

**WTO Members  
(As of 31 July 1999)**

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Barbados	Haiti	Peru
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Belize	Hong Kong, China	Poland
Benin	Hungary	Portugal
Bolivia	Iceland	Qatar
Botswana	India	Romania
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Cyprus	Malawi	Switzerland
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Dominica	Malta	Trinidad and Tobago
Dominican Republic	Mauritania	Tunisia
Ecuador	Mauritius	Turkey
Egypt	Mexico	Uganda
El Salvador	Mongolia	United Arab Emirates
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Fiji	Mozambique	United States
Finland	Myanmar	Uruguay
France	Namibia	Venezuela
Gabon	Netherlands	Zambia
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# Abbreviations and symbols

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
CEFTA	Central European Free Trade Agreement
CIS	Commonwealth of Independent States
ECU	European currency unit
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign direct investment
GDP	Gross Domestic Product
GNP	Gross National Product
IMF	International Monetary Fund
LAIA	Latin American Integration Association
MERCOSUR	Southern Common Market
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Cooperation and Development
TOT	terms of trade
UNCTAD	United Nations Conference on Trade and Development
c.i.f.	cost, insurance and freight
f.o.b.	free on board
n.a.	not available

## The following symbols are used in this publication:

...	not applicable
0	figure is zero or became zero due to rounding
\$	United States dollars

Billion means one thousand million.

Minor discrepancies between constituent figures and totals are due to rounding.

Unless otherwise indicated, (i) all value figures are expressed in US dollars; (ii) trade figures include the intra-trade of free trade areas, customs unions, regional and other country groupings; (iii) merchandise trade figures are on a customs basis, and (iv) merchandise exports are f.o.b. and merchandise imports are c.i.f. Data for the latest year are provisional.

## The current situation

Last year's Annual Report was written when the Asian financial crisis was only a year old. There was still considerable concern then about the risk of contagion and deep recession. A year later, the situation is more healthy, although only the complacent would contest the need for policy vigilance. Important challenges remain, and recovery is far from complete. Global GDP growth decelerated sharply from the record expansion in the previous year while trade volume growth was more than halved. For parts of Asia a contraction in output growth also meant that import volume growth turned negative. The economic performance of other regions helped to maintain global output growth at around 2.0 per cent and world export growth at about 4 per cent in 1998. The United States continued a remarkable period of expansion, contributing significantly to the global figure. The European Union grew less, but above the global average.

Developing countries taken as a group did not fare as well as they have in recent years. Their share of world trade fell for the first time in more than a decade. While the drop in world output and trade recorded for 1998 may not show much sign of improvement in 1999, it will almost certainly start to look better in the year 2000. Thus it may be argued that the world economy is turning a corner following the buffeting of the Asian financial crisis and its aftermath.

Turning to policy considerations, it is justified to conclude that in the face of this crisis governments behaved sensibly and the WTO proved its worth. The countries most affected applied severe macroeconomic discipline, perhaps aggravating the short-term downturn in output, but helping to bolster market sentiment and confidence in the medium-term prospects. None of the countries involved in the financial crisis resorted to protectionism and indeed many took bold steps to continue to open their markets. Moreover, their trading partners also showed resolve in resisting protectionist pressures. The few trade measures that were taken by a small number of countries were not enough to dent the trend of continuing liberalization, flowing partly from the implementation of Uruguay Round results, and in some cases from autonomous action by governments. Rather than becoming part of the problem, as it did in the 1930's, trade made a crucial contribution to paving the way for recovery. Adherence to WTO principles and commitments has been a key element in this success story. There is no room for complacency, however, as governments will always face pressures to take protectionist measures.

## Economic outlook

As noted earlier, world economic growth is expected to strengthen only moderately in 1999. Output growth is likely to remain below 3 per cent and merchandise trade volume could average around 4 per cent, the same as in 1998 provided that the acceleration of world trade growth observed in the second quarter is maintained in the second half of 1999. For the first half of 1999, the value of world merchandise trade was unchanged from the preceding year's level. Negative dollar-value growth was recorded for the imports of Latin America, the transition economies and Western Europe. Asia's imports recovered markedly throughout the first six months of 1999 and exceeded the previous year's level by more than 5 per cent in the second quarter. Merchandise import growth in the United States in the first half of 1999 was close to 8 per cent, somewhat stronger than in 1998.

Despite the onset of recovery in Asia and continued strong US growth, the effects of lower growth in Western Europe, transition economies and Latin America held back the acceleration of global output expansion. Sluggish growth in Western Europe, especially in early 1999, is expected to result in a marked reduction in trade growth for the full year. Latin America's stagnation of output in 1999 is also a factor holding back the global trade growth. On the other hand, recovery of Asia's imports could turn out to be even stronger than was expected in 1999 if the momentum of the upswing observed in the first half is maintained in the second half. North America's import growth remained strong with US imports up by nearly 10 per cent. For North America, Western Europe and to a lesser extent also for Asia, an excess of import growth over export growth is expected for the year 1999, which will enable other regions, in particular Latin America and the transition economies, to record faster export growth and import growth.

It is difficult to predict the likely course of the world economy in the year 2000, although early indications suggest that there will be a recovery in both output and trade. The International Monetary Fund is predicting an acceleration of output growth to 3.5 per cent in the year 2000 largely due to higher growth in the developing countries. Stimulated by stronger economic growth, trade could expand by 6 to 7 per cent which would be close to the average rate observed in the 1990's. Once again, however, these predictions depend significantly upon economic developments in the United States and Western Europe as well as developments in the Japanese economy.

## Activities in the WTO

A major aspect of the WTO's work during the past months has been to prepare for the WTO Ministerial Conference to be held in Seattle commencing in late November 1999. This is discussed further below. Apart from the preparations for Seattle, Chapter IV of this Report contains detailed information on the activities of the WTO over the last year. A few highlights are mentioned below.

Work has continued on accession negotiations, although at a pace that has given rise to concern among some Members and acceding countries. Some 30 governments are currently negotiating for WTO accession. In the year ending 31 July 1999, the Kyrgyz Republic and Latvia have become new Members of the WTO. The accession process has become more complex because of the WTO's increased coverage relative to GATT. At the same time, many acceding countries are undergoing transition from centrally-planned to market economies, and accession to the WTO helps to define and underpin domestic reform.

The General Council has continued its task of monitoring the implementation and operation of the multilateral trading system embodied in the WTO agreement. Among its various activities the General Council has overseen the comprehensive work programme established in September 1998 to examine all trade-related issues relating to global electronic commerce. The work programme was mandated by Ministers at their second Ministerial Conference in May 1998. The General Council has received reports on the work programme from the Goods Council, the Services Council, the TRIPS (Intellectual Property) Council and the Trade and Development Committee.

The General Council has also overseen work carried out in pursuance to the Singapore Ministerial Declaration of December 1996 concerning the relationship between trade and investment, transparency in government procurement, and the interaction between trade and competition policy. Each of the relevant working groups has undertaken comprehensive work aimed at identifying the substance of the issues and clarifying their relevance to the WTO. In each case, mandates of the working groups have included a requirement to consider the nature of any future activity in these areas. These issues are under consideration in relation to preparations for Seattle.

The Council for Trade in Goods has continued to oversee work in many areas. Some of this work entails a regular monitoring of the implementation of agreements. Other areas of work, which go beyond a simple monitoring function, have included discussions on possible extensions to the Information Technology Agreement (ITA), and consideration of various aspects of trade facilitation.

As Members are already committed to further negotiations in trade in services, starting in the year 2000, a good deal of the work of the Council for Trade in Services is concerned with preparations for these negotiations. Among these preparatory activities were the exchange of information called for in the Singapore Ministerial Declaration with the aim of facilitating access for Members, in particular developing country Members, to information regarding laws, regulations and administrative guidelines and policies affecting trade in services. Members have also been considering the assessment of trade in services called for in Article XIX.3 of the General Agreement of Trade in Services as a precursor to further negotiations. Discussions have also taken place on the elaboration of negotiating guidelines and procedures. The Working Party on GATS Rules has continued to negotiate on the question of emergency safeguard measures, government procurement and subsidies as mandated by various provisions of the GATS.

The Fifth Protocol embodying the results of the post-Uruguay Round negotiations on financial services came into force on 1 March 1999. The Working Party on Professional Services completed its work on regulation in the accountancy sector. The Committee on Specific Commitments has intensified its work in preparation for the next round of negotiations. The Committee has finalized the procedures for modifying commitments contained in Members' schedules of specific commitments under the GATS. The Committee has also examined classification issues and the revision of scheduling guidelines.

Apart from its regular function of overseeing the implementation and operation of the Agreement on Trade-Related Aspects of Intellectual Rights, the council on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has held discussions on various aspects of the built-in agenda, including in relation to geographical indications. The TRIPS Council has also undertaken work on electronic commerce and trade facilitation, along with other bodies, in relation to the mandates on these subjects referred to above.

The WTO's Dispute Settlement System has continued to function efficiently, with unprecedented intensity. In the 12 months ending 31 July 1999 the Dispute Settlement Body (DSB) received 39 notifications regarding consultations, established panels to deal with 17 new matters and received requests to establish panels in five other cases. A review of the Dispute Settlement Understanding (DSU) was undertaken by the DSB, beginning in early 1998. This review of the Dispute Settlement Rules of Procedures under the WTO was called for within four years after the entry into force of the WTO. Members are required to decide whether to continue, modify or terminate existing dispute settlement rules and procedures. The DSU review was still underway at the end of the reporting period for this Report (31 July 1999).

The Trade Policy Review Body continued its programme of examining the trade policies and practices of Members, with the aim of achieving greater transparency and understanding of trade policies and practices of Members. By mid-1999, a total of 107 reviews have been conducted, covering 72 WTO Members. Over recent years, increased attention has been focused on the reviews of least-developed countries (LDCs), as encouraged by the 1997 High Level Meeting on Integrated Initiatives for Least Developed Countries' Trade Development. Some ten of the 28 LDC Members of the WTO have been reviewed in the context of the Trade Policy Review Mechanism.

The Committee on Trade and Development has continued to serve as a focal point for consideration and coordination of work on development in the WTO and the participation of the developing countries in the trading system. Among the matters taken up by the Committee were the application of provisions for special and differential treatment in favour of developing countries, market access concerns and problems, the situation of small economies, the development dimensions of the WTO work programme on electronic commerce, and trade facilitation. Other issues taken up by the Committee included technical assistance and training and possible inputs to the Third WTO Ministerial Conference in Seattle.

The Sub-Committee on Least-Developed Countries continued to carry out its mandate to give particular attention to special and specific problems of the least-developed countries. The Sub-Committee has received regular reports on the follow-up to the High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development. The Sub-Committee has also focused on issues of implementation of WTO agreements by least-developed countries. Among the items touched upon in this context were the inadequacy of the institutional framework of the least-developed countries and the nature of technical assistance provided.

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## The challenges of Seattle

In many ways the structure of the preparatory process for the Third WTO Ministerial Conference in Seattle was determined by the Ministerial Declaration of May 1998. In particular, the declaration called for the General Council in special session to meet in September 1998 to establish a work programme which would lead to recommendations concerning the implementation of existing agreements and decisions, the timely commencement of negotiations already mandated at Marrakesh, i.e. negotiations on agriculture, services and some aspects of the TRIPS Agreement, and future work such as reviews and examinations already provided for under existing agreements and decisions taken at Marrakesh.

In addition, the declaration called on the General Council to produce a set of recommendations concerning other possible future work on the basis of the work programme initiated at Singapore, on the follow-up to the High-Level Meeting on Least-Developed Countries and on other matters proposed and agreed to by WTO Members regarding their multilateral trade relations.

Finally, Ministers at the Geneva Ministerial Conference also decided to further pursue the evaluation of the implementation of individual agreements and the realization of their objectives, in particular of problems encountered in implementation and the consequent impact on the trade and development prospects of Members. In light of the above, the General Council was also charged with the task of submitting to the Ministerial Conference in Seattle a set of recommendations concerning the further organization and management of the work programme, including the scope, structure and time-frames, to ensure that the work programme proceeded expeditiously.

Phase 1 of the preparatory process encompassed four intersessional meetings of the General Council during which WTO Members sequentially addressed the issues referred to in the 1998 Ministerial Declaration. A large number of detailed papers and statements outlining specific issues and concerns in each of these areas were submitted by delegations and provided a first useful impression of the priorities of WTO Members in the preparations for Seattle. While Phase 1 essentially served the purpose of issue identification and a basis for more focused work to follow, it was broadly agreed that Phase 2 would be more interactive and geared towards the tabling of more specific proposals on recommendations to Ministers on the future WTO work programme.

Phase 2 of the preparatory process covered the five months from March to July 1999 and was conducted around an intense schedule of both formal and informal meetings which addressed the issues referred to in paragraph 8, 9 and 10 of the Geneva Ministerial Declaration. Whereas the regular formal meetings were devoted to the formal presentation and discussion of specific proposals, the informal process gave delegations the opportunity to interact and dialogue on these issues. Over 160 specific proposals from a wide range of countries – developed, developing and transitional – were received in Phase 2 covering the entire scope of issues addressed in the 1998 Ministerial Declaration.

A large number of proposals and statements from developed and developing countries alike in Phase 2 focused on issues and concerns relating to the operation and implementation of existing agreements. Several developing countries have repeatedly pointed to two broad categories of concerns with regard to implementation, namely the unanticipated problems being encountered by them in the course of implementation which were not foreseen at the time the WTO agreements were signed; and the non-realization, in some areas, of the benefits that they had expected would accrue from these agreements, because of the manner of the implementation of these agreements by some Members. Concerns of a more systemic and cross-cutting nature have also been raised in relation to notification obligations, technical assistance, special and differential treatment provisions and rules relating to regional trade agreements.

The proposals and discussions on the mandated negotiations in agriculture have identified a wide range of issues relating to the scope and objectives, structure and time-frame. A number of countries have called for the agricultural sector to be fully integrated into WTO disciplines and placed on an equal footing with other areas of trade. Others have called for a more gradual approach, taking due account of the multifunctionality of agriculture, food security concerns, and the need to support rural employment.

On the mandated negotiations on trade in services, the objective of comprehensive negotiations on all issues within the services sector, without general exclusion and of a substantial liberalization package and without major changes in the architecture of the existing agreement has been widely shared. There is similarly general agreement on the need for the negotiations to begin on time with a clear time-frame.

On the issue of mandated reviews and examinations and other work provided for in existing agreements, some developing countries have emphasized that the reviews and examinations should not become pro forma exercises but should provide the opportunity to redress shortcomings in the agreements highlighted by Members. Other countries have argued that while some implementation problems revealed during the reviews and examinations might be settled within the competent WTO bodies, substantive problems affecting the balance of rights and obligations can be resolved only in broad-based negotiations.

Proposals and discussions on the four Singapore work programme issues relating to investment, competition, transparency in government procurement, and trade facilitation, demonstrated that views as to what recommendations, if any, should be made to Ministers for further work, continue to diverge. The views of Members have ranged from a recognition of the need to develop multilateral disciplines in the WTO, to a definitive view that no such need has yet been established and that it would be premature to discuss possible recommendations to Ministers.

Phase 2 of the preparatory process also saw a comprehensive discussion on the follow-up to the High-Level Meeting on Least-Developed Countries. Proposals have centred on issues such as enhancing market access on a preferential basis, alleviating supply-side constraints, operationalizing the integrated framework for trade-related technical assistance, improving the participation of LDCs in WTO processes, and facilitating and expediting the accession process for LDCs.

Finally, a number of new issues have been suggested for inclusion in a future work programme. These include market access for industrial/non-agricultural products, trade and environment, labour standards, and certain systemic issues.

In September 1999, delegations entered the final phase of the preparatory process leading up to the Seattle Ministerial Conference. On the basis of the work done in the two previous phases, Phase 3 was devoted mainly to drafting recommendations for decision by

Ministers in Seattle. The challenge before Members lies in refining a potentially broad agenda into the specifics of what may be negotiated within the framework of the multilateral trading system as we enter the new Millennium.

The Director-General recently outlined his three objectives with regard to the preparatory process. First, to facilitate and assist all participants to achieve the most balanced outcome from the new negotiations – an outcome which benefits the most vulnerable economies. Second, to be an advocate for the benefits to both great and modest nations of a more open trading system – one that increases living standards and builds a more prosperous and safer world. Third, to strengthen the WTO and its rules, to build on and maintain its reputation of integrity and fairness, and to re-shape the organization to reflect the reality of its membership and their needs.

## Main features

Global output and trade growth decelerated sharply in 1998 as imports of Japan and East Asia fell for the first time since 1974 (first oil crisis). All regions and all broad product categories were affected by the slowdown. The share of the developing countries in world trade dipped for the first time in more than a decade. Nearly two thirds of the world's economies recorded a decrease in their export earnings, which was the worst performance observed in the 1990's. Preliminary indicators point to an arrest of the slowdown of world trade in the first months of 1999 and an acceleration of growth in the second quarter.

### Capital flows, financial crises and world trade

Global capital flows have become a major factor in shaping the world economy and international trade in the 1990's. There was an unprecedented rise in global foreign direct investment (FDI) flows between 1992 and 1998 and a surge in global bank lending from 1992 through 1997. Net private capital flows to emerging markets were particularly buoyant up to 1997, contributing to these economies' rapid domestic demand and trade growth.

The reversal of capital flows into a number of emerging markets forced them to reduce their current account deficit which rose sharply between 1994 (\$153 billion) and 1996 (\$212 billion). While strong capital inflows provided a boost to emerging market imports in previous years, the decline in net private capital flows (from \$241 in 1996 to about \$65 billion in 1998) led to their contraction. Only a part of the decline in net private capital inflows could be replaced by using foreign exchange reserves and by increased net official capital inflows. Although the Asian financial crisis broke out in June 1997, its full impact on global trade flows was only felt in 1998. Japan's recession retarded the recovery in crisis countries, as it limited their export potential. Financial difficulties in Russia and Brazil started to have an impact on regional trade flows in the second half of 1998 (see Chart II.1).

Not all types of private capital flows were affected by the downturn. As in the past, the most volatile capital flows in recent years were (short-term) bank loans and to a lesser extent portfolio investments, while FDI flows remained rather stable. Although international capital flows (both FDI and bank lending) are predominantly among the developed countries, capital flows to the developing countries had been more dynamic, expanding faster than global capital flows.

The developed economies are also increasingly affected by the rise in global capital flows. The very sharp rise in FDI flows among developed countries in 1998 reflects mainly the surge in mergers and acquisitions in several industries ranging from oil, chemicals and automobile to service industries, like telecommunication and financial institutions. It is hard to generalize on the impact of this mergers and acquisition boom on international trade. However, the concentration of product lines within larger companies on fewer production sites, together with their increased awareness of trading opportunities among countries, are likely to lead to an increased international trade/output ratio at the company level. It is also a well-known feature of the world economy that strong investment links between countries and regions go together with an intensive exchange of goods and services.

### Exchange rate developments and trade

International capital flows linked to financial transactions by far exceed financial transactions related to the conduct of international trade in merchandise and commercial services. Consequently, the influence of these purely financial transactions on the determination of exchange rates has become larger than trade flows. Variations in the nominal and real effective exchange rates of major currencies remained considerable in the course of 1998.

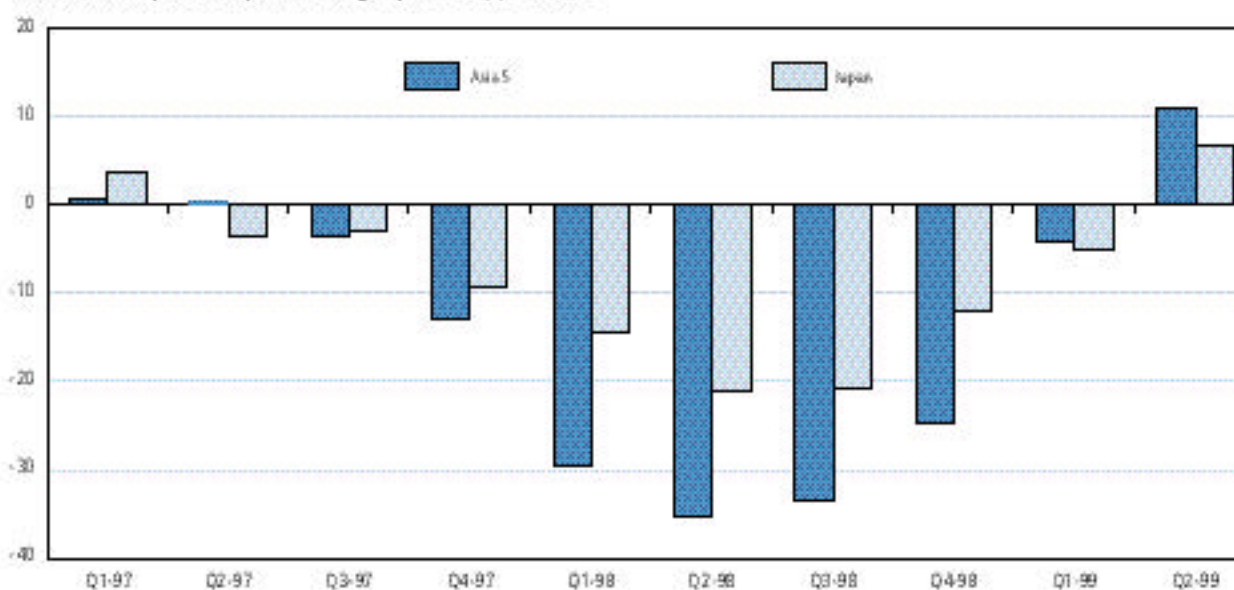
The strengthening of the dollar vis-à-vis the Yen and the major European currencies (from 1996 up to mid-1998) contributed to the erosion of competitiveness of exporters in many crisis countries, which had pegged their exchange rate to the dollar up to the time the crisis erupted. The dollar weakened in the second half of 1998 vis-à-vis the Yen and major European currencies but the annual average rate still showed an appreciation of the US dollar. The general dollar appreciation in 1998 remained, however, well below that recorded in 1997. As the real effective exchange rate of the dollar continued to rise, shipments to the growing US market became steadily more attractive. Exchange rates of the five Asian crisis

Chart II.1

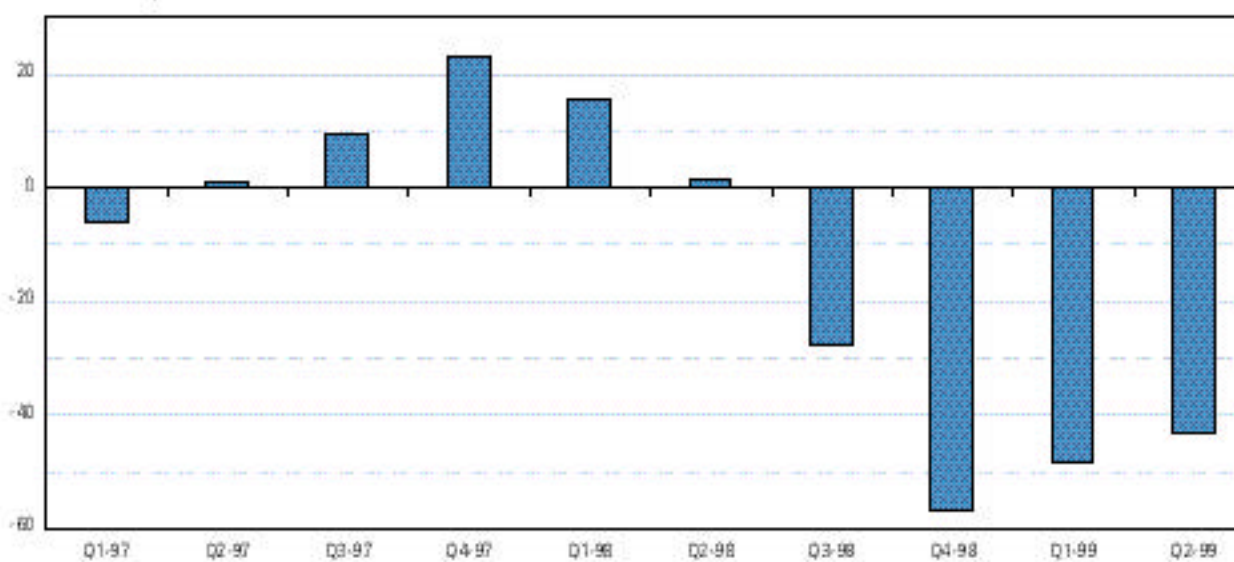
## Import contraction in crisis countries, 1997-99

(Percentage change over the previous year)

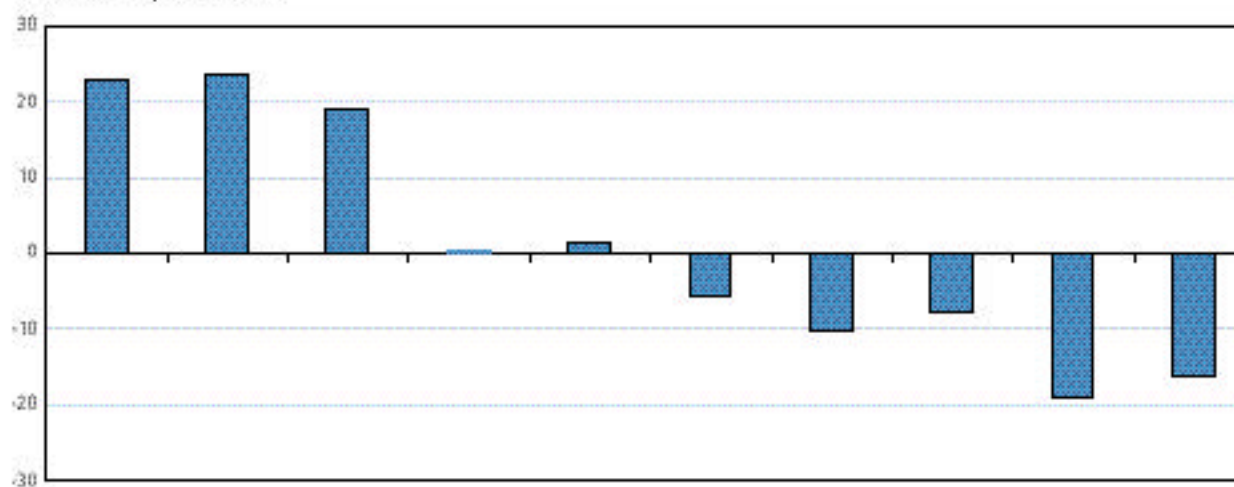
## Merchandise imports of Japan and the group of Asia (5) countries



## Merchandise imports of the Russian Federation



## Merchandise imports of Brazil



January 1998 and recovered partially thereafter. In the last quarter of 1998, their dollar exchange rates remained at least one third below the pre-crisis level.

### Prices of traded goods and services

A weakening global economy, low domestic inflation in all major developed countries and an appreciating US dollar led to a fall in prices of internationally-traded goods for the third consecutive year. In 1998, all major merchandise sectors, but also many services sectors, recorded price declines. Bulk primary products recorded their strongest annual decline since 1985. Crude oil prices fell steeply throughout the year, reaching price levels not seen for 24 years. The average annual decline for spot crude oil prices was about one third. Although bulk primary commodities and fuels account for less than one fifth of world merchandise trade, nearly two thirds of low and middle income countries depend on primary products for more than one half of their export earnings. If all food products (including processed food and not only bulk agricultural products) and EU intra-trade are taken into account, the decline in the global dollar prices of agricultural products is much attenuated and does not exceed 5 per cent. Among manufactured goods, price declines were most pronounced for office machinery and telecom equipment, chemicals and iron and steel products. It is worth noting that the dramatic price declines reported in the press for certain varieties of speciality steel are not indicative of a general downward spiralling of prices in industries with excess capacities. US import prices for all iron and steel declined by 4 per cent in 1998. Prices for clothing products increased slightly, if US and German import prices are reliable indicators. Indicators for prices of internationally-traded services are still sketchy, but the available information for the major services traders (US; Germany; France and Hong Kong, China) point to an overall stagnation in dollar terms.

Why have commodity prices, other than oil recently, been falling? Several reasons have been given to explain the steady fall in commodity prices throughout 1997, 1998 and up to the first quarter of 1999. The role of slack in demand from Asia, which became the largest net importer for many commodities, is perhaps the principal factor. Strong investment in recent years in mining/agriculture due to deregulation – and sometimes also relatively strong prices – added new export capacities which led to increased supplies – often at lower costs – at the same time that global demand was faltering. In the first half of 1999, crude oil prices recovered by more than one half between their trough level in February and June, but the price decline of other commodities bottomed out in the second quarter only.

## World trade in 1998

### I. Global trade and output developments

The expansion of world trade and production slowed sharply in 1998. Merchandise trade rose by only 4 per cent in volume, considerably less than half the growth recorded in the preceding year (over 10 per cent), but still twice that recorded for the production of goods (see Table II.1 and Chart II.2). Manufacturing showed the strongest deceleration largely reflecting the decline in Asia's output. However, manufacturing output growth

Table II.1

#### Growth in the volume of world merchandise exports and production by major product group, 1990-98

(Annual Percentage change)

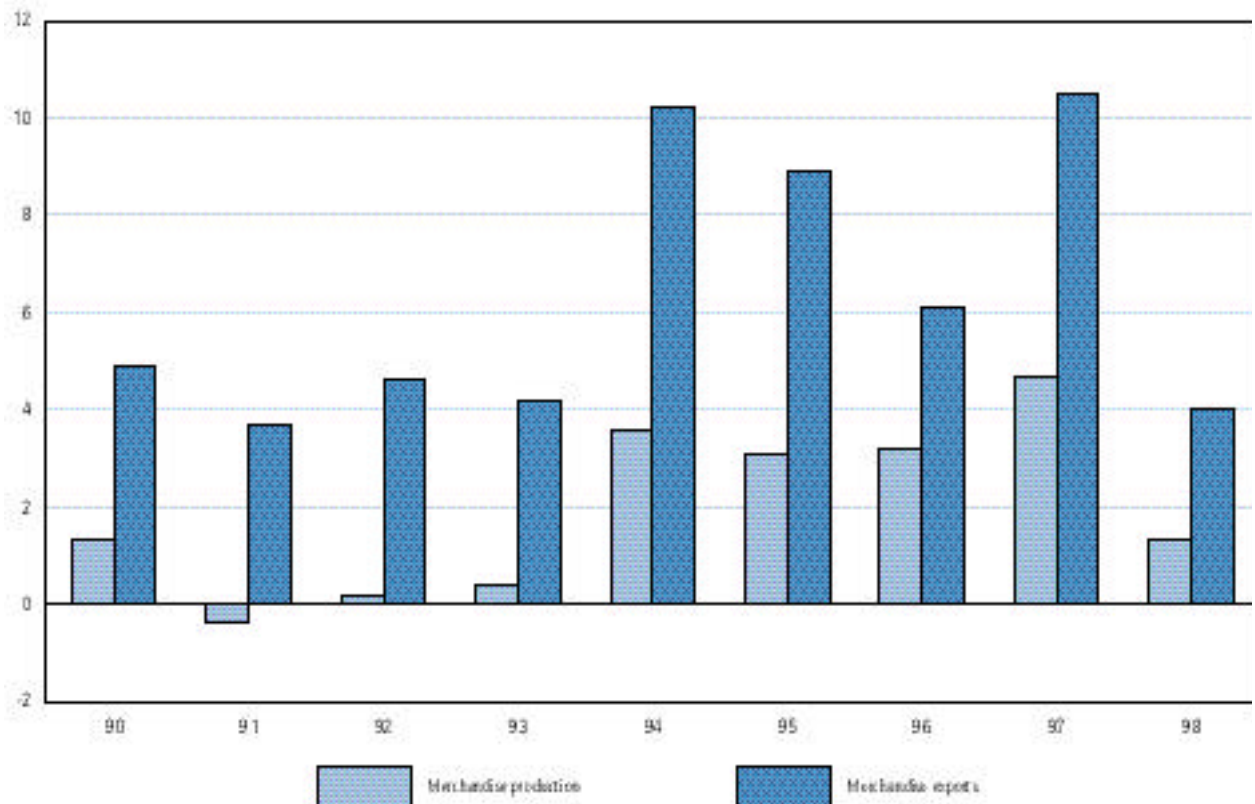
	1990-98	1996	1997	1998
<b>World merchandise exports</b>	<b>6.5</b>	<b>6.0</b>	<b>10.5</b>	<b>4.0</b>
Agricultural products	4.0	4.5	5.5	-0.5
Mining products	5.5	6.0	8.5	5.5
Manufacturers	7.0	6.0	12.0	3.5
<b>World merchandise production</b>	<b>2.0</b>	<b>3.0</b>	<b>4.5</b>	<b>1.5</b>
Agriculture	2.0	3.5	2.5	0.0
Mining	2.0	2.5	3.5	1.5
Manufacturing	2.0	3.0	5.5	1.5
<b>World GDP</b>	<b>2.0</b>	<b>3.0</b>	<b>3.0</b>	<b>2.0</b>

Note: World merchandise production differs from world GDP in that it excludes services and construction. World GDP is

Chart II.2

## Growth in the volume of world merchandise exports and production, 1990-98

(Annual percentage change)



weakened also in North America and Western Europe. Agricultural output stagnated overall as increases in North America, South America, Africa and Oceania were balanced by decreases in the transition economies and Western Europe. Mining output rose by 1.5 per cent, less than half the rate of the preceding year. World oil production rose by 1.5 per cent, but as world consumption stagnated, prices fell sharply. Only when crude oil production was cut back in the first quarter of 1999, prices recovered substantially. Global trade developments show a stronger variation than global output trends. Trade in minerals rose by about 6 per cent and agricultural trade stagnated. US exports of agricultural commodities decreased slightly, while those of Western Europe are estimated to have marginally increased.

Trade in manufactures – the traditional motor of world trade expansion – rose by a meagre 3.5 per cent, one of the lowest rates in the 1990s and a dramatic slowdown from the 12 per cent expansion in 1997. It seems that the fastest growing product group, office and telecom equipment, as well as the clothing which also recorded faster growth than manufactures between 1990 and 1997, played a prominent role in the sharp slowdown of manufactures trade. Seen from the regional perspective, a double digit decrease in imports of manufactures in Asia and the slowdown in Latin America contributed substantially to this historically low rate of manufactures trade growth.

The value of world merchandise exports decreased by 2 per cent in 1998 and amounted to \$5.27 trillion. Average prices decreased by 6 per cent, or slightly less than in the preceding year. The main factors behind the two consecutive price declines differed. In 1997 exchange rate movements played the largest role due to the pronounced rise of the US dollar against major European currencies and the yen, while in 1998 the commodity price decline – in particular that of crude oil – played a predominant role. Contrary to 1997 (and 1996), prices of primary products fell again faster than those of manufactured goods (see Table II.2).

Trade in commercial services stagnated in 1998, at \$1.32 trillion. It was the first stagnation recorded since 1980. According to price data from several major services traders, it seems that prices remained roughly unchanged as lower prices for transportation services were offset by moderate increases in the other categories. Consequently, the volume of commercial services remained also unchanged from the preceding year and lagged behind

Table II.2

**Growth in the value of world exports by major product group, 1990-98**

(Billion dollars and percentage change)

	Value	1990-98	Annual change		
	1998		1996	1997	1998
<b>World merchandise exports<sup>a</sup></b>	<b>5270</b>	<b>6.0</b>	<b>5.5</b>	<b>3.5</b>	<b>-2.0</b>
Agricultural products	553	4.0	3.0	-2.0	-5.0
Mining products	502	1.0	17.5	2.5	-20.0
Manufactures	4010	7.0	4.0	5.0	0.5

<sup>a</sup> Including unspecified products.

## II. Merchandise trade

Reviewing world merchandise developments with respect to 14 product groups in 1998 reveals that all primary product groups recorded a fall in their export value ranging from less than 5 per cent for food to about one quarter for fuels. The value decline for world food exports could be expected to be larger given a fall in prices of unprocessed food and beverages in excess of 10 per cent. However, this category also includes processed food for which the prices tend to vary considerably less.

Agricultural raw materials, and ores and minerals – reflecting the fall in prices for unprocessed basic materials more strongly than food – recorded a value decrease of nearly 10 per cent in 1998. World trade in fuels dropped by one quarter, the strongest annual decrease since 1986. Its share in world merchandise trade shrank to 6.5 per cent which is record low for the post-World War II period. As the share of the primary products in total trade decreased, that of manufactures exceeded three quarters for the first time. Trade in manufactures nevertheless recorded its weakest nominal growth since 1993. The year-to-year changes were relatively uniform among the product groups identified. Trade in automotive products, however, recorded a growth rate of almost 6 per cent, and was the only product group whose growth accelerated in 1998. The sharp rise in Western Europe in new car and truck registrations was reflected in a rise in this region's exports of automotive products of about 10 per cent, more than offsetting the fall in Asia's exports and the sharp deceleration of shipments from North America. The group "other machinery and transport equipment" recorded an increase of more than 2 per cent, boosted by the dynamic growth of the aircraft industry. The value of jet airliner deliveries expanded by one third, according to an industry estimate, which contributed to a rise in world exports of aircraft and spacecraft of about 20 per cent. US exports alone rose by 30 per cent, to US\$ 50 billion in 1998.

Iron and steel trade decreased slightly in value terms, but recorded positive growth in volume terms as the decline in prices exceeded that of values. The moderate rise in the volume of steel trade contrasts with a decline of 3 per cent of world crude steel output in 1998. North America and Western Europe recorded import increases of iron and steel products of 12 per cent and 8 per cent, respectively, while imports in Asia decreased by more than one quarter. These divergent developments gave rise to protectionist pressures in some major importing countries. Textiles trade recorded a decrease of 5 per cent, the strongest among manufactured goods, largely due to sluggish intra-Asian trade. Exports of office and telecom equipment, which grew the fastest of all manufactures throughout the 1990s, recorded a year-to-year decline in 1998. A price decline in the order of 5 per cent and weaker demand growth for computers were the principal factors. Data for the major traders indicate that the decline of trade value was concentrated in computers and semi-conductors while that of telecom equipment continued to increase.

An overview of merchandise trade by region is provided in Tables II.3 and II.4. The regional import volume developments show only a moderate deceleration from the high import growth rates in 1997 for North America, Mexico and Western Europe. Imports of Central/Eastern Europe and Africa, excluding South Africa, showed above average import growth. Imports of Asia contracted by 8 per cent. The countries affected most by the financial crisis cut back their imports by one fifth and Japan by more than 5 per cent. Latin America (excluding Mexico) registered a dramatic deceleration in import growth, but for the year 1998 still recorded growth above the global average.

Table II.3

**Growth in the volume of world merchandise trade by selected region, 1990-98**

(Annual Percentage change)

Exports					Imports			
1990-98	1996	1997	1998		1990-98	1996	1997	1998
<b>6.5</b>	<b>6.0</b>	<b>10.5</b>	<b>4.0</b>	<b>World</b>	<b>6.5</b>	<b>6.0</b>	<b>9.5</b>	<b>4.0</b>
7.0	6.0	11.0	3.5	North America	8.0	5.5	13.0	10.5
8.5	11.0	11.0	7.0	Latin America	12.5	11.0	22.0	9.5
14.5	19.0	19.5	12.5	Mexico	13.5	22.5	26.0	17.0
5.5	7.0	6.5	3.0	Other Latin America	11.5	2.5	20.0	5.0
6.0	5.0	9.5	5.0	Western Europe	5.5	5.5	8.0	7.5
6.0	5.0	9.5	5.5	European Union (15)	5.5	5.0	7.5	7.5
5.0	6.5	10.5	7.0	Transition economies	5.0	16.0	14.5	5.0
7.5	5.0	12.5	2.0	Asia	6.5	6.0	6.0	-8.0
2.5	1.0	12.0	-1.5	Japan	4.0	5.5	1.5	-5.5
13.5	10.0	16.0	10.0	Asia (5) <sup>a</sup>	6.5	7.5	3.0	-21.5

<sup>a</sup>Indonesia, the Republic of Korea, Malaysia, Philippines and Thailand.

Note: Separate volume data are not available for Africa and the Middle East, although estimates for these regions have been made in order to calculate the world total.

Variations in the export performance of regions was much smaller than for imports, but all regions recorded substantially lower growth than in the preceding year and Japan even an absolute decline. At 7 per cent and 10 per cent respectively, the transition economies and the Asia 5 countries recorded export growth rates substantially above the world average. Asia recorded only a moderate gain in its overall export volume as contraction in intra-trade reduced the gains made with other regions.

An outstanding feature of world merchandise exports in value terms was that all regions recorded a negative export growth in 1998, with the notable exception of Western Europe. The sharpest decline in exports among all major regions in 1998 was recorded in Africa and

Table II.4

**Growth in the value of world merchandise trade by region, 1990-98**

(Billion dollars and percentage change)

Exports (f.o.b.)					Imports (c.i.f.)				
Value 1998	1990-98	Annual change		1998		Value 1998	1990-98	Annual change	
		1996	1997					1996	1997
<b>5270</b>	<b>5.7</b>	<b>4.5</b>	<b>3.4</b>	<b>-1.9</b>	<b>World</b>	<b>5465</b>	<b>5.9</b>	<b>5.0</b>	<b>3.1</b>
897	7.0	6.4	9.2	-0.7	North America	1152	7.6	6.2	10.3
4.6									
276	8.3	12.4	10.1	-1.5	Latin America	340	13.7	11.8	18.9
5.1									
118	14.1	20.7	15.0	6.4	Mexico	129	15.6	25.5	23.4
14.1									
158	5.3	7.9	7.1	-6.7	Other Latin America	211	11.9	2.6	16.7
0.3									
2348	4.6	3.6	-0.6	2.9	Western Europe	2367	4.2	3.3	-1.1
4.9									
2181	4.7	3.4	-0.5	3.4	European Union (15)	2172	4.2	2.9	-1.4
5.3									
813	5.5	5.6	2.0	-0.1	Extra-EU (15)	801	4.2	4.3	-0.3
4.7									
214	7.1	7.0	3.7	-4.7	Transition economies	242	6.2	15.8	6.4
101	7.6	2.6	6.3	9.3	Central/Eastern Europe	132	11.6	15.2	6.8
10.6									
74	-	9.3	-0.4	-16.3	Russian Federation	59	-	12.9	6.7
107	0.5	14.2	2.0	-15.2	Africa	134	4.7	-2.1	5.8
2.6									
28	2.3	5.3	5.8	-8.9		30	6.2	-1.4	9.3

in the Middle East as exports of both regions consist, to a large extent, of crude oil. On the import side, Asia recorded not only the strongest decrease of all regions in 1998 but its import growth remained for the third consecutive year below the world average. The Middle East and the transition economies were the two other regions with declining imports. North and Latin America reported a sharp deceleration but positive import growth while Western Europe's imports recovered.

### III. Commercial services trade

World exports of commercial services stagnated in 1998, at \$1320 billion. Trade in commercial services measured in nominal terms continued to be stronger than merchandise trade, as it was throughout the entire 1990-1998 period. Nevertheless, the stagnation in 1998 was the worst performance of services trade since 1980 (the year in which we started to report data). As prices for commercial services stagnated or decreased slightly, the real growth rate was probably also slightly negative, thus remaining below the real growth rate of merchandise trade.

The slowdown in commercial services exports could be observed for all three major categories. As in the preceding years, "other commercial services" was again the fastest growing category, followed by travel services, which stagnated, and transportation services, which decreased in 1998. Other private services, comprising royalties and licence fees, financial, construction, communication and other business services accounted for more than 40 per cent of world trade in commercial services. It was also the category which despite its above average growth recorded also the strongest growth deceleration of all three categories. Price data for US services trade (both imports and exports) show that price increases in the 1990s tended to be much smaller for transportation services than for travel and other commercial services (see Table II.5).

Table II.5

#### Growth in the value of exports of commercial services by category, 1990-98

(Billion dollars and percentage change)

	Value	Annual change			
	1998	1990-98	1996	1997	1998
<b>All commercial services</b>	<b>1320</b>	<b>7</b>	<b>7</b>	<b>4</b>	<b>0</b>
Transportation	310	4	2	2	-2
Travel	430	6	8	0	0
Other commercial services	580	9	9	8	1

Table II.6

#### Growth in the value of world trade in commercial services by selected region, 1990-98

(Billion dollars and percentage change)

Exports						Imports				
Value	Annual change					Value	Annual change			
1998	1990-98	1996	1997	1998		1998	1990-98	1996	1997	1998
1320	7	7	4	0	World	1305	6	5	3	1
270	8	10	8	2	North America	201	6	6	10	6
240	8	9	9	2	United States	166	7	6	11	8
53	8	5	8	5	Latin America	69	9	5	17	4
12	6	12	5	6	Mexico	13	3	11	18	7
636	5	4	2	6	Western Europe	593	5	4	0	7
564	5	5	1	6	European Union (15)	547	6	4	0	7
27	5	9	1	-3	Africa	38	4	0	4	0
255	9	9	5	-15	Asia	320	8	7	2	-11
62	5	4	3	-9	Japan	111	4	6	-5	-9
34	8	12	0	-10	Hong Kong, China	23	9	6	5	-2
24	20	12	19	-2	China	29	28	-9	34	-4
59	12	16	7	-24	Asia (5) <sup>a</sup>	70	12	14	5	-26

<sup>a</sup>Indonesia, the Republic of Korea, Malaysia, the Philippines and Thailand.

The regional developments in commercial services trade in 1998 are shown in Table II.6. The global slowdown in services exports could be observed for all major regions with the noticeable exception of Western Europe, which recorded higher growth than in the preceding year. Asia recorded the strongest contraction of imports and exports of commercial services among all regions. Surprisingly Asia's exports decreased more than its imports, reflecting perhaps the larger dependence on intra-trade for the former. Exports of the transition economies and Africa are estimated to have decreased by less than 5 per cent, while imports stagnated.

North America and Latin America both recorded a very strong deceleration in the growth of their commercial services exports and imports. North America's import growth remained second only to that of Western Europe. Latin America, which recorded extraordinarily strong import growth in 1997, recorded an import expansion in 1998 which was less than half the rate for the 1990-1998 period.

