

Trade Remedy Laws and Agriculture

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Presentation will cover

- Emergence and evolution of trade remedies
- Trade remedy measures
CVD, AD, SG, & SSG
- Use of trade remedies by countries
- Issues

Emergence & Evolution of TR

- McKinley Tariff (1890) created 1st CVD.
- Canada (1904) created 1st AD mechanism.
- The US adopted AD law in 1916.
- 1920s & 1930s most industrial countries adopted TR.
- GATT Art. VI (1947) and Tokyo Round Code on AD (1979) attempted to discipline TR.
- UR Agreement (1994) marks a major effort to bring discipline to TR measures.

Trade Remedy Measures

Countervailing Duties (CVD)

- GATT Article VI (1994) allows the use of CVD to offset public subsidies for the manufacture, production or export of any merchandise.
- CVD use requires
 - 1) proving the existence of subsidy
 - 2) proving that the subsidized import causes or threatens to cause injury to domestic industry.

Antidumping (AD)

- Dumping: the introduction of a product of one country into the commerce of another country at less than its fair or normal value.
- Normal value: comparable price for the product, in the ordinary course of trade, when destined for domestic consumption.
- AD duties can be used if it is proven that 1) dumping exists and 2) causes or threatens to cause material injury.

Safeguards (SG)

- GATT Article XIX (1994) allows temporary border measures to be imposed if import surge causes or threatens to cause serious injury.

Special Agricultural Safeguards (SSG)

- Under WTO AoA provision, SSG duties can be levied when imports exceed pre-set volume or value trigger.
- SSGs can be applied only to products identified with SSG symbol in country schedules.
- Injury determination is not a pre-requisite for SSG implementation.

