acceding countries.
Safeguard clauses	No specific safeguard clauses for agricultural goods.	No specific safeguard clauses for agricultural products.	No specific safeguard clause for import surges on agricultural products but loosely formulated language giving CPs broad scope to re-impose restrictions if they deem necessary (see below under "other policy space")	Specific reference to WTO rules, which can only mean the Special Safeguard in Art. 5 of the WTO Agreement on Agriculture.	No specific safeguard clauses for agricultural goods.	The Special Safeguard for Agricultural products (SSG in Art. 5 of the AoA) is seen as the quid-pro-quo for tarrification in the UR and is generally denies to acceding countries.
Rules of origin	The Arab rules of origin are being used currently in order to apply the GAFTA agreement. These rules of origin require at least 40% value-added.	Contains very complex rules of origin, practically on a product by product basis, listing the kind of processes that do and do not confer upon the product in question that characteristic of having originated in one of the CPs. Value added-threshold generally 60% for some processed agricultural products, 50% for some industrial goods and 40% for some textiles/footwear products.	Set out in Protocol 6 (194 pages) applies System of Pan-Euro-Med Cumulation of Origin. Value added-threshold generally 30% for some processed agricultural products, 20-50% for some industrial goods and 40-47.5% for some textiles/footwear products.	The Parties agree to apply the actual harmonised preferential rules of origin in the context of the System of Pan-Euro-Med Cumulation of Origin. Value added-threshold generally 30 - 50% for some processed agricultural products, 20-50% for some industrial goods and 40-47.5% for some textiles/footwear products.	Set out in Annex C to the Agreement, essentially 50% of value added. Value added-threshold generally 50% for all goods categories.	The WTO Agreement on Rules of Origin only covers non-preferential RoO but is part of the Single Undertaking so must be adopted and implemented by acceding countries.
Exceptions from liberalization	Farmer's Almanac allows signatories to exempt up to ten products during the harvest season until the end of the implementation period.	Ag products generally excluded. A small number of goods listed in Annex A are exempt, mostly some sugars, some alcoholic beverages,, modified starches, glues. Processed goods resulting from some products listed in Annex B only enjoy a margin of preference on the fixed part of the tariff and not the variable levy (sugar, chocolate, malt).	The market access protocols represent so-called positive lists. meaning that any product not scheduled is not included in the liberalization program, thus there are many exceptions.	Certain products excluded from liberalization as set out in Annex 1 to the Agreement.	The products to which tariff preferences are to be applied are stipulated by each Contracting Party in two separate lists (Annexes A & B). This is a positive list approach, meaning any product not scheduled (of which there are many), is not afforded preferential treatment under the Agreement.	In agriculture the concept of Sensitive Products currently a contentious issue for Doha, for acceding countries it is possible to delay steep tariff cuts by a short implementation period but these concessions will be hard-won.