## IV. Trade by region

North America's fast growing import demand was the most dynamic motor of the global trade expansion in 1998. The surprising vigour and longevity of the current US economic cycle is broadly based. Private consumption and investment both grew rapidly. High employment levels combined with low inflation and a fiscal surplus are the other bright features of the US economy. As US stock markets reached historic record levels in 1998, the financial wealth of US consumers increased substantially, encouraging a rise in expenditure exceeding current income. The opportunities created by the emerging digital economy – in which the US is the uncontested leader – have also boosted consumers' and investors' confidence in the prolongation of high growth in the US economy. The appreciating dollar and weak commodity prices on global markets resulted in a decrease of US import prices for goods and services by more than 5 per cent, which contributed to check any increases in domestic producer and consumer prices. While the steady appreciation of the US dollar – the real effective exchange rate rose by nearly 20 per cent between 1995 and 1998 – dampened US inflation rates, it eroded profits and competitiveness of US exporters of goods and services. The rise in the US current account deficit in 1998 was more due to the slowdown in US exports than to the strength of imports. A rising current account deficit together with the appreciation of the currency reflects the outstanding attraction the US market has for foreign producers and investors. In 1998, foreign direct investment inflows into the US surged by more than 100 per cent from the preceding years' record level and accounted for nearly one third of global FDI inflows. Mergers and acquisitions played the predominant role in this rise, and also contributed to an increase in US FDI outflows. The US current account deficit is currently still below the peak levels attained in the mid-1980s.

The strength of the North American market in 1998 relative to the weakening global economy is perhaps best seen in merchandise trade flows measured in constant prices (i.e. in volume terms). While North America's merchandise imports expanded, more than two times faster than world trade (at 10.5 per cent), the region's exports slowed down to 3.5 per cent somewhat less than the global average. As export and import prices decreased by 4 per cent and 5 per cent respectively, the value of North America's exports fell slightly and imports rose less than 5 per cent.

North American export value of agricultural products fell by nearly 10 per cent which brought the share of this category in North America's exports down to a record low of 11 per cent. Exports of manufactured goods increased slightly and the variation among the product groups remained small. The two outstanding features of last years' exports were the decline in exports of office and telecom equipment – one of the fastest growing categories throughout the 1990's – and the surge in the exports of aircraft. Different global market developments explain the diverging trends for these product groups. The by far fastest rising product category in exports for the 1990-1998 period is clothing (benefitting from sharply higher shipments to NAFTA countries).

North American imports of agricultural products stagnated in value terms, which implies strong increase in real terms, given the fall in prices. Since 1996, imports of agricultural products have been rising faster than exports, which has halved North America's trade surplus in agricultural products from \$47 in 1995 to less than \$23 billion last year. Fuel imports decreased by one quarter. Among manufactured goods, iron and steel imports rose by 18 per cent, or two times faster than all manufactured goods. The strongest import increase, however, was recorded for aircraft and spacecraft equipment.

North America's trade by destination showed an increase of about 5 per cent to both Latin America and Western Europe but decreased by 15 per cent to Asia. Imports from Western Europe rose by about 10 per cent, while imports from Latin America and Asia

Table II.7

**Recent GDP and trade developments in North America, 1996-98**

(Annual Percentage change)

	North America			USA			Canada		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
GDP	3.7	3.9	3.8	3.9	3.9	3.9	1.2	3.8	3.0
Merchandise trade									
Exports (nom.)	6.4	9.2	-0.7	6.4	10.2	-0.9	4.0	6.3	0.0
Imports (nom.)	6.2	10.3	4.6	6.6	9.4	5.0	4.0	14.7	2.6
Exports (real)	6.0	11.0	8.5	6.3	11.9	2.3	6.1	8.2	8.2
Imports (real)	5.5	13.0	10.5	5.6	12.1	11.8	5.3	18.7	4.4
Commercial services									
Exports (nom.)	10.0	8.0	2.0	9.0	9.0	2.0	12.0	5.0	2.0
Imports (nom.)	6.0	10.0	6.0	6.0	11.0	8.0	7.0	4.0	-4.0

commercial services was second only to that of Western Europe and largely exceeded the rise in its services exports.

In the aggregate, North American numbers hide quite divergent developments between the US and Canadian economy. Canada's strong reliance on the booming US market, the depreciation of its currency and slackening domestic demand assured the maintenance of high export growth, while imports decelerated sharply. By contrast, the strength of US domestic demand led to an increase of US imports of merchandise and commercial services well in excess of exports (see Table II.7).

**Latin America**

The sustained high output and trade growth experienced by Latin America throughout the 1990s faltered sharply in the course of 1998. Brazil and other primary commodity exporters were strongly affected by the repercussions of weaker demand in Asia and falling commodity prices. Mexico, which has become a major exporter of manufactured goods and trades largely with the US had dramatically different trade results in 1998 than other Latin American countries. While Mexico's merchandise imports rose by 14 per cent, those of other Latin American countries stagnated. For merchandise exports, the difference is of a similar size, with Mexican exports growing by 6.5 per cent, while those of other Latin American countries fell by about the same percentage. The high annual average growth rates for the region's merchandise trade in 1998 hide a strong deceleration in the course of 1998 and in early 1999. Reduced export earnings linked to lower prices and weaker demand in Asia, combined with shrinking net private capital inflows, caused a steep decline in imports between the first and second half of 1998, which continued into the first six months of 1999 (see Table II.8).

Latin America's exports of agricultural products and fuels declined only slightly less than world trade in these categories. Exports of manufactures, however, rose significantly faster than world exports, despite a decrease in exports of iron and steel products. Latin America's exports of office and telecom equipment rose by 20 per cent – well above global trends –

Table II.8

**Recent GDP and trade developments in Latin America, 1996-98**

(Annual Percentage change)

	Latin America			Mexico			Latin America less Mexico		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
GDP	3.5	5.4	2.1	5.1	6.8	4.8	3.0	4.9	1.5
Merchandise trade									
Exports (nom.)	11.4	18.9	4.9	20.7	15.0	6.4	7.5	7.0	-7.0
Imports (nom.)	10.8	11.1	6.8	25.5	23.4	14.1	2.2	16.6	0.1
Exports (real)	10.8	11.1	6.8	18.9	19.4	12.5	7.0	6.5	3.0
Imports (real)	10.5	22.0	9.0	22.5	26.0	17.0	2.5	20.0	5.0
Commercial Services									
Exports (nom.)	5.0	8.0	5.0	12.0	5.0	6.0	3.0	9.0	4.0

largely on the basis of increased shares in North America's imports. Latin American exports of automotive products rose by 8 per cent. A decrease in intra-Latin America (and intra-Mercosur) trade in these products was compensated by strong increases in shipments to North America and Western Europe. As it has done each year since 1990, Latin America increased its market share in world exports of clothing, expanding shipments by 6 per cent while global exports decreased slightly.

Latin America's total exports increased in 1998 only to North America. Its shipments decreased slightly to Western Europe and to the transition economies. Intra-regional trade decreased for the first time in the 1990's and exports fell by one quarter to the Asian countries. Imports increased only from North America and Western Europe. The rate of growth of imports of commercial services slowed dramatically to 4 per cent, slightly less than export growth.

Latin American aggregate trade numbers hide important differences in trends between Mexico and other Latin American countries. This is due not only to the increasingly tight link between the Mexican and US economies, but also to the different commodity composition of trade. While Mexico's exports are largely composed of manufactures, those of other Latin American countries still consist largely of primary products. Because of the product composition of these countries' exports and falling commodity prices, about 60 per cent of all Latin American countries recorded a fall in their export revenues last year. Throughout the 1990s, Mexico's trade expanded more rapidly than that of other Latin American countries and in 1998 accounted for about 40 per cent of Latin America's total merchandise trade.

### Western Europe

Western Europe's GDP growth was somewhat less than 3 per cent in 1998, unchanged from the preceding year. Unemployment fell slightly and inflation rates remained below 2 per cent. Internal demand accelerated in 1998 to 3.5 per cent, which together with the appreciation of the real effective exchange rates of the major European currencies, contributed to a marked reduction in the region's current account surplus.

The decline in Western Europe's shipments to Asia and Russia exerted downward pressure on the region's export growth. Due to the strength of intra-trade and shipments to North America, however, Western Europe's real export growth was 5 per cent in 1998, which was above the global rate of trade expansion. Merchandise import growth was 7.5 per cent in volume terms in 1998, which was only slightly less than in the preceding year.

Largely due to exchange rate developments both export and import dollar values shifted from negative growth rates in 1997 to a positive 3 per cent and 5 per cent, respectively in 1998. Western Europe's exports of agricultural products decreased slightly in 1998, as a recovery of intra-EU trade in dollar terms was more than offset by decreases in exports to other regions. The strongest increase in Western Europe's exports was recorded in automotive products, which rose by 10 per cent. By contrast, exports of clothing recorded a marked decline. Western Europe's intra-trade, accounting for more than two thirds of total trade, recovered strongly in dollar terms. However, Western Europe's exports to North America, Latin America and Central/Eastern Europe continued to grow faster than intra-trade in 1998. Exports to Asia and to the Russian Federation recorded double digit decreases, with shipments to the East Asian crisis countries down by more than one quarter. Imports from Asia, however, rose by 8 per cent, which was faster than total West European imports. Largely due to falling oil and commodity prices, imports from Africa decreased for the second year in a row. Western Europe's exports and imports of commercial services rose by 6-7 per

Table II.9

### Recent GDP and trade developments in Western Europe, 1996-98

(Annual Percentage change)

	Western Europe			European Union (15)			EU (15) Extra-trade		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
GDP	1.9	2.8	2.8	1.8	2.7	2.8	...	...	...
Merchandise trade									
Exports (nom.)	3.6	-0.6	2.9	3.4	-0.5	3.4	5.6	2.0	-0.1
Imports (nom.)	3.3	-1.1	4.9	2.9	-1.4	5.3	4.3	-0.3	4.7
Exports (real)	5.0	9.4	5.1	4.9	9.4	5.5	5.3	8.8	2.0
Imports (real)	5.6	7.9	7.5	5.2	7.7	7.7	4.0	3.7	7.3
Commercial services									
Exports (nom.)	4.0	2.0	6.0	5.0	1.0	6.0	...	...	...
Imports (nom.)	4.0	0.0	7.0	4.0	0.0	7.0	...	...	...

cent, the highest regional growth rate in 1998. The three major categories of commercial services showed quite distinct rates of expansion, ranging from 3 per cent for transportation services, to 5 per cent for travel, and 9 per cent for other commercial services (see Table II.9).

### Transition economies

The output of the transition economies is estimated to have stagnated in 1998, as the marked decrease in the output of the Russian Federation was not fully offset by the lower, but still positive growth of Central/East European countries. Although the importance of Russia as trading partner for other transition economies has diminished sharply throughout the 1990s, Russia still remains a major market and supplier. The Russian financial crisis has probably had even more important repercussion on other transition countries through the capital markets than through import contraction and the devaluation. As foreign investors, banks and non-banks, became increasingly risk-averse, their net-lending to other transition economies was reduced, and higher risk premia on new credits increased borrowing costs. Some of the transition countries with high dependence on the Russian economy devalued their currencies. As in other regions, foreign direct investment inflows remained rather stable in the turmoil and actually increased in 1998 in the transition economies, excluding the Russian Federation.

The merchandise trade of the transition economies as a group decreased in 1998, as the double digit fall in Russia's exports and imports was not offset by the strong expansion of merchandise exports and imports of Central and Eastern Europe. The latter group of countries recorded an acceleration in their trade growth in 1998 compared to 1997. Their increased economic integration with Western Europe is the principal explanation. The share of Western Europe in Central/Eastern Europe's merchandise exports exceeded two thirds in 1998, while that of the Russian Federation came down to less than 5 per cent. Another important factor is the product composition of merchandise trade. While more than one half of Russia's merchandise exports consist of primary products, more than 80 per cent of the exports of Central/Eastern Europe are manufactured goods.

The importance of the product composition on the overall export performance of the transition economies is highlighted by the steep fall in the export values of fuels and agricultural products (by 20 and 10 per cent, respectively), while the value of manufactures rose by 5 per cent. Among manufactured goods, exports of automotive products and office and telecom equipment continued to rise sharply (by more than one quarter), while exports of iron and steel products decreased by 6 per cent. The strong expansion of automotive product and office and telecom equipment reflects the increasing output of multinational enterprises, while iron and steel products recorded steep falls in shipments to Asia and lower intra-transition economies' trade. Shipments of iron and steel products to Western Europe and North America continued to rise. Shipments to North America of office and telecom equipment and clothing products were particularly buoyant but starting from rather low levels.

Information available for the region's trade in commercial services points to a decrease in exports and a stagnation of imports in 1998.

### Africa and the Middle East

Africa's economic growth was above 3 per cent in 1998, roughly unchanged from the preceding year. Weaker growth in South Africa and Nigeria was offset by a good performance in the agricultural sector, especially in North Africa. The turmoil in global financial markets had a limited impact on Africa. Weak demand in commodity markets, caused to a large extent by the import contraction in Asia, together with the steep fall in oil and other primary commodities, played havoc with the export earnings of the many raw material exporters in the region. Fuels, metals and agricultural products accounted still for more than two thirds of Africa's merchandise exports in 1998.

Fuel exports decreased by 30 per cent, agricultural products by less than 5 per cent and exports of manufactures are estimated to have stagnated in 1998. Exports to Asia and North America showed the strongest annual decrease (by one quarter and one fifth respectively) while those to Western Europe and Latin America decreased by about 10 per cent. Western Europe remained Africa's largest export market, with a share of more than 50 per cent. Africa's merchandise imports rose by 2.5 per cent in 1998. Double digit import growth was recorded for office and telecom products and clothing in 1998.

Commercial services exports of Africa declined in 1998, as Egypt, Africa's largest services exporter, suffered a steep fall (–\$1.2 billion) in travel receipts. However, Morocco and Tunisia recorded higher services exports than in 1997.

Merchandise exports of the Middle East and public revenues still depend largely on fuel exports. The dramatic fall in oil prices was largely responsible for a decrease of one fifth in merchandise exports and the near stagnation of GDP growth. Oil revenues decreased despite a rise in crude oil production and an increase in the volume of oil exports, due to sharply higher output and trade of Iraq. Lower oil revenues led to a marked reduction in both

Table II.10

**Recent GDP and trade developments in Asia, 1996-98**

(Annual Percentage change)

	Asia			Japan			Asia 5		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
GDP	5.2	3.4	-0.9	2.9	1.0	-1.1	7.2	4.5	-8.7
Merchandise trade									
Exports (nom.)	0.7	5.3	-6.2	-7.3	2.4	-7.8	4.9	5.1	-3.9
Imports (nom.)	4.7	0.4	-17.8	4.0	-3.0	-17.2	7.2	-3.1	-30.8
Exports (real)	4.8	12.6	2.2	1.2	11.8	-1.3	10.0	19.0	
Imports (real)	5.8	5.9	-8.0	5.6	1.7	-5.3	7.5	3.0	-21.5
Commercial services									
Exports (nom.)	9.0	5.0	-15.0	4.0	3.0	-9.0	16.0	7.0	-24.0

**Asia**

The Asian crisis resulted in stagnation in Asia's economic output for the first time since World War II. Japan's GDP and that of the Asian 5 crisis countries decreased for the first time in more than 25 years, and for some of the countries in the region the decline was similar to that experienced by the industrial countries during the Great Depression in the 1930s. Despite an excellent financial situation and no dependence on short-term bank lending, Hong Kong, China and Singapore did not escape the Asian financial crisis. Their intermediary function in Asia's merchandise trade and services, from which they derive the principal part of their income, depends mainly on the economic performance of their trading partners and neighbours. China and India, which together account for more than two thirds of Asia's population, continued to record very high economic growth rates.

Japan's sluggish economy and the Asian financial crisis caused the value of Asia's merchandise imports to decline by nearly 20 per cent. Imports from Asia, North America and Western Europe declined by less than the average, while imports from regions which export mainly primary products to Asia, such as Latin America, Africa and the Middle East, decreased by more than one quarter. Asian merchandise exports decreased by 6 per cent as the sharp contraction of intra-Asian trade – accounting for more than one half of total trade – was only partially offset by a rise in shipments to the Americas (3 per cent) and Western Europe (8 per cent). Given the considerable slack in Asia's manufacturing capacity, it is somewhat surprising that its exports of manufactured goods lost nominal market shares in North America and gained shares only marginally in Western Europe. Relatively weak global demand and falling prices for office and telecom products, which accounts for one quarter of Asia's exports, was one element contributing to the decline in Asia's merchandise exports. Among manufactured goods, exports of textiles recorded the strongest decline (-11 per cent), while exports of clothing stagnated. These different growth rates can be attributed to the fact that intra-Asian trade accounts for two thirds of Asia's textiles exports, but only one quarter of Asia's clothing exports. The impact of the Asian crisis affected commercial services trade in Asia as much as merchandise trade. Commercial services exports declined by 15 per cent, which was more than the decline in commercial services imports (-11 per cent). This rather surprising feature for a low growth region is attributable exclusively to the category "other services", and was not observed for travel and transportation services, for which imports fell faster than exports (see Table II.10).

**V. Trade by regional integration agreements (RIAs)**

Regional integration agreements have become increasingly prominent in the 1990s. The enlargement of the EU, NAFTA and ASEAN, and the establishment of MERCOSUR and APEC are among the largest undertakings. The rapid rise of some intra-RIA trade, in particular in NAFTA and MERCOSUR, was primarily due to the region's faster than average growth. While the intra-trade of a large number of RIAs increased throughout the 1990s, that of the EU decreased.

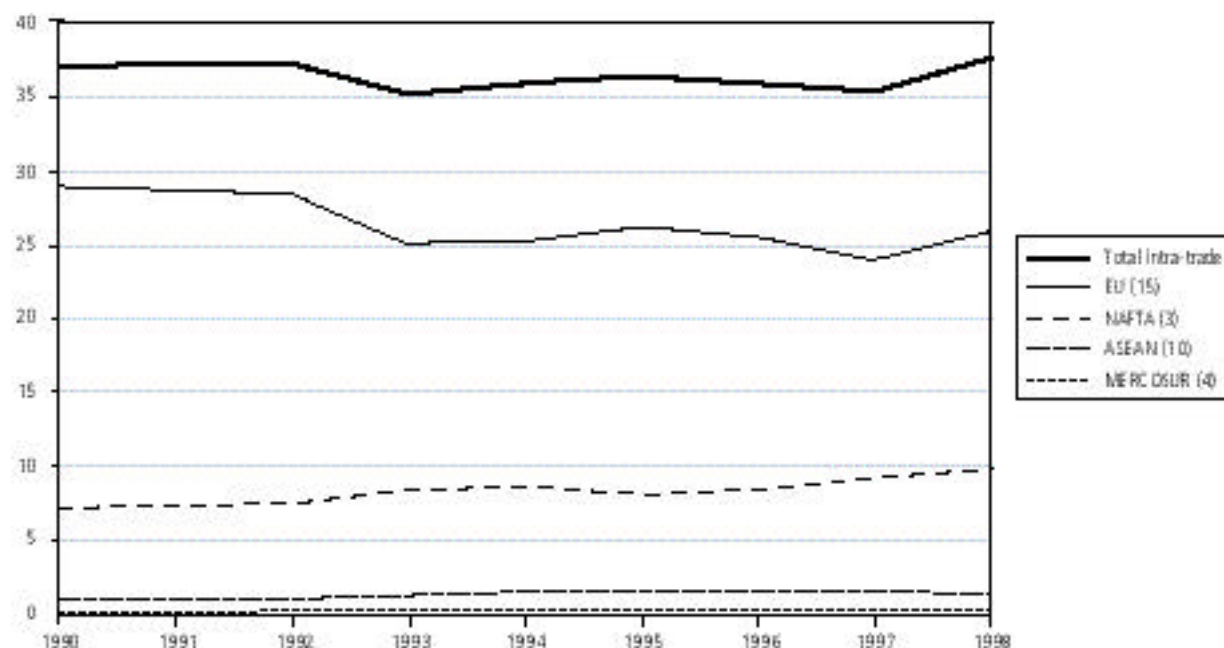
Chart II.3 shows that the share of intra-trade of the four largest RIAs combined has decreased slightly between 1990 and 1997, if today's membership of the RIAs is kept

<sup>1</sup>By moving from 12 to 15 member countries, EU intra-trade increases automatically, as more trade flows are considered intra-trade. But this "enlargement" effect of intra-trade does not

Chart 113

## Share of intra-regional trade in world merchandise exports, 1990-98

(Percentage)



largest RIAs does not alter the picture given above, as the trade values involved are rather small from a global perspective (accounting for less than 1 per cent of world exports).

Developments in 1998 highlight the importance of non-trade policy factors in the rise and decline of intra-trade. EU's intra-trade recovery last year was due to relatively strong demand growth in the EU, a smaller depreciation vis-à-vis the dollar and the fall in oil price: NAFTA intra-trade rose sharply due to the booming US economy, and the decline of intra-trade for the Asean and Mercosur countries is largely due to the recent crisis in some of the member countries. A rising share of intra-trade alone is therefore an insufficient indicator of the effects of preferential trade arrangements.

## VI. The least-developed countries

Recent economic growth and trade data are incomplete for the 48 least-developed countries. The IMF estimates that GDP growth for the least-developed countries reached 4.5 per cent in 1998 and averaged above 5 per cent for the last four years. This also implies a significant real per capita increase over that period. Exports of merchandise are estimated to have declined by nearly 10 per cent in 1998, largely due to the fall in prices of oil, metal and cotton. Imports of the major industrial countries from the least-developed countries decreased slightly in 1998. While imports of manufactured goods continued to increase, that of agricultural products and fuels declined sharply. Manufactures accounted for one half of the combined merchandise imports of the EU (15), US and Japan from the least-developed countries in 1998, rising from a one-quarter share at the beginning of the decade. Exports of the industrial countries to the least-developed countries are estimated to have been 5 per cent lower in 1998 than in the preceding year.

Available information on commercial services trade of the least-developed countries points to a decrease in exports and stagnation of imports in 1998.

The large variation in population size and resource endowments among the least-developed countries give only limited value to an aggregated analysis. Moreover, roughly one third of the least-developed countries have known periods of severe political conflict in the 1990s. A few of the least-developed countries have significant oil revenues (e.g. Angola, Yemen), others export principally manufactured goods (e.g. Bangladesh), but most of them derive their merchandise export earnings from a small list of primary products. Bangladesh, which became the largest exporter among the least-developed countries in 1998, has recorded a strong and steady expansion of its merchandise exports, in excess of average global trade growth throughout the 1990s. However, many other, often war-torn, least-developed countries (e.g. Rwanda and Sierra Leone) have earned lower export revenues in

## VII. Trade by country

As noted above, the examination of trade developments at the global and regional level sometimes conceals the large variations in the performance of individual economies. World merchandise trade growth is largely dominated by developments in trade in manufactures, which accounts for nearly 80 per cent of world trade, but the majority of traders still depend for more than one half of their export revenues on the shipment of agricultural products and minerals. Another consideration is that the separate economies that make up the global whole are very different in size. Between the largest and the 20 smallest economy/trader population, market and trade size differ by a factor of 1 to 10,000. It is therefore not surprising that international trade is rather concentrated among countries. The ten top exporters account for 60 per cent of world merchandise exports and the 20 top exporters for four fifths. If the European Union is treated as a single economy and intra-EU trade is excluded, the picture given above does not change significantly: the top ten traders account for 72 per cent of world merchandise exports and the top 20 for 85 per cent. The 48 least-developed countries account for about 0.5 per cent of world trade and for less than 1 per cent of world output (less than 2 per cent if GDP is measured at purchasing power parity).

Chart II.4 depicts merchandise export and import growth by country in 1998. A majority of countries recorded a decrease in the value of their merchandise exports and imports. Most affected are those economies which depend primarily on exports of primary products (in particular fuels) and the countries involved in the Asian financial crisis. Many oil exporting countries recorded a decrease in their export revenues (between 20 and 40 per cent), while import decreases in the Asian 5 countries ranged from 17 (the Philippines) to 35 per cent (Indonesia and the Republic of Korea). On the other hand, five countries reported increases exceeding 20 per cent for both exports and imports. In two cases (Hungary and Costa Rica) the substantially higher trade values originate from the intra-firm trade of multinationals linked to FDI inflows in recent years.

As regards the changes among the major traders, the predominant feature is the rise of West European countries and the lower shares and rankings of Asian and oil exporting countries. Merchandise imports of France exceeded those of Japan in 1998 and Canada's imports were greater than those of Hong Kong, China. The steep fall in the Republic of Korea's imports, by more than one third, moved the country five ranks down. In respect of merchandise exports, China moved ahead of Hong Kong, China, Mexico ahead of Chinese Taipei and Singapore and Switzerland ahead of the Russian Federation and Malaysia (see Table II.11). There was no change in the ranking of the top eight traders, although the share of Japan decreased by one half percentage point to 7.2 per cent of world merchandise exports.

A comparison of the annual variation of commercial services trade by country is severely hampered by frequent revisions of the data. A large number of countries started to improve the collection of their services data systematically in the 1990s. More recently the steady implementation of a new – internationally agreed – methodology for the balance-of-payments statistics created more discontinuities in the time-series. At times, the product structure reported for services trade provokes the suspicion that the recording

Chart II.4

### Merchandise exports and imports by country, 1998

(Percentage change over previous year)

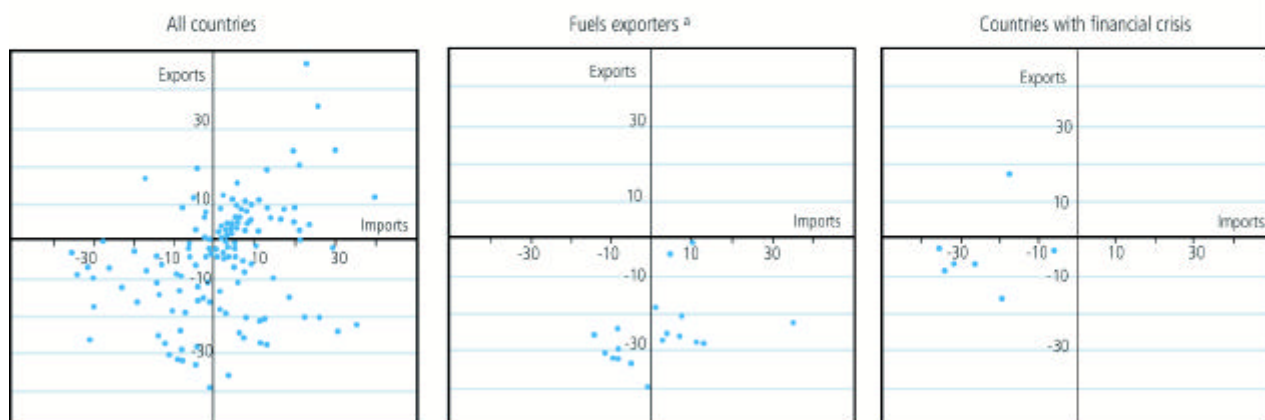


Table II.11

**Leading exporters and importers in world merchandise trade, 1998**

(Billion dollars and percentage)

EXPORTERS	Value (f.o.b.)	1990-98	Annual Change		IMPORTERS	Value (c.i.f.)	1990-98	Annual Change	
			1997	1998				1997	1998
United States	682.5	7.1	10.2	-0.9	United States	944.4	7.8	9.4	5.0
Germany	539.7	3.2	-2.3	5.3	Germany	466.6	3.5	-2.9	4.8
Japan	387.9	3.8	2.4	-7.8	United Kingdom	315.2	4.4	7.2	2.2
France	304.8	4.4	0.3	5.0	France	286.3	2.5	-4.1	5.8
United Kingdom	272.8	5.0	7.5	-3.1	Japan	280.5	2.2	-3.0	-17.2
Italy	242.3	4.5	-4.7	0.9	Italy	215.6	2.1	0.8	2.7
Canada	214.3	6.7	6.3	0.0	Canada	206.2	6.6	14.7	2.6
Netherlands	198.7	5.3	-3.7	2.6	Hong Kong, China	186.8	10.4	6.0	-12.4
China	183.8	14.5	21.0	0.5	retained imports <sup>a</sup>	36.5	1.9	9.6	-30.4
Belgium-Luxembourg	178.5	5.3	-1.2	2.3	Netherlands	184.2	4.8	-2.8	3.6
Hong Kong, China	174.9	9.9	4.0	-7.1	Belgium-Luxembourg	166.5	4.2	-3.4	2.8
domestic exports	24.6	-2.0	-0.5	-10.0	China	140.2	12.8	2.5	-1.5
Korea, Rep. of	132.3	9.3	5.0	-2.8	Spain	132.8	5.3	0.7	8.2
Mexico	117.5	14.1	15.0	6.4	Mexico	129.0	15.6	23.4	14.1
Singapore	109.9	9.6	0.0	-12.1	Taipei, Chinese	104.2	8.4	12.5	-8.5
domestic exports	63.4	7.8	-1.4	-12.5	Singapore	101.6	6.6	0.8	-23.3
Taipei, Chinese	109.9	6.3	4.8	-9.4	retained imports <sup>a</sup>	55.1	3.1	0.1	-31.0
Spain	109.0	8.8	2.1	4.6	Korea, Rep. of	93.3	3.7	-3.8	-35.5
Sweden	84.7	4.9	-2.4	2.2	Switzerland	80.2	1.8	-4.2	5.5
Switzerland	78.9	2.7	-5.8	3.6	Sweden	68.2	2.9	-1.9	3.9
Russian Fed. <sup>b</sup>	73.9	...	-0.4	-16.3	Austria	68.2	4.2	-3.8	5.3
Malaysia	73.3	12.1	0.5	-6.9	Australia	64.7	5.5	0.7	-1.8
Ireland	63.8	13.1	10.1	19.0	Brazil	61.0	13.3	14.2	-6.2
Austria	62.2	5.3	1.3	6.2	Russian Fed. <sup>b</sup>	59.2	...	6.7	-19.4
Australia	55.9	4.4	4.0	-11.1	Malaysia	58.3	9.0	0.8	-26.2
Thailand	53.6	11.1	3.2	-6.9	Poland	47.1	19.2	13.9	10.9
Brazil	51.1	6.3	11.0	-3.5	Turkey	45.4	9.3	11.4	-6.6
Indonesia	48.8	8.4	7.3	-8.6	Denmark	45.9	4.1	-1.2	3.2
Denmark	47.8	3.3	-4.7	-1.7	Ireland	44.3	10.0	9.3	12.9
Finland	42.9	6.2	0.8	5.2	India	42.2	7.5	9.7	2.9
Saudi Arabia	42.3	-0.6	-1.7	-29.2	Thailand	43.0	3.2	-13.1	-31.6
Norway	39.6	1.9	-2.2	-18.3	Norway	36.2	3.6	0.3	1.4
<b>World<sup>c</sup></b>	<b>5422.0</b>	<b>5.8</b>	<b>3.4</b>	<b>-1.9</b>	<b>World<sup>c</sup></b>	<b>5615.0</b>	<b>5.9</b>	<b>3.2</b>	<b>-1.3</b>

<sup>a</sup> Retained imports are defined as imports less re-exports.<sup>b</sup> Includes trade with the Baltic States and the CIS.<sup>c</sup> Includes significant re-exports or imports for re-export.

<sup>2</sup>Extraordinary annual changes which might conceal changes in data collection are exports of China, Brazil, Turkey and India in 1997.

methods are applied differently from one country to another. Unfortunately, only a few countries systematically report changes in their collection methods. The steep decline in the commercial services exports of the Philippines, by one half in 1998, is due largely to an improvement in the collection methods.<sup>2</sup> In the case of Singapore, the other trader with a significant export decline, the explanation given for the 40 per cent contraction in services is the dramatic fall in merchanting and financial services receipts from Asian countries. The dynamic rise of Ireland's imports of commercial services is largely due to the large and rapidly increasing payments of royalties, licence fees and management overhead fees related to the assembly operations of electronic and pharmaceutical multinationals in Ireland. It is interesting to note that imports of commercial services of the Asia 5 countries declined in very much the same way as their merchandise imports. Exports of commercial services, however, decreased for all five countries faster than merchandise exports.

Table II.12

**Leading exporters and importers in world commercial services, 1998**

(Billion dollars and percentage change)

EXPORTERS	Value	Annual Change			IMPORTERS	Value	Annual Change		
	1998	1996	1997	1998		1998	1996	1997	1998
United States	240.0	9	9		United States	165.8	6	11	8
United Kingdom	100.5	8	14	9	Germany	125.0	2	-4	3
France	84.6	-1	-3	5	Japan	110.7	6	-5	-9
Germany	78.9	5	-3	3	United Kingdom	78.8	9	10	11
Italy	66.6	6	2	0	France	65.4	2	-5	5
Japan	61.8	4	3	-9	Italy	62.9	4	3	7
Netherlands	51.6	4	3	2	Netherlands	46.6	0	-1	4
Spain	48.7	11	-1	12	Canada	35.2	7	4	-4
Belgium-Luxembourg	35.4	2	0	4	Belgium-Luxembourg	33.9	-1	-2	8
Hong Kong, China	34.2	12	0	-10	Austria	30.1	6	-3	6
Austria	32.4	5	-13	11	China	28.8	-9	34	-4
Canada	30.3	12	5	2	Spain	27.5	11	1	13
Switzerland	27.1	1	-2	6	Korea, Rep. of	23.8	15	0	-18
China	24.1	12	19	-2	Taipei, Chinese	23.3	3	2	-3
Korea, Rep. of	23.9	2	12	-6	Hong Kong, China	22.7	6	5	-2
Turkey	23.2	-11	49	21	Sweden	21.8	9	4	12
Singapore	18.2	1	2	-40	Ireland	20.0	19	12	33
Sweden	17.9	9	5	2	Brazil	18.7	-2	36	6
Taipei, Chinese	16.6	8	5	-2	Singapore	17.9	11	-2	-7
Australia	16.0	15	1	-13	Australia	16.8	9	1	-9
Denmark	14.8	8	-14	6	Russian Fed.	16.1	-7	1	-15
Norway	14.0	6	3	-3	Switzerland	16.1	4	-7	10
Thailand	13.1	14	-7	-16	Denmark	15.3	5	-6	12
Russian Fed.	12.9	23	9	-9	Norway	15.2	3	9	4
Mexico	11.9	12	5	6	India	14.2	9	12	16
India	11.1	6	24	24	Mexico	12.6	11	19	7
Malaysia	10.7	25	4	-28	Malaysia	12.4	16	1	-29
Greece	9.8	-3	0	...	Thailand	11.9	4	-11	-31
Israel	9.0	4	4	8	Indonesia	11.6	12	10	-28
Poland	8.9	-8	-8	-1	Philippines	10.1	36	50	-28
<b>World</b>	<b>1320.0</b>	<b>7</b>	<b>4</b>	<b>0</b>	<b>World</b>	<b>1305.0</b>	<b>5</b>	<b>3</b>	<b>1</b>

The main feature of commercial services developments by country was the above global average growth for the West European countries, while the value of commercial services trade of the Asian countries contracted, India being a notable exception. The United States remained the by far largest services exporter and importer in 1998. US imports of commercial services rose by 8 per cent, considerably faster than exports. The traditional trade surplus in services was reduced, but at \$74 billion remained quite large. Only two categories account for two thirds of the US surplus in commercial services – royalties and license fees and travel (see Table II.12).

## Overview

Two years ago the "Asian financial crisis" erupted in Thailand, spread rapidly to other countries in the region, and affected general investor sentiment in those and other developing countries and transition economies, notably Russia in mid-1998 and later Brazil. Output and employment contracted sharply in the countries most directly affected, in turn adversely affecting trade of their partners and, together with steep commodity price declines, trade of many other developing countries. In the past, such events could have been invoked as a justification for raising import barriers, in an attempt to contain the domestic consequences and shift the burden onto trading partners, possibly provoking counter-measures, and thereby exacerbating the downturn. However, this very serious crisis unfolded in the framework of the WTO, the strengthened multilateral trading system created by the Uruguay Round Agreements. The system, and the good sense of governments, helped to keep markets open, facilitating adjustment and providing a critical element for recovery from the Asian crisis.

The countries most directly affected by the crisis – Thailand, Korea, Indonesia, Malaysia and the Philippines – undertook macroeconomic stabilization and structural reform, including the unilateral liberalization of trade and foreign investment regimes. Several of these countries have also strengthened their financial systems to encourage more market-oriented lending practices, a process that has been supported by their participation in the WTO Agreement on Financial Services. At the same time, the trading partners of these countries have provided an external environment conducive to adjustment. Among the largest traders, growth in the United States, whose market is among the more open in the world, played a pivotal role. The US economy sustained its strong rate of growth for the ninth consecutive year in the face of domestic constraints on its productive capacity; imports provided a safety valve to satisfy domestic demand, helping to dampen inflationary pressures that might otherwise have emerged, thus contributing to low market interest rates.

By firmly rejecting protectionism, the countries most affected by the Asian crisis together with their trading partners placed a high degree of confidence in the multilateral trading system. A striking feature of the present situation is the absence of recourse by WTO Members to new "legal" measures of protection. Although most countries directly affected by the crisis have significant leeway to raise applied tariffs without breaching their bindings, by and large, they have not done so. Nor is there evidence of unusual levels of activity involving most measures to safeguard domestic industry (GATT Article XIX), the balance of payments (GATT Articles XII and XVIII), transitional safeguard measures for textiles and clothing (Article 6 of the Agreement on Textiles and Clothing) or countervailing; however, led by several recent high-profile cases involving steel, there does appear to be some increase in the initiation of anti-dumping actions. The initiation of countervailing actions has regularly declined, from 86 cases in 1994 to 35 cases in 1998.

The overall level of anti-dumping activity has risen slightly since the low point recorded in 1995. The latest available information (up to December 1998), based on Members' notifications, indicates an increase in anti-dumping investigations. There were 516 initiations of anti-dumping investigations in 1998, 13 per cent more than in the previous year, although the number of final measures declined sharply (60 in 1998 compared with 203 in 1997). Anti-dumping investigations by the United States and New Zealand increased somewhat in 1998; however, the bulk of the increase was due to cases initiated by developing countries, in particular India, Mexico and South Africa.<sup>1</sup>

The role of the Dispute Settlement Body (DSB) in managing the settlement of disputes within the WTO has remained positive, reflecting the fact that Members continue to show confidence in the dispute settlement mechanism. Up to 15 August 1999, 24 new requests for consultations were received by the DSB, bringing the total to 179 requests since the WTO's establishment. The proper functioning of the DSB has clearly contributed to the strengthening and consolidation of the WTO and the multilateral trading system.

There has been no delay in the implementation of trade liberalization commitments agreed in the context of the Uruguay Round. WTO Members are phasing in, on schedule, reductions in tariffs on products, in export subsidies and other measures of assistance to agricultural products. The integration of trade in textiles and clothing into the GATT is proceeding as scheduled, though the expected liberalization effects are not satisfactory to all Members; the first and second phases of integration took place in 1995 and 1998, respectively, the third phase is set for 2002, and full integration is to be achieved by

<sup>1</sup>In terms of anti-dumping investigations, the United States remains the main "user", accounting for around one third of cases in 1998.

1 January 2005. In addition to their Uruguay Round obligations, 45 WTO Members (and one other participant) are implementing the commitment to eliminate tariffs on information technology products under the ITA.<sup>2</sup> Many WTO Members made market-opening commitments on telecommunication services, opening the bulk of the world telecommunications market for the supply of basic services on the basis of simple resale or over a supplier's own infrastructure.<sup>3</sup> The national monopolies that have dominated the industry in almost all countries are now facing competition and in many countries are being privatized. Many Members have also made commitments on financial services.<sup>4</sup>

The full application of the TRIPS Agreement is delayed for many WTO Members until 2000 under the transitional arrangements that apply to developing country and transition economy Members; least-developed countries may delay full application until 2006. A number of the Members concerned chose to notify their trading partners of their existing framework in preparation for the changes needed to domestic legislation on intellectual property rights, their administration and enforcement. Customs valuation is another area where one set of transitional arrangements for implementation ends in 2000 for many developing countries. The WTO Secretariat has consequently responded in the past year to a very large number of requests for technical assistance on these and other implementation issues (e.g., notification requirements), by arranging over 300 events in 1998, including in cooperation with other concerned institutions (e.g., WIPO on TRIPS and the World Customs Organization on customs matters).

Looking ahead, WTO Members are preparing the ground for the Seattle Ministerial Conference in November 1999, at which they will seek to establish the future WTO work programme. The "built-in" agenda, which results from the Uruguay Round, already includes negotiations on trade in agricultural products and services. WTO Members also recognize that the multilateral trading system must adapt to new challenges if it is to conserve its important role in the world economy. In September 1998, they initiated a work programme to examine all trade-related issues relating to global electronic commerce – the production, distribution, marketing, sale or delivery of goods and services by electronic means (e.g., the Internet). WTO Members also continued their work on the relationship between trade and investment, the interaction between trade and competition policy, transparency in government procurement, trade facilitation, and trade and environment.

WTO Members have also been evaluating the operation of the Trade Policy Review Mechanism (TPRM) and of the Dispute Settlement Understanding, pursuant to the appraisal and review provisions in the respective Uruguay Round agreements. Although technical in nature, such evaluations are essential to ensure that the institutional mechanisms of the WTO function as desired by the Members. On dispute settlement, for example, the Uruguay Round negotiations produced a new system without precedent in international economic relations, and in which all potential issues and concerns, as well as the manner in which they should be resolved, could not have been foreseen by the drafters. The review of dispute settlement has devoted considerable effort to improving the implementation of final rulings; the issue has been given particular visibility in the past year owing to certain recent high-profile disputes involving some WTO Members.<sup>5</sup>

Joining the current Members of the WTO in Seattle will be the six new Members since 1995: Bulgaria, Ecuador, Kyrgyz Republic, Latvia, Mongolia and Panama; in addition, Estonia has accepted its Protocol of Accession to the WTO, subject to ratification. Most of these new Members, as well as many of the 30 applicant countries still completing the accession process, are in transition from a centrally planned to a market economy, and recognize the unique contribution of the WTO to the internal reform process. Each of the WTO's new Members has undertaken to apply the WTO rules and to liberalize trade. A typical feature is a comprehensive coverage of tariff bindings (100 per cent of lines in most cases) together with market opening in a broad range of services, including value-added and basic telecommunication services (except Mongolia and Panama) and financial services (all new WTO Members).<sup>6</sup>

In parallel with preparations for the Seattle Ministerial, a number of countries requesting WTO membership have accelerated the accession process. Even if not all become Members in time for the Seattle meeting, they are already reaping some of the economic benefits of the process. The first "fact-finding" phase of the accession procedure requires the applicant to gather together and submit detailed information on its trade and economic regime, thereby improving the regime's transparency. A working party open to all WTO Members then examines the regime in the light of WTO rules, improving the applicant's understanding of WTO rules and the changes required to fulfil WTO obligations. Finally, negotiations settle the specific terms and conditions of the accession, including the liberalization commitments, to be stipulated in the applicant's Protocol of Accession to the WTO. Most applicants are therefore engaged throughout the accession process in a continuous improvement of their trade and economic policies and some countries have taken steps to liberalize these policies.

<sup>2</sup>Participation in the WTO Declaration on Trade in Information Technology Products is reviewed in WTO document G/IT/1/Rev.9.

<sup>3</sup>The WTO agreement on telecommunications services entered into force as the Fourth Protocol to the GATS on 5 February 1998. Domestic ratification procedures have been completed by 64 participants; two participants subsequently improved their commitments. In addition, six WTO Members made commitments on basic telecommunication services in their GATS Schedules, and three new WTO Members made such commitments in their final accession protocols.

<sup>4</sup>The WTO agreement on financial services entered into force as the Fifth Protocol to the GATS on 1 March 1999; 59 countries have ratified the Protocol.

<sup>5</sup>See "Overview of the State-of-play of WTO Disputes" updated periodically, available at <http://www.wto.org/dispute/bulletin.htm>.

<sup>6</sup>WTO document WT/ACC/7.

Although the spotlight is now on Seattle, the process of assessment and action is continuous within the WTO. One illustration is the priority being given by WTO Members to the integration of least-developed countries (LDCs) in the world trading system, considered in further detail in the concluding part of this Chapter. Another illustration is the activity on transparency and scope for dialogue with representatives of civil society. Transparency with respect to WTO documents has been improved by accelerating the de-restriction process as well as by making all de-restricted documents available on the WTO website. Within the 1996 Guidelines for Relations with NGOs<sup>7</sup>, arrangements for their presence at plenary sessions of ministerial conferences were made for Singapore and Geneva. In addition to regular briefings for NGOs, the WTO Secretariat has created a special section for NGOs on the WTO's website, and recently organized high-level meetings with NGO participation on trade and environment and trade and development to provide the basis for an exchange of views. The WTO Secretariat also circulates a monthly list of NGO position papers that it has received, which are made available to Members upon request.

These developments in the WTO – in terms of the implementation of existing obligations by Members or the willingness to conclude new agreements to continue the liberalization process, to better integrate the LDCs, improve the functioning of vital institutional mechanisms or public support for the WTO – are signs of the vitality of the multilateral trading system. They also demonstrate the commitment of its Members to respect their existing obligations and build for the future, even in the face of challenging events, such as the Asian financial crisis. The first section below therefore examines developments in directly affected countries and their trading partners, many of which were under review by the Trade Policy Review Body in 1998-99.<sup>8</sup>

Most Members have participated in further trade and investment liberalization at the regional level, or negotiations to this end. As pointed out in the WTO's 1998 Annual Report, the revival of regional integration in the 1990s is a very significant movement, covering virtually all WTO Members and a broad spectrum of market access issues in goods and services, as well as regulatory convergence.<sup>9</sup> The process of regional and multilateral integration can, in principle, be complementary: domestic reforms can be "locked in" at the multilateral and regional levels, greatly enhancing their beneficial impact on the business environment; multilateral negotiations can offer the opportunity to "multilateralize" the benefits of regional trade agreements, when these are ripe for such action; given the overlapping membership of regional agreements with the WTO, multilaterally agreed trade pacts also benefit regional trade. However, to ensure that the appropriate balance is maintained between these two main avenues for liberalization pursued by WTO Members, the WTO, needs to find more effective methods of examining and monitoring regional trade agreements.