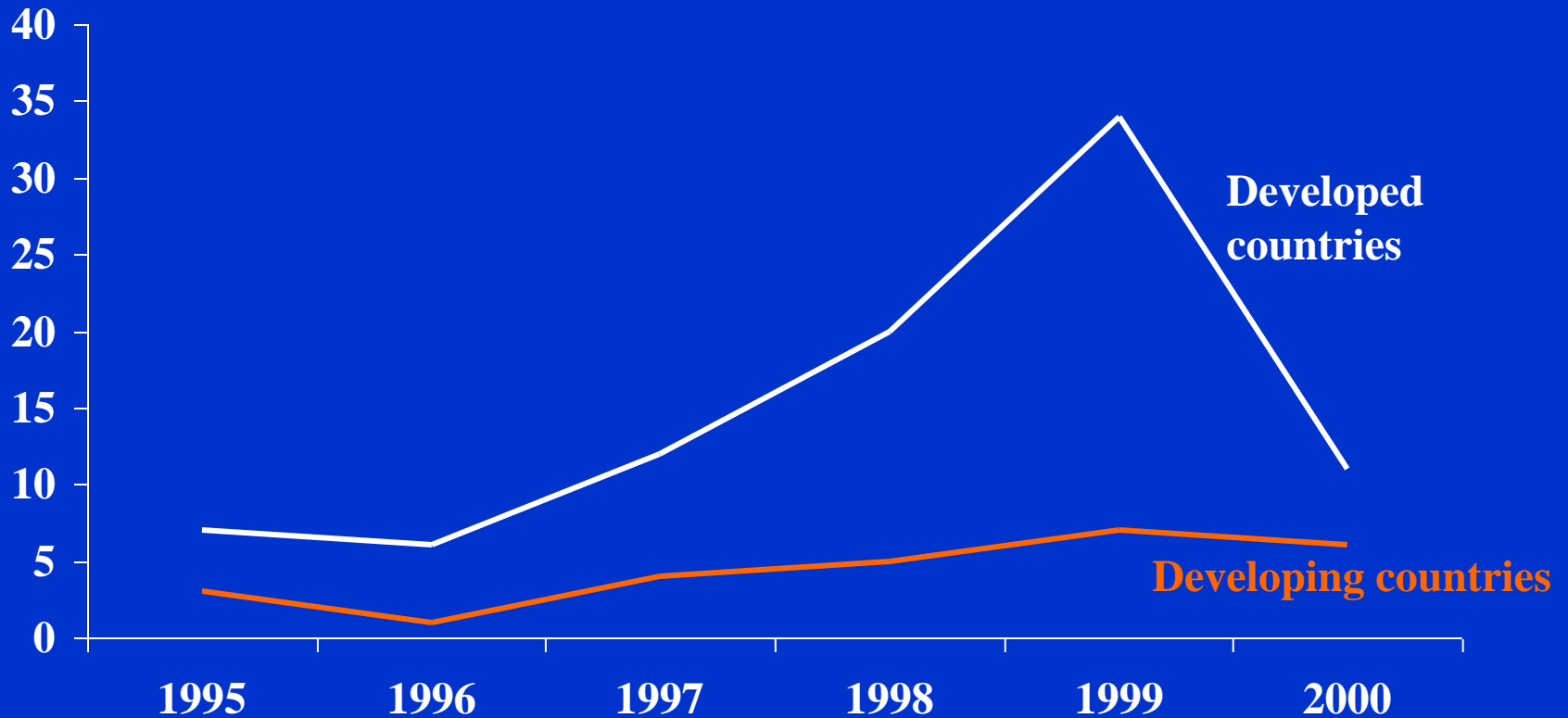
In Summary

| Measures | Remedy Against | Criteria for Implementation | Duration |
|------------|---|--|--|
| CVD | Foreign government subsidy. | Evidence of subsidy. Proof of injury. | 5-year, extended upon review. |
| AD | Exports below 'fair value'. | Evidence of dumping. Proof of injury. | 5-year, extended upon review. |
| SG | Surge of imports. | Proof of serious injury. | 4 years, extended upon review. |
| SSG | Agricultural imports exceeding set volume and value trigger levels. | None. Only commodities notified with a SSG are eligible. | 1 year, extended if trigger is exceeded. |

How are Members using TR?

- Developing country use of AD and CVD is growing.
- # of countries using SG limited by domestic legislation.
- SSG use restricted to those countries and commodities with SSG notifications.
- TR use by developing countries more on ag products.