Non-Agricultural Market Access

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran-Syria	WTO
Tariff concessions	Reduction of customs duties by equal annual percentages by 2005	The liberalization envisaged consists of tariff reductions on the applied tariff rate used by the EC on products originating in Syria as per 1 January 1975 (1 Jan 1972 for UK, Ireland and Denmark). 80% reduction as per EiF and 100% reduction as per 1 July 1977 (although the Agreement ended up entering into force on 1 November 1978 only)	Customs duties on imports between the Parties shall be eliminated. For the EC upon EiF and for Syria over an implementation period of between zero and 12 years.	Elimination of customs duties in Turkey upon EiF of the Agreement for goods originating in Syria Elimination of customs duties in Syria for goods originating in Turkey takes place more gradually over a period of up to twelve years for some products. Such measures can only be applied for a maximum of 5 years and must be abolished at the end of the transition period.	Tariff concessions on the basis of margins of preference ranging from 15% to 30% depending on the applied ad valorem tariff levels as set out in Annex B to the Agreement.	Similar to agriculture, tariff concessions are expected to be "commercially viable", "meaningful in trade terms" or "appropriate to the level of economic development". Tariff cuts offered to preferential trading partners are likely to represent the starting point from which WTO Members want to negotiate tariff commitments downwards.
QRs or Ceilings	None	The Agreement provides for annual ceilings for a limited number of petroleum products. Otherwise, quantitative restrictions on imports into the EC of products originating in Syria removed on the date of EiF.	None	All quantitative restrictions and prohibitions on imports or exports and measures having equivalent effect shall be abolished between the Parties upon the date of EiF.	None	Some cases of TRQs in the automotive sector (e.g. Chinese Taipei), but subject to the requirement that they be rapidly phased out
Other NTBs	Art. 3.3 EP: "Arab goods traded within the framework of this Executive Program shall not be subject to any non-tariff restricts by whatever name".	None	As outlined above under rules on agriculture.	None.	Elimination of all non-tariff barriers on the date of EiF of the Agreement.	Generally eliminated, subject to the usual exceptions (e.g. TBT)
Rules of origin	The Arab rules of origin are being used currently in order to apply the GAFTA agreement. These rules of origin require at least 40% value-added.	As outlined above for ag products.	As outlined above for ag products.	As outlined above for ag products.	As outlined above for ag products	See comments above for agricultural goods.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran-Syria	WTO
Infant industry	Art. XV Agreement: Any party-state may request imposition of some duties or quantitative or administrative restrictions or maintenance of existing ones on a temporary basis to ensure the growth of a certain domestic product, subject to approval by the Council.	Syria shall be entitled to introduce into its trade arrangements with the Community new customs duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect and to increase the duties and the quantitative restrictions or charges or measures having equivalent effect applied to products originating in or going to the Community, where such measures are necessitated by Syria's industrialization and development requirements.	Exceptional measures of limited duration that derogate from the liberalization program may be taken by Syria in the form of an increase or reintroduction of customs duties during the transition period: these measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce major social problems	Exceptional measures of limited duration that derogate from the liberalization schedule can be introduced in cases of infant industry or structural adjustment or in sectors facing serious social problems, but is limited in scope so as not to exceed 20% of the total yearly average value of imports of industrial products originating in Turkey. Such measures can only be applied for a maximum of 5 years and must be abolished at the end of the transition period.	None	Will always need to be negotiated on a case-by-case basis, with WTO Members generally reluctant to recognize acceding countries as developing countries or let them accede with infant industry program in place if these effect market access or conditions of competition for their exports.
	As outlined above for ag products	As stated above for ag products.	As outlined above for ag products.	As outlined above for ag products.	As outlined above for ag products	National treatment is one of the fundamental obligations of the GATT (and hence the WTO with regard to trade in goods), some limited dispensations granted to original Members for Trade Related Investment Measures (TRIMS) but generally not accorded to acceding countries.
MFN	Minimum level of trade cooperation language. Party states remain free to accord additional advantages and preferences to other Arab states but NOT to non-Arab states.	Syria grants EC treatment in the field of trade no less favorable than most favored-nation treatment except for the maintenance or establishment of customs unions or free-trade areas, or measures	No MFN clause	Any favourable treatment that may be accorded by Syria to the European Union shall automatically be extended to Turkey	General obligation to grant MFN but exception for TRQs and tariff concessions granted to third-party states in the framework of specific free trade agreement, preferential trade agreement,	See comment above on NT; apart from the usual exceptions permitted under the GATT/WTO (Enabling Clauses, GATT Art. XXIV), these are generally not granted

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran-Syria	WTO
		adopted with a view to regional integration or in favor of developing countries.			regional trade agreement or border trade agreement.	to acceding countries.
Exceptions from liberalization	None, scope of liberalization is comprehensive after transition period.	Most of the exceptions were of agricultural products, whereby a limited number of industrial products were also exempted, such as albuminoidal substances, modified starches, and glues.	As outlined above under rules on agriculture.	Certain products excluded from liberalization as set out in Annex 1 to the Agreement.	Positive list approach for the goods to which tariff preferences are to apply, thus any goods NOT on the list, are not subject to liberalization. Numerous exceptions apply.	A priori none for industrial goods.