The final section of this Chapter considers the issues raised by the situation of least-developed countries in the multilateral trading system. Twenty-nine of the world's 48 least-developed countries are WTO Members and six LDCs are applicants for accession. The 48 least-developed countries as a whole are the poorest in the world, representing 12 per cent of the world's population but less than half of 1 per cent of world trade. For many LDCs, domestic economic activity is focused principally on subsistence agriculture, trade accounting for 9 per cent to 16 per cent of GDP compared with about 25 per cent for developing countries as a group. This relatively low level of integration of LDCs suggests difficulty in achieving growth benefits through trade, a declared objective of LDCs and supported by all WTO Members. Following the Uruguay Round "Ministerial Decision on Measures in Favour of Least-Developed Countries", WTO Members agreed at the Singapore Ministerial in 1996 on a Plan of Action and an integrated approach between the WTO and other concerned international institutions to provide the technical assistance necessary to meet the internal and external trade policy objectives of LDCs.

## The impact of the Asian crisis on the multilateral trading system: an update

<sup>7</sup>WTO document WT/L/162.

<sup>8</sup>Trade Policy Reviews completed in the year through July 1999 cover Argentina; Bolivia; Burkina Faso; Canada; Egypt; Guinea; Hong Kong, China; Indonesia; Jamaica; Mali; Solomon Islands; Togo; Trinidad and Tobago; Turkey; Uruguay; and the United States. In the period September-December 1999, Reviews will be undertaken of Israel, Nicaragua, Papua New Guinea, the Philippines, Romania and Thailand.

<sup>9</sup>However the share of intra-regional trade in world trade in the 1990s fell.

The Asian financial crisis, which erupted in Thailand in mid-1997, was followed by an adverse shift in capital-market sentiment towards other countries in the region, notably Korea, Indonesia, Malaysia and the Philippines, with adverse repercussions also for Hong Kong, China and Singapore. The shift in sentiment contributed to a sharp reduction in investors' desired exposure to emerging markets, with the result that net private capital flows into these (and other) countries fell. To correct their macroeconomic imbalances, the countries directly affected by the crisis undertook disciplined fiscal and monetary policies. In addition, a number of them undertook structural reforms, which included tackling outstanding impediments to trade. Thus, while the severe economic downturn and consequent loss of jobs and related social problems might have led to protectionist pressures

in these countries, information collected by the Secretariat for Trade Policy Reviews (either completed or planned) suggests instead that the liberalization of trade, investment and payments regimes has, by and large, progressed. Among the noteworthy measures taken by the countries most affected by the crisis are the following:

- Despite the financial turmoil, the general thrust of **Thailand's** trade and investment policies has been liberalization. As regards trade, while some applied tariffs were increased following the crisis, apparently on fiscal grounds, the overall trend remains downward; import (and export) licensing for several products has been abolished; and simpler and faster customs procedures have been introduced for exporters to import their inputs. In the case of foreign direct investment (FDI), legislation and regulations have been amended and streamlined to facilitate inflows of foreign capital.

- **Korea** has implemented a broad range of structural reforms to address underlying weaknesses that had contributed to its vulnerability to the financial crisis. These reforms include the lifting of the ban on imports of all 48 Japanese products under the Import Diversification Programme, the restructuring of the financial sector along market-oriented lines, privatization and reform of state-owned enterprises, new legislation (which, inter alia, explicitly established the principle of national treatment) to promote FDI, and measures to improve corporate governance. In April 1999, Korea also implemented the first stage of its foreign exchange liberalization programme.

- **Indonesia**, whose economy contracted sharply in 1997 and 1998, has, on the whole, continued to implement far-reaching economic reforms in accordance with a timetable agreed with the IMF. These reforms include the unilateral liberalization of its trade and investment regimes, which, once fully implemented, will give Indonesia one of the most liberal trade and investment regimes among developing countries.

- **Malaysia**, citing the need to contain "speculative" attacks, introduced exchange controls in September 1998, which were eased in February 1999 (the one-year lock-in rule for foreign investments was replaced with a graduated exit tax).

- The **Philippines** has continued to liberalize trade, including by reducing tariffs across all categories of imports and lifting quantitative restrictions. Measures still in place include investment incentives, in particular trade-related investment measures (TRIMs) for the motor vehicle, and soap and detergent sectors.

- The reaction of **Hong Kong, China** both to the transfer of sovereignty to China and the Asian crisis can be characterized as "business as usual"; that is, the Government's basic approach is to let markets operate freely and openly. Hence, despite the recent contraction of GDP and rising unemployment resulting from the Asian crisis, the Government has not sought to promote or rescue individual firms or sectors, although the Hong Kong Monetary Authority did intervene in August 1998 to stabilize the Hong Kong stock market. Hong Kong, China's trade and investment regime remains one of the most open among WTO Members: no measures directly affecting imports or foreign investment have been taken.

- In an effort to increase the competitiveness of its banking system, **Singapore** has relaxed restrictions on foreign ownership.

A factor contributing to investors' loss of confidence in Asian and other emerging market economies was the perceived weakness of their financial systems, as manifested by imprudent lending. This weakness, partly due to a lack of experience of the financial institutions themselves, but also due to inadequate regulation and supervision by the authorities, could be partly attributed to constraints on competition in the financial services sector. Of note, therefore, is the countries' participation in market-opening measures for financial services implemented under the WTO Agreement on Financial Services; far-reaching commitments to open the sector to new domestic and foreign service providers have been made by Thailand, Korea, Indonesia, the Philippines, Hong Kong, China and Singapore. Such commitments reflect the recognition that liberalization of financial service sectors will help to avoid some of the practices that contributed to the financial crisis and thereby facilitate a more efficient allocation of capital.

**Japan's** economic recovery was again delayed in 1998; domestic demand was weak and a decline in import volume contributed to the difficulties of emerging market economies in the region. Notwithstanding its economic difficulties, Japan implemented its trade liberalization agreed in the Uruguay Round ahead of the original timetable; it is also in the process of implementing structural reforms, particularly in the banking sector. In 1999, Japan's growth prospects are expected to improve as a result of the signs of recovery in most of its regional trade partners and its own fiscal stimulus packages; first-quarter figures for 1999 indicate a more favourable outlook. The next Trade Policy Review of Japan, scheduled for 2000, will provide WTO Members with an opportunity to assess more fully whether further structural reforms are needed to foster Japanese growth.

The strong sustained growth of the **United States** economy and, to a lesser extent, the continued recovery of European economies, provided a supportive external environment for

recovery from the crisis. Thus, as the flow of private capital shifted from emerging markets to major developed country markets, lowering rates of return on interest-bearing assets and contributing to higher stock market prices, trade flows shifted accordingly, with the current account deficit widening in the United States and the current account surplus of the European Union as a whole narrowing somewhat. The needed adjustment in the current accounts of emerging as well as developed economies was thus facilitated by openness rather than impeded by restrictions on trade and capital movements. An open world trading and financial system, therefore, was a necessary adjunct to the efforts made by the countries themselves to address the root causes of the crisis and restore the conditions conducive to economic growth.

A timely opportunity for the WTO Members to consider more fully the situation of the US economy was provided by its Trade Policy Review held in July 1999. Since the outbreak of the financial crisis in Asia, growth of the US economy has remained strong – reaching almost 4 per cent annually in 1997 and 1998; strong growth has been accompanied by rates of unemployment and consumer price inflation that are at their lowest levels since the 1960s. Trade and investment liberalization has contributed. Imports have provided a safety valve, helping to satisfy domestic demand. A large and growing current account deficit, which reached a record level of US\$233 billion in 1998<sup>10</sup>, has enabled the US economy to sustain its strong rate of growth in the face of domestic constraints.

The US current account deficit reflects the gap between national saving and domestic investment, which has widened since 1995. Contrary to popular perceptions, national saving has been rising in the United States; the sharp decline in household savings has been more than offset by stronger corporate saving and the shift from a fiscal deficit to surplus. An additional source of funds for domestic investment has been capital inflows from abroad; the shortfall of national savings relative to domestic investment was made up by foreign investors who have continued to be drawn to the United States by its liberal investment regime, profitable investment opportunities and its attractiveness as a safe haven following the Asian financial crisis. This foreign investment has enabled the US economy to grow faster than would have been the case had it relied solely on domestic saving. Foreign investment has also contributed to the recent marked improvement in labour productivity, which has increased in the past couple of years and remains higher than in most countries, reflecting the efficiency of the US economy.

On the other hand, the widening current account deficit has provoked allegations in the United States that some foreign producers are engaging in unfair trading practices to the detriment of domestic producers. Such allegations have, in turn, led to protectionist pressures from some sectors, aimed at persuading the Government to implement trade measures (notably anti-dumping actions and section 301 investigations) to curb imports of some products from specific countries and to further open foreign markets to US exporters; by and large, the Administration has resisted such pressures, much to the benefit of the multilateral trading system.<sup>11</sup>

A similar pattern of economic performance to that of the United States is evident in **Australia**, which was reviewed in the TPRB in mid-1998. Since the financial crisis erupted in Asia, Australia's growth has continued to be strong (almost 5 per cent in 1998), fuelled by strong investment and consumption, notwithstanding a decline in exports to its Asian neighbours, and low commodity prices. The resulting increase of net imports lifted the current account deficit to around 5 per cent of GDP in 1998. Here again, in spite of domestic pressures to limit import competition, the financial crisis has not materially changed Australia's policy of openness and commitment to structural reform. There has been a recent slowdown in tariff liberalization, however, and an increase in export assistance.

Growth in the economies of the member States of the **European Union (EU)** is also playing an important role in the adjustment to the Asian financial crisis, although growth in 1998 was considerably slower than in the United States (2.8 per cent compared with 3.9 per cent). The EU's current account surplus narrowed slightly, from US\$109 billion in 1997 to US\$78 billion (compared with a rise in the deficit of the US of some US\$80 billion). For 1999 and beyond, the introduction of the Euro on 1 January 1999 in the 11 countries involved in European Monetary Union (EMU) could provide an impetus to growth and boost demand for imports from non-EU countries. Should such growth materialize in the EU, it would facilitate the adjustment of the emerging market economies, as well as neighbouring transition economies. The next Trade Policy Review of the European Union, scheduled for 2000, will provide WTO Members with an opportunity to assess more fully the effects of EMU on growth and trade, and the further trade and structural reforms that may be warranted in the EU.

Strong growth in the United States (and Australia) is unlikely to continue indefinitely, however. A major slowdown in the US economy could jeopardize the recovery of countries emerging from the Asian crisis, unless the other major traders, notably the EU and Japan, can pick up the slack.

<sup>10</sup>In relative terms, the 1998 current account deficit is, at 2.7 per cent of GDP, well below the 1987 level of 3.7 per cent.

<sup>11</sup>In 1996-98, the total number of anti-dumping investigations initiated in the United States declined to 72 (from 102 in 1993-95), while the number of duty orders issued fell from 82 to 25. Countervailing duty investigations initiated during the period under review totalled 18, up from 14 in 1993-95; nevertheless, the number of duty orders issued declined substantially. The number of safeguard investigation initiations increased in 1996-98, but their number and scope remains limited. Investigations under section 301 of the Trade Act of 1974 decreased during 1996-98; 17 investigations were initiated. Most were brought to the WTO; the rest were generally settled bilaterally. No sanctions were applied as a result of investigations initiated since 1996.

### Europe

In December 1997, the EU agreed to open accession negotiations with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia.<sup>1,2</sup> The Trade Policy Reviews of **Hungary** (in mid-1998) and **Romania** (in 1999) focused on the role of trade policy and price reform in stimulating market competition in the transition, buttressed by structural reform and macroeconomic stabilization; a review of Poland is scheduled in 2000. Following the Europe agreements and CEFTA, trade reform advanced in the WTO with commitments on tariff bindings (96 per cent for Hungary and 100 per cent for Romania), as well as market-opening for telecom and financial services. Reform is now mainly geared to the transposition of the body of the EU *acquis communautaire*, which might in some instances, such as agriculture, lead to a less liberal trading regime. Hungary has been very successful in attracting foreign investment to modernize its capital base and the provision of services, and trade with the EU has flourished. Romania, in contrast, has had some difficulty in carrying through on structural reform, and is not in the "first wave" of EU applicant countries. Both reviews emphasized the benefits to be gained by further elimination of distortions to competition, and in particular those resulting from selective investment incentives (customs duty and tax exemptions, profits tax holidays), whose cost-effectiveness in attracting investment is dubious and can contribute to a "bidding contest" for certain types of investment.

The review of **Turkey** in 1998 also illustrated the extent to which trade reform can be driven by factors other than WTO commitments. The customs union with the European Union, which entered into force in 1996, gave a new impetus to the liberalization process, taking Turkey beyond its Uruguay Round commitments in many instances. Turkey has adopted the EU's common external tariff (CET) for most industrial goods and for the industrial component of processed agricultural goods; legislation in a large number of trade-related areas has been harmonized with the EU *acquis communautaire*. Turkey, Hungary and Romania, are expanding their networks of preferential trade agreements to encompass regional trade partners and countries with which the EU has concluded trade agreements.

The establishment of a Euro-Mediterranean free-trade area by 2010 was launched in November 1995 by the EU with Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey and the Palestinian Authority. The initiative has already led to the conclusion of (new generation) bilateral free-trade agreements between the EU and Israel, Jordan, Morocco and Tunisia, as well as an agreement between the EU and the Palestine Liberation Organization (PLO) on behalf of the Palestinian Authority in the West Bank and Gaza Strip; and negotiations are on-going between the EU and Algeria, Egypt, Lebanon and Syria, respectively. Information gathered for the 1999 Trade Policy Review of **Israel** also indicates an expansion of the network of preferential agreements between Mediterranean partners.

The negotiation of a successor agreement to the Fourth Convention of Lomé has occupied the EU and the 70 ACP countries since September 1998, covering development cooperation, political dialogue and economic cooperation. On the trade provisions, the negotiations are providing an opportunity for the ACP and the EU to assess results to date, stimulated by developments in the WTO including the matter of the WTO-compatibility of non-reciprocal trade preferences and the challenges to the EU's import regime for bananas. South Africa concluded the Trade, Development and Cooperation Agreement (TDCA) with the EU in March 1999, to implement a bilateral free-trade area within 12 years of the proposed date of entry into force of 2000.

Following up on the cross-regional integration initiative, launched by the EU to establish closer political and economic ties with Latin America and the Caribbean, framework agreements with the objective of reciprocal trade liberalization were concluded with Mexico, as well as MERCOSUR and Chile; the EU is the main trading partner of the MERCOSUR and Chile and the second most important trading partner of Mexico. Negotiations on a free-trade area between the EU and Mexico began in November 1998, but negotiations between the EU and MERCOSUR and with Chile were delayed due to difficulties in elaborating the EU's negotiating mandate. These difficulties were overcome in June 1999 to permit the start of negotiations in July 2001 to establish a free-trade area between the EU, MERCOSUR and Chile by 2005.

### The Americas

Linking Latin America and the Caribbean with North America, the initiative to create the Free-trade Area for the Americas (FTAA) by 2005 was launched in December 1994 at the (First) Summit of the Americas, in Miami. The negotiations for an FTAA were formally

<sup>1,2</sup>Other applicant countries from Central and Eastern Europe are Bulgaria, Latvia, Lithuania, Romania and Slovakia; Lithuania and Slovenia are also applicant countries to the WTO.

launched in April 1998 at the (Second) Summit of the Americas in Santiago, Chile. The negotiations are aimed at progressively eliminating barriers to trade in goods, services and investment; they began in September 1998, will conclude no later than 2005, and are intended to achieve concrete progress toward the attainment of this objective by the end of 1999. The negotiations are being guided by a Trade Negotiations Committee (TNC), which has established nine negotiating groups on: market access; investment; services; government procurement; dispute settlement; agriculture; intellectual property rights; subsidies, anti-dumping and countervailing duties; and competition policy. The outcome of the negotiations will be a "single undertaking", and the FTAA negotiations will "improve on WTO rules and disciplines wherever possible".<sup>13</sup>

As part of its outward-oriented trade and investment strategy, **Canada** is pursuing reform on an autonomous basis – notably lowering inter-provincial barriers to trade – and is an active participant in regional integration initiatives. Canada-US preferential trade arrangements, more recently through the NAFTA, have expanded the trade links between the two countries. In addition to its solid support of the multilateral trading system, Canada has forged preferential links with other partners in the region, including the new FTA with Chile, and in other regions, such as the FTAs with Israel and with EFTA. Canada is also actively participating in broader schemes such as APEC and the FTAA.

The Trade Policy Review Body examined the trade policy regimes of **Argentina** and **Uruguay**, two of the four members of MERCOSUR (the two others, Brazil and Paraguay, are scheduled for review in 2000 and 2003, respectively). The reviews featured the changes in MFN tariffs due to the required convergence with the Common External Tariff (CET) by 2006<sup>14</sup>; for Argentina, this process will bring a modest decrease in the average MFN rate from 13.5 per cent in 1998 to 11.1 per cent in 2006, but for Uruguay, the reverse may be true. During their reviews, Argentina and Uruguay confirmed that the additional temporary 3 per cent increase of the CET agreed among MERCOSUR members on 31 December 1997, prompted in part by the deterioration of Brazil's current account and budget deficit, will be eliminated on schedule by 31 December 2000. The CET convergence process has reversed the earlier trend towards reducing tariff escalation in Argentina and Uruguay, which is now more pronounced in virtually all sectors. On contingency protection, Argentina, Brazil and Uruguay have become important users of anti-dumping measures.

The timing of Argentina's review in January 1999 gave WTO Members the opportunity to examine the implications of the spread of the Asian crisis to Brazil. Here again, foreign investment experienced a sudden shift of market sentiment against a country with weak external and fiscal balances, maintaining a fixed exchange rate as an external anchor for internal price stability. Brazil moved to a floating exchange rate regime in January 1999 and the subsequent 30 per cent depreciation of the real against the dollar has increased the cost of imports and improved Brazil's external competitiveness. As a result, the trade balance is expected to shift from a deficit in 1998 to a surplus in 1999. Repercussions are anticipated for Brazil's partners in MERCOSUR, given the depth of intra-regional trade, which accounts for some 20-30 per cent of imports and of exports for each regional partner. For Argentina, in particular, whose currency is fixed at parity to the US dollar, the devaluation of the real has led to some protectionist pressures. The TPRB found that Argentina's macroeconomic discipline and wide-ranging structural adjustment, including significant trade liberalization, had created a basically sound economy, boding well for its capacity to adjust.

WTO Members also reviewed **Bolivia**, a partner in the Andean Community (with Colombia, Ecuador, Peru and Venezuela). The Andean Community, founded 30 years ago, has substantially reinforced its supra-national mechanisms for political, economic and judicial cooperation, and has adopted, with exceptions, a common external tariff (CET). However the resulting custom union is incomplete: in particular, the CET is applied only by Colombia, Ecuador and Venezuela, while Bolivia is exempted and maintains its uniform national tariff of 10 per cent. Bolivia's Trade Policy Review highlighted the benefits of such a uniform tariff regime in terms of its predictability, transparency and promotion of an efficient allocation of resources. The review also noted Bolivia's new preferential trade agreements with Chile, Cuba, MERCOSUR (it is an associate member) and Mexico; Bolivia's partners in the Andean Community have completed negotiations with MERCOSUR on preferential treatment for a number of products.

The Trade Policy Review of **Nicaragua** highlighted the restructuring of the customs tariff to converge progressively to levels agreed within the Central American Common Market (CACM) so as to comply with WTO binding commitments and to implement a unilateral reduction plan (1997-2002); hitherto, this process has contributed to a considerable decrease in the average MFN tariff rate. Nicaragua has also improved the scope of its WTO commitments on financial services, by including insurance in 1997, and authorizing the privatization of the basic telecommunications monopoly in 1998 (competition in other telecommunication services is being increased through the gradual introduction of more

<sup>13</sup>Summit of the Americas, Fourth Trade Ministerial, San José, Costa Rica, 19 March 1998, "Joint Declaration" [Online]. Available at: [http://www.alca-ftaa.org/ministerials/costa\\_e.asp](http://www.alca-ftaa.org/ministerials/costa_e.asp) [28 June 1999].

<sup>14</sup>MERCOSUR partners agreed in December 1994 on a common external tariff (CET) implemented as of 1 January 1995. The CET ranges from 0 per cent to 20 per cent, with a number of sectors being temporarily excluded from the CET; these include sugar, automobiles and parts, capital goods, and informatics and telecommunication goods. In addition, each member has an exceptions regime, which expires in 2001 for Argentina, Brazil and Uruguay, and in 2006 for Paraguay.

operators). Efforts are being made to update and expand the legal framework for the protection of intellectual property rights.

In the Caribbean, **Jamaica** and **Trinidad and Tobago**, the two most populous members of the 15-member CARICOM, have undertaken substantial liberalization following implementation of CARICOM's common external tariff (CET). In 1992, the CARICOM agreed to reduce the maximum tariff on industrial products from 45 per cent in 1993 to 20 per cent in 1998, keeping the maximum rate at 45 per cent for agricultural products. The 20 per cent ceiling on industrial products was implemented by Trinidad and Tobago in 1998, and Jamaica was to implement the ceiling by January 1999. Both countries have also undertaken new commitments on services under Protocol II of the CARICOM Single Market and Economy (CSME), concluded in 1997 and expected to be completed by the end of 1999.

## Asia and the Pacific

In the wake of the Asian financial and economic crisis, members of the Association of South East Asian Nations (ASEAN) accelerated trade liberalization within the ASEAN Free-Trade Area (AFTA), adopted fiscal incentives for all investors, created the ASEAN Investment Area to provide national treatment to ASEAN investors in the manufacturing sector, launched a round of liberalization negotiation on services and introduced a long-term Action Plan to promote economic recovery among the members.<sup>15</sup> On the Common Effective Preferential Tariff (CEPT) of AFTA, the six founding members agreed (individually) to achieve a minimum of 85 per cent of the tariff lines on their inclusion lists in the 0-5 per cent range by 2000, covering 90 per cent of intra-ASEAN trade.<sup>16</sup> They also brought forward from 2003 to 2002 the date of implementation of the CEPT on all items in the inclusion lists. The Trade Policy Review of Indonesia in 1998 noted that the reductions in the CEPT and MFN rates have proceeded in parallel, so that the margin of preference for regional suppliers has remained relatively modest. These and other issues related to the recovery from the crisis (see previous section) will also feature in the reviews of the Philippines and Thailand (both in 1999), and Singapore (in 2000).

According to the "Bogor Declaration", the Asia-Pacific Economic Cooperation (APEC) framework aims at "open" trade and investment in the region (with benefits available to all trading partners), by 2010 for industrialized economies and no later than 2020 for developing economies.<sup>17</sup> APEC is working in several directions to this end, based on the principle of voluntary participation: Individual Action Plans; the identification of sectors for early and voluntary liberalization (EVSL); and Collective Action Plans (CAPs) on measures of investment and trade facilitation. EVSLs for 15 product categories, comprising tariff elimination, reduction of non-tariff barriers, trade facilitation, and economic and technical cooperation, are on the APEC agenda; the tariff elements have been transferred to the WTO for the Seattle agenda.<sup>18</sup> The first (non-tariff) action under an EVSL was approved in June 1998; it entails a framework to conclude mutual recognition agreements (MRAs) for conformity assessment of telecommunication equipment, which is expected to facilitate and expand trade flows of such equipment in the APEC region, currently estimated at US\$45 billion annually.<sup>19</sup>

## Africa

During the past two decades, countries in Africa have attached increasing importance to regional cooperation and integration initiatives to develop a viable internal market and industrial base, thereby fostering investment in the region and lifting the isolation of land-locked economies. Such initiatives have either been entirely new or have revitalized long-standing regional integration efforts. A new impetus to the development of regional integration bodies has also resulted from the trade arrangements proposed by the EU for a successor to the Lomé Convention, which envisages Regional Economic Partnership Agreements with groupings of ACP countries. One practical difficulty for such groupings is the continuing dependence of most governments in Africa on tariffs and other taxes levied at the border for revenues to fund expenditures. Another difficulty is the importance of informal trading activities. In spite of these and other difficulties, regional trade arrangements are advancing in Africa.

Progress of the **Southern African Customs Union (SACU)**, the oldest regional organization in Africa, was featured at the Trade Policy Reviews of SACU members, as a group, and South Africa (Botswana, Lesotho, Namibia, South Africa and Swaziland). Under the SACU Treaty, members apply to imports into the Union the same duties and taxes set by South Africa, which pools and distributes the revenues therefrom. The reviews focused mainly on South Africa's trade policy, noting that the basically outward orientation of the regime was undermined by the complexity of the customs tariff. South Africa's regional trade partners are concerned by the Trade, Development and Cooperation Agreement with the EU,

<sup>15</sup> "Statement on Bold Measures", 6th ASEAN Summit, Hanoi, 16 December 1998 [Online]. Available at: [http://www.aseansec.org/economic/invest/sum\\_bold.htm](http://www.aseansec.org/economic/invest/sum_bold.htm) [28 June 1999].

<sup>16</sup> Founded in 1967 by Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand, subsequently joined by Cambodia, Laos, Myanmar and Viet Nam. As described in the 1994 Trade Policy Review of the Philippines, the CEPT tariff reduction programme consists of a Normal Track and a Fast Track. In the initial plan, tariffs on all products in the Normal Track were to be lowered to a maximum of 20 per cent by 2001, and to the 0-5 per cent range by 2008. Tariffs under the Fast Track (concerning 15 product groups accounting for about half of total intra-ASEAN trade) had to be reduced to a maximum of 20 per cent by 1998 and to the 0-5 per cent range in 2003. Members submitted a list of products temporarily excluded from the application of the CEPT (Temporary Exclusion List). The lists, which contained mostly chemical, plastic and motor vehicle products, had to be reviewed after eight years. Products that would definitely not be part of the CEPT scheme were integrated in a General Exclusion List. In addition, a Sensitive Product List was created for a few items that were to be considered for tariff reduction only after 2003.

<sup>17</sup> "APEC Economic Leaders Declaration of Common Resolve", Bogor, Indonesia, 15 November 1994 [Online]. Available at: <http://www1.apecsec.org.sg/virtualib/econlead/bogor.html> [28 June 1999]. APEC held its 11th Ministerial Meeting in Auckland in June 1999.

<sup>18</sup> Sectors for early and voluntary liberalization (EVSLs) were defined at the APEC Meeting in Vancouver (1997), and included environmental goods and services, fish and fish products, toys, forest products, gems and jewellery, oilseeds and oil-seed products, chemicals, telecommunications MRAs, energy, food products, natural and synthetic rubber, fertilizers, automotive, medical equipment and instruments and civil aircraft.

<sup>19</sup> The MRA provides a mechanism whereby an exporter may designate conformity assessment bodies to test and/or certify telecoms equipment to the requirements of the importing economy. APEC estimates show that this agreement will lead to an estimated 5 per cent reduction in the cost of developing new products and cut six months off time to market, while reducing marketing costs for new products by up to 30 per cent, resulting in savings of well over US\$100 million per year ("Report on TILF activities in other APEC fora" [Online]. Available at: <http://www1.apecsec.org.sg/cti/cti98/rptzmins98a2.html>).

which is subject to common accord. Approval will require a diversification of the sources of revenue to cushion the impact on government budgets. SACU is part of the wider grouping of the Southern African Development Community (SACU members plus Angola, Congo, Malawi, Mauritius, Mozambique, Seychelles, Tanzania, Zambia and Zimbabwe), which intends to implement a free-trade area by 2000. The Common Market for Eastern and South Africa (COMESA), which stretches from Egypt to Swaziland, hopes to establish a free-trade area by October 2000.<sup>20</sup>

Substantial progress towards regional integration has also been made within the West African Economic and Monetary Union (WAEMU), featured at the Trade Policy Reviews of **Burkina Faso, Mali and Togo** (other WAEMU members are Benin, Côte d'Ivoire, Guinea-Bissau, Niger and Senegal). Building on long-standing ties between members of the CFA monetary zone, WAEMU established a monetary union in 1994, and intends to achieve a variety of other goals, including the convergence of fiscal policies, and a common market. The common external tariff (CET) is expected to be in place by January 2000, and its implementation is contributing to a certain rationalization of the trade policies of WAEMU members. WAEMU members are also elaborating a common investment code.

The countries that are members of WAEMU are also members of ECOWAS, established in 1975 as the general regional organization for the 17-country subregion of West Africa. One member of ECOWAS, **Nigeria**, was reviewed in 1998 and another member, **Guinea**, was reviewed in 1999. Although the two regional agreements overlap, ECOWAS members agree that, in the long run, it will be the only regional agreement in West Africa, fast liberalization under WAEMU contributing to such an integration. With respect to developments in ECOWAS, the reviews of Nigeria and Guinea indicated the delays in the implementation of the agreed tariff reduction commitments on intra-member trade, and in the establishment of a common external tariff, originally planned for 2000. Nigeria's review also highlighted the connection between private sector development and governance, in terms of transparency, accountable government and respect for the rule of law. The issue of governance also featured in the review of Guinea.

The Trade Policy Review of **Egypt** in mid-1999 emphasized the substantial progress on macroeconomic stabilization and structural reform since the first review in 1992, improving growth performance and reducing inflation and unemployment. Egypt bound almost all its tariff lines in the Uruguay Round, and subsequent reductions in applied rates have brought the average duty from 42 per cent in 1991 to 27 per cent in 1998. Egypt has removed export bans and reduced domestic restrictions on pricing and distribution to remove the anti-export bias in the economy. More liberal investment policies and a programme to reform and privatize public sector companies have widened the choice of sectors for domestic and foreign private investors in Egypt. However, a growing trade deficit (the current account deficit is estimated to be around 15 per cent of GDP in 1997/98), suggests the need to continue trade and structural reform especially in key export sectors such as textiles and clothing.

## WTO plan of action for least-developed countries and the integrated framework

There is a growing consensus among the least-developed countries that, irrespective of the underlying causes of each one's difficulties in achieving growth on the basis of outward-oriented policies, two basic dimensions must be addressed by LDCs and their trading partners. One is removing the barriers to market access for LDC products, an essential condition for the trade growth in LDCs and their consequent development. Tariff and non-tariff barriers vary considerably between destination markets; WTO Members therefore have an important role to play in this regard and agreed on a Plan of Action at the Singapore Ministerial Conference in 1996. However, the capacity of LDCs to effectively use the market access opportunities available to them is also strongly affected by, and linked to, domestic supply-side and policy constraints. LDCs therefore recognize the significance of their own efforts to establish a supportive domestic environment. The role of the WTO Secretariat and other concerned institutions is to support policy-makers in LDCs, bring them into closer touch with the opportunities available for an outward-oriented growth strategy in the world economy, and enhance their participation in the multilateral trading system. Following the High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development held at the WTO in October 1997, this role was given substance in the Integrated Framework linking the WTO with UNCTAD, ITC, IMF, the World Bank and UNDP.

The Plan of Action invited WTO Members to act, both on their own and collectively, to enhance market access for products of export interest to LDCs.<sup>21</sup> Such actions could, for example, take the form of use, on an autonomous basis, of special provisions in the WTO Agreements for benefits to LDC suppliers<sup>22</sup>; the early implementation of trade liberalization commitments on products of export interest to LDCs; or measures of preferential access

<sup>20</sup>The current members of COMESA are Angola, Burundi, Comoros Islands, Dem. Rep. of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, Somalia, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe. Tanzania has recently announced its intention to withdraw from COMESA.

<sup>21</sup>Information available on market access barriers on products of export interest to LDCs in main markets is contained in WTO document WT/LDC/HL/14/Add.1 and WT/COMTD/LDC/W/11/Rev.1.

<sup>22</sup>For example, on accelerated growth rates for quotas on textile and clothing products for certain "small suppliers" for exports to WTO Members maintaining restrictions under the Agreement on Textiles and Clothing.

under GSP or GSTP programmes (preferences given by developed countries to developing countries are exempted from the most-favoured-nation obligation through the “Enabling Clause”). To date, WTO Members have notified new measures of preferential access – Canada, Egypt, the European Communities, Mauritius, Switzerland, Turkey and the United States – or liberal access conditions under existing programmes – Australia, Bulgaria, Canada, Hungary, Japan and Norway. Preferences given by developing countries to LDCs are exempted from the most-favoured-nation obligation until 2009, under a waiver by the WTO General Council (WTO document WT/L/304). The objective of binding zero-tariff access on products of export interest to least-developed countries (the “Ruggiero” proposal), is currently under consideration by WTO Members.<sup>2,3</sup>

To launch its participation in the Integrated Framework, the LDC first identifies, on the basis of a questionnaire, the elements of its trade policy, including difficulties of compliance with WTO agreements (Section A), major supply-side constraints on export-led growth (Section B), and related technical assistance needs (Section C). Technical assistance is provided to build or enhance human resources and institutional capacities, provide trade information and trade-related legal support, and improve supply capacities. As of mid-1999, such needs assessments and responses had been completed for 40 LDCs, including all 29 LDC Members of the WTO, applicants requesting membership, and LDCs considering making such a request.<sup>2,4</sup> The next step is for each country to prepare a trade-related meeting to which it invites the development partners of its choice (including but not limited to the six agencies of the Integrated Framework) to endorse a multi-year programme of trade-related assistance.

A tighter connection could be established between the Integrated Framework and the trade policy review exercise, which also involves an identification and economic evaluation of the trade and trade-related policies of the country under review, enhancing the value of the technical assistance available through the Integrated Framework. Out of the 29 LDCs that are currently WTO Members, trade policy reviews have so far covered ten LDCs (Bangladesh, Benin, Burkina Faso, Guinea, Lesotho, Mali, Uganda, Solomon Islands, Togo and Zambia), and Tanzania is up for review in 2000. The trade policy reviews conducted in the past year – **Burkina Faso, Guinea, Mali, the Solomon Islands and Togo** – reveal the heavy reliance of LDCs on revenue collected at the border to finance government programmes. A high and variable structure of tariffs and other trade taxes collected at the border creates an anti-export bias by protecting domestic industry behind tariff walls, draining the export-oriented sector of resources, and raising the cost of production based on imported inputs. This heavy reliance on revenue collected at the border, linked to delays or difficulties in establishing a broad domestic tax base, raises difficult policy issues in many countries; it may be invoked by LDCs as an obstacle to trade liberalization, even if the benefits of removing trade distortions are appreciated.<sup>2,5</sup> LDCs could still secure gains by establishing a more uniform tariff structure – bound in the WTO to reduce uncertainty – and eliminating specific tariffs to rely only on ad valorem rates. Tariff uniformity would also be desirable on the grounds of transparency as well as administrative simplicity (except perhaps in instances where serious valuation difficulties arise).

LDCs also stand to gain from implementing their customs policy in a transparent and predictable manner, administered efficiently by trained customs personnel. Currently, most LDCs use the Brussels Definition of Value rather than the WTO Customs Valuation Agreement, whose implementation is, in principle, mandatory for WTO Members by 2000.<sup>2,6</sup> Under the Agreement, the transaction value is the principal method of customs valuation in accordance with commercial practice, with a hierarchy of five alternative methods of valuation, to avoid fictitious and arbitrary methods of valuation. Furthermore, the Agreement requires each WTO Member to provide a right of appeal to a judicial instance for the operators affected by the decisions of the customs personnel, thereby safeguarding the integrity of the process. Although implementation may have a potentially adverse effect on revenues (due to the lower valuation that results from a tighter definition of permitted deductions under the Agreement), such effects must be balanced against the enhanced transparency, predictability and ease of administration of customs valuation.<sup>2,7</sup> Most LDCs have identified in their needs assessments implementation of the Agreement and the training of customs personnel to apply the new system, to which an integrated response has been made. Most missions undertaken by the WTO to LDCs have addressed the issue of customs valuation under the WTO Agreement, and the World Customs Organization is both providing technical assistance on training personnel and examining selected problems of specific concern to developing countries.

The responses to the questionnaire on supply-side constraints (Section B) identify numerous obstacles to trade expansion. Some are inherent: 16 LDCs are landlocked and transport-related costs of trade are significant.<sup>2,8</sup> Others are subject to change, including high costs of inputs (finance, imported products, energy, transportation charges), a poor quality of infrastructure, and gaps in trade information. Judging from the trade policy reviews of LDCs

<sup>2</sup> WTO document WT/MIN(98)/2.

<sup>3</sup> Contained in the WTO document series WT/COMTD/IF/1–40.

<sup>4</sup> IMF Seminar Discusses Revenue Implications of Trade Liberalization”, IMF News Brief No. 99/8 of 25 February 1999.

<sup>5</sup> The delay in the application of the Agreement applies to developing country Members not party to the predecessor 1979 GATT Agreement, who may in addition, delay the application of certain provisions for a further period of three years. Technical assistance is provided upon request, including training of customs personnel, assistance in preparing implementing measures, access to customs valuation methodology and advice on the application of the provisions of the Agreement.

<sup>6</sup> See Valuation Directorate of the Customs Co-operation Council (now World Customs Organization), “Customs Valuation: Economic Consequences”, June 1995; “The Brussels Definition of Value and the GATT Valuation Agreement: A Comparison”, February 1995.

<sup>7</sup> The African Group places these supplementary costs of trade at 20 per cent (WTO document WT/LDC/HL/21).

conducted in the past year, significant obstacles to an outward-oriented growth path include, in addition to high and variable tariff and taxes assessed at the border, impediments to investment such as the lack of infrastructure and relatively high costs for key basic services, notably energy, finance, transportation and telecommunications. Private sector participation could improve efficiency and reduce the prices of these services, which are essential inputs for other sectors of the economy. Poor infrastructure and relatively expensive basic services tend to impair export competitiveness and deter foreign investment, thereby hampering development and growth. While some of the LDCs reviewed (like developed countries) do offer tax and non-tax incentives in an effort to attract foreign investment, as discussed earlier, there are strong grounds for doubting the effectiveness of such measures, based on evidence from other economies.

Many LDCs also identify very limited access to information on export development opportunities as an obstacle. Such information is costly for small and medium-sized enterprises to acquire individually, and its collection and dissemination by a government agency therefore provides positive externalities. This need can be met by establishing a "trade point" for companies to access such information and provide supporting services for enterprises to take advantage of opportunities. The ITC and UNCTAD have available a trade database on CD-ROM (TRAINS), the UNDP has experience in export development programmes in LDCs, and the World Bank can provide assistance to identify bottlenecks to trade financing. Building on such information, specific projects may be developed by the private sector on the basis of market evaluation studies.

In addition, unlike other WTO Members, including most developing countries, few LDCs have the human and financial resources to participate adequately in WTO activities. Access to information is therefore a vital element in reducing the distance between Geneva, where the WTO's activities mainly take place, and the capitals of LDCs. Advances in communications technology have permitted the WTO to provide better communication and information links with LDCs. In response to requests received through the Integrated Framework, the WTO Secretariat has begun a programme to install computers and Internet links in the trade or commerce ministries of all LDCs. By mid-June 1999, 38 least-developed countries had received Reference Centres (all 29 LDC Members plus nine Observers). The Secretariat has also brought trade policy officials to Geneva to participate in training sessions on trade negotiations. These new information linkages between the WTO and LDCs, as well as training, are especially important in the context of the WTO work programme to be discussed at the forthcoming Seattle Ministerial.

## Part I

The World Trade Organization (WTO) is the legal and institutional foundation of the multilateral trading system. It provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations. It also serves as the platform on which trade relations among countries evolve through collective debate, negotiation and adjudication.

The WTO was established on 1 January 1995. Governments concluded the Uruguay Round negotiations on 15 December 1993 and Ministers gave their political backing to the results by signing the Final Act in Marrakesh, Morocco, on 14 April 1994. The "Marrakesh Declaration" affirmed that the results of the Uruguay Round would "strengthen the world economy and lead to more trade, investment, employment and income growth throughout the world". The WTO is the embodiment of the Uruguay Round results and the successor to the General Agreement on Tariffs and Trade (GATT). It held its first Ministerial Conference in Singapore from 9 to 13 December 1996. The second was in Geneva on 18 and 20 May 1998. The third is scheduled to be held in Seattle, US, from 30 November to 3 December 1999.

At the end of July 1999, 134 countries and territories were members of the WTO. Another 30 governments were engaged in negotiating their terms of entry with other WTO members.

The essential functions of the WTO are:

- administering and implementing the multilateral and plurilateral trade agreements which together make up the WTO;
- acting as a forum for multilateral trade negotiations;
- seeking to resolve trade disputes;
- reviewing national trade policies;
- cooperating with other international institutions involved in global economic policy making.

The WTO Agreement contains 29 individual legal texts which lay out the procedures and rules for trade in services and goods and for enforcing intellectual property rights. The WTO also comprises the GATT 1994 agreements on trade in goods. The structure of the WTO is dominated by its highest authority, the Ministerial Conference, composed of representatives of all the WTO members. It is required to meet at least every two years and can take decisions on all matters under any of the multilateral trade agreements.

The day-to-day work of the WTO, however, falls to a number of subsidiary bodies, principally the General Council. The latter is composed of all WTO members and reports to the Ministerial Conference. The General Council also convenes in two other forms – as the Dispute Settlement Body, to oversee the dispute settlement procedures, and as the Trade Policy Review Body, which conducts regular reviews of WTO members' trade policies and practices. Other main bodies which report to the General Council are the Council for Trade in Goods, the Council for Trade in Services and the Council for Trade-Related Aspects of Intellectual Property Rights. Under these Councils are various committees, each responsible for administering specific agreements and preparing and adopting decisions for approval by the respective Council. This chapter provides an outline of the main activities of the WTO from 1 August 1998 to 31 July 1999.

## I. WTO accession negotiations

An important task facing the WTO is that of making the new multilateral trading system truly global in scope and application. The 134 Members of the WTO (as of 31 July 1999) account for more than 90 per cent of world trade. Many of the nations that remain outside the world trade system have requested accession to the WTO and are at various stages of a process that has become more complex because of the WTO's increased coverage relative to GATT. With many of the candidates currently undergoing a process of transition from centrally planned to market economies, accession to the WTO offers these countries – in addition to the usual trade benefits – a way of underpinning their domestic reform processes.

During the period covered (1 August 1998 to 31 July 1999) the WTO received two new Members: Kyrgyz Republic and Latvia. The General Council also agreed to the accession of Estonia. Estonia is expected to become the 135th member of the WTO upon completion of the internal ratification procedures.

WTO membership is open to any State or customs territory having full autonomy in the conduct of its trade policies. Accession negotiations concern all aspects of the applicant's trade policies and practices, such as market access concessions and commitments on goods and services, legislation to enforce intellectual property rights, and all other measures which form a government's commercial policies. Applications for WTO membership are the subject of individual working parties. Terms and conditions related to market access (such as tariff levels and commercial presence for foreign service suppliers) are the subject of bilateral negotiations. The following is a list of the 30 governments for which a WTO working party was established by 31 July 1999:

Albania, Algeria, Andorra, Armenia, Azerbaijan, Belarus, Cambodia, China, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Jordan, Kazakhstan, Laos, Lebanon, Lithuania, Moldova, Nepal, Oman, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Chinese Taipei, Tonga, Ukraine, Uzbekistan, Vanuatu and Vietnam.

With the prospects of new multilateral trade negotiations being launched within WTO at the forthcoming Ministerial Conference in Seattle there is a particular push by a significant number of acceding governments to join the WTO as soon as possible. This desire has received wide support from WTO members who are committed to accelerating the accession process to the maximum extent possible on the basis of meaningful market access commitments and the acceptance of the rules and disciplines of the WTO system.

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## II. Work of the General Council

### Main areas of the General Council's work

The General Council is the WTO body entrusted with carrying out the functions of the WTO, and taking action necessary to this effect, in the intervals between meetings of the Ministerial Conference, in addition to carrying out the specific tasks assigned to it by the WTO Agreement. As part of its task of overseeing the operation and implementation of the multilateral trading system embodied in the WTO Agreement, the General Council addressed the following matters during the period under review.

### Preparations for the 1999 Ministerial Conference

One of the General Council's main priorities during the period under review was the preparations for the 1999 Ministerial Conference. To this end, it held four formal meetings and numerous informal meetings, during which all matters related to the forthcoming Ministerial Conference were discussed. In September 1998 the General Council conducted a Special Session in pursuance of the 1998 Ministerial Declaration's requirement that a process be established under the direction of the General Council to ensure full and faithful implementation of the existing agreements, and to prepare for the 1999 Session of the Ministerial Conference. In this connection, it agreed on a schedule of both formal and informal meetings of the General Council to consider these issues.

### Arrangements for effective cooperation with other international intergovernmental organizations

In pursuance of the Decision of the General Council approving the agreements between the WTO and the IMF and the World Bank, the Director-General held consultations with Members, under the auspices of the General Council, on matters relating to the implementation of the above-mentioned agreements. In October 1998 the Director-General made a report on this matter to the General Council, and in December 1998 the General Council heard reports on coherence from the heads of the three organizations. In February 1999 the General Council authorized its Chairman to convene special informal meetings from time to time, at the request of delegations or the Director-General, to discuss coherence issues, and one such meeting was held in March 1999, which focused on autonomous liberalization.

## Transparency in WTO work

During the period under review the General Council considered several matters related to the question of improving transparency in WTO work. Among these were a review of the procedures for the circulation and derestriction of WTO documents.

## Observer status for international intergovernmental organizations

While a number of international intergovernmental organizations have been granted observer status in the General Council there are still pending requests which have to be considered for action by the General Council. At the 15 July 1999 meeting, the General Council considered a proposal on this matter which is meant to facilitate decisions by the General Council on granting observer status to IGOs. This matter requires further informal consultations by the Chairman of the General Council.

## Work programme on electronic commerce

As part of its follow-up to the 1998 Ministerial Declaration, the General Council established in September 1998 a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, and discussed the issue of electronic commerce at each of its regular meetings during the period under review.

## Waivers under Article IX of the WTO Agreement

During the period under review, the General Council granted a number of waivers from obligations under the WTO Agreement (see Table IV.1).

In October 1997 the General Council conducted the review of waivers required under Article IX:4 of the WTO Agreement which provides that: "Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates." The Article further provides that: "In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver." The General Council reviewed the following waivers: Canada – CARIBCAN (WT/L/185); Cuba – Article XV:6 (WT/L/182); EC – The Fourth ACP-EC Convention of Lomé (WT/L/186); Hungary – agricultural export subsidies (WT/L/238); United States – Andean Trade Preference Act (WT/L/184); United States – Caribbean Basin Economic Recovery Act (WT/L/104); and United States – Former Trust Territory of the Pacific Islands (WT/L/183). In so doing, the General Council considered reports on the implementations of the waivers submitted by the following governments; Canada (WT/L/285), Cuba (WT/L/284), the European Communities (WT/L/286), Hungary (WT/L/290) and the United States (WT/L/287-289).