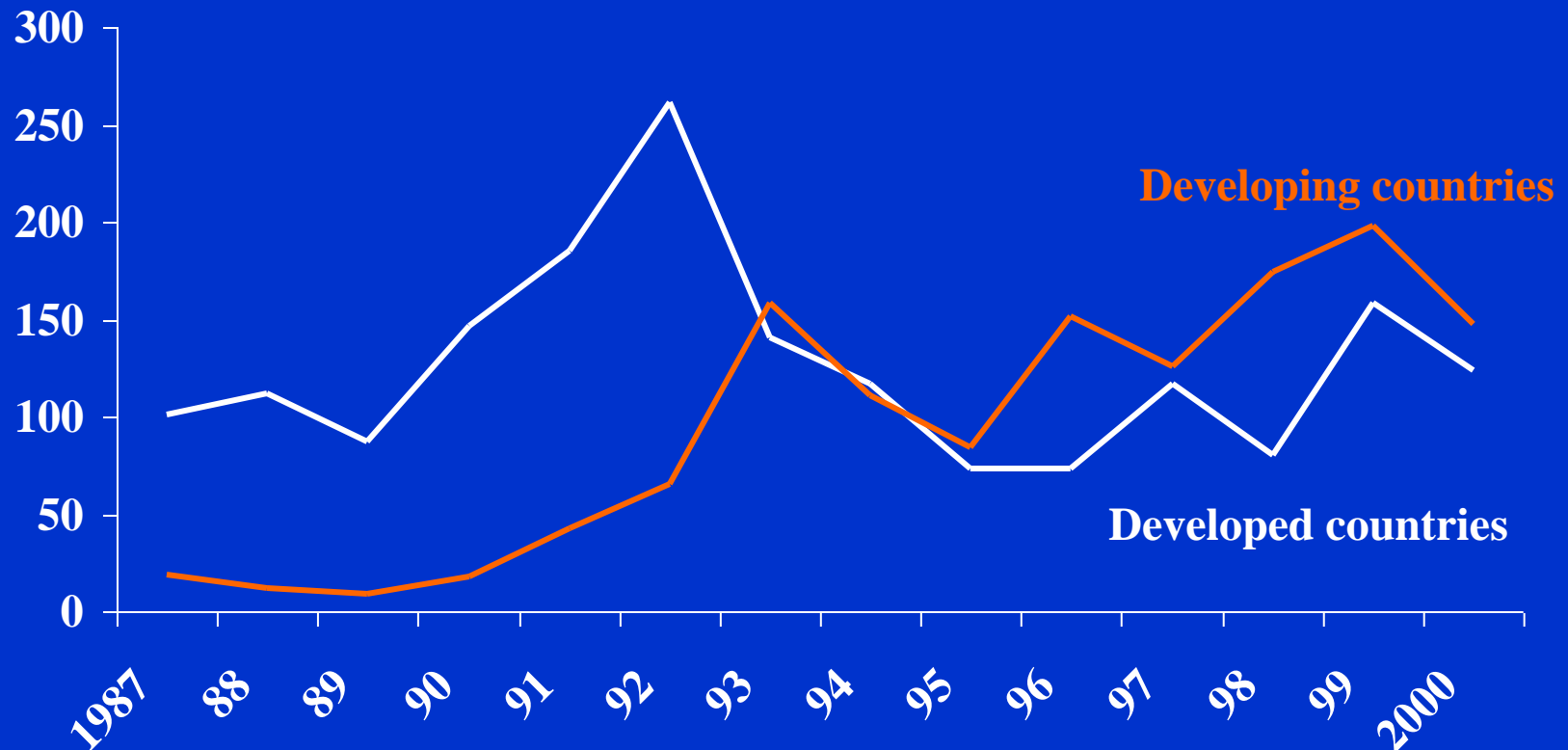
CVD Investigations: 1995-2000



Source: WTO Secretariat, January 2002.

http://www.wto.org/english/tratop_e/scm_e/scm_e.htm#annualreports

Antidumping Investigations: 1987-2000



Source: WTO Secretariat, Rules Division, Antidumping Measures Database
and http://www.wto.org/english/tratop_e/adp_e/adp_e.htm#annualreports.

SG Use Increasing

Between 1 Jan '95 - 9 Nov. 2000
about 50 investigations were notified.

Between 10 Nov 2000 - 29 Oct 2001
30 investigations were notified

SSG use

- Limited to product and country with SSG in country schedule.
- Total of 38 Members eligible.
- Only 8 have used to date.
- EC, Japan and US have dominated.
- Developing country use rising with Poland emerging as #1 user.

Developing Country TR Use More on Agriculture

| <u>CVD Investigations</u> | (1 Jul 98-30 Jun 99) | |
|---------------------------|----------------------|--------|
| | ag | Non-ag |
| EC & US | 7 | 91 |
| Developing Countries | 12 | 0 |

AD Investigations (1987-1997)