Anti-dumping, Countervailing Duties, Safeguards, Special Safeguards and other Exceptions

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
Antidumping	"international rules and provisions"	Refers to Article VI of GATT with additional notification obligations and the obligation to observe the principle of proportionality.	Refers to both GATT 1994 Art. VI and the WTO Antidumping Agreement.	Refers to both GATT 1994 Art. VI and the WTO Antidumping Agreement.	General provisions formulated in similar terms as GATT 1994	Although the AD Agreement is part of the Single Undertaking, there is no obligation for Members to actually use antidumping measures. However, if they do, then the WTO AD Agreement contains detailed rules requiring strict adherence to complex and highly technical procedures.
Countervail	"international rules and provisions"	Refers to GATT Article VI with additional notification obligations and the obligation to observe the principle of proportionality.	Refers to GATT 1994 Art. VI and XVI and the WTO Agreement on Subsidies and Countervailing Duties.	Refers to GATT 1994 Art. VI and XVI and the WTO Agreement on Subsidies and Countervailing Duties.	None	Although the ASCM is part of the Single Undertaking, there is no obligation for Members to actually use countervailing measures. However, if they do, then the WTO ASCM contains detailed rules requiring strict adherence to complex and highly technical procedures.
Safeguards	"international rules and provisions"	Agreement uses language of "serious disturbances" and "if difficulties arise which might bring about a serious deterioration in the economic situation of a region", CPs may "take the necessary safeguard measures", subject to additional notification obligations and the obligation to observe the principle of proportionality.	Refers to Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.	Refers to Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.	Language on safeguards similar to that rules (GATT 1994, subject to notification and consultation procedures.	Although the Agreement on Safeguards is part of the Single Undertaking, there is no obligation for Members to actually use safeguard measures. However, if they do, then the WTO Safeguards Agreement contains detailed rules requiring strict adherence to complex and highly technical procedures

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
Special Safeguards	Art. XV: Any party-state may request imposition of some duties or quantitative or administrative restrictions or maintenance of existing ones on a temporary basis to ensure the growth of a certain domestic product, subject to approval by the Council.	For products falling within Common Customs Tariff heading Nos 28.40 B II (phosphates, including polyphosphates, other than of ammonia), 31.03 (mineral or chemical fertilizers, phosphatic), ex 31.05 (fertilizer compounds containing phosphates), 55.05 (cotton yarn, not put up for retail sale), and Chapter 76 (aluminium) of the Common Customs Tariff, the Community reserves the right to introduce ceilings.	See language described above under "infant industry" as well as below under "other policy space".	Special Safeguard for ag products with reference to WTO rules (Art. 5 of the AoA). See below under "Other Policy Space" for other measures that can be introduced.	None	Apart from agriculture and BOP, both of which are usually denied acceding countries, these are generally absent, particularly since the WTO ATC expired at the end of 2004.
BOP measures	"international rules and provisions"	Language of the Agreement refers to serious difficulties or the serious threat of difficulties as regards its balance of payments, in which case the CP concerned may take the necessary safeguard measures. Notification and consultation obligations as well as the obligation to observe the principle of proportionality.	Where one or more Member States or Syria face or risk facing serious difficulties concerning balance of payments, the Community and Syria respectively may, in conformity with the conditions laid down within the framework of the GATT and Articles VIII and XIV of the Articles of Agreement of the International Monetary Fund, take restrictive measures with regard to current payments if such measures are strictly necessary.	WTO/GATT 1994 and with Articles VIII (avoidance of restrictions on current payments and avoidance of discriminatory currency practices) and XIV (transitional arrangements on exchange restrictions) of Agreement of International Monetary Fund,	Generic provisions on BOP measures with notification and consultation requirements and the right to retaliate if such measures negatively affect the balance of concessions.	Use of BOP safeguards in the WTO tightly prescribed, and requires an opinion from the IMF. Any country acceding to the WTO should not count on being able to have any kind of regular recourse to this instrument, which will only be available if its balance of payment situation deteriorates significantly and its foreign currency reserves become severely depleted.

Investment, Government Procurement, Competition, Trade in Services, Trade-Related Intellectual Property Rights