## Appointment of the next Director-General

Throughout the period under review, the General Council conducted intensive and lengthy discussions on this matter in both formal and informal meetings, and in July 1999 agreed on a term-sharing arrangement between two candidates. According to the decision adopted, the Right Honourable Mike Moore of New Zealand will assume the post of Director-General for the period 1 September 1999 through 31 August 2002, and Dr. Supachai Panitchpakdi of Thailand will assume the post for the period 1 September 2001 through 31 August 2005.

## Conditions of service of WTO staff

The General Council continued to attach importance to this matter, and in October 1998 adopted a decision that established an independent WTO Secretariat, with a compensation and personnel plan that was independent of the UN Common System of salaries, allowances and benefits. This brought to a successful conclusion discussions that had been going on for some time on this matter.

## Working Group on the Relationship between Trade and Investment

At the Singapore Ministerial Conference held in December 1996, a Working Group was established to examine the relationship between trade and investment, on the understanding that the work undertaken shall not prejudice whether negotiations on

Table IV.1

**Waivers under Article IX of the WTO Agreement**

During the period under review, the General Council granted the following waivers from obligations under the WTO Agreements which are still in effect.

Member	Type	Decision of	Expiry	Document
Argentina, Australia, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Canada, Costa Rica, Czech Rep., Egypt, El Salvador, Guatemala, Honduras, Iceland, India, Indonesia, Israel, Korea, Malaysia, Malta, Mexico, Morocco, New Zealand, Norway, Pakistan, Panama, Paraguay, Philippines, Slovak Rep., Slovenia, South Africa, Switzerland, Thailand, Tunisia, United States, Uruguay, Venezuela	Introduction of Harmonized System Changes into WTO Schedules of Tariff Concessions on 1 January 1996 - Extension of Time-Limit	14.10.1998	30.04.1999	WT/L/281
Argentina, Australia, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Costa Rica, Egypt, El Salvador, Honduras, Iceland, India, Israel, Malaysia, Maldives, Malta, Mexico, Morocco, New Zealand, Norway, Pakistan, Panama, Paraguay, Slovenia, South Africa, Switzerland, Thailand, Tunisia, United States, Uruguay, Venezuela	Introduction of Harmonized System Changes into WTO Schedules of Tariff Concessions on 1 January 1996 - Extension of Time-Limit	15.06.1999	31.10.1999	WT/L/303
Bangladesh	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	14.10.1998	30.04.1999	WT/L/277
	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	15.06.1999	31.10.1999	WT/L/299
EC/France	Trading Arrangements with Morocco – Extension of Waiver	9-11 & 18.10.1998	31.12.1999 <sup>1</sup>	WT/L/294
Nicaragua	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	14.10.1998	30.04.1999	WT/L/278
	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	15.06.1999	31.10.1999	WT/L/300
Peru	Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	15.07.1999	01.04.2000	WT/L/307
Sri Lanka	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	14.10.1998	30.04.1999	WT/L/279
	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	15.06.1999	31.10.1999	WT/L/301
Zambia	Renegotiation of Schedule – Extension of Time-Limit	14.10.1998	30.04.1999	WT/L/280
	Renegotiation of Schedule – Extension of Time-Limit	15.06.1999	31.10.1999	WT/L/302

1. Or until the entry into force of the Euro-Mediterranean Agreement, whichever is the earliest.

multilateral disciplines in this area will be initiated in the future. The Working Group has held meetings on 2-3 June, 6-7 October and 8 December 1997, 30-31 March, 16-17 June, 1-2 October and 25-26 November 1998, 22-23 March and 3 June 1999.

The substantive subjects studied by the Working Group are listed in a Checklist of Issues Suggested for Study which was developed at the first meeting of the Working Group in June 1997 on the basis of specific proposals made by members. This Checklist comprises four categories of issues: (1) the implications of the relationship between trade and investment for development and economic growth; (2) the economic relationship between trade and investment; (3) stocktaking and analysis of existing international instruments and activities regarding trade and investment; and (4) certain questions of a more prospective nature relevant to assessing the desirability of possible future initiatives in this area.

In regard to the first subject covered by the Checklist, the implications of the relationship between trade and investment for development and economic growth, the Working Group has received contributions from Members on their individual experiences with the role of foreign investment in their economies and contributions from several international organizations (IMF, OECD, UNCTAD, UNIDO, World Bank) summarizing the results of analytical work done in these organizations. The information presented and the debate in the Working Group have highlighted various aspects of the role of foreign investment in economic development, including with respect to capital formation, development of technology, human skills and export performance. Some Members, while agreeing that on the whole the contribution of foreign investment is beneficial, have pointed to the need to take into account problems that can sometimes be associated with foreign investment.

In regard to the second item of the Checklist, the Working Group has considered a Secretariat note on the relationship between trade and foreign direct investment (FDI), which provides a survey of the relevant literature. A major theme in this study and in the ensuing discussions in the Working Group is the complementarity between foreign direct investment and trade, in both host and home countries. A second theme which has figured prominently in the Group's work under this item of the Checklist is investment incentives and performance requirements. In addition, at the meeting in October 1998, the Working Group started its consideration of the relationship between investment and competition policy.

The work on the third item of the Checklist, which provides for stocktaking and analysis of existing agreement and initiatives on trade and investment, has involved an examination of investment-related provisions of WTO agreements, notably the GATS, the Agreement on Subsidies and Countervailing Measures and the Agreement on Trade-Related Investment Measures, and of bilateral, regional, plurilateral and multilateral investment agreements concluded outside the framework of the WTO. For its consideration of these issues, the Working Group has received various Secretariat notes and contributions from Members on their experiences with investment agreements, especially bilateral investment treaties. The Working Group has also received information on ongoing work in the OECD, UNCTAD and in the context of the Free-Trade Area of the Americas initiative.

With respect to the last item of the Checklist, contributions have been made by some Members regarding differences and commonalities between existing investment agreements, the advantages of bilateral, regional and multilateral approaches to investment-rule making, and the rationale and possible elements of a multilateral framework on investment. In particular in 1998-99, the question of whether or not there is a need for multilateral rules on investment in the WTO has attracted considerable attention at meetings of the Working Group. Under this fourth item of the Checklist the Working Group has also discussed a number of more specific issues, including various possible approaches to the admission of foreign investment, the definition of the term "investment" in international investment agreements, and the development dimension of international investment agreements.

The Singapore Ministerial Declaration provides that the General Council will keep the work of the Working Group under review and decide after two years how the work of the Group should proceed. In this regard, the Working Group in December 1998 submitted a comprehensive report to the General Council on the Group's activities in 1997-98 (WT/WGTI/2). As recommended in this report, the General Council decided that: "[t]he Working Group shall continue the educational work that it has been undertaking on the basis of the mandate contained in paragraph 20 of the Singapore Ministerial Declaration. The work of the Working Group, which shall be reviewed by the General Council, shall continue to be based on issues raised by Members with respect to the subjects identified in the Checklist of Issues Suggested for Study. It is understood that this decision is without prejudice to any future decision that might be taken by the General Council, including in the context of its existing work programme."

## Working Group on Transparency in Government Procurement

The Working Group on Transparency in Government Procurement established by the Ministerial Conference in December 1996 is mandated "to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement". Over the covered period, the Working Group held three meetings on 8-9 October 1998, 24-25 February 1999 and 28 June 1999. Reports on these meetings have been circulated in documents WT/WGTGP/M/6-8.

At its meeting of 8-9 October 1998, the Working Group continued its detailed discussion of transparency-related provisions in existing international instruments on government procurement and national procedures and practices on the basis of the informal note by the Chair, listing the issues that had been raised, together with the points

made on these issues, under each of the items that were discussed by the Group at its meetings held since in November 1997. The Group also had before it an informal note by the Secretariat, prepared in response to a request of the Group, reflecting the written and oral proposals made under the Sections III to VII of the note by the Chair.

At its meeting of 24-25 February and 28 June 1998, the Working Group reverted to the discussion of the issues contained in the "List of Issues Raised and Points Made", taking up, in turn, each of the sections in this note. As an auxiliary informal paper for the use of Members wanting to draw on it, delegations also had available to them further revisions of the informal note by the Secretariat, "List of Proposals on Items III-VII of the Checklist" reflecting the proposals made items III-VII in a succinct form, which identified the source of the different proposals and summarized the written and oral comments on these proposals.

Over the period covered, Turkey has made a submission containing factual information on its national procedures and practices (WT/WGTGP/W/21) and Australia, Canada, the European Community, Norway, Poland, the United States, Venezuela and the APEC Government Procurement Expert Group through its Chair, have also made written contributions relating to elements of transparency in government procurement. Moreover, Hungary, Korea and the United States, jointly, and the European Community submitted, in July 1999, draft texts for an agreement on transparency in government procurement.

The IMF, the World Bank, the United Nations represented by UNCITRAL and UNCTAD have observer status in the Working Group.

## Working Group on the Interaction between Trade and Competition Policy

The mandate of this Working Group, which was established pursuant to the Singapore Ministerial Declaration of December 1996, is to "study issues raised by Members regarding the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework". The Group is chaired by Professor Frédéric Jenny of France.

From its inception through to the end of 1998, the Group's meetings were organized around the elements of a "Checklist of Issues Suggested for Study" which was developed at its first meeting, in July 1997. The Checklist, which is reprinted in the WTO Annual Report 1997 (Box V.2, p.117), provided for the study, inter alia, of the following elements: (I) the relationship between the objectives, principles, concepts, scope and instruments of trade and competition policy, and their relationship to development and economic growth; (II) stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policy, including of experience with their application; and (III) the interaction between trade and competition policy. The latter item included consideration of the following sub-elements: (1) the impact of anti-competitive practices of enterprises and associations on international trade; (2) the impact of state monopolies, exclusive rights and regulatory policies on competition and international trade; (3) the relationship between the trade-related aspects of intellectual property rights and competition policy; (4) the relationship between investment and competition policy; and (5) the impact of trade policy on competition. In December 1998, the Group completed a substantive report on its work to date on these items. This document, entitled Report (1998) of the Working Group on the Interaction between Trade and Competition Policy (document WT/WGTCP/2), is available on the WTO website ([www.wto.org](http://www.wto.org)).

The Singapore Ministerial Declaration provided for the General Council to keep the work of the Working Group under review, and to determine after two years how its work should proceed. In this regard, and based on a recommendation contained in the above-noted Report, in December 1998, the General Council decided that the Working Group should continue the educative work that it had been undertaking pursuant to paragraph 20 of the Singapore Ministerial Declaration. It indicated, further, that:

"while continuing at each meeting to base its work on the study of issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, [the Group] would benefit from a focused discussion on:

- (i) the relevance of fundamental WTO principles of national treatment, transparency, and most-favoured-nation treatment to competition policy and vice versa;
- (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade. The Working Group will continue to ensure that the development dimension and the relationship with investment are fully taken into account. It is understood that this decision is without prejudice to any future decision that might be taken by the General Council, including in the context of its existing work programme."

Since December 1998, the Group has held two meetings (on 19-20 April and 10-11 June 1999) on the matters referred to in the General Council's decision. A third meeting will be held in September 1999, for the purpose of approving a report on these matters.

Throughout the course of its work, the Working Group on the Interaction between Trade and Competition Policy has benefited from a high level of participation from Members. As of 30 June 1999, there had been a total of 127 formal contributions by Members to the Group, including 58 from developing countries. Most of these contributions are available on the WTO website.

To facilitate the work of the WTO on competition policy matters, the WTO Secretariat, in cooperation with UNCTAD and the World Bank, has organized several symposia on relevant issues. These symposia have brought together experts from national competition authorities, non-governmental organizations, the academic world and the private sector to share insights on the questions being addressed in the Working Group. During the past year, two such symposia were held. The first, on 25 July 1998, examined the subject of Competition Policy and the Multilateral Trading System: Issues for Consideration in the International Community. The second, on 17 April 1999, centred around the topic of Competition Policy and the Multilateral Trading System: The Relevance of Fundamental WTO Principles, International Cooperation and the Contribution of Competition Policy to WTO Objectives.

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### III. Trade in goods

#### Council for Trade in Goods

During the period under review, the Council for Trade in Goods convened five formal meetings. Regarding waiver requests, the Council examined and approved requests for waivers and waiver extensions made by Members in connection with the transposition of their Schedules into the Harmonized System, with the renegotiation of their Schedules and with the introduction of the Harmonized System 1996 changes into their Schedules. A waiver for preferential tariff treatment in favour of least-developed countries, a waiver requested by the European Communities concerning France's trading arrangements with Morocco and a waiver sought by Peru to extend the delay in applying the Customs Valuation Agreement were also approved by the Council and forwarded for adoption to the General Council. It also took note of the situation with respect to the compliance of notification obligations under the provisions of the Agreements in Annex 1A of the WTO Agreement as well as of the periodic reports of its subsidiary bodies. The Council adopted terms of reference under which a number of regional agreements are to be examined by the Committee on Regional Trade Agreements.

In informal meetings, the Council conducted extensive work on the subject of trade facilitation. The Singapore Ministerial Declaration had directed the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area." Following initial exploratory and analytical work in 1997, and a two-day trade facilitation symposium, the Council held four informal meetings in the period under review to continue the work on trade facilitation. At the first meeting discussions covered import and export procedures and requirements, including customs and border-crossing problems. At the second meeting, Members addressed questions in the area of physical movement of consignments (transport and transit); as well as payment, insurance and other financial requirements which affect the cross-border movement of goods. At the third meeting, a discussion on the role of automation and its importance for facilitating international trade was held; technical cooperation and development issues relating to simplification of trade procedures were also addressed, and the relevance of WTO Agreements relating to, or including provisions on, trade facilitation was discussed using inputs from other WTO bodies. At the fourth meeting, Members conducted an evaluation of the exploratory and analytical work that had taken place and it was agreed to submit a report<sup>1</sup> on the status of work to the General Council. In the process, a total of 19 contributions from Members and Observers, as well as 14 Secretariat notes were circulated. Regarding external inputs, a presentation was made by the WCO Secretariat on the content and review process of the Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) and an information session was organized at which three experts, from the Inter-American Development Bank, UNCTAD, and the WTO, gave presentations on technical cooperation and development issues relating to simplification of trade procedures, as well as on electronic facilities and their importance for facilitating international trade.

<sup>1</sup>At a later meeting Members did not achieve consensus on such a report.

Under the work programme on electronic commerce, the Council for Trade in Goods examined and reported on aspects of electronic commerce relevant to the provisions of GATT 1994, the multilateral trade agreements covered under Annex 1A of the WTO Agreement, and the approved work programme. Three informal meetings were held at which Members discussed the items listed for examination in the work programme, i.e. market access for and access to products related to electronic commerce; valuation issues arising from the application of the Agreement on Implementation of Article VII of the GATT 1994; issues arising from the application of the Agreement on Import Licensing Procedures; customs duties and other duties and charges as defined under Article II of GATT 1994; standards in relation to electronic commerce; rules of origin issues; and classification issues. The Council Chairman provided the General Council with a factual summary of the views expressed at these meetings. One of the main conclusions Members drew from the meetings was that a meaningful examination on several of the issues listed could only be conducted once the nature of the content of electronic transmissions was determined. For the GATT to apply, the content of electronic transmissions would have to be characterized as goods. This issue is one of the "trade-related issues of cross-cutting nature", which, according to paragraph 1.2 of the work programme, the General Council shall take up for consideration.

## Trade in information technology products (ITA)

The Ministerial Declaration on Trade in Information Technology Products (ITA) which was agreed to in Singapore in 1996 has been accepted by 46 WTO Members and states or separate customs territories. According to the provisions set forth in the Declaration, implementation has proceeded as planned with the first three tariff reductions having occurred. Ultimately, the tariffs on computers, telecommunications equipment, semiconductors, semiconductor manufacturing equipment, software, and scientific instruments will be reduced to zero; the details of which are contained in each schedule of commitments.

In the period under review, the ITA Committee has focused its work on the review of product coverage, consultations on non-tariff barriers, and the accession of new participants. In July 1999, the Committee held a symposium on information technology.

## Market access

The activities of the Committee on Market Access cover market access issues related to tariffs and non-tariff measures not covered by any other WTO body, as well as matters related to the Integrated Data Base.

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### Tariffs

The implementation of Uruguay Round tariff cuts has proceeded according to schedule. To date, no complaint has been received by the Market Access Committee regarding the failure of any Member to fulfil its tariff-reduction commitments.

The Market Access Committee oversaw the introduction of the Harmonized System 1996 changes (HS96), implemented by Members on 1 January 1996, and examined the consequences of those changes to Members' schedules of tariff concessions. Some 40 Members were granted waivers in order to implement those changes, to submit the required documentation and then, as necessary, to renegotiate the affected bound items in the schedules, under the provisions of Article XXVIII of GATT 1994. These waivers were extended until 31 October 1999.

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### Pharmaceuticals

The WTO Members who are part of the Pharmaceutical Understanding agreed to meet under the auspices of the Council for Trade in Goods of the WTO, normally at least once every three years, to review the product coverage with a view to including, by consensus, additional pharmaceutical products for tariff elimination. The outcome of the first review was notified to the Market Access Committee in October 1996. A series of meetings took place over the period April 1998 to October 1998 to conduct a second review of the product coverage which resulted in (639) extra products receiving duty free treatment in addition to the products (over 6,500) already covered. Duty free treatment for these extra products was to be implemented by the beginning of July 1999, bearing in mind the need for each Member to fulfil its domestic procedural requirements.

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### Non-tariff measures

The Market Access Division continues to receive notifications from Members with regard to their use of quantitative restrictions. The Chairman of the Market Access Committee has

urged those Members who have not yet notified in accordance with the obligations under Decision on Non-Tariff Measures G/L/59 to do so.

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### **Integrated Data Base (IDB)**

As a result of the General Council Decision of 16 July 1997 (WT/L/225), the IDB, which contains import statistics and tariff information of Members having submitted such data, was moved from the mainframe environment to a PC-based system in 1997-1998. Several consultations on the dissemination of IDB information took place during 1998 and early 1999, which resulted in an agreement that allows access to the IDB to all WTO Members and also to those acceding countries or territories that had provided IDB submissions. It was also agreed that the Market Access Committee would undertake prior to 1 June 2000 a review of the operation of the IDB and of IDB-related technical assistance activities. As of 1 June 1999, Members were able to access the IDB through the Internet.

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### **Consolidated Tariff Schedules (CTS) Data Base Technical Cooperation Project**

The CTS project consists of the setting up by the Secretariat of a data base which will contain the consolidated tariff schedules of WTO Members. The Secretariat will carry out the work necessary in respect of the schedules of developing countries. Developed country Members are expected to prepare their own schedules. The CTS data base would be established as a working tool only, without implications as to the legal status of the information stored therein. Following the obtention of the necessary funds in May 1999, the Secretariat began work on this project.

## **Textiles and clothing**

The Agreement on Textiles and Clothing (ATC), which entered into force on 1 January 1995, is a ten-year transitional agreement with a four-stage programme to gradually integrate textile and clothing products fully into GATT rules and disciplines by 2005. It replaced the Multifibre Arrangement (MFA) which began in 1974 and provided the basis on which certain industrial countries, through bilateral agreements or unilateral actions, established quotas on imports of textiles and clothing from several developing countries. The MFA expired when the ATC entered into force and its quotas were carried over into the ATC.

The Agreement on Textiles and Clothing is built on the following main elements:

- (i) the product coverage, which comprises an extensive list of man-made fibres, yarns, fabrics, made-up textile products and clothing;
- (ii) the procedures for the four-stage integration of these products into GATT 1994 rules beginning with 16 per cent by volume on 1 January 1995; then a further 17 per cent in 1998; 18 per cent in 2002 and the remaining products by 2005. When products are integrated by a Member, they are removed from the Agreement with respect to that Member's imports and are freed of any quota to which they may have been subjected; any new protection for these integrated products must be based on the relevant provision of the GATT 1994;
- (iii) a quota liberalization process during the ten-year transition period which automatically increases, at each stage, the annual growth rates in the quotas inherited from the MFA;
- (iv) a transitional safeguard mechanism to deal with cases of serious damage, or actual threat of serious damage, to domestic industries which may arise during the transition period. It permits quotas to be either bilaterally agreed or unilaterally imposed under strict criteria for a limited time period, subject to subsequent examination by the Textiles Monitoring Body;
- (v) other provisions, which include clauses on circumvention of restrictions, quota administration, quantitative restrictions other than those inherited from the MFA, actions as may be necessary to abide by GATT 1994 rules and disciplines, and special treatment for certain categories of exporters; and
- (vi) the Textiles Monitoring Body (TMB), which is mandated to supervise the implementation of the ATC, to examine the conformity of all measures taken under it, and to report periodically to the WTO Council for Trade in Goods (CTG).

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### **Beginning of the second stage of the integration process**

The second stage of the integration process began on 1 January 1998 with the integration into GATT 1994 rules of products representing a further 17 per cent of the Member's imports of textiles and clothing. This brought the total level of integrated products to 33 per cent. Forty eight Members notified the products being integrated; their lists were required to encompass products from four groups: tops and yarns, fabrics, made-up textile products and clothing. Through this process, a number of quotas were removed in

Canada, EC and US. Norway had decided to use another approach, removing most of the quotas in place while not integrating the products at this stage.

In addition, at the beginning of the second stage, the annual growth sales in all of the quotas carried over from the former MFA and still in place were required to be automatically increased by a factor of 25 per cent. For example, a 6 per cent growth rate under the former MFA had become 6.96 per cent in stage 1 and moved to 8.7 per cent for the second stage. The advanced growth rate will apply annually in 1998, 1999, 2000 and 2001.

Following the extensive review of the implementation of the ATC in its first stage held in 1997/98 (see 1998 Annual Report), discussions have continued on the best way to implement the provisions of the ATC. This includes the discussions in the Textiles Monitoring Body and the Intersessional Meetings of the General Council in preparation for the Third Ministerial Meeting. In addition, reference has been made to the provisions of the ATC in relation to actions taken under other WTO instruments, including the areas of anti-dumping, rules of origin, and the DSU.

## The Textiles Monitoring Body

Within the WTO structure the TMB is entrusted with the task of supervising the implementation of the ATC, to examine all measures taken under this Agreement and their conformity with it.

The TMB consists of a Chairman and ten members who act in their personal capacity. It is a standing body and meets as necessary to carry out its functions, relying essentially on notifications and information supplied by Members under the relevant provisions of the ATC.

The composition of TMB's membership for the second stage of the integration process under the ATC (1998-2001) was decided by the General Council in December 1997. The decision included the allocation of the ten seats to WTO Members or to groupings of Members (i.e. constituencies) which, in turn, appointed an individual person to be the TMB member and to act on an ad personam basis.

The following constituencies were in place in 1998 and 1999: the ASEAN Member countries; Canada and Norway; Pakistan and Macau; the European Community; Hong Kong, China and Korea; India and Egypt/Morocco/Tunisia; Japan; Latin American and Caribbean Members; Switzerland, Turkey and Bulgaria/Czech Republic/Hungary/Poland/Romania/Slovak Republic/Slovenia; and the United States. Most of the constituencies operate on the basis of rotation. The TMB members may appoint their alternate and, for two of them, a second alternate. Alternates are selected from within the constituency of the member. The ATC also provides for two non-participating observers in the TMB.

The TMB takes all of its decisions by consensus. However, according to the ATC, consensus within the TMB does not require the assent or the concurrence of those members appointed by WTO Members who are involved in an unresolved issue under review by the TMB. The TMB also has its own detailed working procedures which include precise terms on how members discharge their functions.

The TMB made a report to the Council for Trade in Goods covering the period 13 November 1997 to 19 November 1998 and providing an overview of the issues handled by the TMB during that time.

In the period 1 August 1998 to 30 June 1999, the TMB spent 21 days in nine formal sessions carrying out its functions. The reports of these meetings are contained in documents G/TMB/R/47 to 55. The TMB examined a large number of notifications and communications received from WTO Members in respect of actions taken under the provisions of the ATC, including the integration programmes, actions taken under the transitional safeguard mechanism, and a number of issues among Members in respect of these obligations. As mandated in the ATC, it also exercised surveillance of the implementation of its recommendations.

More specifically, during the period covered by this report the TMB could, inter alia, after having received the clarifications it had decided to seek from the WTO Members concerned, finalise its examination of two lists of products notified by Members as their programmes for the first stage of the integration process. The TMB also finalized its examination of product lists notified by several WTO Members (in addition to those examined in the period covered by the previous WTO Annual Report) as their second integration stage (1998-2001). In many cases, additional information in respect of the integration programmes in both phases was sought from the Members concerned to ensure that the essential requirements contained in the ATC were being met, and that full information on these programmes was made available to WTO Members. With respect to the notifications addressed to the TMB after the relevant deadlines specified by the ATC, the TMB reiterated

that its taking note of late notifications was without prejudice to the legal status of such notifications.

The TMB took note of the communications received from two WTO Members in response to questions it had put with respect to the HS lines contained in their notifications of the first and second stages of integration, already reviewed by the TMB, with a view to checking whether all the products integrated fell within the coverage of the ATC.

The TMB also decided to take stock of the situation of WTO Members' compliance with the notification requirements relating to the WTO Members' wish to retain the possibility to use the transitional safeguard mechanism, and to the programmes for the integration into the GATT of the products covered by the ATC. The purpose of this overview was limited to the issue of compliance with the formal and technical requirements of the respective notification obligations. In the report of the respective meeting, the TMB made the main findings of this stocktaking available to WTO Members, for their information.

With reference to the transitional safeguard mechanism, the TMB examined a notification by Colombia of transitional safeguard measures it had applied on 26 October 1998, on imports of plain polyester filaments (tariff heading 54.02.43) from Korea and Thailand, for a period of one year. The TMB concluded that Colombia had not demonstrated successfully that plain polyester filaments were being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products. The TMB recommended, therefore, that the measures introduced by Colombia on imports of plain polyester filaments from Korea and Thailand should be rescinded. Subsequently, the TMB considered a communication received from Colombia pursuant to Article 8.10 of the ATC, conveying Colombia's inability to conform with the above-mentioned recommendation. Colombia considered that the measures adopted by it were compatible with the requirements of Article 6 of the ATC, and that the interpretations and conclusions of the TMB were not in keeping with the legal requirements of the ATC. Following thorough consideration of the matter the TMB concluded that it could not agree with the reasons given by Colombia. The TMB recommended, therefore, that Colombia reconsiders its position and that the measures it had introduced on the imports of plain polyester filaments from Korea and Thailand should be rescinded forthwith. In view of the fact that the TMB had received no information from Colombia as to the implementation of this recommendation, the TMB requested such information. Colombia subsequently communicated that after having analysed the recommendations of the TMB and the provisions of Article 6 of the ATC it considered that the measures in question complied with these provisions and that, therefore, the safeguards were justified. Consequently Colombia decided to maintain these safeguards. In such a situation, the ATC provides either concerned Member with the possibility of having recourse to the provisions of the Dispute Settlement Understanding.

The TMB also examined a notification by the United States of a safeguard action with respect to imports of products of US category 301 (combed cotton yarn) from Pakistan. This action took effect on 17 March 1999. The TMB concluded that the United States had not demonstrated successfully that combed cotton yarn were being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products. The TMB, recommended, therefore, that the measure introduced by the United States on imports of combed cotton yarn from Pakistan should be rescinded. Subsequently, the TMB considered a communication received from the United States pursuant to Article 8.10 of the ATC, conveying the United States' inability to conform with the above-mentioned recommendation. Following thorough consideration of the reasons presented by the United States the TMB concluded that these reasons did not lead it to change the conclusions and recommendation it had arrived at during its examination of the measure pursuant to Article 6.10. The TMB recommended, therefore, that the United States reconsider its position and that the measure introduced by the US on the imports of category 301 products from Pakistan should be rescinded forthwith.

In terms of exercising surveillance of the implementation of its recommendations, the TMB took note of a communication made by Colombia according to which, following the recommendation adopted by the TMB at its meeting held at the end of July 1998, Colombia had annulled the resolution imposing a transitional safeguard measure on imports of denim (tariff heading 5209.42.00.00) from Brazil and India.

The TMB also examined and took note of a communication from the United States, following the TMB's consideration of a joint request by Hong Kong, China; India and Pakistan, for the TMB "to review, in accordance with Article 8.1 and 2.21 of the Agreement on Textiles and Clothing, the implementation of the Stage 2 integration programme of the United States of America with respect to the continuation of visa requirements for products included in this programme". In this communication, the United States forwarded, for the TMB's information, a copy of a US Federal Register Notice "eliminating the visa

requirements for various textile categories, consistent with the TMB's decision on this matter". The Members involved had been informed of this fact by the United States.

In a discussion related to certain points raised at the level of the General Council on behalf of a number of WTO Members, regarding different aspects of the implementation of the ATC, the TMB identified that the United States had introduced a new restriction on Turkey's exports of certain products, as part of a broader understanding reached between the two Members. The TMB decided to seek clarification from both Turkey and the United States as to whether or not the measure was being applied pursuant to the Agreement on Textiles and Clothing and, if this was the case, under which provision of the ATC this restriction had been introduced. As of 30 June 1999, no answer had been received from those Members.

## Agriculture

Progress in the implementation of commitments under the Uruguay Round agricultural reform programme, or resulting from WTO accession negotiations, is subject to regular multilateral review in the WTO Committee on Agriculture. To date, the Committee has held nineteen formal meetings as well as numerous informal meetings and consultations.

The review of implementation of commitments is undertaken on the basis of notifications submitted by Members in the areas of market access, domestic support and export subsidies, as well as under the provisions of the Agreement relating to export prohibitions and restrictions. In total, the Committee has reviewed some 730 notifications since 1995. Most of these notifications were market access notifications (331), followed by export subsidy notifications (206) and domestic support notifications (149).

In the area of market access, the Committee's review process continues to focus on the implementation of low-rate tariff quota commitments. Currently there are 37 Members with a total of 1,371 tariff or other quota commitments in their Schedules. In 1995, the detailed arrangements for administering each of these tariff quotas had to be notified to the Committee, with any changes in these arrangements being notified as and when they were introduced. Almost half of all bound tariff quotas are being implemented in a way which allows tariff quota products to be imported without limitation at the in-quota or lower applied tariff rates. Other frequently used administration methods to allocate tariff quota shares include import licencing based on applications, "first-come-first-served", allocation to historical importers or state-trading enterprises, and auctioning. It may be noted that only 166 tariff quotas are partially or totally allocated to specific countries. In the vast majority of cases, any country may compete for the export opportunities under tariff quota commitments. Imports under these tariff and other quota commitments have to be notified annually. Given the substantial value of these concessions, the examination of these notifications has been conducted rigorously and in considerable technical detail. In cases where tariff quotas were not fully utilised, the importing countries were routinely invited to justify such under-utilisation of market access opportunities. The Committee also continued to review market access notifications relating to the use of the special agricultural safeguard.

In the area of domestic support, particular attention has been given to the measures which have been claimed by Members as being exempt from reduction commitments, particularly to their conformity with the relevant non-trade distortion and other exemption criteria, such as those relating to the "Green Box" and the special and differential treatment exemptions. In the case of domestic support measures subject to reduction commitments (generally, market price support and non-exempt payments), the review has focused on issues of methodology relating to the calculation of current levels of trade-distorting support (Current Total AMS), which Members are required to provide annually to demonstrate that current non-exempt support is below the relevant commitment levels specified in their respective WTO Schedules (Total AMS). There are 29 Members with Total AMS reduction commitments in their Schedules. Other Members are required to keep any non-exempt trade-distorting domestic support below certain de minimis levels stipulated in the Agreement on Agriculture and to notify the Committee that this was in fact the case. In a number of cases, additional supporting information has been sought in order to verify such de minimis claims.

The 25 Members of the WTO with export subsidy reduction commitments in their Schedules are required annually to provide "full picture" export subsidy notifications covering not only subsidized quantities and related budgetary outlays, but also food aid transactions and total exports. These notifications continued to receive close attention and systematic scrutiny in the Committee.

The Committee also addressed a wide range of general and specific matters relevant to the implementation of commitments that were raised under Article 18.6 of the Agreement which entitles Members to raise, in the Committee's review process, any matter relevant to

the implementation of commitments under the reform programme. A number of Members were confronted with claims that they had applied customs duties in excess of their tariff bindings. Several Members undertook to resolve the problem and some responded by providing clarification of their tariff regimes.

A number of Members continued to express serious concerns over the practice by some other Members of utilising "unused" export subsidy commitments that have been carried forward from one implementation year to a subsequent implementation year. Relatively high world market prices for certain commodities in 1995 and 1996, such as grains, has in some cases meant that only a fraction of export subsidy entitlements in those years was exhausted. However, the scope for rolling over such unused export subsidies expires after the penultimate year of the six-year implementation period. For many other products which are subject to export subsidy reduction commitments the scope for such rollover flexibility is negligible.

At the December 1996 WTO Ministerial Conference in Singapore, Ministers agreed to a process of analysis and information exchange on the built-in agenda issues ("AIE process") to allow Members to better understand the issues involved and identify their interests before undertaking the agreed further negotiations on agriculture towards the end of 1999 (Article 20 of the Agreement on Agriculture). Under arrangements adopted by the Committee on Agriculture, the AIE process is undertaken in informal open-ended meetings on the basis of papers submitted by Members. Since 1997, 11 sessions have been held within the framework of the AIE process, with the active participation of a large number of developed and developing country Members. Issues of interest to developing countries and special and differential treatment are regularly discussed at the meetings of the AIE process. Other topics covered include: administration of tariff quotas; tariff peaks and escalation; the special agricultural safeguard; non trade-distorting or "Green Box" measures; direct payments under production-limiting programmes ("Blue Box"); effects of inflation on domestic support reduction commitments; domestic support policy reform; sectoral trade liberalization; circumvention of export subsidy commitments; state trading enterprises (single desk buyers and single desk sellers); export credits; the due restraint provisions ("peace clause"); export restrictions and taxes; food security; and other non-trade concerns and the multifunctional nature of agriculture. In total, 64 papers were submitted by Members, with 16 from developing countries. In addition, a range of Secretariat background papers have been provided to facilitate the work of the AIE process. These background papers, which have been developed and updated on the basis of information and data notified by Members, cover such topics as: tariff quota administration methods and tariff quota fill; the special agricultural safeguard; Green Box measures; domestic support; export subsidies; ad valorem, specific and other tariffs; special and differential treatment provisions relating to the Agreement on Agriculture; studies on the implementation and impact of the Agreement on Agriculture on developing countries; agricultural trade performance by developing countries; Uruguay Round agricultural tariff reductions according to stage of processing; and actions taken within the framework of the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. The AIE process will end in the Autumn of 1999.

In the Marrakesh Ministerial Decision, which is contained in the Final Act signed at Marrakesh in April 1994, it is recognized that the progressive implementation of the results of the Uruguay Round as a whole will generate increasing opportunities for trade expansion and economic growth to the benefit of all participants. Ministers also recognized that during the reform programme leading to greater liberalization of trade in agriculture, least-developed and net food-importing developing countries may experience negative effects in terms of the availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs. The Decision accordingly establishes mechanisms which provide for: (i) the review of the level of food aid and the initiation of negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme; (ii) the adoption of guidelines on concessionality; (iii) financial and technical assistance under aid programmes to improve agricultural productivity and infrastructure; and (iv) differential treatment in the context of an agreement to be negotiated on agricultural export credits. The Decision also takes into account the question of access to the resources of international financial institutions under existing facilities, or such facilities as may be established, in order to address short-term difficulties in financing normal levels of commercial imports.

The follow-up to the Marrakesh Ministerial Decision is monitored annually by the Committee on Agriculture at its November meetings. The monitoring exercise is conducted on the basis of contributions by Members, including notifications concerning actions taken

by developed country Members within the framework of the Decision. At its November 1998 meeting, ten such notifications were reviewed by the Committee on Agriculture. Observer representatives of the FAO, the IMF, the International Grains Council, the UN World Food Programme and the World Bank also contribute actively to this annual monitoring exercise.

At each of its meetings, the Committee on Agriculture also has reviewed the follow-up to the recommendations adopted by the Singapore WTO Ministerial Conference on the implementation of the Marrakesh Ministerial Decision as it relates to food aid matters. In line with these recommendations, the re-negotiation of the Food Aid Convention 1995 was launched in 1997 under the auspices of the London-based Food Aid Committee/International Grains Council. These negotiations were completed in March 1999 and the new Food Aid Convention 1999 came into effect on 1 July 1999. Under the new Convention, the list of eligible products which may be supplied has been broadened significantly beyond cereals. Eligible food aid recipients include Low-Income Countries, Lower Middle-Income Countries and all other countries on the present WTO list of Net Food-Importing Developing Countries.<sup>2</sup>

## Sanitary and phytosanitary measures

The Agreement on the Application of Sanitary and Phytosanitary Measures (the “SPS Agreement”) sets out the rights and obligations of Members when taking measures to ensure food safety, to protect human health from plant – or animal-spread diseases, or to protect plant and animal health from pests and diseases. Governments must ensure that their food safety and animal or plant health measures are necessary for health protection, are based on scientific principles, are transparent, and are not applied in a manner which would constitute a disguised restriction on international trade. The measures must be justifiable through an assessment of the health risks involved. The use of internationally-developed standards is encouraged. Advance notice must be given of proposed new regulations or modifications to requirements whenever these differ from the relevant international standards.

As of mid-1999, over 1,200 notifications had been received with regard to the provisions of the SPS Agreement. One hundred and six Members have established and identified National Enquiry Points to respond to requests for information regarding sanitary and phytosanitary measures, whereas 96 have identified their national authority responsible for notifications. The SPS Agreement provides a delay until 2000 for the least-developed country Members to implement and adhere to all provisions of the Agreement, including those with respect to notifications, Enquiry Points and National Notification Authorities.

The Committee on Sanitary and Phytosanitary Measures oversees the implementation of the SPS Agreement. It holds three or four regular meetings each year, supplemented by informal meetings as needed. At each of its regular meetings, the SPS Committee reviews the implementation of the SPS Agreement, considering information provided by Members on changes in their national sanitary or phytosanitary regulatory frameworks and on their disease status. In addition, Members raise specific issues of concern to them, including those related to notifications. In 1998/99, for example, the issues brought before the Committee included measures related to rice, fruits, vegetables, meat and poultry; plant quarantine regulations; levels of aflatoxins in certain foods; ionizing radiation treatment of food; raw milk cheeses and issues related to trade in bovine semen. In addition, many Members continued to raise specific trade concerns related to measures imposed in response to bovine spongiform encephalopathy (BSE).

Starting in 1998, the Committee reviewed the operation and implementation of the SPS Agreement three years after its entry into force. The Committee noted that the SPS Agreement had contributed to improving international trading relationships with respect to sanitary and phytosanitary measures. The Committee examined the issues raised by Members and their specific suggestions in this regard. Several developing country Members raised concerns regarding the implementation of the special and differential treatment provisions of the SPS Agreement, as well as with respect to their need for additional technical assistance. When the Committee adopted its report on the Three-year Review in March 1999, it also adopted new recommended notification procedures and formats, as a way of increasing the transparency of sanitary and phytosanitary measures. The Committee encouraged Members to publish their national requirements on the world wide web and to make increased use of electronic communication systems in responding to requests for documents or comments.

In October 1997, the Committee adopted a provisional procedure to monitor the use of international standards, guidelines and recommendations. On this basis, the Committee has considered standards-related problems raised by Members. The Committee has continued to

<sup>2</sup>In 1996 the Committee on Agriculture had established a WTO list of Net Food-Importing Developing Countries. This list, which was last revised in June 1999, includes the least-developed countries and 19 developing country Members of the WTO (Barbados, Botswana, Côte d'Ivoire, Cuba, Dominican Republic, Egypt, Honduras, Jamaica, Kenya, Mauritius, Morocco, Pakistan, Peru, Saint Lucia, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela).

work on the development of practical guidelines to help Members achieve consistency in their decisions regarding acceptable levels of health protection.

The effective implementation of this Agreement requires cooperation from several international standard-setting organizations, and in particular the Office International des épizooties (OIE), the FAO/WHO Joint Codex Alimentarius Commission (Codex), and the FAO's Secretariat for the International Plant Protection Convention (IPPC). Close working relationships have been established with these bodies. They are frequently involved with the work of the Committee. In July 1997, the Committee adopted the text of an agreement between the WTO and OIE, which was signed in May 1998 by the Directors-General of both organizations. In response to a request from Codex, the Committee provided some clarification regarding the applicability of regional Codex standards as well as the status of Codex guidelines and codes of practice in relation to the SPS Agreement. The Committee also closely followed the revision of the text of the IPPC, and held informal discussions with the World Health Organization regarding the revision of the International Health Regulations.

At each meeting of the Committee, Members, the Secretariat and the observer international organizations report on their technical assistance activities. Members are provided the opportunity to identify specific needs for technical assistance. The Committee has stressed the need for close cooperation among those providing assistance, and also that particular emphasis should be put on assisting with the implementation of the transparency provisions of the SPS Agreement. Since the entry into force of the SPS Agreement, the WTO Secretariat has organized a series of regional seminars in Africa, Asia, Central and Eastern Europe and Latin America focusing on the implementation of the SPS Agreement. This programme is ongoing.

Over the past four years, a number of trade disputes alleging violations of the SPS Agreement have been brought to the Dispute Settlement Body. These include: a complaint by the United States against Korean shelf-life requirements and a separate US complaint against Korean inspection procedures; complaints by Canada and the United States against Australian restrictions related to fish diseases; a Canadian complaint against Korean regulations on bottled water; complaints by the United States and Canada against the European Community's ban on imports of hormone-treated meats; a US complaint against Japanese quarantine restrictions on varieties of fruits and nuts, a Swiss complaint against Slovak restrictions on imports of dairy products and the transit of cattle, and a Canadian complaint against European Community restrictions on conifer wood. Several other requests for consultations have also made reference to alleged violations of the SPS Agreement. Dispute settlement panels were established to consider the two complaints on hormone-treated meats, and the reports of the panels and of the Appellate Body were adopted on 13 February 1998. A dispute settlement panel was established to consider the Canadian complaint against Australian restrictions on salmon, the reports of the panel and the Appellate Body were adopted on 6 November 1998. The reports of the panel and the Appellate Body considering the US complaint against Japanese quarantine restrictions on certain fruits and nuts were adopted on 19 March 1999. A panel to examine the US complaint about Australia's import restrictions on salmon was established on 16 June 1999.

## Safeguards

WTO Members may take "safeguard" actions with respect to a product if increased imports of that product are causing, or threaten to cause, serious injury to the domestic industry that produces like or directly competitive products. Prior to the Uruguay Round, safeguard measures could be applied on the basis of Article XIX of GATT 1947, but were infrequently used, in part because some governments preferred to secure protection for their domestic industries by using "grey area" measures, such as voluntary export restraint agreements between exporting and importing countries.

The WTO Agreement on Safeguards, which entered into force on 1 January 1995, broke new ground in establishing a prohibition against "grey area" measures. In particular, the Agreement stipulates that Members shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures which afford protection. All such pre-existing measures were required to have been phased out by the end of 1998 (in the case of one specified measure – see below – by the end of 1999). The Agreement also establishes the substantive and procedural requirements for applying new safeguard measures.

During the period under review, the Committee established under the Agreement completed its review of national safeguard legislation which had been notified to the Committee as of mid-March 1999. To date, 83 Members have notified the Committee of their domestic safeguard legislations or made communications in this respect. Thirty-six

Members have not, as yet, made such notifications as required by Article 12.6 of the Agreement.<sup>3</sup>

The Agreement requires Members that had grey area measures in force as of 1 January 1995 to have notified them, as well as timetables for their phase-out, to the Committee during 1995. The notifications of timetables received from Cyprus, the European Community, Korea, Slovenia and South Africa are reviewed by the Committee in the context of its monitoring and annual reporting to the Council for Trade in Goods required under the Agreement. During the period under review, the Members with such measures remaining in effect (i.e., Cyprus, the European Community, Korea, and South Africa) indicated that their remaining pre-existing measures were to be eliminated by 31 December 1998 as required by the Agreement (except for the EC/Japan arrangement on motor vehicles, which the Agreement permits to remain in force until 31 December 1999). The Agreement also requires notification and termination of any pre-existing safeguard measures imposed under Article XIX of GATT 1947. The European Community and Korea, which had notified such measures by the relevant deadline in 1995, reported on their progress in phasing them out. Nigeria also notified such measures, after the deadline.

Members are required to notify the Committee immediately upon taking any action related to safeguard measures. Notifications of the initiation of investigations regarding serious injury or threat thereof and the reasons for it were received from Colombia, the Czech Republic, Ecuador, Egypt, India, Latvia, the Slovak Republic, Slovenia and the United States during the period covered by this report. Notifications of application of provisional safeguard measures were received from the Czech Republic, Egypt, Latvia, the Slovak Republic, and Slovenia. Notifications of findings of serious injury (or threat thereof) due to increased imports were received from Australia, Egypt, India and the United States. Notifications of termination of a safeguard investigation with no safeguard measure imposed were received from Australia and India.

Notifications related to decisions to apply safeguard measures, and related to the exclusion from application of safeguard measures of those developing countries whose shares of imports are below the thresholds set forth in Article 9.1 of the Agreement, were received from Argentina, Brazil, Egypt, India, and the United States. In addition, a notification regarding the results of consultations held pursuant to Article 12 of the Agreement was received from Egypt.

Notifications of the results of mid-term reviews of safeguard measures in effect were received from Brazil and Korea.

<sup>3</sup>The total of 119 Members used here reflects the fact that for this obligation, the EC submits a single notification that covers all 15 member States. The official total membership of the WTO (134) includes the EC Commission and the 15 individual member States.