Developed Countries 6% on Ag

Developing Countries 6-10% on Ag

SG Use on Ag is Very High

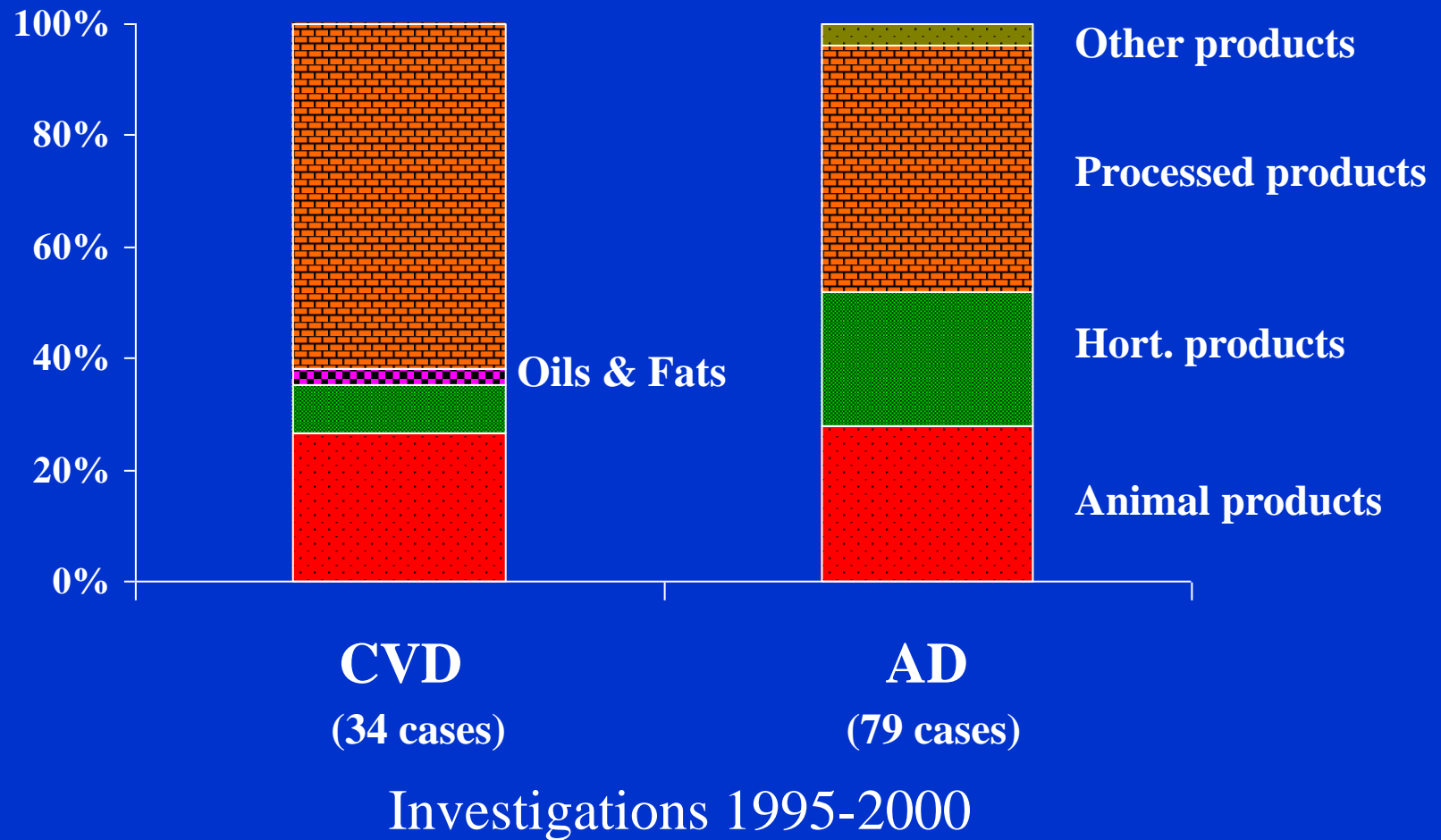
- Since 1995, 1/2 of all SG on Ag.
- 10 Nov 2000 - 29 Oct 2001, 30 investigations notified