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
Investment	None	None	Only statements of intent with regard to cooperation on investment, including streamlining and improvement of investment procedures in Syria. Otherwise, see provisions below under services regarding freedom of establishment.	None	None	Essentially not part of the WTO. However an applicant country's investment regime and business climate will come under intense scrutiny during the accession process and changes to both may be required if they are creating serious market access problems or seriously distorting conditions of competition against imports or foreign service providers. Note also that under Mode 3 in the GATS, inward investment can come under WTO disciplines.
Procurement	None	None	With respect to any laws, regulations, procedures, and practices regarding government procurement, as well as specific procurements, covered by this Agreement, each Party shall grant the goods, services and suppliers of the other Party a treatment no less favourable than that accorded by it to domestic goods, services and suppliers. Annex VII lists the entities covered. Reference to the WTO GPA. Market access purely one-sided at present (in favour of	The Parties consider the opening of the public procurements on the basis of non-discrimination and reciprocity, to be a desirable objective. MFN Obligation. Agreement also has rules on state monopolies, which prohibit discrimination after 5 years.	None	The GPA is a plurilateral agreement and thus not part of the Single Undertaking. However as part of their accession commitments, acceding countries are usually asked to commit to initiating negotiations to join the GPA at some future date.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
			Syria) with a commitment to extend market access commitments (to include Syrian GP markets) after 3 years.			
Competition	None	The arrangements applied by Syria in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, or their companies or firms. Also, the provisions on security exceptions also contain provisions relevant to the subsidization of the defence industry.	Agreement prohibits collusive behavior, abuse of a dominant position. Commitment to progressively adjust any State monopolies of a commercial character, so as to ensure that, by the end of the fifth year following the EiF of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Syria. With regard to public enterprises and enterprises to which special or exclusive rights have been granted, the Association Council shall ensure that as from the fifth year following the date of EiF of this Agreement, there is neither enacted nor maintained any measure distorting trade between the Community and Syria to an extent contrary to the Parties' interests.	Agreement prohibits collusive behavior, abuse of a dominant position and any state aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.	None	Not part of the WTO. However, where uncompetitive business practices are a pervasive feature of the business environment in an applicant country, and if these practices are perceived as prejudicial to the export interests of WTO Members (particularly those on the Working Party), then it is to be expected that the Working Party Report will require commitment language undertaking to remove and outlaw these practices.
Trade in Services	Article 8 opens the way for the GAFTA to extend its substantive scope to include trade in services and intellectual property	None	**Freedom of Establishment** The Community and its Member States shall grant for the establishment of	Parties agree to cooperate with the aim of achieving a progressive liberalization and mutual opening of their markets	None	Acceding countries required to make Extensive market opening commitments across most, if not all sectors.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
	rights, but only represents a statement of intent		Syrian companies treatment no less favourable than that accorded to like companies of any third country. Without prejudice to the reservations listed in Annex III, the Community and its Member States shall grant to subsidiaries and branches of Syrian companies established in a Member State treatment no less favourable than that accorded to any like Community company, in respect of their operations. Without prejudice to the reservations in Annex IV, Syria affords EU NT and MFN with regard to establishment of EU companies in Syria, and MFN with regard to the establishment of subsidiaries and branches of EU companies. Exceptions for air transport, inland waterways transport and maritime transport. **Economic Integration Agreement** Examination by the Association Council at the latest five years after EiF.	for trade in services, taking into account relevant provisions of the WTO-General Agreement on Trade in Services (GATS)		
Intellectual Property	Same as outlined above for services.	Only mentioned in the context of the general exceptions, but no	Agreement refers to TRIPS and other relevant international treaties and	Agreement refers to TRIPS and other relevant international treaties and	None	Adoption and implementation of TRIPS Agreement, generally

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
		obligation to adopt and implement rules on IP protection by Syria	requires effective enforcement. Annex VI to the Agreement (2 pages), sets out a timetable subject to which Syria is required to join a list of multilateral intellectual property agreements.	requires effective enforcement.		without transition or implementation period.