Table IV.2

**"Rules" Notifications submitted by WTO Members**

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI) (Updating 99)	Article XVII:4(a) (Updating 99)	Legislation
		Jan-June 98	July-Dec. 98		Jan-June 98	July-Dec. 98			
Angola									
Antigua and Barbuda									
Argentina	X	X	X	X	X	X			X
Australia	X	X	X	X	X	X			X
Bahrain	X	X			X				X
Bangladesh									
Barbados	X	X		X	X				
Belize									
Benin	X	X		X					X
Bolivia	X		X	X		X			X
Botswana	X								X
Brazil	X	X	X	X	X	X			X
Brunei Darussalam	X	X	X		X	X			X
Bulgaria	X	X	X	X	X	X			X
Burkina Faso	X								
Burundi									
Cameroon									

Table IV.2 (continued)

**"Rules" Notifications submitted by WTO Members**

Anti-dumping, countervailing duties, subsidies, state trading, safeguards

Status as of 30 June 1999

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI) (Updating 99)	Article XVII:4(a) (Updating 99)	Legislation
		Jan-June 98	July-Dec. 98		Jan-June 98	July-Dec. 98			
Canada	X	X	X	X	X	X			X
Central African Republic									
Chad	X			X					
Chile	X	X	X	X	X	X			X
Colombia	X	X	X	X	X	X			X
Congo									
Congo, Dem. Rep.									
Costa Rica	X	X	X	X		X	X	X	X
Côte d'Ivoire	X								X
Cuba	X	X	X	X	X	X			X
Cyprus	X	X	X	X	X	X			X
Czech Republic	X	X	X	X	X	X			X
Djibouti									
Dominica	X	X		X	X				X
Dominican Republic	X	X	X	X	X	X			X
EC	X	X	X	X	X	X		X	X
Ecuador	X	X		X	X		X		X
Egypt	X	X	X	X	X	X			X
El Salvador	X	X		X	X				X
Fiji	X	X	X	X	X	X		X	X
Gabon									
Gambia			X		X	X			
Ghana	X		X	X		X			X
Grenada									
Guatemala	X	X	X	X	X	X			X
Guinea Bissau									
Guinea, Rep. of	X			X					X
Guyana									
Haiti	X			X					X
Honduras	X	X	X	X	X	X			X
Hong Kong, China	X	X	X	X	X	X	X	X	X
Hungary	X	X	X	X	X	X			X
Iceland	X	X	X	X	X	X			X
India	X	X	X	X	X	X			X
Indonesia	X	X	X	X	X	X			X
Israel	X	X	X	X	X	X	X		X
Jamaica	X			X					X
Japan	X	X	X	X	X	X			X
Kenya	X			X					X
Korea	X	X	X	X	X	X			X
Kuwait									
Kyrgyz Republic									
Latvia	X			X			X		X
Lesotho									
Liechtenstein	X	X	X	X	X	X			X
Macau	X	X		X					X
Madagascar									
Malawi	X			X					
Malaysia	X	X	X	X	X	X			X
Maldives	X			X	X	X			X
Mali									
Malta	X	X	X	X	X	X		X	X
Mauritania									
Mauritius	X			X					X

Table IV.2 (continued)

**"Rules" Notifications submitted by WTO Members**

Anti-dumping, countervailing duties, subsidies, state trading, safeguards

Status as of 30 June 1999

Member	Anti-Dumping			Countervailing Duties			Subsidies	State Trading	Safeguards
	Legislation	Semi-Annual Reports*		Legislation	Semi-Annual Reports*		(Articles 25 & XVI) (Updating 99)	Article XVII:4(a) (Updating 99)	Legislation
		Jan-June 98	July-Dec. 98		Jan-June 98	July-Dec. 98			
Mexico	X	X	X	X	X	X			X
Mongolia	X			X					X
Morocco	X	X		X					X
Mozambique									
Myanmar									X
Namibia	X	X	X	X	X	X	X	X	X
New Zealand	X	X	X	X	X	X			X
Nicaragua	X	X	X	X					X
Niger									
Nigeria									X
Norway	X	X	X	X	X	X			X
Pakistan	X	X		X					X
Panama	X	X	X	X	X	X			X
Pap. New Guinea									
Paraguay	X			X					X
Peru	X	X	X	X	X	X			X
Philippines	X	X	X	X	X	X			X
Poland	X	X	X	X	X	X			X
Qatar	X			X					X
Romania	X	X	X	X	X	X			X
Rwanda		X			X				
Saint Kitts & Nevis		X			X				
Saint Lucia	X			X					X
Saint Vincent & Grenadines									
Senegal	X			X					X
Sierra Leone									
Singapore	X	X	X	X	X	X			X
Slovak Republic	X	X	X	X	X	X			X
Slovenia	X	X	X	X	X	X			X
Solomon Islands									
South Africa	X	X	X	X	X	X			X
Sri Lanka	X	X	X	X	X	X			X
Suriname	X			X					X
Swaziland	X								
Switzerland	X	X	X	X	X	X			X
Tanzania									
Thailand	X	X	X	X	X	X			X
Togo									
Trinidad & Tobago	X	X		X	X				X
Tunisia	X	X	X	X	X	X			X
Turkey	X	X	X	X	X	X			X
Uganda	X			X					X
United Arab Emirates	X	X	X	X	X	X			X
United States	X	X	X	X	X	X			X
Uruguay	X	X	X	X	X	X			X
Venezuela	X	X		X	X			X	X
Zambia	X	X	X	X	X	X			X
Zimbabwe	X	X	X	X	X	X			X
Total**	86/119	66/119	56/119	80/119	62/119	56/119	7/119	7/119	83/119

X = notification submitted.

N = document submitted on its face does not satisfy the requirement to notify – notifications designated with "N" are not included in the numerators shown.

\* Tally reflects semi-annual reports for the period 1 July-31 December 1997, due 27 February 1998 and 1 January-30 June 1998, due 31 August 1998.

\* \* The denominator used here (119) reflects the fact that for each obligation, the EC submits a single notification that covers all 15 Member States. The official total membership of the WTO (134) includes the EC Commission plus the 15 individual EC Member States.

During the period covered by this report, the Committee reviewed those of the above notifications that were received in time for consideration at the two regular meetings it held during that period. The remaining notifications, along with others received in the interim, will be reviewed at future meetings of the Committee.

## Subsidies and countervailing measures

The Agreement on Subsidies and Countervailing Measures, which entered into force on 1 January 1995, regulates the provision of subsidies and the imposition of countervailing measures by Members. The Agreement applies to subsidies that are specific to an enterprise or industry or group of enterprises or industries within the territory of a Member. Specific subsidies are divided into three categories: prohibited subsidies under Part II of the Agreement, actionable subsidies under Part III of the Agreement, and non-actionable subsidies under Part IV of the Agreement. Part V of the Agreement contains detailed rules regarding the conduct of countervailing duty investigations and the application of countervailing measures by Members. Parts VIII and IX of the Agreement provide special and differential treatment, respectively, for developing country Members and for Members in transition to a market economy.

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### Notification and review of subsidies

Transparency is essential for the effective operation of the Agreement. To this end, Article 25 of the Agreement requires that Members make a new and full notification of specific subsidies every third year, and that Members submit an updating notification by 30 June of the intervening years. As of 31 July 1999, 35 Members (counting the EC as a single Member) had submitted a 1998 new and full notification, of which 12 notified that they provided no specific subsidies. Nine Members had submitted 1999 updating notifications. The Committee on Subsidies and Countervailing Measures ("the Committee") began its review of 1998 new and full notifications at special meetings in November 1998 and May 1999; a third special meeting for this purpose is scheduled for November 1999.

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### Notification and review of countervailing legislation

Pursuant to Article 32.6 of the Agreement and a decision of the Committee, Members were required to notify their countervailing duty legislation and/or regulations (or the lack thereof) to the Committee by 15 March 1995. As of 31 July 1999, 80 Members (counting the EC as a single Member) had submitted such a notification. Of these, 23 Members notified new legislation designed to implement the Marrakesh Agreements, 33 Members notified pre-existing legislation, and 24 Members notified that they had no countervailing duty legislation. Thirty-nine Members had not submitted a notification. During the period 1 August 1998 through 31 July 1999, the Committee continued the task of reviewing notifications of legislation during the course of its regular meetings. Both new notifications of legislation and notifications that had previously been the subject of review were reviewed at the Committee's regular meetings in November 1998 and May 1999.

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### Non-actionable subsidies

Article 8 of the Agreement provides that subsidy programmes for which non-actionable status is invoked shall be notified to the Committee in advance of implementation. The notified programmes shall be reviewed by the Committee upon the request of a Member with a view to determining whether the criteria for non-actionability have not been met. Thereafter, upon request of a Member, the determination of the Committee, or lack thereof, shall be submitted to binding arbitration. At its November 1998 regular meeting, the Committee established an indicative list of arbitrators, pursuant to the arbitration procedures agreed by the Committee. Members may nominate individuals for inclusion in this list at any time. To date, no notifications under Article 8 have been received by the Committee.

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### Permanent Group of Experts

The Agreement provides for the establishment of a Permanent Group of Experts (PGE), composed of five independent persons highly qualified in the fields of subsidies and trade relations. The role of the PGE involves the provision of assistance to panels with respect to whether a subsidy is prohibited, as well as the provision of advisory opinions at the request of the Committee or a Member. At its May 1999 regular meeting, the Committee elected Mr. Marco Bronckers to replace Mr. Akio Kotera as a member of the PGE.<sup>4</sup> Although the PGE has drafted Rules of Procedure and submitted them to the Committee for its approval, the draft Rules have not yet been approved by the Committee.

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### Informal Group of Experts

Under Article 6.1(a) of the Agreement, ad valorem subsidization of a product in excess of 5 per cent gives rise to a presumption of serious prejudice to the interests of another Member.

<sup>4</sup>The new membership of the PGE is as follows: Mr. Marco Bronckers, private attorney in the trade law area, and Professor of Law at the University of Leyden; Mr. Renato Galvao Flores Junior, Professor of Law at Universidade Federal do Rio de Janeiro; Mr. A.V. Ganesan, former Commerce Secretary and chief Uruguay Round negotiator for India; Mr. Gary Horlick, private attorney in the trade law area; and Mr. Robert Martin, former Secretary of the Canadian International Trade Tribunal and former Canadian GATT negotiator.

Annex IV to the Agreement sets forth certain methodological approaches for determining whether the 5 per cent level has been met, but states that an understanding among Members should be developed as necessary on matters regarding this calculation which are not specified in the Annex or require clarification. In 1995, the Committee created an Informal Group of Experts whose terms of reference are to examine any such matters and to report to the Committee such recommendations as could assist the Committee in the development of such an understanding. At the April 1998 regular meeting The Committee took note of the first report of the Group, and asked the Group to continue to work to try to resolve issues on which it had not been able to reach a consensus. The Group will submit its second and final report to the Committee in autumn 1999, thus completing its mandate from the Committee.

### Countervailing actions

Countervailing actions taken during the period 1 January-31 December 1998 are summarized in Tables IV.3 and IV.4. The tables are incomplete because certain Members have not submitted one or both of their semi-annual reports on countervailing actions or have not provided all of the information required by the format adopted by the Committee. The data available indicate that 21 new countervailing duty investigations were initiated in 1998. As of 31 December 1998, Members reported 100 countervailing measures (including price undertakings) in force.

### Review of the operation of Articles 6.1, 8 and 9

Article 31 of the Agreement provides that Articles 6.1, 8 and 9 shall apply for a period of five years from the date of entry into force of the WTO Agreement, and that not later than 180 days before the end of this period the Committee shall review their operation, with a view to determining whether to extend their application, either as presently drafted or in modified form, for a further period. During the period covered by this report, the Committee began its review of the operation of these provisions through a process of bilateral and multilateral consultations.

Table IV.3

#### Summary of countervailing duty actions, 1998<sup>1</sup>

Reporting Party	Initiations	Provisional Measures	Definitive Duties	Price Undertakings	Measures in force on 31 Dec. 1998 <sup>2</sup>
Argentina	0	0	2	0	3
Australia	0	0	0	0	6
Brazil	0	0	0	0	6
Canada	0	0	0	0	5
European Community	8	2	2	0	3
Mexico	0	0	0	0	11
New Zealand	0	0	1	0	3
South Africa	1	0	0	0	0
United States	12	9	1	0	60
Venezuela	0	0	0	0	3
<b>TOTAL</b>	<b>21</b>	<b>11</b>	<b>6</b>	<b>0</b>	<b>100</b>

1. The reporting period covers 1 January-31 December 1998. The table is based on information from Members that have submitted semi-annual reports and is incomplete due to a significant number of missing notifications.

2. Includes definitive duties and price undertakings.

Table IV.4

#### Exporters subject to initiations of countervailing investigations, 1998<sup>1</sup>

Affected Country	Initiations	Affected Country	Initiations
Belgium	1	Indonesia	1
Brazil	1	Italy	2
Canada	1	Korea	5
Denmark	1	Saudi Arabia	1
France	1	South Africa	1
India	6		
		<b>TOTAL</b>	<b>21</b>

1. The reporting period covers 1 January-31 December 1998. The table is based on information from Members that have submitted semi-annual reports and is incomplete due to a significant number of missing notifications.

## Anti-dumping practices

The Agreement on Implementation of Article VI of GATT 1994 ("the Agreement"), which entered into force on 1 January 1995, builds on the Tokyo Round Agreement on Implementation of Article VI ("Tokyo Round Agreement"). Article VI of GATT 1994 allows Members to apply anti-dumping measures on imports of a product with an export price below its "normal value" (usually, the comparable price of the product in the domestic market of the exporting country) if such imports cause or threaten to cause material injury to a domestic industry. Detailed rules governing the application of such measures – which take the form of either duties or undertakings on pricing by the exporter – were negotiated during the Tokyo Round. That Agreement was substantially revised during the Uruguay Round.

The WTO Agreement provides for greater clarity and more detailed rules in relation to the method of determining whether a product is dumped, including the calculation of a "constructed" normal value where no direct comparison with prices on the domestic market of the exporting country is possible. It sets out procedures to be followed in initiating and conducting anti-dumping investigations, as well as additional criteria to be taken into account in determining whether dumped imports cause material injury to a domestic industry. It also clarifies the role of dispute settlement panels in disputes concerning anti-dumping actions taken by WTO Members.

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### Notification and review of anti-dumping legislation

Pursuant to Article 18.5 of the Agreement and a decision of the Committee on Anti-Dumping Practices ("the Committee"), Members were required to notify their anti-dumping legislation and/or regulations (or the lack thereof) to the Committee by 15 March 1995. The obligation to notify legislation is a continuing one, and Members who enact new legislation or amend existing legislation are required to notify the new text or amendment. As of 30 June 1999, 86 Members (counting the EC as a single Member) had submitted notifications regarding anti-dumping legislation or regulations. Of these, 31 Members had notified new legislation designed to implement the WTO Agreement, 30 Members had notified pre-existing legislation, and 25 Members had notified that they had no anti-dumping legislation or regulations. 33 Members have not yet submitted a notification. The status of notifications pursuant to Article 18.5 may be found in Table IV.6. During the period 1 August 1998 through 30 June 1999, the Committee continued the task of reviewing notifications of legislation during its regular meetings. Both new notifications regarding legislation, as well as notifications that had previously been the subject of review, were the subject of written questions and answers and discussion at the Committee's regular meetings in October 1998 and April 1999.

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### Other actions

In April 1996, the Committee established an Ad Hoc Group on Implementation, to consider, principally, technical issues concerning the Agreement, and where possible agree on recommendations concerning implementation issues for consideration by the Committee. The Ad Hoc Group was originally referred a series of ten topics for discussion. It met twice during the period, in October 1998 and April 1999. Attendance by capital-based government officials charged with administering anti-dumping regimes was encouraged, and numerous such officials took part in the discussions. The discussions were conducted based on papers submitted by Members, information submitted by Members concerning their own practice in administering anti-dumping laws, and draft recommendations prepared by the Secretariat. At its meeting in October 1998, the Group agreed on a draft recommendation concerning the timing of the notification to the exporting government under Article 5.5 of the Agreement, which was subsequently adopted by the Committee (document G/ADP/5, 3 November 1998). Several other draft recommendations remain under consideration in the Group. At its meeting in April 1999, the Committee decided to refer additional topics to the Group for discussion. The original topics remain open for discussion, in the event new suggestions are forthcoming. In addition to consideration of draft recommendations, the exchange of information on individual practice has been welcomed by Members. The Group will continue to meet twice a year, in conjunction with the semi-annual meetings of the Committee, and discuss the topics before it on the basis of papers and information submitted by Members.

The Informal Group on Anti-Circumvention continued the discussions concerning the Committee's response to the Ministerial Decision on Anti-Circumvention, pursuant to the framework agreed to in April 1997. The Informal Group met twice during the period, in October 1998 and April 1999. Discussions proceeded on the basis of papers prepared by Members on the first topic under the framework, "what constitutes circumvention". The Informal Group has agreed to continue to meet twice a year, in conjunction with the semi-annual meetings of the Committee.

## Anti-dumping actions

Anti-dumping actions taken during the period 1 January-31 December 1998 are summarized in Tables IV.5 and IV.6. The tables are incomplete because certain Members have not submitted one or both of the required semi-annual reports of anti-dumping actions or have not provided all the information required by the format adopted by the Committee. The data available indicate that 240 investigations were initiated in 1998. The most active Members during the year, in terms of initiations of anti-dumping investigations, were South Africa (41), India (33), the United States (22), the European Community (21), Brazil (17), Australia (13), and Mexico (12). As of 31 December 1998, 22 Members reported anti-dumping measures (including undertakings) in force. Of the 1011 measures in force reported, 32 per cent were maintained by the United States, 16 per cent by the European Community, 8 per cent each by Canada and Mexico, and 6 per cent each by Australia and South Africa. Other Members reporting measures in force each accounted for 5 per cent or less of the total number of measures in force. Products exported from the EC or its member States were the subject of the most anti-dumping investigations initiated during the year (42), followed by products exported from China (25), Korea (20), the United States (15), India (12), Russia (11), and Japan and Chinese Taipei (10 each).

Table IV.5

### Summary of anti-dumping actions, 1998<sup>1</sup>

	Initiations	Provisional Measures	Definitive Duties	Price Undertakings	Measures in force on 31 Dec.
1998 <sup>2</sup>					
Argentina	8	4	13	0	39
Australia	13	16	15	2	57
Brazil	17	2	14	0	28
Canada	9	9	10	1	77
Chile	2	2	2	0	2
Colombia	6	3	1	0	8
Costa Rica	1	0	0	0	0
Czech Republic	2	0	0	0	0
Ecuador	1	0	0	0	0
Egypt	0	0	5	0	n.a. <sup>3</sup>
EC	21	28	21	10	161
Guatemala	0	0	0	0	1
India	33	22	0	0	49
Indonesia	8	2	2	0	n.a. <sup>3</sup>
Israel	7	3	6	0	8
Japan	0	0	0	0	1
Korea	3	4	6	2	28
Malaysia	1	0	4	0	8
Mexico	12	7	5	1	84
New Zealand	1	0	1	0	26
Nicaragua	2	1	0	0	n.a. <sup>3</sup>
Panama	2	0	0	0	n.a. <sup>3</sup>
Peru	4	1	0	0	6
Philippines	3	3	0	0	n.a. <sup>3</sup>
Poland	0	1	1	0	1
Singapore	0	0	0	0	2
South Africa	41	33	12	0	57
Thailand	0	0	1	1	4
Trinidad and Tobago	1	1	0	1	n.a. <sup>3</sup>
Turkey	1	0	0	0	34
US	22	25	16	1	326
Venezuela	7	6	0	0	5
TOTAL	228	173	121	19	1011

1. The reporting period for this table covers January 1998 - 31 December 1998. The table is based on information from Members that have submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

2. Includes definitive price undertakings.

Table IV.6

**Exporter subject to two<sup>1</sup> or more initiations of anti-dumping investigations, 1998<sup>2</sup>**

Affected country	Total	Affected country	Total
EC and/or its member States	42	Romania	4
China	25	Hong Kong, China	3
Korea	20	Poland	3
India	12	Saudi Arabia	3
Russia	11	Turkey	3
United States	15	Australia	2
Chinese Taipei	10	Canada	2
Japan	10	Chile	2
Ukraine	9	Colombia	2
Mexico	7	Czech Republic	2
Brazil	5	Egypt	2
Indonesia	5	Hungary	2
South Africa	5	Thailand	2
Kazakstan	4	Venezuela	2
Malaysia	4		
		<b>TOTAL</b>	<b>217<sup>3</sup></b>

1. Countries the subject of only one initiation of an anti-dumping investigation were: Argentina, Bulgaria, Costa Rica, Croatia, Israel, Honduras, Macedonia (FYR), Panama, Slovak Republic, Slovenia, and Zimbabwe.

2. The reporting period covers January 1998 - 31 December 1998. The table is based on information from Members that have submitted semi-annual reports for that period and is incomplete due to missing reports and/or missing information in reports.

3. Does not include exporters subject to only one initiation (see note 4 above). The total number of initiations was 228.

## Technical barriers to trade

The Agreement on Technical Barriers to Trade is aimed at ensuring that activities relating to mandatory technical regulations, voluntary standards and their conformity assessment procedures do not create unnecessary obstacles to trade. For the purpose of transparency, WTO Members are required to fulfil notification obligations and establish national enquiry points.

During the period from 1 August 1998 to 31 July 1999, the Committee held four meetings where statements were made on the implementation and administration of the Agreement. A number of Members informed the Committee of measures taken to ensure the implementation and administration of the Agreement. Several measures were brought to the attention of the Committee by Members who raised concerns about the potential adverse trade effects or inconsistency with the Agreement of those measures. The Committee granted observer status to UNIDO on an ad hoc basis.

The Committee initiated discussions on the following elements of the Programme of Work arising from the First Triennial Review of the Operation and Implementation of the Agreement under Article 15.4: Implementation and Administration of the Agreement by Members under Article 15.2; Operation and Implementation of Notification Procedures under Articles 2, 3, 4 and 7; Acceptance, Implementation and Operation of the Code of Good Practice for the Preparation, Adoption and Application of Standards by Standardizing Bodies; International Standards, Guides and Recommendations; Preparation, Adoption and Application of Technical Regulations; Conformity Assessment Procedures; Technical Assistance under Article 11; Special and Differential Treatment under Article 12; and Other Elements.

Papers related to the different elements were submitted by a number of Members and discussions were held based on the submissions made. The Committee further pursued discussions on the functioning of notification procedures and of enquiry points. A meeting on Procedures for Information Exchange was held on 14 September 1998 highlighting various national experiences. A survey on electronic facilities available in national enquiry points was carried out by the Secretariat to, among other things, facilitate efforts to better target technical assistance and training. The Committee reiterated the importance of enhancing the maximum acceptance of, and compliance with the Code of Good Practice by all standardizing bodies. Committee Members identified the need for an ongoing exchange of views addressing the issues of transparency and participation in international standardizing bodies. A synthesis paper was prepared by the Secretariat based on the information provided at an Information Session of Bodies involved in the Preparation of International Standards

which was held on 19 November 1998 to improve the understanding of the role of international standards under the Agreement. Several Members also drew the attention of the Committee to national approaches to technical regulations. The Committee continued its work on different types of conformity assessment procedures with a view to reducing barriers to trade. It acknowledged that, at the same time, the use of common procedures, such as international guides, recommendations or standards would be necessary to achieve the required confidence among Members in the field of conformity assessment. A WTO Symposium on Conformity Assessment Procedures was held on 8-9 June 1999 and provided the opportunity for discussions among the different bodies involved on the conformity assessment procedures for business transactions in the market-place and on the different approaches and requirements used for the assessment of conformity in the regulatory and private spheres, at the national, regional and international levels. A document was prepared by the Secretariat in response to a request of the Committee to establish the state of knowledge concerning the technical barriers to market access of developing country suppliers, especially small and medium-sized enterprises.

In response to a request of the Council for Trade in Goods (CTG) the Committee included an item on trade facilitation related to the TBT Agreement into its agenda while noting that provisions to the TBT Agreement were by their very nature relevant to trade facilitation and had therefore been a regular feature of the work of the Committee.

At its meeting held on 31 March 1999, the Committee carried out its fourth Annual Review of the Implementation and Operation of the Agreement under Article 15.3, and its fourth Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards under the Ministerial decision. The implementation of the transparency provisions of the Agreement were reviewed. Eight new Members provided evidence of the incorporation of the Agreement into national legislation. In total, 648 notifications were received in 1998, several new enquiry points were established and the Code of Good Practice was accepted by 14 standardizing bodies from ten Member countries during this time period.

## State trading enterprises

The Working Party on State Trading Enterprises was established in accordance with paragraph 5 of the Understanding on the Interpretation of Article XVII of the GATT 1994 and held its first meeting in April 1995. Since the 1998 Annual Report, the Working Party has held five formal meetings: in September, November, and December 1998, and in February and May 1999. The Working Party's main task is to review the notifications and counter-notifications submitted by Members on their state trading activities. The Working Party was also charged with two other tasks: (i) to examine, with a view to revising, the questionnaire on state trading adopted in November 1960 and in use since then; and (ii) to develop an illustrative list of the kinds of relationships between governments and state trading enterprises and the kinds of activities engaged in by these enterprises. The Working Party held several informal meetings on the latter issue, open to any Member wishing to participate.

Reviews of the notifications submitted are conducted in formal meetings of the Working Party. The first series of new and full notifications on state trading enterprises was required of all Members by the deadline of 30 June 1995, and subsequent new and full notifications are required every third year. Updating notifications must be submitted in each of the intervening two years; thus, updating notifications were due by 30 June 1996, by 30 June 1997, and by 30 June 1999. All notifications must be made by all Members, regardless of whether the Member maintains any state trading enterprises and irrespective of whether an existing state trading enterprise has conducted any trade during the period under review.

With regard to the main task of the Working Party – the review of notifications – at its meeting of September 1998, it reviewed five notifications: 1995 new and full notification of Qatar and 1998 new and full notification of Mongolia; and 1997 updating notifications of Jamaica; Macau; and the Slovak Republic. At its November 1998 meeting, the Working Party adopted its 1998 Report to the Council for Trade in Goods. At its February 1999 meeting, the Working Party reviewed 18 notifications: 1998 new and full notifications of Colombia; Egypt; Hong Kong, China; Hungary; Iceland; Indonesia; Korea; Malta; Mexico; Norway; Paraguay; Trinidad and Tobago; and Turkey; and 1996/1997 updating notifications of Costa Rica; Mexico; Romania; Slovenia; and Venezuela. At its May 1999 meeting, the Working Party reviewed eight notifications: 1998 new and full notifications of Costa Rica; European Communities; Fiji; Japan; New Zealand; and Venezuela; and 1999 updating notifications of Hong Kong, China; and Malta.

Concerning the other tasks of the Working Party, as reported last year, the Working Party adopted a revised questionnaire (contained in document G/STR/3) at its April 1998 meeting.

This revised questionnaire was approved by the Council for Trade in Goods at its meeting later in April 1998. With respect to the illustrative list, various revisions have been proposed to the draft text, including at the Working Party's most recent informal meeting. In sum, work has advanced well and appears to be close to completion.

## Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures recognizes that import licensing procedures can have acceptable uses, but also that their inappropriate use may impede the flow of international trade. It establishes disciplines on the users of import licensing systems with the principal objective of ensuring that the procedures applied for granting both "automatic" and "non-automatic" import licences do not in themselves restrict trade. It contains provisions to ensure that automatic import licensing procedures are not used in such a manner as to restrict trade, and that non-automatic import licensing procedures (licensing for the purposes of implementation of quantitative or other restriction) do not act as additional restrictions on imports over and above those which the licensing system administers, and are not more administratively burdensome than absolutely necessary to administer the relevant measures. By becoming Members of the WTO, governments commit themselves to simplifying and bringing transparency to their import licensing procedures and to administering them in a neutral and non-discriminatory manner.

The obligations contained in the Agreement include publication of import licensing procedures, notification, fair and equitable application and administration, simplification of procedures and the provision of foreign exchange to pay for licensed imports. The Agreement sets up time limits for the processing of licence application, the publication of information concerning licensing procedures and notification to the Committee.

Developing country Members which were not signatories to the Tokyo Round Agreement on Import Licensing Procedures have the possibility of delaying the application of certain provisions linked to automatic import licensing for a period of up to two years from the date of WTO membership.

The Committee on Import Licensing affords Members the opportunity of consulting on matters relating to the operation of the Agreement or the furtherance of its objectives, and reviews periodically the implementation and operation of the Agreement. It holds two regular meetings each year.

During the period from 1 August 1998 to 31 July 1999, 13 Members (counting the EC as a single Member) have notified to the Committee on Import Licensing their laws and regulations pursuant to Articles 1.4(a) and 8.2(b) of the Agreement, 28 have submitted replies to the Questionnaire on Import Licensing Procedures pursuant to Article 7.3, and five have submitted notifications relating to the institution of import licensing procedures or changes in those procedures pursuant to Article 5.

The Committee held two meetings during the period under review, and reviewed notifications submitted by the following Members under various provisions of the Agreement: Argentina, Bolivia, Chile, Cyprus, Czech Republic, EC, Ghana, Hong Kong, China, Iceland, India, Indonesia, Japan, Liechtenstein, Panama, Macau, Mexico, Morocco, Norway, Panama, Peru, Philippines, Romania, Singapore, Switzerland, Trinidad and Tobago, Tunisia, US, Uruguay and Zimbabwe.

## Rules of origin

The main objective of the Agreement on Rules of Origin is to harmonize non-preferential rules of origin and to ensure that such rules do not themselves create unnecessary obstacles to trade. The Agreement sets out a three-year Harmonization Work Programme (HWP) for the harmonization of non-preferential rules of origin to be accomplished by the Committee on Rules of Origin (CRO) in conjunction with the World Customs Organization's Technical Committee on Rules of Origin (TCRO).

Until the completion of the HWP, Members are expected to ensure that the rules of origin are transparent, that they are administered in a consistent, uniform, impartial and reasonable manner, and that they are based on a positive standard, i.e. that they are based on what does confer origin rather than what does not confer origin.

Members were required to notify, within 90 days after joining the WTO, their rules of origin, and all judicial decisions and administrative rulings of general application which relate to rules of origin and which were in effect at that time.

The Agreement on Rules of Origin contains an Annex II (Common Declaration with regard to preferential rules of origin) by which the general principles and requirements applied to non-preferential rules of origin as contained in the Agreement apply also to preferential rules of origin. These requirements include notification procedures. There is no work programme for the harmonization of preferential rules of origin.

The HWP was launched in July 1995 by the Committee on Rules of Origin and was scheduled for completion by July 1998. The HWP is divided into three phases:

- (i) Definitions of Goods Wholly Obtained, and Minimal Operations or Processes;
- (ii) Substantial Transformation – Change in Tariff Classification;
- (iii) Substantial Transformation – Supplementary Criteria (ad valorem percentage and/or manufacturing or processing operations).

Much work was done in the CRO and the TCRO and substantial progress has been achieved with regard to the various phases of the HWP in the three years foreseen in the Agreement for the completion of the work. However, in May 1998, the CRO concluded that in light of the complexity of the issues and the remaining heavy workload, the HWP could not be finalized within the foreseen deadline. The CRO also decided to make a report to the Council for Trade in Goods (CTG) giving an overview of the status of work in the HWP and making recommendations for the continuation of work. The recommendations and proposals, contained in the report of the CRO (G/RO/25), included a commitment by Members to make their best endeavours to complete the HWP by November 1999, and a definite deadline (May 1999) for the completion of the technical work by the TCRO in Brussels in July 1998. The recommendations and proposals of the CRO were approved by the CTG and thereafter adopted by the General Council.

The TCRO has held four meetings, in October, December 1988, and March and May, 1999. It submitted the final result of its work on the HWP to the CRO in May 1999, together with 467 unresolved issues and bracketed text of the overall architecture of the harmonized rules of origin.

The CRO has held five meetings in October, November 1998 and February, April, July 1999. It endorsed 270 product-specific rules of origin on which consensus has been reached by the TCRO. The total number of the product-specific rules endorsed by the CRO amount now to about 1750 at the level of HS subheadings (the total number of HS headings is 5113). The CRO discussed the application of primary/residual rules and the implication of the implementation of the harmonized rules of origin on other WTO Agreements.

## Customs valuation

The WTO Agreement on Implementation of Article VII of the GATT 1994, known as the Customs Valuation Agreement, entered into force on 1 January 1995. Originally, the Customs Valuation Agreement was one of the Tokyo Round Codes which resulted from the Tokyo Round negotiations. The Tokyo Round Code sought to replace the many different national valuation systems in existence at the time with a set of straightforward rules which provide a fair, uniform and neutral system and preclude the use of arbitrary or fictitious values. The Agreement gave greater precision to the provisions on customs valuation already found in Article VII of the GATT and has led to the harmonization of valuation systems and greater predictability in duties payable by traders. The WTO Customs Valuation Agreement and the Tokyo Round Customs Valuation Agreement do not differ in a substantive manner.

During the period under consideration, the Committee has held several formal meetings (8 May 1998, on 26, 30 June and 2 July 1998, on 13 November 1998 and 26 April 1999). A number of informal meetings were also held to discuss issues ranging from technical assistance to trade facilitation.

In the area of notifications, Members are to ensure that their laws, regulations and administrative procedures conform with the provisions of the Agreement, and are required to inform the Committee on Customs Valuation of any changes in this regard. Such notifications are subject to examination in the Committee. The Committee examined the national legislations of 14 Members. It concluded examination of the legislations of Canada, Cyprus, India, Iceland, Latvia, Mexico, Poland, Singapore, Suriname and Trinidad and Tobago, and those of Brazil, Israel, Morocco, and Panama will be reverted to by the Committee for further examination.

The WTO Agreement on Customs Valuation also provides several special and differential treatment provisions for developing country Members in Article 20 and Annex III of the Agreement. In particular Article 20.1 of the Agreement envisages the possibility for a developing country member to delay implementing the Agreement for a period not exceeding five years. This period of time is to be used by the Member to make the transition to the Customs Valuation Agreement. In addition, Article 20.3 of the Agreement provides that developed country Members furnish technical assistance to developing country Members that so request. Fifty-three developing country Members have invoked delayed application of the provisions of the Agreement and are to apply the Agreement with a one to two-year period. For this reason, the Committee has focused on the question of technical assistance. It agreed that technical assistance should be tailored to the specific needs of the Member concerned. Identification of those needs was assisted by responses to a questionnaire, which in turn helped in the establishment by the Secretariat of a Programme

of Technical Assistance. In addition, developed country Members have informed the Committee on the technical assistance activities they had conducted or were conducting. The Committee also agreed that relevant international organizations of the technical assistance should be informed of needs identified in developing country Members with respect to this Agreement and its implementation. It was felt that such transparency would serve to better coordinate the efforts of all organizations and to avoid duplication in any of the technical assistance provided.

Additionally, during the period under review, the Committee examined a request by Morocco to retain minimum prices beyond the date at which it was to start implementing the Agreement (minimum prices are prohibited by the Agreement, however developing country Members may request to retain such a system under such terms and conditions to be fixed by the Committee). The Committee reached agreement on the terms and conditions under which Morocco could retain these minimum prices at its July 1998 meeting. At its meeting of April 1999, the Committee considered Peru's request for an extension of the delay period under paragraph 1 of Article 20 for an additional two years, and agreed that consultations should be held between Peru and interested delegations in order to reach a solution. Following these consultations, it was agreed that Peru would be granted a waiver from the obligations of the Agreement subject to certain conditions for one additional year.

Following a mandate from the Council for Trade in Goods, the Committee also examined those aspects of trade facilitation which it regarded as being related to customs valuation, and submitted the results of its deliberations to the Council in March 1999.

At its meeting of November 1998, the Committee adopted its 1998 report to the Council for Trade in Goods, and on an ad referendum basis the fourth draft annual review.

Article 18 of the Agreement established a WTO Technical Committee, under the auspices of the World Customs Organization (WCO) to promote at the technical level uniformity of interpretation and application of the Agreement. The Technical Committee presented reports on its Sixth (27 April-1 May 1998), Seventh (5-9 October 1998) and Eighth Sessions (29 March-1 April 1999).

## Preshipment inspection

This Agreement concerns the practice of employing specialized private companies to check shipment details – essentially price, quantity and quality – of goods, ordered overseas. The Agreement on Preshipment Inspection came into force in January 1995 for all WTO Members.

The Agreement applies to all pre-shipment inspection activities carried out on the territory of WTO Members, whether such activities are contracted or mandated by the government, or any government body, of a Member. Approximately 40 governments employ PSI companies, which are contracted to examine and report on the quantity, quality and unit prices of export goods prior to shipment. Of these, 35 are Members of the WTO. Generally the inspection activities are carried out in the country of export by company officials hired by the country of import.

Contracts vary as to product coverage and emphasis but are generally intended to control, or aid in the control of, any or all of the following practices: i) over-invoicing of imports; ii) under-invoicing of imports; iii) misclassification of imports; iv) under-collection of taxes due on imports; and v) misappropriation of donor funds provided for import support. Additional services may include verification of origin, monitoring of compliance with national regulations, monitoring and control of tariff exemptions, assistance in the establishment of customs valuation data, trade facilitation, and some consumer protection.

Most provisions of the Agreement contain obligations for user Members, who are expected to ensure fulfilment of the obligations through their contractual arrangements with the inspection agencies. These obligations include non-discrimination, transparency, protection of confidential business information, avoidance of unreasonable delay, the use of specific guidelines for conducting price verification and the avoidance of conflicts of interest by PSI agencies. The obligations of exporting Members towards PSI users include non-discrimination in the application of domestic laws and regulations and the provision of technical assistance where requested. Article 5 of the Agreement provides for notification of laws and regulations by which Members put the Agreement into force as well as of any other laws and regulations relating to PSI. Since the last update (February 1998), ten Members reported that they have no laws and/or regulations relating to PSI, five Members notified their current laws and/or regulations or changes in these laws and/or regulations, and two Member notified changes to their legislation.

In December 1995, the General Council adopted the Agreement Establishing the Independent Entity (IE) as foreseen in Article 4 of the Agreement, which calls for an independent review procedure to resolve disputes between an exporter and a preshipment inspection (PSI) agency. The IE is jointly constituted by the International Chamber of Commerce (ICC), the International Federation of Inspection Agencies (IFIA), and the WTO,

and is to be administered by the WTO. At its meeting of December 1995, the General Council also adopted the rules of procedures for the IE and agreed that a moratorium on the acceptance of review applications would be put in place until the ICC and the IFIA confirmed that all administrative and procedural requirements necessary to make the IE operational were completed. In April confirmation was received and the IE became operational on 1 May 1996. A List of Experts to serve as panelists for the reviews was also circulated to Members, affiliates and contacts around the world. During the period under review, no application for a case had been received.

The WTO's General Council, at its meeting of 7, 8 and 13 November 1996 agreed to the establishment of a Working Party on Preshipment Inspection with a mandate to conduct the review of the Agreement provided for under Article 6 of the Agreement. The Working Party reported to the General Council in December 1997. The report contained a number of recommendations which were adopted by the General Council in particular one recommendation extended the life of the Working Party for one year to exchange views on a Code of Conduct/Practice for PSI entities; a standard inspection format; selective examination of shipments; auditing of PSI entities; the promotion of competition among PSI entities; fee structures for PSI entities; and the use, to user Members of building price data bases.

During the period under review, the PSI Working Party held several informal and formal meetings to finalize its work. During these sessions, the Working Party heard presentations from the International Federation of Inspection Agencies, the International Chamber of Commerce, the World Customs Organization, the UNCTAD and a firm which conducts audits of PSI companies. The Working Party also had an exchange of views on the issues in its work programme, as well as the subjects of Trade Facilitation and Technical Assistance. In December 1998, the Working Party submitted a report to the General Council (G/L/273) and requested a further extension of the mandate until 31 March 1999. The General Council agreed, thereby enabling the Working Party to complete its work in a thorough manner. The results of the Working Party's work during 1998 and 1999 are contained in the report G/L/300 which was adopted by the General Council at its meeting of 15 June 1999. The following recommendations are to be added to the recommendations made in its 1997 report:

- (a) that governments must ensure that contracts are in conformity with the provisions of the PSI Agreement; and encourage Members to consider following the model contract wherever possible;
- (b) that governments should examine incorporating the principles of selectivity and risk assessment in their contracts;
- (c) that governments who consider having their PSI programmes audited should be guided by the principles found in Annex C, or ensure that when alternative criteria are used, the principles contained in the PSI Agreement, such as non-discrimination and national treatment, are respected; and
- (d) that developed countries ensure that developing countries receive the necessary technical assistance for domestic capacity building in order that the transition away from PSI can be made.

Additionally, it was agreed that future monitoring of the Agreement should be undertaken initially by the Customs Valuation Committee, and that PSI should be a standing agenda item.

## Trade-related investment measures

Article 2 of the Agreement on Trade-Related Investment Measures prohibits the use of any trade-related investment measure (TRIM) that is inconsistent with Article III (national treatment on international taxation and regulation) or Article XI (general elimination of quantitative restrictions) of GATT 1994. An annex to the Agreement lists examples measures inconsistent with Articles III.4 and XI.1 of GATT 1994. This prohibition is subject to the exceptions permitted under GATT 1994, including safeguard clauses allowing developing countries to take measures to deal with balance-of-payments problems.

Article 5.1 of the Agreement requires that Members notify any measure that is incompatible with the Agreement not later than 90 days after the entry into force of the WTO Agreement. Article 5.2 gives the benefit of a transition period for the elimination of measures notified under Article 5.1 – within two years after the date of entry into force of the WTO Agreement in the case of developed country Members, five years in the case of developing country Members and seven years in the case of the least-developed country Members (provided however that the measures had been introduced not less than 180 days before the entry into force of the WTO Agreement). A decision adopted by the WTO General Council in April 1995 on the application of Article 5.1 to governments that joined the WTO after 1 January 1995 provides that they shall have a period of 90 days after the date of their acceptance of the WTO Agreement to make the notifications foreseen in Article 5.1. The period for the elimination of measures notified under Article 5.1 continues to be governed by reference to the date of entry into force of the WTO Agreement itself.

As of 30 June 1999, notifications of measures under Article 5.1 have been received from Argentina, Barbados, Bolivia, Chile, Colombia, Costa Rica, Cuba, Cyprus, the Dominican Republic, Ecuador, Egypt, Indonesia, India, Mexico, Malaysia, Nigeria, Pakistan, Peru, Philippines, Poland, Romania, Thailand, Uganda, Uruguay, Venezuela and South Africa. At the meetings of the Committee on Trade-Related Investment Measures held in September 1998 and March 1999, questions were raised and comments made on some of these notifications, in particular concerning several measures affecting to the automotive sector. Some Members have expressed interest in receiving information on steps taken by Members which have made notifications under Article 5.1 to ensure the elimination of the notified measures by the end of the transition period provided for in Article 5.2.

Article 5.3 provides that consideration may be given to extending the Article 5.2 transition periods at the request of an individual developing country Member. As of 30 June 1999, no specific request had been made.

Article 5.5 of the Agreement deals with the conditions under which, during the transition periods of Article 5.2, a TRIM notified under Article 5.1 may be applied to new investments. A standard format for notifications of measures under this provision had been adopted by the Committee in 1995. So far, no Member has notified any such measure to the Committee.

Article 6.2 of the Agreement requires notification of publications in which TRIMs may be found. In September 1996, the Committee adopted a procedure for the implementation of this provision. As of 30 June 1999, information under this procedure had been provided by: Argentina; Australia; Brunei Darussalam; Bulgaria; Chad; Chile; Costa Rica; Cuba; the European Community; Fiji; Hong Kong, China; Iceland; India; Indonesia; Israel; Jamaica; Japan; Liechtenstein; Mauritius; Nicaragua; Norway; Panama; Paraguay; Peru; Philippines; Romania; Suriname; Singapore; Switzerland; Thailand; Tunisia; Uganda; United States; Uruguay; Venezuela; and Zimbabwe.

Article 9 of the Agreement on Trade Related Investment Measures stipulates:

"Not later than five years after the date of entry into force of the Agreement Establishing the MTO, the Council for Trade in Goods shall review the operation of this Agreement and, as appropriate, propose to the Ministerial Conference amendments to its text. In the course of this review, the Council for Trade in Goods shall consider whether it should be complemented with provisions on investment policy and competition policy."

It is expected that Members will discuss this review in the Fall of 1999.

## IV. Trade in services

### Council for Trade in Services

The Council for Trade in Services has held nine formal meetings during the period 1 August 1998-31 July 1999. Reports on the meetings are contained in documents S/C/M/30-38.

### Entry into force of the fifth protocol

By the deadline of 29 January 1999, the Fifth Protocol had been accepted by 53 out of 71 Members. As not all Members concerned had accepted the Protocol by 30 January, those who had accepted it had to decide on its entry into force within 30 days, their mandate to take such a decision expiring on 1 March 1999. A meeting of those Members who had accepted was held on 11 February 1999. At that meeting the accepting countries decided that the Protocol should enter into force on 1 March, as would automatically have been the case if all Members concerned had accepted it by the deadline.

The Services Council subsequently agreed that the Protocol should be open for acceptance by those Members who had not yet done so from 15 February until 15 June 1999. It also agreed to renew the standstill commitment not to take any measures inconsistent with the schedules annexed to the Protocol before the entry into force of the Protocol (Decision on Acceptance of the Fifth protocol to the General Agreement on Trade in Services, S/L/68 of 15 February 1999).

### Preparation for negotiations under Article XIX of the GATS: the exchange of information

At the Ministerial Conference held in Singapore in 1996, Ministers endorsed a recommendation in paragraph 47 of document S/C/3 calling upon the Council for Trade in Services to develop an information exchange programme with the aim of facilitating the

access of all Members, in particular developing country Members, to information regarding laws, regulations and administrative guidelines and policies affecting trade in services.

As part of the information exchange, a series of discussions was held on specific services sectors. The focus of these discussions was on the manner in which the services in question were defined, traded and regulated as well as on the existing trade barriers. The discussions were aimed at enabling Members to identify negotiating issues and priorities. The Council agreed on five questions which constituted a useful, but not exhaustive, framework for the discussions. These questions were:

- (i) What are the regulatory authorities, governmental and/or non-governmental?
- (ii) Are there any special or common problems encountered as regards transparency or the application of the most-favoured-nation principle?
- (iii) What are the most prevalent types of restriction on market access or national treatment?
- (iv) Are there other types of regulation – for example in the areas of licensing, technical standards or qualification requirements – which commonly restrict trade in the sector?
- (v) What are the main barriers exports face in the markets of other Members?

The Council asked the Secretariat to prepare background papers on the sectors to be discussed at each meeting. These papers were based on information available on each sector and on the analysis of specific commitments. They contained information on the economic importance of the service, issues of definition, the main ways in which the service was traded and regulated, existing regulatory barriers to trade, limitations commonly found in schedules and sources of further information.

The Council meeting of 14 October 1998 held discussions on Education Services; Health Services; Tourism Services; and Energy Services. The meeting of 23 and 24 November 1998 held discussions on Land Transport; Air Transport and Maritime Transport Services. The meeting of 14 and 15 December 1998 held discussions on Financial, Accountancy and Telecommunication Services and Presence of Natural Persons. The meeting of 22 and 23 March 1999 held discussions on the Structure of Commitments for Modes 1, 2 and 3.