U.S. action was on steel

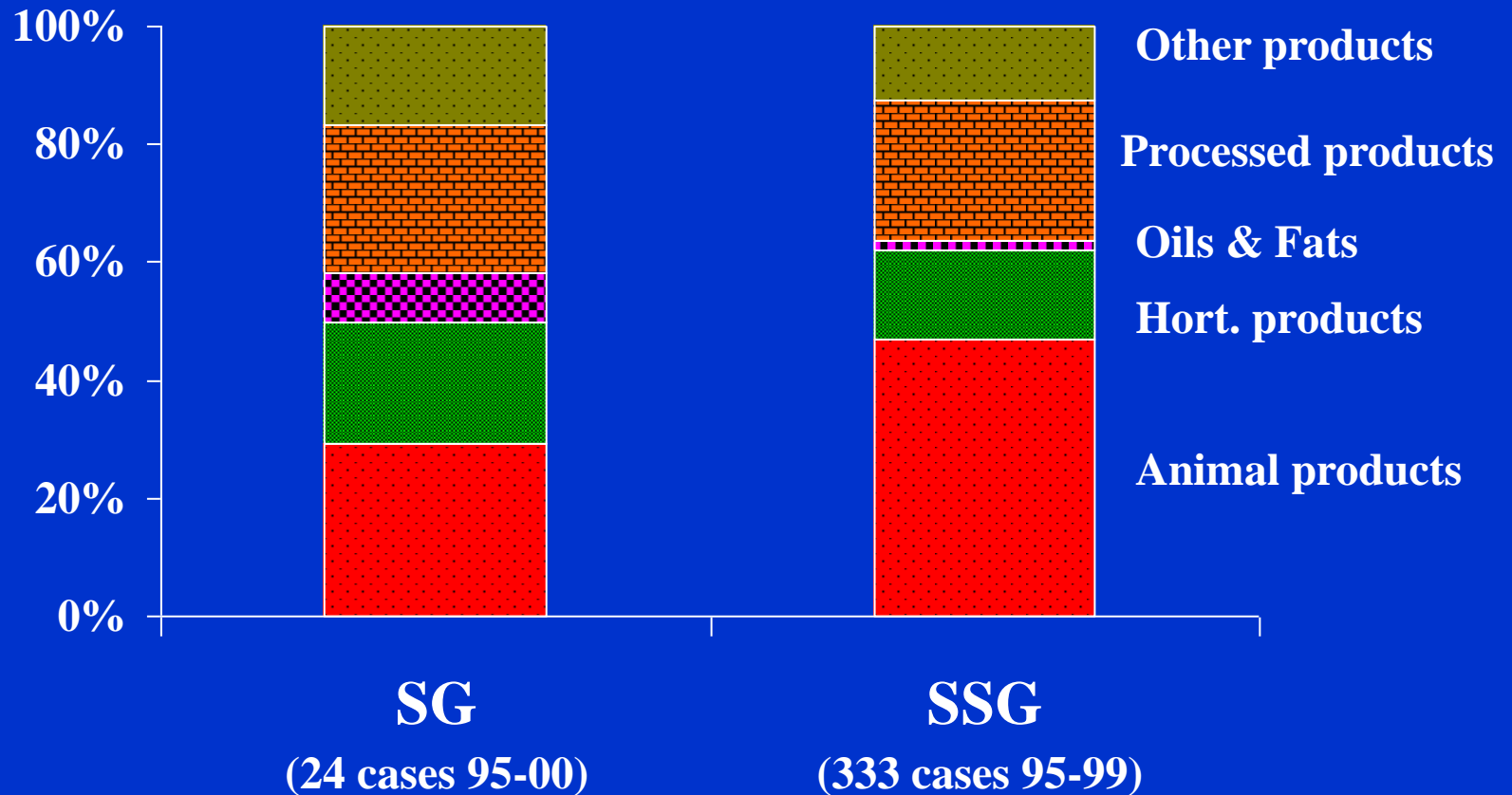
Others (mainly developing countries)

>60% on ag

High Value Products Most Vulnerable to TR Measures



High Value Products Most Vulnerable to TR Measures



Issues

- Increased use has particularly hurt agricultural products.
- Agricultural products have a high probability of positive 'dumping' finding.
- Number of concerns with constructed normal values.
- Consumer impacts not considered in injury findings.
- No 'injury' criteria required for SSG.
- SSG use restricted to those with notifications.
- Other developing country concerns.

Looking Ahead..

- Peace Clause expiration will render agricultural subsidies actionable.
- Doha Ministerial Declaration: the new Round will aim at clarifying and improving disciplines governing AD & CVD.
- TR reform is on the tables for the Doha Development Agenda and deserves attention from economist.