Ratification, Withdrawal, Institutional Provisions and Dispute Settlement, MFN,

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
Adoption	Pursuant to Decision No. 1317 D 59, the Economic and Social Council, at a meeting held on 19/2/1997, adopted the Executive Program and set a timeline for the establishment of an Arab Free Trade Area in accordance with the 1981 Agreement for Facilitation and Promotion of Trade among Member Countries.	Agreement done on 18 January 1977.	Formal negotiations concluded in 2004. Agreement renegotiated and initialled in 2008. Syria has requested time to consider whether it wants to sign the Agreement.	Signed on 22 December 2004	Agreement done on 23 February 2006	Upon completion of the fact-finding stage, Syria faces a year or two of market access negotiations after which it's Working Party Report can be finalized and together with the Protocol of Accession, will be sent to the WTO General Council for adoption.
EiF	GAFTA entered into force on 1/1/1998	This Agreement shall enter into force on the first day of the second month following notification that ratification has taken place. Entered into force on 1 November 1978.	This Agreement shall be approved by the Parties in accordance with their own procedures. This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in this paragraph have been completed. Those sections of the Agreement pertaining to market access concessions afforded by the EU to Syria already in force on a provisional basis.	This Agreement shall enter into force on the first day of the second month, following the date on which the Parties have notified. Entered into force on January 1, 2007	90 days after the CPs after notification of ratification by each party. Entered into force on June 1, 2010.	Thirty days after ratification by Syria of the Protocol of Accession under its domestic constitutional procedures.
Withdrawal	Impossible during the first 3 years. Thereafter, by written notice to the Sec Gen of the Arab League effective after 1 year.	Either Contracting Party may denounce this Agreement by notifying the other Contracting Party. The Agreement shall cease to apply 12 months after the date of such notification.	Each of the Parties may denounce this Agreement by notifying the other Party. This Agreement shall cease to apply six months after the date of such notification	Either party may denounce this Agreement by a written notification to the other Party. The Agreement shall terminate on the first day of the seventh month following the date when the other Party received the	Termination by written notification effective 6 months thereafter.	Possible at any time subject to a notice period of 6 months.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
				denunciation notice.		
Amendments	Subject to approval of two-thirds of member party-states, effective after one month of ratification by at least five states.	No specific amendment provisions but Art. 44 provides for review of the Agreement at the beginning of 1979 and again at the beginning of 1984 to discuss improvements that could be made.	No specific amendment provisions but various articles containing review language with regard to implementation of difference sections of the Agreement.	Evolutionary clause. Standard amendments clause.	Contracting Parties may amend and/or develop agreement. Contracting Parties shall consider upgrading the agreement to an FTA. Amendment subject to same conditions as set out in the provisions on EiF.	Amendments to the WTO agreements usually take place in the course of negotiating rounds, involving various trade-offs across different agreements and requiring the consent of the more than 150 WTO Members, thus this is not quickly or easily achievable.
Institutional	Economic and Social Council of the Arab League body responsible for implementing the Executive Program Article 9 also provides for the establishment of an Enforcement and Monitoring Committee, a Trade Negotiations Committee, an Arab Rules of Origin Committee, and a Technical Secretariat.	Cooperation Council, which may set up any committee it deems necessary.	Association Council Association Committee Special Committee on Customs Cooperation and Rules of Origin, Trade Committee.	Establishment of the Syria - Turkey Association Council, The Association Council may upon necessity establish working groups or bodies for the implementation of the Agreement. Establishment of the Association Committee.	Establishment of Joint Trade Committee with the possibility for the latter to set up other sub committees as appropriate.	Large and complex institutional arrangements requiring commitment of commensurate resources in both the capital and Geneva.
Dispute Settlement	Art. 9 EP: Enforcement and Monitoring Committee assumes task of settling disputes arising from the implementation of the EP and can appoint Arab experts in world trade or form ad hoc arbitration panels of up to 5 panelists. Panel submits its recommendations to the Committee. Committee adopts decisions by 2/3 majority or where no decision is reached, matter referred to Economic and Social	Only very loosely formulated rules on dispute settlement. Each CP empowered to take whatever measures it deems appropriate if it deems the other party is not fulfilling its obligations. Obligation to inform the Cooperation Council, and observe the principle of proportionality.	Consultations, followed by option of mediation or arbitration with an arbitration panel comprising three arbitrators. Detailed procedures and rules governing timeframes, compliance and suspension of concessions. Provisions on dumping, subsidies and safeguards not actionable under the Agreement's dispute settlement rules.	1st instance is the Association Council. 2nd instance is appointment of an arbitration panel of three arbitrators.	First stage: consultations Second stage: arbitration Recourse to International Court of Justice in the case of procedural logjams (failure to appoint arbitrators or chairman). Decision of the arbitral tribunal is binding, with the winning party empowered to withdraw equivalent preferential treatment.	Detailed and complex dispute settlement procedures. In the short to medium term, if Syria wants to avail itself of these rules, it must hire outside lawyers to do so or become a member of the Advisory Center on WTO Law.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
	Council Art. XIII Disputes submitted to Council which can establish a committee or sub-committee. May also apply the dispute settlement provisions of Chapter 6 of the United Agreement for the Investment of Arab Capital in Arab States					

Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Trade Facilitation, General and Security Exceptions