## Assessment of trade in services – Article XIX:3 of the GATS

Paragraph 3 of Article XIX of the GATS provides that for each round of negotiations, guidelines and procedures shall be established. For this purpose, the same provision calls upon the Council to carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS, including those set out in paragraph 1 of Article IV.

In the discussions on the assessment it was pointed out that trade in services suffered from a serious lack of statistical information which could constitute a proper basis for a quantitative assessment. This made it very difficult to envisage an assessment exercise which would lead to precise or quantified conclusions. A strong element of subjectivity was therefore inevitable in the assessment by each Member of how trade in services had developed in general or on a sectoral basis. For these reasons Members approached the assessment exercise as an opportunity to exchange views, record the appreciation of individual Members' assessment and recognise their different priorities.

The Council requested the Secretariat to prepare a background note on the assessment of trade, to complement earlier work on statistics (S/C/W/27) and the economic effects of services liberalisation (S/C/W/26 and S/C/W/26/Add.1). Accordingly, the Secretariat prepared a note on Recent Developments in Services Trade (S/W/C/94), which together with other existing documents was meant to assist the Council in its assessment of trade in services. The Secretariat also produced an informal note on "Developmental Aspects of Services Liberalization." On the basis of the notes prepared by the Secretariat, Members conducted an assessment of trade at the Council meetings held between December 1998 and July 1999. More discussions on the assessment are scheduled to take place in the Fall of 1999. At the July 1999 meeting, the UNCTAD Secretariat was invited to provide an overview of their work in the services area with a view to identifying material that might be relevant to the assessment by the Services Council.

## Preparation of negotiations under Article XIX – negotiating guidelines and procedures

At its meetings of April, May, June and July 1999 the Services Council had substantive discussions on the negotiating guidelines and procedures required by Article XIX of the GATS. Written submissions were presented by various delegations. In addition, several delegations also expressed their views at the meetings on what the negotiating guidelines should contain. The discussions were extremely useful and revealed high degree of convergence between the papers submitted and the view expressed orally by delegations.

All delegations agreed that the General Council was the competent body to decide on negotiating guidelines. Views differed as to whether the Services Council should provide an input on this matter to the General Council.

## Submission of schedules of commitments under the certification procedure

At meeting of the Services Council held on 14 and 15 December 1998, Côte d'Ivoire submitted a schedule of commitments in financial services and a list of Article II exemptions for consideration by the Council under the certification procedure. At the same meeting Guatemala submitted a schedule of commitments in telecommunications services. At the meeting of the Services Council held on 9 and 15 February 1999, Korea submitted an improved schedule of commitments in Financial Services.

## Cooperation between the International Telecommunications Union and the WTO

The question of a cooperation agreement between the International Telecommunication Union (ITU) and the WTO was raised at several meetings of the Services Council during 1998. The Council mandated the Secretariat to consult with the ITU Secretariat on the possible form and content of such an agreement. On the basis of these consultations, the WTO Secretariat produced a draft which was discussed by Members in the Services Council. Members approved the text of the cooperation agreement with the ITU at the meeting of the Services Council held on 22 and 23 March 1999.

## Special session on telecommunications services

On 25 June 1998, the Services Council held a special Information Session on Telecommunication Services. The Information Session examined in depth technical assistance to developing countries on regulatory issues such as the establishment of an independent regulator, interconnection and competitive safeguards. Experts from other international intergovernmental organizations including the International Telecommunications Union and the World Bank participated as well as national regulators from capitals.

## Trade facilitation

On 1 September 1998 the Chairman of the Council for Trade in Services received a letter from the Chairman of the Council for Trade in Goods requesting the Services Council to include "trade facilitation" as an item on the agenda of its next meeting to address its relationship with the GATS and provide the results of such discussions in March, to the Goods Council as an input to its further discussions on the subject.

At its meeting of 14 October 1998, the Services Council discussed the subject of trade facilitation. It was the general view that the concept of trade facilitation as originally raised in the context of trade in goods, i.e. mainly concerned with simplifying, streamlining and modernising customs formalities and administrative procedures, was not as such applicable to trade in services. However, in a broader sense, it was felt that liberalization of trade in services could play an important role in facilitating trade in goods. It was also suggested that issues of trade facilitation in services could be taken up as they related to individual sectors in the context of the exchange of information exercise, while specific issues relating to Electronic Data Interchange (EDI) could be taken up in the context of the work programme on Electronic Commerce. The main points raised by delegations in discussions on trade facilitation held in the Services Council were communicated in a letter from the Chairman of the Services Council to the Chairman of the Goods Council.

## Work programme on electronic commerce

The Services Council addressed the work programme on electronic commerce at its meetings held between October 1998 and July 1999. At the meeting held on 19 and 20 July 1999, the Services Council agreed on a progress report on the work programme to the General Council.

Discussions on electronic commerce in the Services Council focused on the 12 issues contained in paragraph 2.1 of the work programme adopted by the General Council on 25 September 1998 and namely: (i) scope (including modes of supply) (Article I); (ii) MFN (Article II); (iii) transparency (Article III); (iv) increasing participation of developing countries (Article IV); (v) domestic regulation, standards, and recognition (Articles VI and VII);

(vi) competition (Articles VIII and IX); (vii) protection of privacy and public morals and the prevention of fraud (Article XIV); (viii) market-access commitments on electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI); (ix) national treatment (Article XVII); (x) access to and use of public telecommunications transport networks and services (Annex on Telecommunications); (xi) customs duties; (xii) classification issues.

## Systemic issues arising from Article V of the GATS

At the meetings held on 26 April 1999 and on 22 and 24 June 1999, the Council discussed issues relating to Article V of the GATS (Economic integration). Several delegations expressed interest in the issues raised and there was a general recognition of the need to clarify certain aspects of Article V. Some suggested that these issues could be taken up in the context of the next round of negotiations. Other delegations, however, maintained that there was no need to revise or modify Article V, whose requirements and parameters were clear enough. The importance of adhering to the notification obligations contained in Article V was also stressed. Although delegations had a useful debate on issues relating to Article V there was no common view on how to advance discussions on this issue in the Services Council. Proposals had been made in the General Council on clarifying and reinforcing WTO rules on regional and economic integration agreements in the next round of negotiations. The Council took note of the debate and of the statements made by delegations and agreed to wait for some directions on this issue from the debate in the General Council.

## Financial services

At the end of the Uruguay Round negotiations in December 1993, negotiations on financial services, along with those on basic telecommunications and maritime transport, remained unfinished. Specific commitments to provide market access and national treatment were made in the sector, but broad MFN exemptions (exemptions to the principle of most-favoured-nation treatment) based on reciprocity remained. The Second Annex on Financial Services to the General Agreement on Trade in Services (GATS) and the Ministerial Decision on Financial Services adopted at the end of the Round provided for extended negotiations in this sector. The negotiations were to be held during a six-month period following the entry into force of the GATS; i.e. until the end of June 1995. At the conclusion of this period, Members of the WTO would have the possibility to improve, modify or withdraw all or part of their commitments and to introduce additional MFN exemptions. Negotiations on this basis started shortly after the Marrakesh meeting.

The negotiations in 1995 were concluded on 28 July 1995. The Agreement was called the "interim" Agreement, since negotiators again decided that the results of the negotiations were not satisfactory and envisaged further negotiations in two-years' time; i.e. in 1997. As a result of the 1995 negotiations, 43 WTO Members improved their schedules of specific commitments and/or removed, suspended or reduced the scope of their MFN exemption in financial services. Those improved commitments were annexed to the Second Protocol to the GATS. Three other countries – Colombia, Mauritius and the United States – decided not to improve their commitments, and took broad MFN exemptions based on reciprocity. As a result, the United States took no commitments on new establishment or new activities of foreign financial services suppliers, in insurance as well as in banking, securities and other financial services. With the conclusion of those negotiations, and with new accessions to the WTO, 97 Members of the WTO had commitments in financial services by mid-1997, compared to 76 at the end of the Uruguay Round. The Second Protocol and the commitments annexed to it entered into force on 1 September 1996 except for a small number of countries which were unable to complete their internal ratification procedures and formally accept the Protocol before 1 July 1996. For those remaining countries, the commitments entered into force 30 days after acceptance.

In accordance with the decision made in 1995, negotiations on financial services were reopened in April 1997. Members again had an opportunity to improve, modify or withdraw their commitments in financial services and to take MFN exemptions in the sector from 1 November until 12 December 1997. As a result of those negotiations, a new and improved set of commitments in financial services under the GATS was agreed on 12 December 1997. A total of 56 schedules of commitments representing 70 WTO Members and 16 modified lists of MFN exemptions<sup>5</sup> were annexed to the Fifth Protocol to the GATS, which was initially open for ratification and acceptance by Members until 29 January 1999. This deadline was subsequently extended to 15 June 1999. The Protocol, along with the new commitments annexed to it, entered into force on 1 March 1999 for the 53 Members which had accepted it by that date. With five countries making commitments in financial services for the first time, and with the accession of new Members to the WTO, the total number of WTO

<sup>5</sup>The 70 WTO Members with new schedules are: Australia; Bahrain; Bolivia; Brazil; Bulgaria; Canada; Chile; Colombia; Costa Rica; Cyprus; Czech Republic; the Dominican Republic; Ecuador; Egypt; El Salvador; the European Communities (15 Member States); Ghana; Honduras; Hong Kong, China; Hungary; Iceland; India; Indonesia; Israel; Jamaica; Japan; Kenya; Korea; Kuwait; Macau; Malaysia; Malta; Mauritius; Mexico; New Zealand; Nicaragua; Nigeria; Norway; Pakistan; Peru; Philippines; Poland; Romania; Senegal; Singapore; Slovak Republic; Slovenia; South Africa; Sri Lanka; Switzerland; Thailand; Tunisia; Turkey; the United States; Uruguay; and Venezuela. The 16 MFN modified exemption lists (including deletions of existing exemptions) were submitted by Australia, Canada, Honduras, Hungary, India, Mauritius, Nicaragua, Pakistan, Peru, Philippines, Senegal, Switzerland, Thailand, Turkey, the United States, and Venezuela.

Members with commitments in financial services will increase to 104 upon the completion of acceptances by all Members concerned.

As a result of the most recent negotiations, the United States, India and Thailand decided to withdraw their broad MFN exemptions based on reciprocity; only a small number of countries submitted limited MFN exemptions or maintained existing broad MFN exemptions. Several countries, including Hungary, Mauritius, the Philippines and Venezuela reduced the scope of their MFN exemptions. The United States submitted a limited MFN exemption in insurance, applicable in a circumstance of forced divestiture of US ownership in insurance service providers operating in WTO Member countries. The new commitments contain inter alia significant improvements allowing commercial presence of foreign financial service suppliers by eliminating or relaxing limitations on foreign ownership of local financial institutions, limitations on the juridical form of commercial presence (branches, subsidiaries, agencies, representative offices, etc.) and limitations on the expansion of existing operations. Important progress was also made in “grandfathering” existing branches and subsidiaries of foreign financial institutions which are wholly – or majority-owned by foreigners. Improvements were made in all of the three major financial service sectors – banking, securities and insurance, as well as in other services such as asset management and provision and transfer of financial information.

The Committee on Trade in Financial Services has been monitoring the acceptance of the Protocol by Members concerned and is mandated to examine any concerns raised by Members regarding the application of this undertaking. The Committee has also started discussions on some technical issues in preparation for the next round of services negotiations to start at the end of this year.

## GATS rules

The Working Party on GATS rules held seven formal meetings between August 1998 and July 1999. In each meeting, delegations discussed the three negotiating issues mandated under the GATS: emergency safeguard measures under ArticleX, government procurement under ArticleXIII and subsidies under ArticleXV.

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### Negotiations on the question of emergency safeguard measures under ArticleX of the GATS

The Working Party has not yet developed a common view on the desirability and feasibility of a safeguards mechanism in services. Recently, its work has focused on clarifying basic elements of such a mechanism as Members felt that this would also facilitate judgement on its desirability. Main issues under discussion are summarized in a Secretariat Paper circulated in May 1999 (S/WPGR/W/27/Rev.1). They include the questions whether safeguards should be made generally available or only if they had been included in schedules; whether safeguard actions would need to benefit all domestically-established suppliers or could be confined to protecting domestically-owned companies; what type of emergency situations would justify the application of measures; whether it was possible to devise meaningful injury and causality criteria; and whether certain measures (e.g. suspension of market-access commitments) would be preferable to others. The discussions have been without prejudice to any other issues Members might want to raise.

Given the difficulties of solving these issues within the agreed timeframe (30June 1999), the Council for Trade in Services, on recommendation by the Working Party, postponed the deadline for the conclusion of the negotiations to 15December 2000. The relevant Council Decision also provides that the results shall enter into effect not later than the date of the entry force of the results of the impending services round.

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### Negotiations on government procurement under ArticleXIII of the GATS

Discussions have revolved around three questions contained in a Member’s informal submission to the Working Party: what transactions constitute procurement; what are the relevant entities; and what services are being procured? Particular attention was given to conceptual issues, including the potential relevance for services procurement of terms and definitions contained in the GATT, and the distinction between government procurement and concessions in national regimes. At a following stage, the Working Party intends to discuss the application of basic GATS concepts, including non-discrimination, to services procurement.

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### Negotiations on subsidies under ArticleXV of the GATS

Work on subsidies has not advanced significantly in 1998, possibly suffering from a lack of information. Apart from two responses submitted in mid-1997, only one further submission was provided in the context of the information exchange mandated under Article XV. A recent proposal encourages Members to discuss trade problems encountered in export markets as a result of distortive subsidization. Such discussion would be without prejudice,

however, to the information exchange under Article XV. Conceptual and definitional issues have not yet been addressed in depth.

## Professional services/Domestic regulation

The Working Party on Professional Services (WPPS) completed its work in accountancy, in accordance with the provisions of Article VI:4 of the General Agreement on Trade in Services (GATS) when the Council for Trade in Services, on 14 December 1998, adopted the Disciplines on Domestic Regulation in the Accountancy Sector (WTO document S/L/64). In April 1999, the WPPS was replaced by the Working Party on Domestic Regulation.

The accountancy disciplines are divided into eight sections, i.e.: Objectives, General Provisions, Transparency (five measures), Licensing Requirements (six measures), Licensing Procedures (five measures), Qualification Requirements (three measures), Qualification Procedures (three measures) and Technical Standards (two measures). The disciplines are to be applicable to all WTO Members who have scheduled specific commitments for accountancy. They do not have immediate legal effect, but instead are to be integrated into the GATS, together with any other new or revised disciplines which have been developed, before the end of the upcoming round of services negotiations.<sup>6</sup> A standstill provision (i.e. a promise not to adopt new measures in violation of the accountancy disciplines) does, however, have immediate effect, and is applicable to all WTO Members.

The main elements of the accountancy disciplines are found in paragraphs 1, 2, 5, and 6. Paragraph 1 states that these Article VI disciplines are separate and distinct from measures under Articles XVI (market access) and XVII (national treatment) of the GATS. Paragraph 2 is the core element of the disciplines, as it establishes a "necessity test" for all applicable regulatory measures, i.e. the principle that regulatory measures shall not be more trade-restrictive than necessary to fulfil a specified legitimate objective. Examples of such legitimate objectives mentioned in the disciplines are the protection of consumers (including all users of accounting services and the public generally), the quality of the service, professional competence and the integrity of the profession. In paragraph 5, Members are required to explain, upon request, the specific objectives intended by their regulations. In paragraph 6, Members are asked to provide an opportunity for trading partners to comment upon proposed regulations, and to give consideration to such comments.

The Council for Trade in Services subsequently adopted, on 28 April 1999, the Decision on Domestic Regulation (WTO document S/L/70). The Decision replaced the WPPS with the Working Party on Domestic Regulation (WPDR). The objective of the new Working Party is to create regulatory disciplines which are generally applicable across all services sectors, while not excluding the possibility of creating additional disciplines for individual sectors or groups of sectors.

## Committee on Specific Commitments

The Committee on Specific Commitments has held six formal meetings during the period under review, as compared with two in each of the two previous years. This is clearly linked to the intensification of technical preparation for the next round of negotiations. The minutes of these meetings appear in documents S/CSC/M/6, 7, 8, 9, 10 and 11. In its meeting held on 23 March 1999, the Committee re-elected Mr. Juan A. Marchetti of Argentina as its Chairman.

Informal consultations on the finalization of the procedures for the implementation of GATS Article XXI (Modification of Schedules) have also been conducted by the Chairman of the Committee. These consultations, as well as the discussion of the question as a formal item, led the committee to recommend at its meeting of 19 July the adoption of these procedures and subsequently to their adoption by the Council for Trade in Services. The text of the procedures appears in document S/CSC/W/21. The remaining formal discussions of the Committee focused on three items: classification issues, the institution of a system of electronically consolidated and updated schedules and the revision of the scheduling guidelines.

As far as classification issues are concerned, the Committee in accordance with a mandate given by the Council for Trade in Services, began the examination of the points on classification raised during the Exchange of Information Programme, on the basis of a compilation of these points drawn up by the Secretariat and of working documents submitted by delegations. It was agreed that, at each meeting of the Committee dedicated to classification, the Secretariat would produce an informal document listing and updating the suggestions and solutions proposed by Members with regard to the various sectors. The Committee agreed on a member-driven process based on concrete proposals made by delegations. In this context it undertook a detailed examination of environmental and environmentally related services and began similar work on legal services, energy services and postal services.

<sup>6</sup>Council for Trade in Services, Decision on Disciplines Relating to the Accountancy Sector (WTO document S/L/63, 15 December, 1998).

Secondly the Committee began discussion of the question of the definition and treatment of new services. There was broad agreement that this was more a question of classification than of coverage and that a pragmatic approach, based on concrete examples identified during of the Exchange of Information Programme of the Council, was needed.

The Committee approved in principle the establishment of a system of electronically consolidated and updated schedules of commitments. It was agreed that these electronic schedules would not have legal status. The Committee also considered the calendar, budget, format, circulation, prices and verification procedure applicable to this project and the possibility of assigning dates to these commitments. It agreed in particular that the outcome of this work should be published and sold to the general public in a CD-ROM format and that, in view of budgetary constraints, the elaboration of a CD-ROM version was a priority as compared to an online version.

On scheduling guidelines the Committee requested the Secretariat to produce, as a basis for a future collective reading of the guidelines, an informal and technical document on scheduling problems emerging from the guidelines themselves and from their implementation. On this basis the Committee discussed the numerous problems of coherence and interpretation raised by the Secretariat as well as proposals clarification. The Committee began the examination of a first revised draft of the scheduling guidelines containing the points on which a consensus had emerged. The Committee also asked the Secretariat to produce a checklist of outstanding problems on scheduling matters and began its examination.

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## V. Trade-related aspects of intellectual property rights (TRIPS)

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, the so-called TRIPS Agreement, is based on a recognition that increasingly the value of goods and services entering into international trade resides in the know-how and creativity incorporated into them. The TRIPS Agreement provides for minimum international standards of protection for such know-how and creativity in the areas of copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout-designs of integrated circuits and undisclosed information. It also contains provisions aimed at the effective enforcement of such intellectual property rights, and provides for multilateral dispute settlement. It gives all WTO Members transitional periods so that they can meet their obligations under it. Developed country Members have had to comply with all of the provisions of the Agreement since 1 January 1996. For developing countries, the general transitional period is five years (i.e. until 1 January 2000), and for least-developed countries, the transitional period is 11 years (i.e. until 1 January 2006).

At the end of their transition period, Members are obliged to notify their implementing legislation. Given the difficulty of examining legislation relevant to many of the enforcement obligations in the Agreement, Members have undertaken, in addition to notifying legislative texts, to provide information on how they are meeting these obligations by responding to a checklist of questions. This information is being used as the basis for reviews of implementing legislation carried out by the Council. The legislation of developed country Members was examined in 1996 and 1997. The Council continued these reviews at its meetings in 1998 with regard to Members that had joined the review exercise late or whose review had otherwise not yet been completed. As for the future, the legislation of two newly acceded Members is scheduled to be reviewed at the end of 1999. The Chair has also been consulting with other individual Members, which have availed themselves of a transitional period which will end on 1 January 2000, about the review of their legislation in 2000 and 2001. At the Council's meeting in July 1999, the Chair informed the Council that these reviews would address all areas of intellectual property at the same time and which Members had agreed to have their legislation reviewed in the year 2000, 12 volunteering to be taken up in the first part of the year and a further 12 in the second.

The national and MFN treatment obligations of the TRIPS Agreement became applicable to all Members from 1 January 1996, including those Members that avail themselves of the transitional periods provided in the Agreement. During the period covered by the report, the Council has continued its consideration of these notifications as well as of those concerning the implementation of the so-called "mail-box" and exclusive marketing rights provisions of Articles 70.8 and 70.9, which came into effect on 1 January 1995 for countries which do not yet provide product patent protection for pharmaceuticals and/or agricultural chemicals. Further, having received the first notifications under the Appendix to the Berne Convention as incorporated by reference into the TRIPS Agreement, the Council considered, at its meeting in July 1998, how the renewable periods of ten years for which such notifications remain valid should be calculated.

As noted elsewhere in this report, six new issues of alleged non-compliance with the TRIPS obligations were the subject of an invocation of the dispute settlement procedure. Of the

20 disputes that have been initiated in the TRIPS area, five have been settled through a mutually agreed solution. They concerned the term of protection of existing patents, the protection of past performances and existing sound recordings, the implementation of the "mail-box" and exclusive marketing rights provisions on pharmaceutical and agricultural chemical products, and measures affecting the enforcement of intellectual property rights. Five panels have been established to date to deal with TRIPS disputes. The first TRIPS panel was established in November 1996 to examine another dispute concerning the implementation of the "mailbox" and exclusive marketing rights provisions. The report of this panel, which was issued in September 1997, was appealed and, together with the Appellate Body report, which modified the panel report to some extent, adopted by the DSB in January 1998. The measures that were at issue in this dispute have also been the subject of a second panel, established in October 1997, which issued its report in August 1998. Another panel was established in September 1997 to examine the consistency of certain trademark measures with the national treatment provisions of and the transitional arrangements under the TRIPS Agreement. The report of this panel was issued, and adopted by the DSB, in July 1998. In two disputes, panels have been established and panel procedures are on-going. One of these disputes concerns provisions affecting patent protection of pharmaceutical products and the other certain provisions affecting the protection of copyright. The pending consultations concern certain measures affecting the grant of copyright and related rights, measures affecting the enforcement of intellectual property rights, certain provisions concerning patent protection of pharmaceutical and agricultural chemical products, the term of protection of existing patents, exclusive marketing rights provisions for pharmaceuticals and test data protection for agricultural chemicals, the protection of trademarks and geographical indications for agricultural products and foodstuffs, and certain provisions affecting the protection of trademarks.

The Council has afforded Members the opportunity of consulting on a number of other matters related to TRIPS, including revocation of patents, priority rights, questions relating to the protection of geographical indications in certain Members, and questions relating to the protection of trademarks and trade names in a certain Member.

Technical cooperation has been a prominent issue in the TRIPS Council. Article 67 of the Agreement obliges each developed country Member to provide, on request and on mutually agreed terms, technical and financial cooperation in favour of developing and least-developed Member countries. In order to ensure that information on available assistance is readily accessible and to facilitate the monitoring of compliance with the obligation of Article 67, developed country Members update annually descriptions of their technical and financial cooperation programmes. For the sake of transparency, inter-governmental organizations observers to the TRIPS Council also present, on the invitation of the Council, information on their activities. In addition, the WTO Secretariat provides information on its technical cooperation in the TRIPS area. In 1998, the information was updated in time for the Council's meeting in September, which had a special focus on technical cooperation. The regular discussion in the Council on the basis of this material provides an opportunity for developing countries to identify their needs, in particular any gaps in the assistance available. Developed country Members have also notified contact points in their administrations which can be addressed by developing countries seeking technical cooperation on TRIPS. In addition, the Secretariat organized, jointly with the International Bureau of the World Intellectual Property Organization (WIPO), a number of symposia and workshops on specific aspects of technical cooperation, which enabled an exchange of views on technical cooperation needs and experiences related to the implementation of the TRIPS Agreement. In 1999, such events were also organized on a tripartite basis, i.e. including also the Office of the International Union for the Protection of New Varieties of Plants (UPOV) as co-organiser.

The Secretariat cooperates with a number of intergovernmental organizations, notably with WIPO pursuant to the Agreement Between WIPO and the WTO, which entered into force on 1 January 1996. The Directors-General of the two Organizations launched a joint initiative on technical cooperation in July 1998 by sending letters to Ministers of each of the countries concerned, underscoring the commitment of the two Organizations to do all within their capacity to provide, on request, technical assistance, drawing attention to the key requirements of the TRIPS Agreement and containing a non-exhaustive list of the forms of technical cooperation that could be provided. This was done particularly in the light of the imminence of the end of the general transitional period for developing countries on 1 January 2000 and the need to be as efficient as possible in making available technical cooperation in the intervening period so as to maximize the assistance that they were in a position to provide. This initiative builds on a substantial track record of cooperation between the two Organizations since 1996 and earlier in the field of technical cooperation, and is aimed at carrying it forward to a new level. As requested by the Council, at its meeting in December 1998, the Secretariat has reported at each meeting since on progress in the implementation of the joint initiative.

The Council has also discussed the implementation of Article 66.2 of the Agreement, which requires developed country Members to provide incentives to enterprises and

institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. Following a question from a least-developed country Member on how this provision was being implemented, the Council agreed, in December 1998, that developed country Members be invited to supply information in response to this question. To date, information has been submitted by 14 Members.

During the period covered by the report, the Council has held discussions on various aspects of the TRIPS Agreement's built-in agenda. It continued its discussions on such aspects concerning geographical indications. As regards the negotiations specified in Article 23.4 of the Agreement concerning the establishment of a multilateral system of notification and registration of geographical indications for wines, the Council considered, at its meeting in February 1998, a Secretariat background note on international notification and registration systems for geographical indications relating to wines and spirits. Since then, further discussions have been held on what the next step should be for carrying forward this work. Proposals on the matter received from delegations in July 1998 and February 1999 were discussed in the Council. These discussions are continuing and further proposals have been announced. In July 1999, the Council had before it a background note it had requested the Secretariat to prepare on international notification and registration systems for geographical indications relating to products other than wines and spirits.

The review of the application of the Agreement's provisions on geographical indications under Article 24.2 was taken up by the Council in the Autumn of 1996 after, and taking into account, the review of national implementing legislation in the area of geographical indications, and agreed to first consider the questions involved in informal consultations. In February 1998, the Council was informed that delegations supported the approach of developing a checklist of questions about national regimes for the protection and enforcement of geographical indications. In May and July 1998, the Council took note of questions to be included in such a checklist and invited those Members already under an obligation to apply the provisions of the Agreement's Section on geographical indications to provide their responses by 16 November 1998, it being understood that other Members could also furnish replies on a voluntary basis. To date, responses have been received from 32 Members and, in July 1999, the Council requested the Secretariat to prepare a paper summarizing these responses on the basis of an agreed outline, to facilitate an understanding of the more detailed information that had been provided in the individual responses to the Checklist.

In December 1998, the Council initiated the review of the provisions of Article 27.3(b) of the Agreement that it was required to undertake in 1999. Members that were already under an obligation to apply Article 27.3(b) were invited to provide information on how the matters addressed in this provision were presently treated in their national law. Other Members were invited to provide such information on a best endeavours basis. While it was left to each Member to provide information as it saw fit, having regard to the specific provisions of Article 27.3(b), the Secretariat was requested to provide an illustrative list of questions relevant in this regard in order to assist Members to prepare their contributions. The Secretariat was also requested to contact the FAO, the Secretariat of the Convention on Biological Diversity and UPOV, to request factual information on their activities of relevance. By the time of the Council's meeting in July 1999, information had been received from 33 Members as well as from the three intergovernmental organizations referred to. At that meeting, the Council had before it an informal note containing a structured summary overview of the information presented by Members, which the Secretariat had prepared in response to a request from the Council. Some Members commented on the contents of this overview. A Member presented the contents of a paper that it was about to circulate on the matter, which would address certain concerns it had and also contain proposals for amending the provisions of Article 27.3(b). Several delegations agreed that the issues in question needed to be addressed in greater detail, including biodiversity aspects.

Under Article 64.3, the Council is required to examine the scope and modalities for complaints of the type provided for under Article XXIII:1(b) and (c) of GATT 1994 (so-called "non-violation" disputes) made pursuant to the TRIPS Agreement. In September 1998, the Council requested the Secretariat to prepare a factual background note on the experience with disputes so far under the TRIPS Agreement, including any references made to non-violation issues, the negotiating history of paragraphs 2 and 3 of Article 64, the experience with non-violation complaints under the GATT/WTO, and any information available on the use of the non-violation concept in disputes on intellectual property matters elsewhere. Papers from Members on the matter were received in February and April 1999.

Paragraph 4.1 of the Work Programme on Electronic Commerce, established by the General Council in September 1998, provides that the Council for TRIPS should examine and report on the intellectual property issues arising in connection with electronic commerce, including issues concerning the protection and enforcement of copyright and related rights, the protection and enforcement of trademarks, and new technologies and access to

technology. The Council for TRIPS took up the issue in December 1998, when it heard an oral statement from the representative of WIPO describing WIPO's work programme in the area of electronic commerce and intellectual property and requested the Secretariat to prepare a factual background note examining the provisions of the TRIPS Agreement relevant to paragraph 4.1 of the Work Programme on Electronic Commerce. It discussed the issue in February, April and July 1999 on the basis of this note and received communications on the matter from five Members. In July 1999, WIPO provided information as requested by the Council on its activities dealing with electronic commerce. A progress report was agreed and sent to the General in July 1999, in which the Council summarizes the work done and expresses the view that the WTO should continue to consider developments in this area, including the further work of WIPO.

In September 1998, the Council agreed to consider the issue of trade facilitation, which was a matter on the agenda of the Council for Trade in Goods as a result of a decision at the Singapore Ministerial Conference, following a letter received from the Chairman of the Council for Trade in Goods, in which the Council for TRIPS was requested to address those aspects of trade facilitation which the Council for TRIPS regarded as being related to the TRIPS Agreement. The Council took up the issue in December 1998 and had before it, in February 1999, a non-paper submitted by a Member as well as a Secretariat background note on the relationship between the TRIPS Agreement and trade facilitation. It agreed that the Chair should convey to the Council for Trade in Goods the record of the discussions that it had held on this agenda item, as reflected in the minutes of the Council's meetings, together with copies of the texts that had been presented to the Council on the matter.

Since February 1997, the following organizations have had a regular observer status in the TRIPS Council: the Food and Agriculture Organization (FAO), the International Monetary Fund (IMF), the International Union for the Protection of New Varieties of Plants (UPOV), the Organization for Economic Cooperation and Development (OECD), the United Nations (UN), the United Nations Conference on Trade and Development (UNCTAD), the World Bank, the World Customs Organization (WCO) and the World Intellectual Property Organization (WIPO). Requests from the African Regional Industrial Property Organization (ARIPO), the Cooperation Council for the Arab States of the Gulf (GCC), the European Free Trade Association (EFTA), the International Plant Genetic Resources Institute (IPGRI), the International Vaccine Institute, the Latin American Economic System (SELA), the Office International de la Vigne et du Vin (OIV), the Organization of American States (OAS), the Organization of the Islamic Conference (OIC), the Secretariat of the Convention on Biological Diversity (CBD), the Secretariat of the General Treaty on Central American Economic Integration (SIECA) and the South Centre are pending.

## VI. Resolution of trade conflicts under the WTO's Dispute Settlement Understanding

### Overview

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes arising from any Agreement contained in the Final Act of the Uruguay Round. The DSB has the sole authority to establish dispute settlement panels, adopt panel and appellate reports, maintain surveillance of implementation of rulings and recommendations and authorise suspension of concessions in the event of non-implementation of recommendations.

In its report to the 1998 Ministerial Conference, the Chairman of the DSB stated that the role of the DSB in managing the settlement of disputes within the WTO had continued to be positive. The DSB's work reflected the fact that Members had continued to show confidence in the new dispute settlement mechanism whose proper functioning clearly contributed to the strengthening and consolidation of the WTO and the multilateral trading system.

### Dispute settlement activity for the period 1 August 1998 to 31 July 1999

In the 12 months from 1 August 1998 to 31 July 1999, the DSB received 39 notifications of formal requests for consultations under the DSU. During this period, the DSB established panels to deal with 17 new matters, and received requests to establish a panel in five other cases. It adopted Appellate Body and/or panel reports in eight cases. The DSB also received two notifications of mutually agreed solutions (settlements). This section briefly describes the procedural history of these cases. It also describes the implementation status of previously adopted reports, those cases for which panel reports have been issued but not yet adopted,

those appeals which have not yet been considered by the Appellate Body, and those panels which have suspended their work during the past year.

## Appellate Body and/or Panel reports adopted

### **(1) Australia – Measures affecting the importation of salmon (WT/DS18)**

On 10 April 1997, a panel was established to consider a complaint by Canada (WT/DS18) concerning Australia's import prohibition on fresh, chilled or frozen salmon. Pursuant to an Australian quarantine regulation of 1975, all imports of salmon were prohibited, unless the salmon was subjected to such treatment as, in the opinion of Australia's Director of Quarantine, was likely to prevent the introduction of diseases. From 1988, the importation of smoked salmon and salmon roe that was heat-treated was allowed. Imports of fresh, chilled or frozen salmon, however, were prohibited. In December 1996, the Director of Quarantine confirmed this prohibition on the basis of the conclusions of the 1996 Final Report, a document Australia put forward as a "risk assessment" in accordance with Article 5.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement"). The European Communities, India, Norway and the US reserved their third-party rights.

The Panel found that Australia, by maintaining the SPS measure at issue, has acted inconsistently with Articles 5.1, 5.5 and 5.6 and, by implication, Articles 2.2 and 2.3 of the SPS Agreement. The Panel's findings on Articles 5.1 and, by implication, Article 2.2 of the SPS Agreement, concerned all categories of salmon at issue in this dispute, i.e., "ocean-caught Pacific salmon" as well as "other Canadian salmon". Its findings on Articles 5.5 and 5.6 and, by implication, Article 2.3 of the SPS Agreement, however, were limited to ocean-caught Pacific salmon. Both Australia and Canada appealed certain of the issues of law developed by the Panel.

The Appellate Body concluded that the SPS measure at issue in this dispute was the import prohibition on fresh, chilled or frozen salmon rather than the heat-treatment requirement, as the Panel had found. Since the Panel's examination of, and findings on, Articles 5.1 and 5.6 were based on the wrong premise of the SPS measure at issue, the Appellate Body had no choice but to reverse the Panel's findings relating to those Articles. The Appellate Body subsequently examined whether Australia's import prohibition was based on a risk assessment as required by Article 5.1 and whether it was "not more trade-restrictive than required" pursuant to Article 5.6. With regard to Article 5.1, the Appellate Body concluded, on the basis of factual findings made by the Panel, that the import prohibition was not based on a risk assessment because the document put forward by Australia was not a "risk assessment" within the meaning of Article 5.1 and paragraph 4 of Annex A of the SPS Agreement. The Appellate Body found itself unable to come to a conclusion on whether the import prohibition, as it applies to ocean-caught Pacific salmon, is "not more trade-restrictive than required" pursuant to Article 5.6, because of insufficient factual findings and undisputed facts in the Panel record. The Appellate Body upheld the Panel's conclusion that Australia has acted inconsistently with Article 5.5 and, by implication, Article 2.3, since there are arbitrary and unjustifiable distinctions in the levels of sanitary protection which Australia considers appropriate for ocean-caught Pacific salmon, on the one hand, and herring used as bait and live ornamental fish, on the other, and these distinctions result in a disguised restriction on international trade. The Appellate Body found that the Panel erred in its application of the principle of judicial economy and should have made findings on Article 5.5 and 5.6 with regard to other Canadian salmon as well as ocean-caught Pacific salmon. With respect to Article 5.5, the Appellate Body considered that the reasoning that led the Panel to find that Australia had acted inconsistently with its obligations in regard to ocean-caught Pacific salmon, also applies to other Canadian salmon. It concluded, therefore, that Australia has also acted inconsistently with Article 5.5 with regard to other Canadian salmon. With respect to Article 5.6, the Appellate Body found itself unable to come to a conclusion on whether the import prohibition, as it applies to other Canadian salmon, is "not more trade-restrictive than required", because of insufficient factual findings and undisputed facts in the Panel record. The Appellate Body considered all of Australia's claims that the Panel had made procedural errors during the Panel proceedings to be without merit.

The report of the Appellate Body was circulated to Members on 20 October 1998. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 6 November 1998. At the DSB meeting on 25 November 1998, Australia informed the DSB that it was committed to implementing the recommendations of the DSB and was looking forward to discussing with the complainants the question of implementation. On 24 December 1998, Canada requested arbitration, pursuant to Article 21.3(c) of the DSU, to determine the reasonable period of time for implementation of the recommendations of the DSB. The Arbitrator decided that the reasonable period of time for implementation was eight months, i.e. it expired on 6 July 1999.

On 28 July 1999, Canada made a request to the DSB, pursuant to DSU Article 22.2, for authorization to suspend concessions to Australia due to its non-compliance with the recommendations of the DSB in this matter. Canada simultaneously made a request, pursuant to DSU Article 21.5, for determination by the original panel of whether the measures taken by Australia in implementing the recommendations of the DSB were fully WTO-consistent. Australia informed the DSB that in the event that the DSB approved Canada's request under DSU Article 22.2, it wished to request, pursuant to DSU Article 22.6, arbitration on the level of nullification and impairment suffered by Canada. The DSB agreed to Canada's request and referred the matter for determination of the WTO-consistency of the implementing measures to the original panel, and also referred the level for suspension of concessions requested by Canada to arbitration in view of Australia's challenge of the level of nullification suffered by Canada.

## **(2) United States – Import prohibition of certain shrimp and shrimp products (WT/DS58)**

On 25 February 1997, a panel was established to consider complaints by Malaysia, Pakistan and Thailand (WT/DS58) concerning a ban on importation of shrimp and shrimp products from these countries imposed by the United States under Section 609 of US Public Law 101-162. Australia, Colombia, the EC, Philippines, Singapore, Hong Kong, India, Guatemala, Mexico, Japan, Nigeria and Sri Lanka reserved their third-party rights. On 25 February 1997, India also requested the establishment of a panel in the same matter. At its meeting on 10 April 1997, the DSB agreed to establish a panel in respect of India's request but also agreed to merge it with the Panel already established in respect of the other complainants.

In the course of the Panel proceedings, the Panel received two non-requested submissions from non-governmental organizations. The Panel found that, as it had not requested this information, it would be incompatible with the provisions of the DSU, as currently applied, for it to accept the information. However, the Panel gave the parties to the dispute the possibility to include these documents (or parts of them) as part of their own submissions to the Panel. The Panel concluded that Section 609 was a prohibition on imports of shrimp and shrimp products which was inconsistent with Article XI:1 of the GATT 1994. The US sought to justify the measure under Article XX(g), as relating to the conservation of exhaustible natural resources; or, in the alternative, under Article XX(b), as necessary to protect human, animal or plant life or health. The Panel did not examine Section 609 under either paragraph (b) or (g) of Article XX, but rather proceeded directly to an examination of Section 609 under the introductory clause ("chapeau") of Article XX. The Panel found that Section 609 constituted "unjustifiable discrimination between countries where the same conditions prevail" contrary to the provisions of the chapeau of Article XX, and thus was "not within the scope of measures permitted under the chapeau of Article XX." The report of the Panel was circulated to Members on 15 May 1998. On 13 July 1998, the US notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

The Appellate Body reversed the Panel's finding that accepting non-requested information from non-governmental sources is incompatible with the provisions of the DSU. The Appellate Body observed that the DSU accords a panel extensive discretionary authority to control its information-gathering process, which includes the ability to accept non-requested information from non-governmental organizations. Concerning the Panel's actual treatment of the non-requested information submitted to it by the non-governmental organizations, the Appellate Body considered that the Panel had acted properly, and within the scope of its authority under the DSU, in allowing the parties to attach the briefs by non-governmental organizations, or parts of them to their submissions. In addition, in the course of the appellate proceedings, the Appellate Body admitted briefs by non-governmental organizations that were attached to the US appellant's submission as part of that submission. The United States had clarified that it agreed with the legal arguments made in those submissions to the extent they concurred with the US arguments set out in its main submission.

The Appellate Body reversed the interpretative analysis on which the Panel decision was based in finding that the sequence of analysis for determining justification under Article XX of GATT 1994 was first to examine the measure under the specific exceptions enumerated in paragraphs (a) to (j) of Article XX, and then if the measure so qualifies, conduct a further appraisal of the application of the measure under the standards set forth in the chapeau of Article XX. The Appellate Body found that sea turtles are an "exhaustible natural resource", that a "substantial relationship" existed between the general structure and design of Section 609 and the policy goal of protecting sea turtles and that Section 609 was made effective in conjunction with restrictions on domestic harvesting of shrimp. Consequently the Appellate Body found that Section 609 qualifies for provisional justification under paragraph (g) of Article XX. The Appellate Body then examined the application of the measure under the

chapeau of Article XX and concluded that the US measure is applied in a manner that amounts to a means of both “arbitrary discrimination” and “unjustifiable discrimination”, and thus fails to meet the requirements of the chapeau. The report of the Appellate Body was circulated to Members on 12 October 1998. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 6 November 1998.

### **(3) Guatemala – Anti-dumping investigation regarding imports of portland cement from Mexico (WT/DS60)**

On 20 March 1997, a panel was established to consider a complaint by Mexico (WT/DS60) concerning the initiation and subsequent conduct of an anti-dumping investigation by Guatemala’s Ministry of Economy, with regard to imports of grey portland cement from Mexico. Mexico alleged that this investigation was in violation of Guatemala’s obligations under Articles 2, 3, 4, 5, 6 and 7 and Annex 1 of the Agreement on Implementation of Article VI of GATT 1994 (the “AD Agreement”). The US, Canada, Honduras and El Salvador reserved their third-party rights.

The Panel considered at the outset a preliminary issue concerning the sufficiency of Mexico’s request for establishment of a panel. The Panel concluded that the request for establishment raised a “matter” which the Panel could properly consider under Article 17.4 of the AD Agreement, and therefore proceeded to address Mexico’s claims under the AD Agreement. The Panel then considered the conformity of the Ministry’s initiation of the investigation with Article 5 of the AD Agreement. The Panel found that Guatemala had failed to notify the Government of Mexico before proceeding to initiate the anti-dumping investigation, contrary to Article 5.5 of the AD Agreement. The Panel also found that, based on an unbiased and objective evaluation of the evidence and information that was before it at the time of initiation of this case, the Ministry could not properly have determined that there was sufficient evidence of dumping, threat of injury, and causal link, to justify the initiation of the investigation. Therefore the Panel concluded that Guatemala had failed to comply with the requirements of Article 5.3 of the AD Agreement by initiating the investigation on the basis of evidence of dumping, injury and causal link that was not “sufficient” to justify initiation. Having found violations concerning the initiation of the investigation under Articles 5.5 and 5.3 of the AD Agreement, the Panel considered that it was not necessary to address the remainder of Mexico’s claims. The report of the Panel was circulated to Members on 19 June 1998. On 4 August 1998, Guatemala notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

The Appellate Body found that the Panel had erred in its interpretation of Article 17.4 of the AD Agreement, and reversed the Panel’s finding that the dispute was properly before it. The Appellate Body concluded that, pursuant to Article 6.2 of the DSU and Article 17.4 of the AD Agreement, a request for establishment of a panel in a dispute brought under the AD Agreement had to identify the specific anti-dumping measure, as specified in Article 17.4, in dispute. The Appellate Body concluded that Mexico’s request for establishment did not identify a specific anti-dumping measure in dispute, and therefore the dispute was not properly before the Panel. Having made that determination, the Appellate Body could not make any conclusions on the findings by the Panel on the substantive issues that were also the subject of the appeal. The Appellate Body stressed that its decision was without prejudice to Mexico’s right to pursue fresh dispute settlement proceedings on this matter. The report of the Appellate Body was circulated to Members on 2 November 1998. At the DSB meeting on 25 November 1998, the DSB adopted the Appellate Body report and the Panel report, as reversed by the Appellate Body report.

### **(4) Korea – Taxes on alcoholic beverages (WT/DS75) (WT/DS84)**

On 16 October 1997, a panel was established to consider complaints by the European Communities (WT/DS75) and the United States (WT/DS84), both concerning the same internal taxes imposed by Korea on certain alcoholic beverages pursuant to its internal tax laws. Under the Liquor Tax Law, Korea created various categories of distilled spirits, on which it imposed different ad valorem taxes. Under the Education Tax Law, Korea assessed a surtax on certain liquor sales, determined as a percentage of the established liquor tax. The complainants argued that these internal tax laws were applied in a dissimilar manner to other imported distilled alcoholic beverages so as to afford protection to the domestic industry in breach of Korea’s obligations under Article III:2, second sentence, of GATT 1994. The complainants also contended that the application of these taxes, so as to impose taxes on vodka in excess of the taxes imposed on soju, a domestically produced distilled alcoholic beverage, was inconsistent with Korea’s obligations under Article III:2, first sentence. Canada and Mexico reserved their third-party rights.

The Panel, taking into account the factors relevant for such a determination, found that soju (both diluted and distilled), is directly competitive and substitutable with the imported distilled alcoholic beverages that were in issue, such as, whisky, brandy, cognac, rum, gin,

vodka, tequila, liqueurs and ad-mixtures. The Panel found that the complainants had discharged their burden of proof by establishing that there is some degree of current competition, as well as considerable evidence of potential competition. The Panel concluded that Korea taxed imported products in a dissimilar manner, that the tax differential was more than de minimis, and that the tax was applied so as to afford protection to domestic production. The Panel therefore concluded that Korea had violated Article III:2 of GATT 1994. The report of the Panel was circulated to Members on 17 September 1998. On 20 October 1998, Korea notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

The Appellate Body upheld the Panel's interpretation and application of the terms "directly competitive or substitutable product" and "so as to afford protection" in agreeing that the Korean measure was inconsistent with Korea's obligations under the second sentence of Article III:2 of the GATT 1994. The Appellate Body further upheld the Panel's ruling on the allocation of the burden of proof and rejected the procedural claims appealed by Korea. Therefore, the Appellate Body upheld the Panel's findings on all points. The report of the Appellate Body was circulated to Members on 18 January 1999. The DSB adopted the Panel and Appellate Body reports on 17 February 1999.