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
TBT	Not specifically mentioned	No specific language on this issue.	Refers to WTO rules and explicitly mentions the WTO Agreement on Technical Barriers to Trade.	More nuanced approach than EC Association Agreement. Application of TBT Agreement only with regard to notification obligations.	Contracting Parties s ensure that their standards, technical regulations and SPS measures shall not be prepared, adopted or applied so as to create obstacles to mutual trade or to protect domestic industry and technical regulations and standards shall not be more trade-restrictive than necessary to fulfil a legitimate objective	Adherence to WTO TBT Agreement with only limited scope for gradual phase in. This requires the establishment of new institutions (Enquiry Point) as well as requiring the adoption of new procedures, the elimination of non-WTO compliant standards and technical regulations (particularly those likely to affect the export interests of Working Party members).
SPS	General exception (Art. 2.4 EP) mentions “agricultural and veterinary quarantine rules”.	No specific language on this issue outside of general exceptions clause.	Parties agree to cooperate on SPS measures and to be bound by the principles set out in the WTO SPS Agreement.	The Parties will be bound by the principles set out in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, when applying SPS-measures.	Any SPS measure shall be applied only to the extent necessary to protect human, animal or plant life or health, shall be based on scientific principles and shall not be maintained without sufficient evidence.	Adherence to WTO SPS Agreement with only limited scope for gradual phase in. This requires the establishment of new institutions (Enquiry Point) as well as requiring the adoption of new procedures, the elimination of non-WTO compliant sanitary and phytosanitary measures (particularly those likely to affect the export interests of Working Party members).
Trade Facilitation	Art. XVIII Agreement: The party-states shall cooperate to facilitate transport and communications among them by all means, on a preferential basis, and also to facilitate transit trade associated with the	Payments relating to commercial transactions carried out in accordance with foreign trade and exchange regulations and the transfer of such payments to the Member State of the Community in which the creditor is	Customs and administrative cooperation, including application of modern customs techniques, including risk assessment, simplified procedures for entry and release of goods, post release	Payments relating to trade between the Parties and the transfer of such payments to the territory of the Party where the creditor resides shall be free from any restrictions	Language on transfer of payments: Contracting Parties shall allow payments for their current account transactions in the framework of the Agreement to be made in a freely convertible currency.	There are four trade facilitation agreements in the WTO which are part of the Single Undertaking and which will require various degrees of reform of customs procedures, these are: the Agreement on Pre-shipment

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
	exchange of Arab goods among party-states	resident or to Syria shall be free from any restrictions.	controls, and company audit methods Application of Kyoto Convention on the simplification and harmonisation of customs Procedures. Application of the WTO Agreement on Customs Valuation.			Inspection; the Agreement on Rules of Origin; the Agreement on Import Licensing Procedures and the Customs Valuation Agreement.
General Exceptions	Art. 2.4 EP, mentions religious, health, security or environmental reasons	Public morality, public policy or public security; the protection of the health and life of humans, animals or plants ; the protection of national treasures of artistic, historical or archaeological value ; the protection of industrial and commercial property, or rules relating to gold or silver. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.	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; the conservation of exhaustible natural resources; the protection of intellectual, industrial and commercial property or regulations concerning gold and silver, shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties	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; the protection of intellectual, industrial and commercial property. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.	Formulated in very similar terms as under GATT Art. XX, i.e. public morality, religious values, public policy, national security, protection of human, animal, and plant life and health, protection of national treasures, protection of exhaustible national resources and genetic reserves, regulations on gold or silver etc.	GATT Art. XX.
Security Exceptions	Mentioned in Art. 2.4 EP	Either party can take whatever measures it considers necessary to prevent the disclosure of information contrary to its essential security interests; or which relate to trade in arms, munitions or war materials or to research, development or	Nothing in this Agreement shall prevent a Party from taking any measures: which it considers necessary to prevent the disclosure of information contrary to its essential security interests; which relate to the production of, or trade in, arms, munitions or war	Parties can take whatever measure necessary to prevent the disclosure of information contrary to their essential security Interests. or for the protection of their essential security interests or for the implementation of international obligations or national	Nothing in this Agreement shall also be understood to require a Contracting Party to furnish any information the disclosure of which it deems contrary to its essential security interests	GATT Art. XXI