#### **(5) Japan – Measures affecting agricultural products (WT/DS76)**

On 18 November 1997, a panel was established to consider a complaint by the United States (WT/DS76/1), concerning the requirement imposed by Japan to test and confirm the efficacy of the quarantine treatment against codling moth for each variety of apples, cherries, peaches (including nectarines), walnuts, apricots, pears, plums and quince ("the varietal testing requirement") in order to exempt such products from a general import prohibition. The EC, Hungary and Brazil reserved their third-party rights.

The Panel found that the varietal testing requirement as it applied to apples, cherries, nectarines and walnuts was inconsistent with Article 2.2 of the SPS Agreement, because this measure was maintained without sufficient scientific evidence. The Panel also found that the varietal testing requirement was not a provisional SPS measure adopted and maintained in the absence of sufficient scientific evidence pursuant to Article 5.7 of the SPS Agreement. Furthermore, the Panel found that the varietal testing requirement as it applied to apples, cherries, nectarines and walnuts was inconsistent with Article 5.6 of the SPS Agreement, because there existed an alternative SPS measure, i.e., the "determination of sorption levels for additional varieties" which (i) is economically and technically feasible; (ii) achieves Japan's appropriate level of protection; and (iii) is significantly less trade-restrictive than the varietal testing requirement. The Panel did not extend its findings of inconsistency with Articles 2.2 and 5.6 to the varietal testing requirement as it applies to four of the products at issue in this dispute (i.e. apricots, pears, plums and quince), because it considered that there was insufficient evidence to do so. The Panel found, however, that the varietal testing requirement as it applies to all the products at issue is inconsistent with Article 7 of the SPS Agreement, because Japan had failed to publish this measure. The report of the Panel was circulated to Members on 27 October 1998. Both Japan and the United States appealed certain issues of law developed by the Panel.

The Appellate Body upheld the Panel's finding that the varietal testing requirement as it applied to apples, cherries, nectarines and walnuts was maintained without sufficient scientific evidence, inconsistent with Japan's obligation under Article 2.2 of the SPS Agreement. The Appellate Body also upheld the Panel's finding that the varietal testing requirement was not a provisional SPS measure adopted and maintained in the absence of sufficient scientific evidence pursuant to Article 5.7 of the SPS Agreement, as Japan did not seek to obtain the additional information necessary for a more objective risk assessment and it did not review the varietal testing requirement within a reasonable period of time. Furthermore, the Appellate Body agreed with the Panel that the varietal testing requirement was subject to the obligation to publish SPS measures and, therefore, upheld the Panel's finding that Japan acted inconsistently with Article 7 of the SPS Agreement, by failing to publish the varietal testing requirement. While the Appellate Body rejected the appeal of the United States that the Panel erred in failing to find that "testing by product", the alternative measure suggested by the United States, is an alternative SPS measure within the meaning of Article 5.6 of the SPS Agreement, it reversed, at Japan's request, the Panel's finding that the "determination of sorption levels for additional varieties", an alternative measure suggested by the experts advising the Panel, is such an alternative SPS measure as this finding was reached in a manner inconsistent with the rules on burden of proof. The Appellate Body found that the Panel did not err in failing to extend its finding of inconsistency with Article 2.2 to the varietal testing requirement as it applies to apricots, pears, plums and quince because the United States had not submitted any evidence with regard to these products. However, the Appellate Body concluded that the Panel was wrong to consider that there was no need to examine whether the varietal testing requirement as it

applies to apricots, pears, plums and quince was based on a risk assessment, as required by Article 5.1 of the SPS Agreement. Examining the consistency with Article 5.1, the Appellate Body found that the varietal testing requirement as it applies to apricots, pears, plums and quince was inconsistent with this provision because Japan's alleged risk assessment is not a proper risk assessment within the meaning of Article 5.1. The report of the Appellate Body was circulated to Members on 22 February 1999. The DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report, on 19 March 1999. In a joint communication, Japan and the United States informed the DSB on 15 June 1999 that they had agreed on an implementation period of nine months and 12 days from the date of adoption of the reports, i.e., from 19 March to 31 December 1999.

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#### **(6) India – Patent protection for pharmaceutical and agricultural chemical products (WT/DS79)**

On 16 October 1997, a panel was established to consider allegations by the European Communities (WT/DS79) concerning India's obligation under the TRIPS Agreement regarding patent protection for pharmaceutical and agricultural chemical products. Under the transitional provisions of the TRIPS Agreement, India is entitled as a developing country to delay providing patent protection for such products until 1 January 2005. However the European Communities alleged that India's efforts during the transition period to secure protection for inventors fell short of its obligations under Articles 27, 65 and 70 of the TRIPS Agreement. A parallel complaint by the United States (WT/DS50) was considered previously by a panel and the Appellate Body, which found India in violation of its obligations under Articles 70.8(a) and 70.9 of the TRIPS Agreement. The Panel and Appellate Body reports in the complaint by the United States were adopted on 16 January 1998.

India requested the Panel to dismiss the EC's complaint as inadmissible on procedural grounds. According to India, Articles 9.1 and 10.4 of the DSU required multiple complainants to submit their case to the same Panel "whenever feasible" or "whenever possible". The Panel did not agree with India and found that the terms of Article 9.1 of the DSU were not mandatory, but directory or recommendatory. The EC, which was a third party in the proceedings initiated by the US in respect of the same Indian measures, had decided to have recourse to a panel under the DSU. The Panel found that to be precisely what Article 10.4 permitted. The Panel concluded that panels were not bound by previous decisions of panels or the Appellate Body, even if the subject matter was the same. However, in the course of "normal dispute settlement procedures" required under Article 10.4 of the DSU, the Panel took into account the conclusions and reasoning in the Panel and Appellate Body reports in dispute WT/DS50 and stressed the role of the WTO dispute settlement system in providing security and predictability to the multilateral trading system, and the need to avoid inconsistent rulings. The Panel found that India had not complied with its obligations under Article 70.8(a) of the TRIPS Agreement by failing to establish a legal basis that adequately preserves novelty and priority in respect of applications for product patents for pharmaceutical and agricultural chemical inventions (a so-called "mailbox system") during the transitional phase provided for in Article 65 of the TRIPS Agreement. The Panel also found that India was not in compliance with Article 70.9 of the TRIPS Agreement by failing to establish a system for the grant of exclusive marketing rights. The report of the Panel was circulated to Members on 24 August 1998. At its meeting on 2 September 1998, the DSB adopted the Panel report. The period for implementation was agreed by the parties to be such as to expire at the same time as agreed by the US and India in dispute WT/DS50, i.e. 19 April 1999.

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#### **(7) United States – Anti-dumping duty on dynamic random access memory semiconductors (DRAMs) of one megabit or above from Korea (WT/DS99)**

On 16 January 1998, a panel was established to consider a complaint by Korea (WT/DS99), concerning a decision of the US Department of Commerce ("DOC") not to revoke a 1993 anti-dumping duty order on dynamic random access memory semi-conductors ("DRAMs") of one megabyte or above from Korea. The DOC had found no dumping during either the period covered by the third annual review or the periods covered by two previous reviews. Pursuant to a request for revocation by the Korean exporters, the DOC found that it could not revoke the 1993 order because it was not satisfied that dumping on DRAMS was not likely to resume in the future.

The Panel focused on the conformity of Section 353.25(a)(2)(ii) and (iii) of the DOC's regulation on revocation with Article 11 of the AD Agreement. With regard to Korea's claims under Section 353.25(a)(ii), the Panel first rejected Korea's claim that Article 11.2 of the AD Agreement requires revocation as soon as an exporter is found to have ceased dumping, and found that the absence of present dumping does not in and of itself preclude the continuation of an antidumping duty. Second, the Panel concluded that the "not likely" standard in the DOC's regulation falls short of establishing that dumping is "likely to recur if

the order is revoked", as alleged by the US. The Panel also found that the Section 353.25(a)(2)(ii) "not likely" criterion provided no demonstrable basis on which to conclude that the continued imposition of an antidumping duty is necessary to offset dumping, as required by Article 11.2 of the AD Agreement. The Panel found that the "not likely" criterion operated to effectively require the continued imposition of antidumping duties, and prevented revocation, in circumstances inconsistent with and outside of those provided for in Article 11.2 of the AD Agreement. It concluded that Section 353.25(a)(2) therefore constituted a mandatory requirement inconsistent with Article 11.2. The Panel also found that since the determination not to revoke the antidumping duty at issue was based on and determined by Section 353.25(a)(2), that determination was also inconsistent with Article 11.2 of the AD Agreement.

Korea also raised claims concerning the certification requirement under Section 353.25(a)(iii). The Panel noted that neither Section 751(b) of the 1930 Tariff Act (as amended) nor Section 353.25(d) of the DOC's regulations (whereby an antidumping order may be revoked on the basis of "changed circumstances") imposed a certification requirement. In other words, an antidumping order may be revoked under these provisions absent fulfilment of any certification requirement. Therefore, the Panel did not find the certification requirement in and of itself to amount to a mandatory requirement inconsistent with Article 11.2 of the AD Agreement.

The Panel also rejected Korea's claim that the United States violated Article 11.2 of the AD Agreement by failing to self-initiate an injury review following three years and six months of no dumping. The Panel found that an investigating authority was not necessarily required to initiate an injury review in such circumstances. The Panel also rejected Korea's claims under Articles 2.2.1.1 and 6.6 of the AD Agreement, that the DOC should not have rejected certain cost data prepared by the Korean companies involved in the investigation and that the DOC failed to satisfy itself as to the accuracy of the data supplied by the US petitioner in the investigation. The Panel also rejected Korea's claim that the US violated Article 5.8 of the AD Agreement by setting the de minimis dumping margin threshold for its annual duty procedures at 0.5 per cent. The Panel concluded that the second sentence of Article 5.8 did not apply in the context of annual duty assessment procedures.

Having found the US determination and the measure it was made under to be inconsistent with Article 11.2 of the AD Agreement, the Panel did not find it necessary to examine Korea's claims under Articles I and X of GATT 1994. The report of the Panel was circulated on 29 January 1999. At its meeting on 19 March 1999, the DSB adopted the Panel report.

#### **(8) Australia – Subsidies provided to producers and exporters of automotive leather (WT/DS126)**

On 22 June 1998, a panel was established to consider a complaint by the US (WT/DS126) concerning allegedly prohibited subsidies provided by the Government of Australia to producers and exporters of automotive leather, including subsidies provided to Howe and Company Proprietary Ltd. (or any of its affiliated and/or parent companies) under a loan contract and a grant contract entered into in March 1997. These arrangements were made in compensation for the removal, in settlement of a previous dispute with the US, of automotive leather from eligibility for benefits under two pre-existing Australian government programmes. The loan contract provides for a A\$25 million loan on non-commercial terms and the grant contract provides for three payments up to a maximum of A\$30 million. The grant contract establishes performance targets with respect to sales and capital investment for Howe's automotive leather operations. The US argued that the loan contract, the grant contract and the payments under the grant contract are export subsidies prohibited by Article 3 of the Agreement on Subsidies and Countervailing Measures (the "SCM Agreement").

The Panel concluded that it was required to consider all the facts surrounding the grant or maintenance of the subsidies in question in order to determine whether they were "contingent...in fact" upon export performance. The Panel, after examining all the facts adduced by the parties concerning the subsidies in question, including business confidential information concerning the loan and grant payments, determined that the payments under the grant were prohibited export subsidies. The Panel found that these payments were tied to anticipated exports of automotive leather, and therefore the Panel concluded that payments under the grant contract are subsidies within the meaning of Article 1 of the SCM Agreement, which are contingent upon export performance within the meaning of Article 3.1(a) of that Agreement. With respect to the loan, the Panel concluded that there was not a sufficient link to anticipated exports, and determined the loan was not a prohibited export subsidy within the meaning of Article 3.1(a) of the SCM Agreement. The report was circulated to Members on 25 May 1999. At its meeting on 16 June 1999, the DSB adopted the Panel report.

### **(1) European Communities – Measures affecting meat and meat products (Hormones) (WT/DS26) (WT/DS48)**

Both the United States (WT/DS26) and Canada (WT/DS48) challenged the EC's import prohibition on meat and meat products from livestock treated with certain hormones for growth promotion purposes. In their reports of 18 August 1997, the Panels found that the EC ban on imports of meat and meat products from cattle treated with any of six specific hormones for growth promotion purposes was inconsistent with Articles 3.1, 5.1 and 5.5 of the SPS Agreement. In its report of 16 January 1998, the Appellate Body upheld the Panels' finding that the EC import prohibition was inconsistent with Article 5.1 of the SPS Agreement. On 13 February 1998, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report. The period for implementation was set by arbitration at 15 months from the date of the adoption of the reports, i.e., it expired on 13 May 1999. The EC had undertaken to comply with the recommendations of the DSB within the implementation period. At the DSB meeting on 28 April 1999, the EC informed the DSB that it would consider offering compensation in view of the likelihood that it may not be able to comply with the recommendations and rulings of the DSB by the deadline of 13 May 1999. On 3 June 1999, the United States and Canada, pursuant to Article 22.2 of the DSU, requested authorisation from the DSB for the suspension of concessions to the EC in the amount of US\$202 million and Can\$75 million, respectively. The EC, pursuant to Article 22.6 of the DSU, requested arbitration on the level of suspension of concessions requested by the United States and Canada. The DSB referred the issue of the level of suspension to the original panels for arbitration. In reports issued on 12 July 1999, the arbitrators determined that the level of nullification or impairment suffered by the United States and Canada from the continuation of the EC's import ban on hormone-treated meat, and therefore the level of suspension, amounted to US\$116.8 million and Can\$11.3 million per year. On 26 July 1999, the DSB authorized the United States and Canada to suspend concessions to the EC at levels consistent with the decision of the arbitrators.

### **(2) European Communities – Regime for the importation, sale and distribution of bananas (WT/DS27)**

Ecuador, Guatemala, Honduras, Mexico and the United States alleged that the EC's regime for the importation, sale and distribution of bananas granted preferential treatment to EC and African, Caribbean and Pacific (ACP) bananas at the expense of non-EC, non-ACP bananas. In its reports of 22 May 1997, the Panel found that the EC's banana import regime was inconsistent with the EC's obligations under GATT and GATS, specifically the Panel found violation of Articles I:1, III:4 X:3 and XIII of GATT and Articles II and XVII of GATS. In its report of 9 September 1997, the Appellate Body upheld the Panel's principal findings on violations of Articles I, II and XIII of GATT and Articles II and XVII of GATS. At its meeting of 25 September 1997, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report.

In January 1998, an arbitrator appointed pursuant to Article 21.3(c) of the DSU determined the "reasonable period of time" for implementation to be 15 months and one week from the date of adoption, ending on 1 January 1999. With a view to implementing the DSB rulings, the EC enacted a revised banana import regime consisting of Regulation 1637/98 of 20 July 1998 and Regulation 2362/98 of 28 October 1998. At the DSB meeting on 25 November 1998, the EC announced that the new system would be fully operational from 1 January 1999.

### **Recourse to Article 21.5 of the DSU by Ecuador (WT/DS27/RW/ECU)**

On 18 December 1998, Ecuador requested the re-establishment of the original panel to examine whether the EC measures to implement the recommendations of the DSB are WTO-consistent. At its meeting on 12 January 1999, the DSB agreed to reconvene the original panel, pursuant to Article 21.5 of the DSU, to examine both the request of Ecuador and the request by the EC set out below. Brazil, Belize, Cameroon, Colombia, Costa Rica, Côte d'Ivoire, Dominica, the Dominican Republic, Grenada, Haiti, Jamaica, Mauritius, Nicaragua, Saint Lucia and Saint Vincent and the Grenadines indicated their interest to join as third parties in the Ecuador request. In the proceedings requested by Ecuador, the Panel found that the implementation measures taken by the EC in compliance with the rulings of the DSB were inconsistent with the EC's WTO obligations under Article XIII of GATT and Articles II and XVII of GATS. The report of the reconvened Panel was circulated to Members on 12 April 1999. The DSB adopted the report on 6 May 1999.

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**Recourse to Article 21.5 by the European Communities (WT/DS27/RW/EEC)**

On 15 December 1998, the EC requested the establishment of a panel under Article 21.5 to determine that the implementing measures of the EC must be presumed to conform to WTO rules unless challenged in accordance with DSU procedures. The EC specifically argued that a request for suspension of concessions under Article 22 of the DSU cannot be approved before a procedure under Article 21.5 has determined the WTO-inconsistency of implementation measures. At its meeting on 12 January 1999, the DSB agreed to reconvene the original panel, pursuant to Article 21.5 of the DSU, to examine the EC's request together with the request by Ecuador. Belize, Brazil, Cameroon, Colombia, Costa Rica, Côte d'Ivoire, Dominica, the Dominican Republic, Grenada, Haiti, India, Jamaica, Japan, Mauritius, Nicaragua, Saint Lucia and Saint Vincent and the Grenadines indicated their interest to join as third parties in the EC request. The reconvened Panel found that, because Ecuador had successfully challenged the WTO-consistency of the EC measures taken in implementation of the original DSB recommendations, it was unable to agree with the EC that the EC must be presumed to be in compliance with the recommendations of the DSB. The report of the reconvened Panel was circulated to Members on 12 April 1999.

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**Recourse to arbitration by the European Communities under Article 22.6 of the DSU**

On 14 January 1999, the United States, pursuant to Article 22.2 of the DSU, requested authorisation from the DSB for suspension of concessions to the EC in an amount of US\$520 million. At the DSB meeting on 29 January 1999, the EC, pursuant to Article 22.6 of the DSU, requested arbitration on the level of suspension of concessions requested by the United States. The DSB referred the issue of the level of suspension to the same individuals who had served in the original and reconvened panels for arbitration. Pursuant to Article 22.6 of the DSU, the request for the suspension of concessions by the United States was deferred by the DSB until the determination, through the arbitration, of the appropriate level for the suspension of concessions. In the arbitration, necessitated by the EC's challenge to the level of suspension sought by the United States (\$520 million), the arbitrators found that the level of suspension sought by the United States was not equivalent to the level of nullification and impairment suffered as a result of the EC's revised banana regime not being consistent with Article XIII of GATT and Articles II and XVII of GATS. The arbitrators accordingly determined the level of nullification suffered by the United States to be equivalent to \$191.4 million. The arbitrator's report was issued to the parties on 6 April 1999, and circulated to Members on 9 April 1999. On 9 April 1999, the United States, pursuant to Article 22.7 of the DSU, requested that the DSB authorize suspension of concessions to the EC equivalent to the reduced level of nullification and impairment i.e. \$191.4 million. On 19 April 1999, the DSB authorized the United States to suspend concessions to the EC as requested.

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**(3) Canada – Certain measures concerning periodicals (WT/DS31)**

The United States claimed that Canadian measures prohibiting or restricting the importation into Canada of certain periodicals were in contravention of Article XI of GATT 1994. The United States also claimed that the tax treatment of so-called "split-run" periodicals and the application of favorable postage rates to certain Canadian periodicals were inconsistent with Article III of GATT 1994. The Panel found violations of Article XI:1 (Canadian Tariff Code 9958), Article III:2, first sentence (Part V.1 of Canada's Excise Tax Act), and Article III:4 (postage rates for periodicals). However the Panel found that Canada's "funded" postage rate system was a subsidy permitted under Article III:8 of GATT. The Appellate Body reversed the Panel's decision on Article III:2. However it found a violation of the second sentence of Article III:2 instead. It also reversed the Panel's decision on Article III:8. Both the Appellate Body report and the Panel report, as modified by the Appellate Body report, were adopted by the DSB on 30 July 1997. The implementation period was agreed by the parties to be 15 months from the date of adoption of the reports i.e. it expired on 30 October 1998. Canada has withdrawn the contested measure.

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**(4) India – Patent protection for pharmaceutical and agricultural chemical products (WT/DS50)**

The United States alleged that India had failed to meet its obligations under the TRIPS Agreement regarding patent protection for pharmaceutical and agricultural chemical products. The Panel found that India had failed to implement its obligations under Articles 70.8, 70.9, 63.1 and 63.2 of the TRIPS Agreement. The Appellate Body upheld the Panel's conclusion that India had not complied with its obligations under Article 70.8 and 70.9 of the TRIPS Agreement, but reversed the Panel's findings on Article 63, on the grounds that the US claim was not within the Panel's terms of reference. At the DSB meeting on 16 January 1998, the Appellate Body report and the Panel report, as modified by the Appellate Body report, were adopted. The period of implementation was agreed by the parties to be

15 months from the date of the adoption of the reports and it expired on 19 April 1999. This date was also agreed by the EC and India as the implementation date of the Panel report adopted by the DSB in dispute WT/DS79 (set out in this Report under the heading "Appellate Body and/or Panel Reports adopted"). India had undertaken to comply with the recommendations of the DSB within the implementation period. At the DSB meeting on 28 April 1999, India presented its final status report on implementation of this matter stating that it had enacted relevant legislation to implement the recommendations and rulings of the DSB.

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**(5) Indonesia – Certain measures affecting the automobile industry (WT/DS54) (WT/DS55) (WT/DS59) (WT/DS64)**

The European Communities, the United States and Japan challenged Indonesia's National Car Programme. In its report of 2 July 1998, the Panel accepted that the National Car Programme violated the provisions of Articles I and III:2 of GATT, and Article 2 of the TRIMs Agreement. In addition, the Panel accepted the EC's claim that Indonesia violated Article 5(c) of the SCM Agreement but rejected the US claims under the SCM Agreement and the TRIPS Agreement. The Panel report was adopted at the meeting of the DSB on 23 July 1998. Indonesia indicated its intention to comply with the recommendations of the DSB. On 8 October 1998, the EC, pursuant to Article 21.3 of the DSU, requested that the reasonable period of implementation be determined by arbitration. The Arbitrator determined that the reasonable period of time for Indonesia to implement the recommendations and rulings of the DSB was 12 months from the date of adoption of the Panel report i.e. it expired on 23 July 1999. The report of the Arbitrator was circulated to Members on 7 December 1998. In a status report dated 15 July 1999, Indonesia informed the DSB that it had issued a new policy package for the automotive industry on 24 June 1999, which will effectively implement the recommendations and rulings of the DSB in this matter.

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**(6) Argentina – Certain measures affecting imports of footwear, textiles, apparel and other items (WT/DS56)**

The United States challenged the imposition by Argentina of specific duties on certain imports of footwear, textile and apparel products in excess of the bound rate of 35 per cent ad valorem, as well as its 3 per cent statistical tax on imports designed to finance the collection and processing of import-export statistics by Argentine customs services. In its report of 25 November 1997, the Panel found that the minimum specific duties imposed by Argentina on textiles and apparel were inconsistent with the requirements of Article II of GATT, and that the statistical tax was inconsistent with the requirements of Article VIII of GATT. In its report of 27 March 1998, the Appellate Body upheld the Panel's finding on Article VIII and modified the finding on Article II, although still finding that in the current circumstances Argentina's specific duty regime violated the country's obligations under Article II. At its meeting on 22 April 1998, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report. Argentina later indicated its intention to comply with the recommendations of the DSB within the time period permissible under Article 21 of the DSU. At the DSB meeting on 22 June 1998, Argentina announced that it had reached an agreement on implementation with the United States. Argentina established an upper limit (cap) on specific duties on textiles and apparel equivalent to the amount obtained by applying the ad valorem duty bound by Argentina at 35 per cent. This measure has been applied since 3 October 1998. Argentina also reduced the statistical tax to 0.5 per cent in January 1998. On 3 June 1999, Argentina announced that Decree 108/99, pursuant to which no import transactions covered by the statistical tax shall be taxed in excess of the amounts agreed between it and the United States, entered into force on 30 May 1999.

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**(7) European Communities – Measures affecting importation of certain poultry products (WT/DS69)**

Brazil alleged that the EC had failed to adequately implement its tariff-rate quota ("TRQ") for the importation of certain poultry products. In its report of 12 March 1998, the Panel concluded that Brazil had not demonstrated that the EC had failed to implement and administer the TRQ for poultry in line with its obligations. However, the Panel found that the EC had failed to comply with the provisions of Article 5.1(b) of the Agreement on Agriculture. On 13 July 1998, the Appellate Body upheld the Panel's findings on the EC's compliance with GATT and the Import Licensing Agreement. The Appellate Body reversed the Panel's findings on the EC's non-compliance with Article 5.1(b) of the Agreement on Agriculture. However, it found that the EC violated Article 5.5 of the Agreement on Agriculture. Both the Appellate Body report and the Panel report, as modified by the Appellate Body report, were adopted by the DSB on 23 July 1998. The EC and Brazil announced at the DSB meeting on 21 October 1998, that they had reached a mutual

agreement on a reasonable period of time for implementation, which was the period up to 31 March 1999.

## Panel reports appealed

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### **(1) Turkey – Restrictions on imports of textile and clothing products (WT/DS34)**

On 13 March 1998, a panel was established to consider India's complaint that the quantitative restrictions imposed by Turkey on imports of a broad range of textile and clothing products from India are inconsistent with GATT Articles XI and XIII, as well as Article 2 of the Agreement on Textiles and Clothing ("ATC") and are not justified by GATT Article XXIV. Japan, Hong Kong, China, Philippines, Thailand and the United States reserved their third-party rights. The Panel found that Turkey's measures are inconsistent with Articles XI and XIII of GATT 1994, and consequently inconsistent also with Article 2.4 of the ATC. The Panel also rejected Turkey's assertion that the measures are justified by Article XXIV of GATT 1994, because there were alternatives open to Turkey to form a WTO-compatible regional trade agreement. The report of the Panel was circulated to Members on 31 May 1999. On 26 July 1999, Turkey notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

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### **(2) Brazil – Export financing programme for aircraft (WT/DS46)**

On 23 July 1998, a panel was established to consider Canada's complaint that export subsidies granted under the Brazilian Programa de Financiamento às Exportações (PROEX), to foreign purchasers of Brazil's Embraer aircraft are inconsistent with Article 3 of the SCM Agreement. The US reserved its rights as a third party in the dispute. The Panel found that Brazil's measures were inconsistent with Article 3.1(a) of the SCM Agreement. The report of the Panel was circulated to Members on 14 April 1999. On 3 May 1999, Brazil notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

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### **(3) Canada – Measures affecting the export of civilian aircraft (WT/DS70)**

On 23 July 1998, a panel was established to consider Brazil's complaint that certain subsidies granted by the Government of Canada or its provinces intended to support the export of civilian aircraft are inconsistent with Article 3 of the SCM Agreement. The US and the EC reserved their rights as third-parties in the dispute. The Panel found that certain of Canada's measures were inconsistent with Articles 3.1(a) and 3.2 of the SCM Agreement. The report of the panel was circulated to Members on 14 April 1999. On 3 May 1999, Canada notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

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### **(4) India – Quantitative restrictions on imports of agricultural, textile and industrial products (WT/DS90)**

On 18 November 1997, a panel was established to consider a complaint by the US concerning quantitative restrictions maintained by India on importation of a number of agricultural, textile and industrial products. The US contends that these quantitative restrictions are inconsistent with India's obligations under Articles XI:1 and XVIII:11 of GATT 1994, Article 4.2 of the Agreement on Agriculture, and Article 3 of the Agreement on Import Licensing Procedures. The Panel found that the measures at issue were inconsistent with India's obligations under Articles XI and XVIII:11 of GATT 1994, and to the extent that the measures apply to products subject to the Agreement on Agriculture, are inconsistent with Article 4.2 of the Agreement on Agriculture. The report of the Panel was circulated to Members on 6 April 1999. On 26 May 1999, India notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

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### **(5) Canada – Measures affecting the importation of milk and the exportation of dairy products (WT/DS103) (WT/DS113)**

On 25 March 1998, a single panel was established to consider complaints by the US (WT/DS103) and by New Zealand (WT/DS113) concerning export subsidies allegedly granted by Canada on dairy products through the so-called "special milk classes" scheme, and US claims against the administration by Canada of its tariff-rate quota on milk. The US and New Zealand contended that these export subsidies by Canada distort markets for dairy products and adversely affect US and New Zealand sales of dairy products. The US alleged violations of Article II, X, XI and XIII of GATT 1994, Articles 3, 4, 8, 9 and 10 of the Agreement on Agriculture, Article 3 of the SCM Agreement, and Articles 1, 2 and 3 of the Import Licensing Agreement. New Zealand contended that the Canadian "special milk classes" scheme was inconsistent with Article X:1 of GATT, and Articles 3, 8, 9 and 10 of the Agreement on Agriculture. Australia, Japan and the US in respect of the claims made by New Zealand reserved their third-party rights. The Panel found that the special "milk classes scheme" was

inconsistent with Canada's obligations under Articles 3.3 and 8 of the Agreement on Agriculture because it provided export subsidies as listed in Articles 9.1(a) and (c) of the that Agreement. Even if the "special milk classes scheme" would not constitute export subsidies in the meaning of Article 9, the Panel found in the alternative that it would constitute a circumvention of Canada's export subsidy reduction commitments contrary to Article 10.1 of the Agreement on Agriculture. In addition, the administration by Canada of the tariff-rate quota on milk was found to be inconsistent with Article II:1(b) of GATT 1994. The report of the Panel was circulated to Members on 17 May 1999. On 15 July 1999, Canada notified its intention to appeal certain issues of law and legal interpretations developed by the Panel.

## Panel reports issued

### **(1) Chile – Taxes on alcoholic beverages (WT/DS87) (WT/DS110)**

On 18 November 1997, a panel was established to consider a complaint by the European Communities concerning Chile's Special Sales Tax on spirits, which imposes a higher tax on imported spirits than on Pisco, a locally brewed spirit. The EC contends that this differential treatment of imported spirits violates Article III:2 of GATT 1994. On 25 March 1998, a panel was established to consider a further complaint by the EC concerning Chile's modified internal tax regime for alcoholic beverages (WT/DS110). The EC contends that the modified law still violates Article III:2 of GATT 1994. Canada, Peru and the US reserved their third-party rights. The Panel found that Chile's Transitional System and its New System for taxation of distilled alcoholic beverages were inconsistent with Article III:2, second sentence, of GATT 1994. The report of the Panel was circulated to Members on 15 June 1999.

### **(2) Korea – Definitive safeguard measure on imports of certain dairy products (WT/DS98)**

On 23 July 1998, a panel was established to consider a complaint by the EC concerning a definitive safeguard measure imposed by Korea on imports of certain dairy products. The EC considers that this measure is in violation of Articles 2, 4, 5 and 12 of the Agreement on Safeguard Measures, as well as a violation of Article XIX of GATT 1994. The Panel found that Korea's measure is inconsistent with Articles 4.2(a) and 5 of the Agreement on Safeguards, but rejected the EC claims under Article XIX of GATT 1994 and Article 2.1 of the Agreement on Safeguards. In the case of alleged violation of Article 12.1 of the Agreement on Safeguards, although the Panel found Korea's notifications to the Committee on Safeguards were complete, the Panel found these notifications were not timely, and therefore, to that extent were inconsistent with Article 12.1, 12.2 and 12.3 of the Agreement on Safeguards. The report of the Panel was circulated to Members on 21 June 1999.

### **(3) Argentina – Safeguard measures on imports of footwear (WT/DS121)**

On 23 July 1998, a panel was established to consider a complaint by the EC concerning provisional and definitive safeguard measures imposed by Argentina on imports of footwear. The EC alleges that by Resolution 226/97 of 24 February 1997, Argentina imposed a provisional safeguard measure in the form of specific duties on imports of footwear effective from 25 February 1997, which was followed by Resolution 987/97, which imposed a definitive safeguard measure on these imports effective from 13 September 1997. The EC contends that the above measures and subsequent modifications thereof violate Articles 2, 4, 5, 6 and 12 of the Agreement on Safeguards, and Article XIX of GATT 1994. Brazil, Indonesia, Paraguay, the US and Uruguay reserved their rights as third parties to the dispute. The Panel found that Argentina's definitive measure is inconsistent with Articles 2 and 4 of the Agreement on Safeguards. The report of the Panel was circulated to Members on 25 June 1999.

## Panels established

### **(1) Australia – Measures affecting the importation of salmonids (WT/DS21)**

Complaint by the United States. This dispute concerns the same regulation alleged to be in violation of the WTO Agreements in WT/DS18, in respect of which the reports of the Panel and Appellate Body have already been adopted and are awaiting implementation. The US contends that the Australian measures are inconsistent with Articles 2, 5, 7 and 8 of the SPS Agreement and Article XI of GATT 1994. At its meeting on 16 June 1999, the DSB established a panel. Canada, the EC, Hong Kong, China, India and Norway reserved their third-party rights.

### **(2) United States – Tax Treatment for "Foreign Sales Corporations" (WT/DS108)**

Complaint by the European Communities. This dispute concerns Sections 921-927 of the US Internal Revenue Code and related measures, establishing special tax treatment for

"Foreign Sales Corporations" (FSC). The EC contends that these provisions are inconsistent with US obligations under Article 3.1(a) and (b) of the SCM Agreement, and Articles 1, 3, 8, 9 and 10 of the Agreement on Agriculture. At its meeting on 22 September 1998, the DSB established a panel. Barbados, Canada and Japan have reserved their rights as third parties to the dispute.

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### **(3) Canada – Patent protection of pharmaceutical products (WT/DS114)**

Complaint by the European Communities. This dispute concerns the alleged lack of protection of inventions by Canada in the area of pharmaceuticals under the relevant provisions of the Canadian implementing legislation (in particular the Patent Act). The EC contends that Canada's legislation is not compatible with its obligations under the TRIPS Agreement, because it does not provide for the full protection of patented pharmaceutical inventions for the entire duration of the term of protection envisaged by Articles 27, 28 and 33 of the TRIPS Agreement. At its meeting on 1 February 1999, the DSB established a panel. Australia, Brazil, Colombia, Cuba, India, Israel, Japan, Poland, Switzerland, Thailand and the United States reserved their third-party rights.

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### **(4) Mexico – Anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States (WT/DS132)**

Complaint by the United States. This dispute concerns a definitive anti-dumping measure imposed by Mexico on imports of high-fructose corn syrup (HFCS) grades 42 and 55 from the US and actions preceding the measure. The US alleges violations of Articles 1, 2, 3, 4, 5, 6, 7, 10 and 12 of the AD Agreement and Article VI of GATT 1994. The DSB established a panel at its meeting on 25 November 1998. Jamaica and Mauritius reserved their third-party rights.

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### **(5) European Communities – Measures affecting the prohibition of asbestos and asbestos products (WT/DS135)**

Complaint by Canada. This dispute concerns measures imposed by France, in particular Decree of 24 December 1996, with respect to the prohibition of asbestos and products containing asbestos, including a ban on imports of such goods. Canada alleges that these measures violate Articles 2 and 5 of the SPS Agreement, Article 2 of the Agreement on Technical Barriers to Trade (the "TBT Agreement"), and Articles III and XI of GATT 1994. Canada also alleges nullification and impairment of benefits accruing to it under the various agreements cited. The DSB established a panel at its meeting on 25 November 1998. The US, Brazil and Zimbabwe reserved their third-party rights.

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### **(6) United States – Anti-Dumping Act of 1916 (WT/DS136)**

Complaint by the European Communities. This dispute concerns the failure of the United States to repeal its Anti-Dumping Act of 1916. The EC contends that the US Anti-Dumping Act of 1916 is still in force and is applicable to the import and internal sale of any foreign product irrespective of its origin, including products originating in countries which are WTO Members. The EC also alleges that the 1916 Act exists in the US statute books in parallel with the Tariff Act of 1930, as amended, which includes the US implementing legislation of multilateral Anti-Dumping provisions. The EC alleges violations of Articles III:4, and VI of GATT 1994, Article XVI:4 of the WTO Agreement, and Articles 1, 2, 3, 4 and 5 of the AD Agreement. At its meeting on 1 February 1999, the DSB established a panel. India, Japan, and Mexico reserved their third-party rights. The United States has also instituted dispute settlement proceedings against the US 1916 Act (see case WT/DS162 set out below).

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### **(7) United States – Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom (WT/DS138)**

Complaint by the European Communities. This dispute concerns the imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel (lead bars) from the UK. The EC contends that the US imposed countervailing duties of 1.69 per cent on United Engineering Steels Ltd for the review period 1 January 1994 to 31 December 1994, and of 2.4 per cent for the review period 1 January 1995 to 20 March 1995, on the basis of subsidies which had been granted to British Steel Corporation (BSC). The EC also contends that the US imposed countervailing duties of 7.35 per cent on British Steel plc/British Steel Engineering Steels Ltd for the review period 21 March 1995 to 31 December 1995, and of 5.28 per cent for the review period 1 January 1996 to 31 December 1996 on the basis of subsidies granted to BSC before its privatization in 1988. The EC alleges that these impositions of countervailing duties constitute a violation of Articles 1.1(b), 10, 14 and 19.4 of the SCM Agreement. At its meeting on 17 February 1999, the DSB established a panel. Brazil and Mexico reserved their third-party rights.

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**(8) Canada – Certain measures affecting the automotive industry (WT/DS139) (WT/DS142)**

Complaints by Japan (WT/DS139) and by the European Communities (WT/DS142). This dispute concerns measures being taken by Canada in the automotive industry. Japan contends that under Canadian legislation implementing an automotive products agreement (Auto Pact) between the US and Canada, only a limited number of motor vehicle manufacturers are eligible to import vehicles into Canada duty free and to distribute the motor vehicles in Canada at the wholesale and retail distribution levels. Japan further contends that this duty-free treatment is contingent on three requirements: (i) a requirement that a manufacturer must have had manufacturing facilities in Canada in the base year (1963-64) (ii) a Canadian value-added content requirement that applies to both goods and services; and (iii) a manufacturing and sales requirement. Japan alleges that these measures are inconsistent with Articles I:1, III:4 and XXIV of GATT 1994, Article 2 of the TRIMS Agreement, Article 3 of the SCM Agreement, and Articles II, VI and XVII of GATS. This complaint by the European Communities concerns the same measures raised by Japan and cites the same provisions alleged to be in violation, except for Article XXIV of GATT 1994 and Article VI of GATS, which were cited by Japan but are not cited by the EC. At its meeting on 1 February 1999, the DSB established a panel. India, Korea, and the United States reserved their third-party rights.

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**(9) United States – Sections 301-310 of the Trade Act of 1974 (WT/DS152)**

Complaint by the European Communities. This dispute concerns Title III, chapter 1 (sections 301-310) of the US Trade Act of 1974, as amended, and in particular sections 306 and 305 of this Act. The EC contends that by imposing strict time limits within which unilateral determinations must be made and trade sanctions taken, this legislation does not allow the US to comply with the rules of the DSU and the obligations of GATT 1994 in situations where the DSB has, by the end of those time limits, not made a prior determination that the WTO Member concerned has failed to comply with its WTO obligations and has authorized the suspension of concessions or other obligations on that basis. The EC contends that this legislation is inconsistent with Articles 3, 21, 22 and 23 of the DSU; Article XVI:4 of the WTO Agreement; and Articles I, II, III, VIII and XI of GATT 1994. The EC also alleges that the Trade Act nullifies and impairs benefits accruing, directly or indirectly, to it under GATT 1994, and also impedes the objectives of GATT 1994 and of the WTO. At its meeting on 2 March 1999, the DSB established a panel. Brazil, Canada, Cameroon, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Hong Kong, India, Israel, Jamaica, Japan, Korea, St. Lucia and Thailand reserved their third-party rights.

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**(10) Argentina – Measures on the export of bovine hides and the import of finished leather (WT/DS155)**

Complaint by the European Communities. This dispute concerns certain measures taken by Argentina on the export of bovine hides and the import of finished leather. The EC alleges that the de facto export prohibition on raw and semi-tanned bovine hides (which is implemented in particular through the authorization granted by the Argentinian authorities to the Argentinian tanning industry to participate in customs control procedures of hides before export) is in violation of Articles XI:1 and X:3(a) of GATT 1994. The EC also claims that the “additional value added tax” of 9 per cent on imports of products into Argentina and the “advance turnover tax” of 3 per cent based on the price of imported goods imposed on operators when importing goods into Argentina are in violation of GATT Article III:2. At its meeting on 26 July 1999, the DSB established a panel.

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**(11) United States – Section 110(5) of the US Copyright Act (WT/DS160)**

Complaint by the European Communities. This dispute concerns Section 110(5) of the US Copyright Act, as amended by the Fairness in Music Licensing Act, which was enacted on 27 October 1998. The EC contends that Section 110(5) of the US Copyright Act permits, under certain conditions, the playing of radio and television music in public places (bars, shops, restaurants, etc.) without the payment of a royalty fee (the so-called “home-style exception”). The EC considers that this statute is inconsistent with US obligations under Article 9(1) of the TRIPS Agreement, which requires Members to comply with Articles 1-21 of the Berne Convention and that the “home-style exception” was not justifiable under any of the exceptions of the Berne Convention or TRIPS Agreement. At its meeting on 26 May 1999, the DSB established a panel. Australia, Brazil, Canada, Japan and Switzerland reserved their third-party rights.

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**(12) Korea – Measures affecting imports of fresh, chilled, and frozen beef (WT/DS161) (WT/DS169)**

Complaints by the United States (WT/DS161) and Australia (WT/DS169). This dispute concerns a Korean regulatory scheme that allegedly discriminates against imported beef by,

inter alia, confining sales of imported beef to specialised stores, limiting the manner of its display, and otherwise constraining the opportunities for the sale of imported beef. The US and Australia allege that Korea imposes a mark-up on sales of imported beef, limits import authority to certain so-called "super-groups" and the Livestock Producers Marketing Organization ("LPMO"), and provides domestic support to the cattle industry in Korea in amounts which cause Korea to exceed its aggregate measure of support as reflected in Korea's schedule. The United States and Australia contend that these restrictions apply only to imported beef, thereby denying national treatment to such beef, and that the support to the domestic industry amounts to domestic subsidies that contravene the Agreement on Agriculture. The US and Australia allege violations of Articles II, III, X, XI, and XVII of GATT 1994; Articles 3, 4, 6, and 7 of the Agreement on Agriculture; and Articles 1 and 3 of the Import Licensing Agreement. At its meeting on 26 May 1999, the DSB established a panel. Canada and New Zealand reserved their third-party rights.

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**(13) United States – Anti-Dumping Act of 1916 (II) (WT/DS162)**

Complaint by Japan. This dispute concerns the US Anti-Dumping Act of 1916. Japan contends that the US 1916 Act is inconsistent with Articles III:4, VI and XI of GATT 1994, Article XVI:4 of the WTO Agreement and Articles 1, 2, 3, 4, 5, 9, 11 and 18 of the AD Agreement. At its meeting on 26 July 1999, the DSB established a panel. The European Communities has also instituted dispute settlement proceedings against the US 1916 Act (see case WT/DS136).

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**(14) Korea – Measures affecting government procurement (WT/DS163)**

Complaint by the United States. This dispute concerns certain procurement practices of the Korean Airport Construction Authority ("KOACA"), and other entities concerned with the procurement of airport construction in Korea, which are allegedly inconsistent with Korea's obligations under the Agreement on Government Procurement ("GPA"). These include practices relating to qualification for bidding as a prime contractor, domestic partnering, and the absence of access to challenge procedures that are in breach of the GPA. The United States contends that KOACA and the other entities are within the scope of Korea's list of central government entities as specified in Annex 1 of Korea's obligations in Appendix I of the GPA, and pursuant to Article I(1) of the GPA, apply to the procurement of airport construction. The US contends that the Korean measures are inconsistent with Articles III, VIII, XI, XVI and XX of the GPA. At its meeting on 16 June 1999, the DSB established a panel. The EC and Japan reserved their third-party rights.

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**(15) Argentina – Measures affecting imports of footwear (WT/DS164)**

Complaint by the United States. This dispute concerns certain measures implemented by Argentina affecting imports of footwear. In November 1998, Argentina adopted Resolution 1506 modifying Resolution 987 of 10 September 1997, which had established safeguard duties on imports of footwear from non-MERCOSUR countries. Resolution 1506 imposes a tariff-rate quota (TRQ) on such footwear imports in addition to the safeguard duties previously imposed, postpones any liberalization of the original safeguard duty until 25 February 2000, and liberalizes the TRQ only once during the period during which the measure is going to be applied. The United States alleges violations of Articles 7.4 and 12 of the Agreement on Safeguards. See also complaint by Indonesia (DS123) below under the heading "Panels requested but not established". At its meeting on 26 July 1999, the DSB established a panel.

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**(16) United States – Import measures on certain products from the European Communities (WT/DS165)**

Complaint by the European Communities. This dispute concerns the US decision, effective as of 3 March 1999, to withhold liquidation on imports from the EC of a series of products together valued at \$520 million on an annual basis, and to impose a contingent liability for 100 per cent duties on each individual importation of affected products. This measure includes administrative provisions which foresee the posting of a bond to cover the full potential liability. The EC contends that this measure deprives EC imports into the United States, of the products in question, of the right to a duty not in excess of the rate bound in the US Schedule. The EC further contends that, by requiring the deposit of a bond, US Customs already effectively imposed 100 per cent duties on each individual importation. The EC alleges violations of Articles 3, 21, 22 and 23 of the DSU, and Articles I, II, VIII and XI of GATT 1994. The EC also alleges nullification and impairment of benefits under GATT 1994, as well as the impediment of the objectives of the DSU and GATT 1994. At its meeting on 16 June 1999, the DSB established a panel. Ecuador, India, Jamaica and Japan reserved their third-party rights.

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**(17) United States – Definitive safeguard measure on imports of wheat gluten from the European Communities (WT/DS166)**

Complaint by the European Communities. This dispute, a Proclamation of 30 May 1998, and a Memorandum of the same date, by the US President, under which the United States imposed definitive safeguard measures concerns on imports of wheat gluten from the European Communities in the form of a quantitative limitation, effective as of 1 June 1998. The EC considers these measures to be in violation of Articles 2, 4, 5, 8 and 12 of the Agreement on Safeguards; Article 4.2 of the Agreement on Agriculture; and Articles I and XIX of GATT 1994. At its meeting on 26 July 1999, the DSB established a panel.