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
		production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes; or which it considers essential to its security in time of war or serious international tension.	materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes; and which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.	policies in relation to relating to the traffic in arms, ammunition and implements of war, relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices, or finally in time of war or other serious international tension constituting threat of war.		
Other Exceptions	Free zones products: the provisions of the GAFTA agreement including the customs reduction are not applicable to free zones products.	Whole range of exceptions in this Agreement, particularly for agricultural products as well as some industrial products.	None	None	The products to which tariff preferences are to be applied are stipulated by each Contracting Party in two separate lists (Annexes A & B). This is a positive list approach, meaning any product not scheduled (of which there are many), is not afforded preferential treatment under the Agreement.	Enabling Clause (preferential access to developing countries) and GATT Art. XXIV (for FTAs, customs unions or transitional arrangements leading to either one or the other, and which cover "substantially all trade"

Special and Differential Treatment, Development Assistance, other "Policy Space" Provisions

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
S&D	Article 7 provides special and differential treatment for least developed Arab countries (under the UN classification) as well as Palestine, of which Sudan and Yemen have availed themselves.	The trade liberalization envisaged in this Agreement is totally one-sided, in that the EC opened its market to Syria w/o reciprocal concessions by Syria towards the EC.	Unlike the Cooperation Agreement, the Association Agreement is supposed to be based on reciprocity, but the phase-in periods for the liberalization envisaged under the Agreement is much fast for the EU, whereas Syria is given longer implementation periods of up to 12 years.	Turkey removes all tariffs upon EiF of the Agreement, whereas Turkey has a transition period of up to 12 years.	None	Because acceding countries are usually not "allowed" to accede as developing country members, they are generally denied much of the Special and Differential Treatment on offer under the various agreements.
Development Assistance	None	The Community shall participate in the financing of any measures to promote Syria's development under the conditions laid down in Protocol 1 on technical and financial cooperation.	Economic cooperation in various fields including encouragement of regional cooperation, education and training, scientific and technological cooperation, cooperation with regard to the environment, industrial cooperation, standards, technical regulations and conformity assessment procedures, intellectual, industrial and commercial property rights,	Turkey shall give priority for providing Syria with technical assistance in the primary fields of economic co-operation namely Industry; Agriculture; Services; Small and medium-sized enterprises.	None	Technical assistance from the WTO Secretariat during the accession process and then following membership, continued technical assistance from the Secretariat as well as Aid for Trade.
Other Policy Space or MFN/Non-MFN Clause	Art. III Agreement: party-states entitled to grant further advantages and preferences to any other Arab state or states through bilateral or multilateral agreements. Art. XV Agreement: Any party-state may request imposition of some duties or quantitative or administrative restrictions or maintenance of existing	The EU reserved the right to withdraw or modify these concessions in no uncertain terms if it subsequently needed to do so. Syria shall be entitled to introduce into its trade arrangements with the Community new customs duties or charges having equivalent effect and new quantitative restrictions or	In the event of specific rules being introduced as a result of the implementation of its agricultural policy, any alteration of the current rules or any alteration or extension of the provisions relating to the implementation of its agricultural policy, the Party concerned may	In the event of serious difficulties for a given product the schedule for liberalization can be suspended for up to one year, subject to the understanding that after the 12 year transition period, all duties will be removed. The Agreement shall not preclude the maintenance or	Contracting Parties, they shall not be eligible to benefit from tariff rate quotas or tariff concessions granted by each Contracting Party to some other country within the framework of a specific free trade agreement, preferential trade agreement, regional trade agreement or border	Each accession package is negotiated on a case by case basis, so there is a limited degree of scope for a country to carve out some areas of policy space, at least for a short transition period.

Measure	GAFTA	EC-Cooperation	EU-Association	Turkey	Iran	WTO
	ones on a temporary basis to ensure the growth of a certain domestic product, subject to approval by the Council.	measures having equivalent effect and to increase the duties and the quantitative restrictions or charges or measures having equivalent effect applied to products originating in or going to the Community, where such measures are necessitated by Syria's industrialization and development requirements. The Community shall be notified of such measures.	amend the arrangements resulting from this Agreement in respect of the products concerned. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade, except insofar as they alter the trade arrangements provided for in this Agreement.	establishment of customs unions, free trade areas or arrangements for frontier trade, except in so far as they alter the trade arrangements provided for in the Agreement. Re-export clause, serious shortage clause.	trade agreement	