Panels requested but not established

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**(1) United States – Anti-dumping duties on imports of colour television receivers from Korea (WT/DS89)**

This request, dated 10 July 1997, is in respect of the imposition of anti-dumping duties by the US on imports of colour television receivers (CTVs) from Korea. Korea contends that the US has since 30 April 1984 maintained an anti-dumping order for Samsung's CTVs despite the absence of dumping and the cessation of exports from Korea, without examining the necessity of continuing to impose such duties. Korea contends that the US actions violate Articles VI and X of GATT 1994, and Articles 1, 2, 3, 4, 5, 11 and 17 of the AD Agreement. On 6 November 1997, Korea requested the establishment of a panel. On 5 January 1998, Korea informed the DSB that it was withdrawing its request for a panel but reserving its right to reintroduce the request. At the DSB meeting on 22 September 1998, Korea announced that it was definitively withdrawing the request for a panel because the imposition of anti-dumping duties had now been revoked.

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**(2) Argentina – Safeguard measures on imports of footwear (WT/DS123)**

This request, dated 23 April 1998, is in respect of provisional and definitive safeguard measures imposed by Argentina on imports of footwear, specifically Resolution 226/97 of 24 February 1997, by which Argentina imposed a provisional safeguard measure in the form of minimum specific duties on imports of footwear effective from 25 February 1997, which was followed by Resolution 987/97, which imposed a definitive safeguard measure on these imports effective from 13 September 1997. On 15 April 1999, Indonesia requested the establishment of a panel. Indonesia alleges that the Argentinian measures violate Articles 2, 4, 5, 6, 7 and 12 of the Agreement on Safeguards and Article XIX of GATT 1994. In a communication dated 10 May 1999, Indonesia informed the DSB that it was not pursuing its request for a panel at the next DSB meeting, but that this was without prejudice to its rights under the DSU to resubmit the panel request.

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**(3) Slovak Republic – Measure affecting import duty on wheat from Hungary (WT/DS143)**

This request, dated 8 October 1998, is in respect of a regulation adopted by the Slovak Republic which entered into force on 10 September 1998, and which increased the import duty on wheat originating in Hungary. Hungary asserts that the increased import duty on wheat (HS1001.1000, 1001.90) amounts to 2540 SKK/t which equates to approximately 70 per cent ad valorem. Hungary alleges that the bound rates for these tariff lines in the Slovak Schedule for 1998 are set at 4.4 per cent (HS1001.1000), 27 per cent (HS1001.9010) and 22.5 per cent (HS1001.9091, 1001.9099). Hungary alleges that it is the only country subject to this measure and contends that it is inconsistent with Articles I and II of GATT 1994, and Article 4 of the Agreement on Agriculture.

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**(4) Guatemala – Definitive anti-dumping measure on grey portland cement from Mexico (WT/DS156)**

This request, dated 15 July 1999, is in respect of the same anti-dumping measure and investigation considered by the Panel and the Appellate Body in a previous complaint by Mexico (WT/DS60), which is included in the section of this Report under the heading of "Appellate Body and/or Panel Reports issued". Mexico alleges violations of Guatemala's obligations under Article VI of GATT 1994 and Articles 1, 2, 3, 5, 6, 7, 9, 10, 12 and 18, as well as Annexes I and II, of the AD Agreement.

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**(5) Canada – Patent protection term (WT/DS170)**

This request, dated 15 July 1999, is in respect of the term of the grant of a patent in Canada. Under the Canadian Patent Act, the term granted on patents issued on the basis of applications filed before 1 October 1989 is 17 years from the date on which the patent is issued, which the US contends is inconsistent with Canada's obligations under Articles 33 and 70 of the TRIPS Agreement.

## Panels suspended

### (1) European Communities – Measures affecting butter products (WT/DS72)

On 18 November 1997, a panel was established to consider the complaint by New Zealand concerning decisions by the EC and the United Kingdom's Customs and Excise Department, to the effect that New Zealand butter manufactured by the Ammix butter-making process and the spreadable butter-making process be classified so as to be excluded from eligibility for New Zealand's country-specific tariff quota established by the European Communities' WTO Schedule. New Zealand alleges violations of Articles II, X and XI of GATT, Article 2 of the TBT Agreement, and Article 3 of the Agreement on Import Licensing Procedures. The US reserved its third-party rights. At the request of the complainants, dated 24 February 1999, the Panel agreed, pursuant to Article 12.12 of the DSU, to suspend the panel proceedings. The suspension expires on 7 October 1999.

### (2) Argentina – Measures affecting textiles and clothing (WT/DS77)

On 16 October 1997, a panel was established to consider a complaint by the European Communities concerning certain measures governing Argentina's textiles, clothing and footwear sectors, in particular the imposition of specific duties on certain products in excess of the bound rate of 35 per cent ad valorem. The EC contends that these measures are inconsistent with Argentina's commitments under Article II of GATT 1994 and Article 7 of the ATC. The US reserved its third-party rights. The Panel suspended its work at the request of the EC on 29 July 1998. The jurisdiction of the Panel lapsed on 29 July 1999.

### (3) United States – Measure affecting government procurement (WT/DS88) (WT/DS95)

On 21 October 1998, a panel was established to consider complaints by the European Communities (WT/DS88) and Japan (WT/DS95) in respect of a statute enacted by the Commonwealth of Massachusetts on 25 June 1996, entitled Act regulating State Contracts

Table IV.7

#### Requests for consultations<sup>1</sup>

Dispute	Complainant	Date of request
European Communities – Anti-Dumping Investigations Regarding Unbleached Cotton Fabrics from India (WT/DS140)	India	3 August 1998
European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed-Linen from India (WT/DS141)	India	3 August 1998
Argentina – Countervailing Duties on Imports of Wheat Gluten from the European Communities (WT/DS145)	European Communities	23 September 1998
United States – Certain Measures Affecting the Import of Cattle, Swine and Grain from Canada (WT/DS144)	Canada	25 September 1998
India – Measures Affecting the Automotive Sector (WT/DS146)	European Communities	6 October 1998
Japan – Tariff Quotas and Subsidies Affecting Leather (WT/DS147)	European Communities	8 October 1998
Czech Republic – Measure Affecting Import Duty on Wheat from Hungary (WT/DS148)	Hungary	12 October 1998
India – Import Restrictions (WT/DS149)	European Communities	29 October 1998
India – Measures Affecting Customs Duties (WT/DS150)	European Communities	30 October 1998
United States – Measures Affecting Textiles and Apparel Products (WT/DS151)	European Communities	19 November 1998
European Communities – Patent Protection for Pharmaceutical and Agricultural Chemical Products (WT/DS153)	Canada	2 December 1998
European Communities – Measures Affecting Differential and Favourable Treatment of Coffee (WT/DS154)	Brazil	7 December 1998
Argentina – Anti-Dumping Measures on Imports of Drill Bits from Italy (WT/DS157)	European Communities	14 January 1999
European Communities – Regime for the Importation, Sale and Distribution of Bananas II (WT/DS158)	Guatemala, Honduras, Mexico, Panama and United States	20 January 1999
Hungary – Safeguard Measure on Imports of Steel Products from the Czech Republic (WT/DS159)	Czech Republic	21 January 1999
United States – Countervailing Duty Investigation with respect to Live Cattle from Canada (WT/DS167)	Canada	19 March 1999
South Africa – Anti-dumping Duties on the Import of Certain Pharmaceutical Products from India (WT/DS168)	India	1 April 1999
Argentina – Patent Protection for Pharmaceuticals and Test Data Protection for Agricultural Chemicals (WT/DS171)	United States	6 May 1999
European Communities – Measures Relating to the Development of a Flight Management System (WT/DS172) and France – Measures Relating to the Development of a Flight Management System (WT/DS173)	United States	21 May 1999
European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs (WT/DS174)	United States	1 June 1999
India – Measures Relating to Trade and Investment in the Motor Vehicle Sector (WT/DS175)	United States	2 June 1999
United States – Section 211 Omnibus Appropriations Act of 1998 (WT/DS176)	European Communities	8 July 1999
United States – Safeguard Measure on Imports of Fresh, Chilled or Frozen Lamb from New Zealand (WT/DS177)	New Zealand	16 July 1999
United States – Safeguard Measure on Imports of Fresh, Chilled or Frozen Lamb from Australia (WT/DS178)	Australia	23 July 1999

1. These cases appear in order of date requested. The list does not include those disputes where a panel was either requested or established.

Table IV.8

**Notifications of mutually agreed solutions**

Dispute	Complainant	Date settlement notified
India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products (WT/DS93)	New Zealand	1 December 1998
Sweden – Measures Affecting the Enforcement of Intellectual Property Rights (WT/DS86)	United States	2 December 1998

with Companies doing Business with Burma (Myanmar). The Act provides, in essence, that public authorities of the Commonwealth of Massachusetts are not allowed to procure goods or services from any persons who do business with Burma. The EC and Japan contend that, as Massachusetts is covered under the US schedule to the GPA, this violates Articles III, VIII, XIII and XXII of the GPA. The EC and Japan also contend that the measure nullifies benefits accruing to it under the GPA, as well as impeding the attainment of the objectives of the GPA, including that of maintaining balance of rights and obligations. Pursuant to a request by the complainants, in a letter dated 10 February 1999, the Panel agreed, pursuant to Article 12.12 of the DSU, to suspend the panel proceedings.

**DSU review**

A review of the DSU by the DSB began in early 1998, pursuant to the Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes. In terms of that decision, the Ministerial Conference was to complete a full review of the dispute settlement rules and procedures under the WTO within four years after the entry into force of the Agreement Establishing the World Trade Organization. Following completion of the review, the Ministerial Conference was to decide whether to continue, modify or terminate the existing dispute settlement rules and procedures.

Informal consultations were held by the Chairman of the DSB to determine how to proceed in conducting the review, following which, informal comments were submitted by Members and compiled by the Secretariat. Informal DSB meetings were held during the remainder of 1998 based on the informal comments submitted.

At a special meeting on 8 December 1998, the DSB agreed that as the discussions had not been completed and there remained a number of suggestions by Members that had yet to be considered, discussions should be continued beyond the end of that year. The General Council took note of this and decided the DSB should continue and complete the review process including the preparation of a report by the end of July 1999.

The Members agreed to both further discussions of possible amendments to the DSU of a technical nature and that further substantive discussions should focus on (1) panel proceedings; (2) third-party rights; (3) Appellate Body proceedings; (4) transparency; (5) implementation; (6) developing country issues; and (7) Article 6.1 regarding establishment of panels. On the basis of this agreement, further informal meetings of the DSB were convened through the end of July 1999.

At its meeting of 15-16 February 1999, the General Council discussed the possible interpretation of the relationship between Articles 21.5 and 22 of the DSU. The DSB was invited to take that issue up in the context of the DSU review and endeavour to reach agreement on clarification of these provisions before the end of July 1999. This issue was then discussed by the DSB at a number of informal meetings.

## VII. Trade Policy Review Mechanism

The objectives of Trade Policy Review Mechanism (TPRM), as established in Annex 3 of the Marrakesh Agreement, are to contribute to improved adherence by all Members of the WTO to its rules, disciplines and commitments, and thus to the smoother functioning of the multilateral trading system. The TPR reviews aim to achieve greater transparency in, and understanding of, the trade policies and practices of Members. The Mechanism enables the regular collective appreciation and evaluation of the full range of individual Members' trade policies and practices in all areas covered by the WTO Agreements, and their impact on the functioning of the multilateral trading system. Reviews take place against the background of the wider economic and developmental needs, policies and objectives of the Member concerned, as well as the external trading environment. They are not intended to serve as a basis for the enforcement of obligations, for dispute settlement procedures, or to impose new policy commitments.

Reviews are conducted in the Trade Policy Review Body (TPRB), a full-membership body of equal ranking to the General Council and the Dispute Settlement Body. During 1998, the TPRB was chaired by Ambassador Ali Said Mchumo (Tanzania); the Chairman for 1999 is Ambassador Jean-Marie Noirfalisse (Belgium).

Under the TPRM, the four largest trading entities (the European Union (EU), the United States, Japan and Canada – the “Quad”) are reviewed every two years; the next sixteen largest trading partners every four years; and the remaining WTO Members every six years, with a longer interval envisaged for least-developed countries. It has been agreed that these intervals may, if necessary, be applied with a flexibility of six months’ extension; and that every second review of the “Quad” countries should be an interim review, while remaining comprehensive in scope.

By mid-1999, a total of 107 reviews had been conducted, covering 72 WTO Members (including the EU as one), with Canada and the United States having been reviewed five times; the EU and Japan four times; three Members (Australia; Indonesia; and Hong Kong, China) three times and 23 Members twice. During the period August-December 1998, the TPRB reviewed ten Members: Jamaica; Mali; Solomon Islands; Burkina Faso; Trinidad and Tobago (first reviews); Turkey; Uruguay (second reviews); Indonesia; Hong Kong, China (third reviews); and Canada (fifth review). During the period January-July 1999, the TPRB carried out six reviews: Togo; Guinea (first reviews); Argentina; Bolivia; Egypt (second reviews); and the United States (fifth review). The Chairperson’s concluding remarks for the reviews carried out from mid-1998 onwards are included in Annex 2, page 114.

In the period September-December 1999, the TPRB will carry out first reviews of Nicaragua and Papua New Guinea; second reviews of Israel, the Philippines and Romania; and a third review of Thailand. For the year 2000, 14 reviews are scheduled.

Over the past years, greater focus has been placed on reviews of least-developed countries (LDCs), as encouraged by the November 1997 High-Level Meeting on Integrated Initiatives for Least-Developed Countries’ Trade Development. By end 1999, reviews had covered ten of the 28 LDCs that are WTO Members.

As required in Annex 3 of the Marrakesh Agreement establishing the Mechanism, the TPRB undertook in 1999 an appraisal of the operation of the TPRM. These results are to be presented to the Ministerial Conference in Seattle.

The TPRB is also responsible for carrying out the Annual Overview of developments in the international trading environment which have an impact on the multilateral trading system, on the basis of an Annual Report by the Director-General.

Substantial progress has continued to be made in enhancing awareness of the TPRM. Documents distributed for reviews are available to all delegations of WTO Members in electronic format through the Secretariat’s Document Management System. Press briefings are regularly held by the Chair and in some cases by the Member under review. The Summary Observations of the Secretariat report, the WTO press release, and the Concluding Remarks by the Chair are available immediately on the WTO Internet home page. From the second half of 1998, TPR reports are published on behalf of the WTO by Bernan Associates. This commercial arrangement aims to ensure a wide and efficient distribution of the reports. A CD-ROM of all Trade Policy Reviews is also made available by Bernan Associates.

## VIII. Committee on Balance-of-Payments Restrictions

Under GATT Articles XII and XVIII:B, Members whose balance-of-payments difficulties have led them to restrict imports in order to conserve foreign exchange are required to consult regularly in the Committee on Balance-of-Payments Restrictions, during the period when the restrictions are in place. Members applying the provisions of Article XII of the General Agreement on Trade in Services are also expected to consult with the Committee.

The “Understanding on the Balance-of-Payments Provisions of the GATT 1994” draws upon and clarifies the provisions of Article XII, XVIII:B and the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes. In order to avoid incidental protective effects, measures taken for balance-of-payments purposes should be temporary, price-based, control the general level of imports and be administered in a transparent manner. Members are required to notify to the General Council the introduction of, or any changes to, restrictive import measures introduced for balance of payments purposes, no later than 30 days after their announcement; consultations are expected to follow within four months of the notification. As long as restrictions for balance-of-payments purposes are maintained, developing countries consult every two years under Article XVIII:B; other countries are reviewed annually under Article XII. In the course of consultations, the Committee assesses

the nature of the balance of payments difficulties, alternative corrective measures and the possible effect of restrictions on other economies. Members are expected to announce time-schedules for the removal of restrictions which may be modified in accordance with the balance-of-payments situation. In accordance with Article XV of the GATT, the IMF is invited to participate in the consultations and Members are expected to accept the determination of the Fund, inter alia, as to what constitutes a serious decline in the level of monetary reserves.

## 1998-1999

On 28 and 29 September 1998, the Committee held consultations with Bulgaria, under Article XII(4)(b), concerning the import surcharge introduced in June 1996. The Committee noted that the surcharge had been reduced on 1 July 1998 in accordance with the time-schedule notified to the WTO and welcomed the Government's decision to eliminate the measure on 1 January 1999, 18 months earlier than originally envisaged.

On 1 and 2 February 1999, the Committee consulted with Romania on an import surcharge introduced on 10 October 1998 at 6 per cent and lowered to 4 per cent on 1 January 1999. Members welcomed the fact that the surcharge was a price-based measure, which had been notified promptly, and that a timetable for phase out had been presented. While the conformity of the measure with Article XII of GATT 1994 was recognized, Members recommended that Romania pursue a lasting solution to its balance-of-payments difficulties through fundamental macroeconomic reform, including fiscal tightening, an appropriate exchange rate policy and rapid economic restructuring. Noting the intention of the Romanian authorities to keep the measure under review and their understanding that the timetable for its elimination might be modified in the light of significant improvement in the balance of payments, the Committee found Romania in conformity with its obligations under Article XII of GATT 1994.

On 7 May 1999, the Committee met with Bangladesh under "simplified" procedures. In September 1998 Bangladesh had requested a postponement of its first consultation to be held under "regular" procedures because of the severe problems created by the flood damage. Rather, Bangladesh proposed, and the Committee agreed, to consult on schedule but under "simplified" procedures. During the simplified consultations, the Committee considered that the conditions of Article XVIII:B had been met, while encouraging Bangladesh to submit a timetable for phase out of its balance-of-payments restrictions. The next consultation, under "regular" procedures, will be held in tandem with the Trade Policy Review scheduled for May 2000.

In addition to the three consultations held during the 1998-1999 period, Slovakia eliminated its import surcharge, on 1 October 1998 in line with its timetable, Tunisia submitted the list of items still subject to temporary import authorization and Nigeria circulated a phase-out schedule removing its remaining import prohibitions by the year 2000.

## IX. Committee on Regional Trade Agreements

Created in February 1996, the Committee on Regional Trade Agreements (CRTA) is charged with examining regional trade agreements (RTAs) notified to the WTO and forwarded to it by the Council for Trade in Goods, the Council for Trade in Services and the Committee on Trade and Development; the CRTA has also the task of considering the systemic implications of RTAs for the multilateral trading system and their relationship.

The Committee held five formal sessions and a large number of informal meetings during the period under review. Most of the Committee's time was devoted to the examination of individual RTAs, i.e. to examining information provided by parties to the agreements on their provisions and operation, including replies to specific questions by WTO Members, and to developing conclusions regarding the agreements' consistency with relevant WTO rules. Currently, 72 examinations are in process (see Table IV.9).

The Committee also agreed on procedural recommendations for reporting on the operation of RTAs, which aimed at standardizing the submission of information. These recommendations were adopted by the Council for Trade in Goods, the Council for Trade in Services and the Committee on Trade and Development. A timetable for the submission of biennial reports on the operation of customs unions and free-trade areas was also drawn up for 1999.

The Committee also has a mandate to analyze the systemic implications of RTAs for the multilateral trading system. During the period under review, its work in this area made some progress in the form of continuing discussion, identification of additional areas and new submissions by Members for consideration by the Committee. The Committee continued

discussion of issues related to the meaning of such terms as “substantially all the trade” and “other regulations of commerce” (GATT Article XXIV); renewed interest was also expressed in the relationship between GATT Article XXIV and GATS Article V.

During the latter half of 1998 the Committee gave consideration to a number of requests for observership from intergovernmental organizations (IGOs). The Latin American Integration Association (LAIA) was granted observership on an ad hoc basis. Other requests were put on hold pending a decision on observership for IGOs by the General Council.

Table IV.9

**GATT/WTO-notified RTAs currently undergoing examination**

European Union (Services)	Slovenia-Croatia FTA (Goods)
EC Enlargement (Goods)	Slovenia-Former Yugoslav Republic of Macedonia (FYROM) FTA (Goods)
EC Enlargement (Services)	Czech Republic-Estonia FTA (Goods)
EC-Bulgaria IA (Goods)	Czech Republic-Latvia FTA (Goods)
EC-Czech Republic IA (Goods)	Czech Republic-Lithuania FTA (Goods)
EC-Estonia FTA (Goods)	Poland-Lithuania FTA (Goods)
EC-Faroe Islands FTA (Goods)	Slovak Republic-Estonia FTA (Goods)
EC-Hungary Europe Agreement (Services)	Slovak Republic-Latvia FTA (Goods)
EC-Hungary IA (Goods)	Slovak Republic-Lithuania FTA (Goods)
EC-Latvia FTA (Goods)	Slovenia-Estonia FTA (Goods)
EC-Lithuania FTA (Goods)	Slovenia-Latvia FTA (Goods)
EC-Palestine Liberation Organization for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip FTA (Goods)	Slovenia-Lithuania FTA (Goods)
EC-Poland Europe Agreement (Services)	Czech Republic-Israel FTA (Goods)
EC-Poland IA (Goods)	Hungary-Israel FTA (Goods)
EC-Principality of Andorra CU (Goods)	Slovak Republic-Israel FTA (Goods)
EC-Romania IA (Goods)	Slovenia-Israel FTA (Goods)
EC-Slovak Republic Europe Agreement (Services)	Turkey-Bulgaria FTA (Goods)
EC-Slovak Republic IA (Goods)	Turkey-Czech Republic FTA (Goods)
EC-Slovenia IA (Goods)	Turkey-Estonia FTA (Goods)
EC-Tunisia FTA (Goods)	Turkey-Hungary FTA (Goods)
EC-Turkey CU (Goods)	Turkey-Israel FTA (Goods)
EFTA-Bulgaria FTA (Goods)	Turkey-Lithuania FTA (Goods)
EFTA-Estonia FTA (Goods)	Turkey-Romania FTA (Goods)
EFTA-Hungary FTA (Goods)	Turkey-Slovak Republic FTA (Goods)
EFTA-Israel FTA (Goods)	Estonia-Latvia-Lithuania FTA (Goods)
EFTA-Latvia FTA (Goods)	Kyrgyz Republic-Moldovia FTA (Goods)
EFTA-Lithuania FTA (Goods)	Kyrgyz Republic-Russian Federation FTA (Goods)
EFTA-Poland FTA (Goods)	Kyrgyz Republic-Ukraine FTA (Goods)
EFTA-Romania FTA (Goods)	Kyrgyz Republic-Uzbekistan FTA (Goods)
EFTA-Slovenia FTA (Goods)	Kyrgyz Rep.-Belarus-Kazakhstan-Russian Federation-CU (Goods)
Faroe Islands-Estonia FTA (Goods)	Canada-Chile FTA (Goods)
Faroe Islands-Iceland FTA (Goods)	Canada-Israel FTA (Goods)
Faroe Islands-Norway FTA (Goods)	NAFTA (Goods)
Faroe Islands-Switzerland FTA (Goods)	NAFTA (Services)
CEFTA (Goods)	MERCOSUR (Goods)
Romania-Moldova FTA (Goods)	ANZCERTA (Services)

IA = interim agreement

FTA = free trade agreement

CU = customs union

## X. Committee on Trade and Development

The terms of the Committee on Trade and Development are: to serve as a focal point for consideration and coordination of work on development in the World Trade Organization (WTO) and its relationship to development-related activities in other multilateral agencies; to keep under continuous review the participation of developing country Members in the multilateral trading system and to consider measures and initiatives to assist developing country Members, and in particular the least-developed

country Members, in the expansion of their trade and investment opportunities, including support for their measures of trade liberalization; to review periodically, in consultation as appropriate with the relevant bodies of the WTO, the application of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members, and in particular least-developed country Members, and report to the General Council for appropriate action; to consider any questions which may arise with regard to either the application or the use of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members and report to the General Council for appropriate action; and to provide guidelines for, and to review periodically, the technical cooperation activities of the WTO as they relate to developing country Members.<sup>7</sup> The Committee also oversees the work of the Sub-Committee on Least-Developed Countries, mentioned below.

The Committee was chaired by Ambassador Iftekhar Ahmed Chowdhury (Bangladesh) until March 1999 and subsequently by Ambassador Absa Claude Diallo (Senegal). Between August 1998 and July 1999, the Committee held six formal meetings, as well as several informal consultations to achieve progress on the items on its agenda.

Eleven international intergovernmental organizations have in the period been granted ad hoc observer status in the Committee on a meeting-by-meeting basis (Arab Maghreb Union, Economic Community of West African States, Economic Cooperation Organization, Inter-Arab Investment Guarantee Corporation, Islamic Development Bank, Organization of African Unity, Organization of the Islamic Conference, South Centre, South Pacific Forum, West African Economic and Monetary Union, and World Intellectual Property Organization). Thirty nine intergovernmental organizations are currently observers in the Committee.

In the period reviewed, the development dimension of trade and trade liberalization was repeatedly emphasised by Members. This dimension underlay the discussion of most themes that featured regularly on the Committee's agenda. These themes included: review of the application of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members; market access; concerns and problems of small economies; development dimensions of the WTO work programmes on electronic commerce and trade facilitation; technical assistance and training; and possible inputs by the Committee on Trade and Development into the 3<sup>rd</sup> WTO Ministerial Conference.

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### **Review of the application of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members**

The Committee continued its review, initiated in 1996, of the application of special provisions for differential and more favourable treatment of developing countries, in particular the least-developed amongst them. At its meeting in November 1998, the Committee requested the Secretariat to compile information on the difficulties, if any, that Members may have experienced in the implementation of these provisions. It was agreed that this compilation would be conducted on the basis of a questionnaire to Members and of information contained in documentation available within the Secretariat. An informal paper was circulated by the Secretariat in July 1999, and subsequently circulated as a formal document of the Committee.

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### **Market access**

Market access for developing and least-developed countries remained a key element of the Committee's work during the period. A number of WTO Members, including some developing countries, had announced autonomous market access offers in favour of least-developed countries (LDCs) at, or following, the High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development, 27-28 October 1997. To provide a firmer legal basis for market access offers by developing countries, the Committee agreed in March 1999 on a draft waiver on preferential tariff treatment for LDCs. Following acceptance by the Council for Trade in Goods, the waiver was adopted by the General Council on 15 June 1999.<sup>8</sup>

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### **Concerns and problems of small economies**

This item was first considered by the Committee in November 1998 on the basis of a paper by five co-sponsors.<sup>9</sup> In December 1998, three Members (Fiji, Guatemala and Mauritius) circulated papers describing their national experiences as small economies and others commented on their relevant experiences. At the Committee's meeting in March 1999, some Members expressed their determination that proposals from the CTD on the concerns and problems of small economies constitute part of the inputs into 3<sup>rd</sup> WTO Ministerial Conference. In July 1999, the Committee heard a presentation by representatives of the World Bank and Commonwealth Secretariat on the Advisory Task Force on Small Economies, on which the WTO Secretariat is also represented. Work on this topic is ongoing.

<sup>7</sup>The technical cooperation activities referred to in this provision do not include technical assistance for accession negotiations.

<sup>8</sup>Preferential Tariff Treatment For Least-Developed Countries. Decision on Waiver (WT/L/304).

<sup>9</sup>Barbados, Jamaica, Lesotho, Mauritius, Sri Lanka and Trinidad and Tobago.

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## Development dimensions of electronic commerce and trade facilitation

During the period under review, the Committee gave considerable attention to its contribution to the WTO Work Programme on Electronic Commerce, adopted by the General Council in September 1998. The Committee's mandate was to "examine and report on the development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries". A Secretariat background note on the development dimension of electronic commerce, was discussed by the Committee in November and December 1998.<sup>10</sup> At the request of the Committee, a Seminar on Electronic Commerce and Development, attended by WTO Members, observers and the private sector, was held in February 1999. The Committee adopted its final agreed contribution to the WTO Work Programme on Electronic Commerce in July 1999. The Committee's contribution, covered electronic commerce and the multilateral trading system; prospects for developing countries; constraints faced by developing countries; policy challenges and responses; and an illustrative list of questions for which further study had been proposed.<sup>11</sup>

Following a request by the Chairman of the Council for Trade in Goods, the Committee considered the development dimension of trade facilitation. The Secretariat prepared an issues paper reflecting points raised by Members at both formal and informal meetings<sup>12</sup>, covering four aspects, namely: trade facilitation and development; national trade facilitation committees; the role of the private sector; and international cooperation. Members recognized that, although promotion of trade facilitation was an indispensable element for development policy, there could be short-term costs. Issues central to trade facilitation included simplification and greater transparency in official documentation; increased transparency and predictability of legislation and regulations; streamlining of official controls and procedures; the use of information technology; harmonization and simplification of regulations relating to the transport and transit of goods; simplification, acceleration, harmonization, greater security in and lower-cost structures of payments procedures; and strengthening of export credit facilities and mechanisms.

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## Technical assistance and training

The Committee discussed the issue of technical cooperation and training on several occasions. Many Members affirmed that technical assistance was both a core WTO activity and a systemic issue of importance for developing countries. The view was widely shared that the provision of technical assistance was vital to the integration of developing countries into the multilateral trading system. Members expressed appreciation for the Secretariat Trade Policy Courses, underscored the importance of training in capacity-building for the improved implementation of WTO Agreements, and requested an increase in the number of trade policy courses in French, Spanish and English. Members also highlighted the use of information technology in delivering technical assistance, outsourcing to other international organizations as a way of increasing capacity, the need for greater technical focus in technical assistance, and the value of regional as well as national programmes.

In July 1999, the Secretariat drew attention to the financial crisis facing the delivery of WTO technical assistance. Requests for technical assistance had significantly out-stripped available resources and, as at 31 May 1999, the organization was faced with a substantial deficit if all requested activities were to be fulfilled. In addition, only some 10 per cent of technical cooperation activities for 1999 were expected to be covered through the regular budget, compared to 20 per cent in 1988; the rest was covered through extra-budgetary resources. This uncertainty of funding presented enormous difficulties for efficient and predictable planning. The Chairperson of the CTD addressed a letter to the Chairperson of the Committee on Budget, Finance and Administration requesting to re-visit the funding of WTO technical cooperation on an urgent basis. In this connection, six delegations (Canada, Denmark, Netherlands, Norway, Sweden and Switzerland), supported by the African Group, also made a proposal to the General Council regarding the funding of technical cooperation through the regular WTO Budget<sup>13</sup>.

The evaluation of technical assistance was examined exhaustively in the Committee, on the basis of an issues paper by the Secretariat, initially discussed in November 1998. There was a strong consensus amongst Members on the necessity of the evaluation of technical cooperation and assistance activities. Members considered that evaluation was required for the improvement of technical assistance programmes. Members stressed the importance of establishing clear identifiable criteria of evaluation. Various approaches were proposed for internal and external evaluation of technical cooperation activities, in terms both of quantitative and qualitative evaluation. The Secretariat was invited to proceed, on its own responsibility, with the evaluation of technical assistance, based on two questionnaires; initial evaluations resulting from these two questionnaires would be communicated to the CTD in the Spring of 2000.

<sup>10</sup> WT/COMTD/W/51.

<sup>11</sup> WT/COMTD/19.

<sup>12</sup> WT/COMTD/W/57 and Corr.1: Development Aspects of Trade Facilitation. Note by the Secretariat.

<sup>13</sup> WT/GC/W/259.

## Possible inputs by the Committee on Trade and Development into the 3<sup>rd</sup> WTO Ministerial Conference

Possible inputs by the CTD into the Seattle Ministerial Conference was identified by the Chairperson, at her election, as deserving of priority attention by the Committee. The majority of Members supported the approach. An initial informal exchange of views took place in May 1999, and Secretariat notes was considered by Members in June and July 1999. The preeminence of the General Council in the pre-Seattle process was emphasized and further discussion of the Committee's possible input and further work programme were scheduled for October 1999.

## Sub-Committee on Least-Developed Countries

The Sub-Committee on Least-Developed Countries has the mandate "to give particular attention to the special and specific problems of least-developed countries; to review periodically the operation of the special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of the least-developed country Members; and to consider specific measures to assist and facilitate the expansion of the least-developed countries' trade and investment opportunities, with a view to enabling them to achieve their development objectives". Since 1 August 1998, the Sub-Committee on Least-Developed Countries has held four formal meetings, on 29 October 1998, 25 November 1998, 1 March 1999 and 12 July 1999.<sup>14</sup>

During the period under review, the Sub-Committee was chaired by Ambassador Hans Henrik Bruun (Denmark) until June 1999, and subsequently by Ambassador Benedikt Jónsson (Iceland).

Three principal themes have been addressed by the Sub-Committee during the period under review: the follow-up to the 1997 High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development; market access for products originating in least-developed countries; and difficulties faced by least-developed countries in implementing WTO Agreements.

## Follow-up to the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development

During the meetings of the Sub-Committee, the Secretariat has provided regular oral and written up-dates on WTO's activities in the follow up to the High-Level Meeting. The latest written progress report is contained in document WT/COMTD/LDC/W/13. Considerable emphasis on this particular agenda item has been placed on the implementation of the Integrated Framework for Trade-Related Technical Assistance, which coordinates the trade-related assistance provided by the WTO, the IMF, the International Trade Centre, UNCTAD, UNDP and the World Bank at the request of least-developed countries. The Sub-Committee has reviewed progress and difficulties in the Integrated Framework, such as bottleneck's in the organization of trade-related meetings in the least-developed countries, and possible solutions. The Sub-Committee has regularly invited representatives of the other agencies involved to report on their activities under the Integrated Framework; during the period under review, representatives of the World Bank, UNCTAD, the International Monetary Fund and the UNDP addressed the Sub-Committee.

## Market access

In preparation for the Sub-Committee's discussions on market access, the Secretariat circulated a paper entitled "Market Access for Exports of Goods and Services of the Least-Developed Countries: Barriers and Constraints"<sup>15</sup>. The lively discussion on this item focused on two main issues: the terms of market access faced by least-developed countries, and how genuine supply-side constraints inhibit their ability to make use of market access opportunities. The Sub-Committee decided to forward to the General Council, through the Committee on Trade and Development, the document prepared by the Secretariat together with a list of points raised as an input into the Intersessional Process. At the request of the Sub-Committee, the Secretariat is compiling statistical information on the products exported by each of the least-developed countries Members of the WTO and the market access conditions that they face in 23 markets which account for 95 per cent of all LDC exports.

## Implementation difficulties

At the Sub-Committee's request, the Secretariat prepared a background document entitled "Implementation of WTO Agreements: Survey of the Difficulties Faced by Least-Developed Countries and the Current Response".<sup>16</sup> The discussions of this item touched upon issues as varied as the inadequacy of the institutional framework in the least-developed countries to the kind of technical assistance provided. Following intense discussions, the Sub-Committee decided to forward to the General Council, through the Committee on Trade

<sup>14</sup>The reports of those meetings can be found in documents WT/COMTD/LDC/M/13-16.

<sup>15</sup>The latest version was issued as WT/COMTD/LDC/W/11 Rev. 1.

<sup>16</sup>Document WT/COMTD/LDC/W/10.

## XI. Committee on Trade and Environment

The WTO Committee on Trade and Environment's mandate and terms of reference are set out in the Marrakesh Ministerial Decision on Trade and Environment of April 1994. The CTE has a two-fold mandate "to identify the relationship between trade measures and environmental measures in order to promote sustainable development" and "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system".

This broad-based mandate covers goods, services, and intellectual property rights and builds on progress already achieved in the GATT Group on Environmental Measures and International Trade. With the aim of making international trade and environmental policies mutually supportive, the CTE's work programme was initially set out in the following ten items:

- the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
- the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
- the relationship between the provisions of the multilateral trading system and:
  - (a) charges and taxes for environmental purposes; and (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;
- the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;
- the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
- the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least-developed among them, and environmental benefits of removing trade restrictions and distortions;
- the issue of exports of domestically prohibited goods;
- the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights;
- the work programme envisaged in the Decision on Trade in Services and the Environment;
- input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non-governmental organizations referred to in Article V of the WTO Agreement.

A start on the work programme was made soon after the Marrakesh Ministerial meeting, under the authority of the WTO Preparatory Committee, and from 1 January 1995, with the coming into force of the WTO Agreement, the CTE was formally established to continue work in this area.

As set out in the Report to the General Council in December 1997 (WT/CTE/2), the CTE has continued to broaden and deepen the analysis of all items of the work programme set out in the Marrakesh Ministerial Decision on Trade and Environment. In 1997 and 1998, the CTE has based its analysis on the "cluster approach" under the themes of market access and the linkages between the multilateral environment agenda and the multilateral trade agenda.

At a meeting held from 26-28 October 1998, the CTE discussed issues related to trade in services and the environment; relations with NGOs (items 9 and 10); linkages between MEAs and market access. Members discussed eco-labelling and continued the sectoral analysis of the environmental benefits of trade liberalization in agriculture, energy, fisheries and forestry sectors. The CTE adopted its 1998 report to the General Council. Observer status was extended to the International Plant and Genetic Resources Institute.

The 18-19 February 1999 meeting addressed the CTE's work programme related to the theme of market access. The Secretariat prepared a paper on technical barriers to the market access of developing countries. Sectoral discussions advanced on trade liberalization in agriculture, energy, fisheries, forestry and leather. Observer status was extended to the South Pacific Forum.

The items related to the linkages between the multilateral environment and trade agendas were taken up at the CTE's meeting held on 29-30 June (Items 1, 5, 7 and 8). In order to continue to broaden the participation in support of the CTE's analysis, the CTE held

an Information Session with representatives of five Secretariats of Multilateral Environmental Agreements (MEAs) relevant to the work of the CTE to inform Members on trade-related developments in their respective agreements. These comprised the Convention on International Trade in Endangered Species of Wild Fauna and Flora; the UN Framework Convention on Climate Change; the Intergovernmental Forum on Forests; the Montreal Protocol on Substances that Deplete the Ozone Layer and the International Tropical Timber Organization. Observer status was extended to the United Nations Framework on Climate Change and the International Commission on the Conservation of Atlantic Tuna.

The following Secretariats prepared background papers (available on the WTO website): the Convention on Biological Diversity and the Convention for the Conservation of Antarctic Marine Living Resources.

A productive debate emerged on the trade-distorting subsidization of the fisheries sector. Several members stressed that over-fishing was a major global concern, driven by excess capacity and government support in the form of subsidies. It was also argued that other factors must also be considered in the debate such as illegal fishing. Some urged the WTO to play an increasing role in monitoring and encouraging countries to reduce fishing subsidies that had negative impacts on the environment and multilateral trading system. Amongst the strategies discussed to tackle the issue, was the implementation of the new FAO Plan of Action for Management of Fishing Capacity and analysis of existing WTO disciplines. The Plan provides a framework for measures at national, regional and multilateral levels to balance fishing capacity with resource sustainability objectives.

At a meeting to be held from 12-13 October, the CTE will discuss the items under both thematic clusters; Items 9 and 10.

With respect to the issue of broader participation in support of the analysis in the CTE, the Secretariat organized, under its own responsibility, an NGO Symposium on Trade and Environment on 15-16 March 1999. The Symposium chaired by the Director-General of the WTO, included the participation of approximately 600 government representatives from WTO member and observer states, 150 NGOs and 30 Inter-governmental organizations. Key note speakers were Sir Leon Brittan, Vice-President, European Commission; Mr. Klaus Töpfer, Executive Director, UNEP; Mr. Ian Johnson, Vice-President, World Bank; Ms. Maritta Koch-Weser, Director-General, World Conservation Union for Nature. The Symposium was divided into three panels to consider: linkages between trade and environment policies; synergies between trade liberalization, environment protection, sustainable economic growth and development; and interaction between trade and environment communities.

Further information on CTE meetings is contained in the WTO Trade and Environment Bulletin. A comprehensive discussion of the work programme and the conclusions and recommendations to Ministers are contained in the CTE's 1996 Report to the Ministerial Conference (WT/CTE/1). Reports of the CTE and the Trade and Environment Bulletins are available from the WTO Secretariat and can be accessed at: <http://www.wto.org/Trade+Env/tocte.html>.

## XII. Plurilateral agreements

### Agreement on Government Procurement

The Agreement on Government Procurement entered into force on 1 January 1996. The following WTO Members are Parties to the Agreement: Canada; the European Communities and fifteen member States; Hong Kong, China; Israel; Japan; Korea; Liechtenstein; the Kingdom of the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and the United States. Fourteen WTO Members have observer status: Argentina; Australia; Bulgaria; Chile; Colombia; Estonia; Iceland; Kyrgyz Republic; Latvia; Mongolia; Panama; Poland; Slovenia; and Turkey. Four non-WTO members, Chinese Taipei, Croatia, Georgia and Lithuania, and two intergovernmental organizations, the IMF and the OECD, also have observer status.

Over the period under review, Kyrgyz Republic and Latvia applied for accession on 11 May 1999 and 16 June 1999, respectively. Chinese Taipei, Iceland and Panama are currently conducting bilateral consultations with Parties with a view to their accession to the Agreement.

National implementing legislation was notified by Canada, Korea, Norway, Switzerland, the European Community and the United States. At its October 1998 and February 1999 meetings the Committee initiated the review of national implementing legislation by taking up the legislation of the European Community and Korea, Switzerland and the United States.

Article XXIV:7(b) and (c) of the Agreement calls on the Parties, not later than the end of the third year from the date of its entry into force, to undertake further negotiations, with a view to improving the Agreement and achieving the greatest possible extension of its coverage among all Parties and eliminating any remaining discriminatory measures and

practices. In February 1997 the Committee initiated a review of the Agreement, in particular, covering the following elements: simplification and improvement of the Agreement, including, where appropriate, adaptation to advances in the area of information technology; expansion of the coverage of the Agreement; and elimination of discriminatory measures and practices which distort open procurement. This work is being pursued in informal consultations and on the basis of proposals by various Parties. At its meeting on 25 June 1998 the Committee agreed that Parties would seek to complete negotiations, at least on the simplification and improvement of the Agreement, by the time of the third WTO Ministerial Meeting and adopted a work programme which calls for, among others, intensive negotiations during the Autumn of 1999. The Committee also agreed that Parties would, in parallel, continue work on the other two elements of the negotiations, namely the elimination of discriminatory measures and practices which distort open procurement and the expansion of the coverage of the Agreement. The negotiations are aimed at facilitating the expansion of membership of the Agreement by making it more accessible to non-parties. WTO Members, not parties to the GPA, and other observer governments to the GPA have been invited to participate fully in the work.

Other matters considered by the Committee during the period under consideration have been: modifications to the Appendices to the Agreement, loose-leaf system for Appendices, statistical reporting and notification of threshold figures in national currencies.

Two matters are presently the subject of dispute settlement proceedings. First, at the request of the European Communities and Japan (WT/DS88/3 and WT/DS95/3 respectively) a single panel was established on 21 October 1998 regarding the legislation enacted by the State of Massachusetts regulating State contracts with companies doing business with or in Myanmar (WT/DSB/M/49). In the context of a US court ruling barring the implementation of the measure at issue, the Panel agreed to suspend its work in accordance with Article 12.12 of the DSU, as requested by the European Communities and Japan (WT/DS88/5 and WT/DS95/5). Also in the period under review, the United States requested consultations with Korea regarding certain procurement practices of the Korean Airport Construction Authority (WT/DS163/1). The European Communities and Japan requested to join these consultations. A panel was established on 16 June 1999 with the European Communities and Japan as third parties (WT/DSB/M/64).

## Agreement on Trade in Civil Aircraft

This Agreement entered into force on 1 January 1980. It has 23 Signatories: Bulgaria, Canada, the European Communities, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Egypt, Japan, Macau, Norway, Romania, Switzerland and the United States. The Agreement has 27 observers: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Chinese Taipei, the Czech Republic, Finland, Gabon, Ghana, the IMF, India, Indonesia, Israel, Malta, Mauritius, Nigeria, Poland, the Russian Federation, Singapore, the Slovak Republic, Sri Lanka, Trinidad and Tobago, Tunisia, Turkey and UNCTAD.

The Agreement eliminates all customs duties and other charges on imports of civil aircraft products and repairs, binds them at zero level, and requires the adoption or adaptation of end-use customs administration. The Agreement prohibits Signatories from requiring purchasers or exerting pressure on purchasers to procure civil aircraft from a particular source, and provides that purchasers of civil aircraft products should be free to select suppliers on the basis of commercial and technical factors only. The Agreement regulates Signatories' participation in, or support for, civil aircraft programmes, and prohibits Signatories from requiring or encouraging sub-national entities or non-governmental bodies to take actions inconsistent with its provisions.

Although the Agreement is part of the WTO Agreement, it remains outside the WTO framework. At its meeting on 30 November 1998, Signatories asked the Chairman to engage in consultations on this matter. As a result of such consultations, on 29 April 1999 the Chairman circulated a draft Protocol Rectifying the Agreement on Trade in Civil Aircraft. Signatories met informally on 20 July 1999 to discuss the April 1999 draft Protocol. Following a constructive discussion, Signatories agreed to give further consideration to the matter.

At its 30 November 1998 meeting, Signatories also agreed to update the information contained in document AIR/TSC/W/49, regarding the civil/military identification of products for customs purposes. Furthermore, Signatories agreed to consider technical changes to the Harmonised System headings contained in the Product Coverage Annex to the Agreement. At its 21 July 1999 meeting, the Committee referred the technical changes to the Product Coverage Annex to the Technical Sub-Committee.

### I. The WTO budget and Secretariat staffing

The General Council, acting on behalf of WTO Members, approved in December 1998 an amount of 122.2 million Swiss francs (CHF) for the 1999 WTO budget. Of the total amount, CHF 120.2 million was budgeted for the WTO Secretariat and CHF 1.99 million for the Appellate Body and its Secretariat. The budget covers salaries and related costs of the staff of 533. In addition, it also covers the costs of holding meetings, maintenance costs for the Secretariat headquarters in Geneva, technical co-operation missions and other official missions, technical co-operation assistance and trade policy courses. Further, it covers, jointly with UNCTAD, the operations of the International Trade Centre. No additional funding was provided to replenish the Appellate Body operating fund.

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### II. Technical cooperation

The establishment of the WTO and the new multilateral trading system that emerged from the Uruguay Round negotiations, have certain implications for the technical cooperation that is provided to developing countries and to economies in transition, in terms of both requirements and the way in which assistance is delivered.

The present activities already largely take account of the changing trading environment and emerging new requirements. The WTO exercises flexibility to best tailor the technical cooperation activities to the needs and priorities of individual countries, groups of countries or regions, taking into account their level of development. This flexibility can be exercised through a variety of instruments that the WTO has at its disposal for delivering such assistance, including seminars, workshops, technical missions, briefing sessions, and training through trade policy courses. The intention is to respond specifically to the requirements of Members both on the contents and on the format. Each type of activity differs in nature and in duration, and is determined on a case-by-case basis. While some activities, by their very nature, are carried out in the country or region concerned, others take place at the WTO headquarters. The financial resources involved are directly related to the duration and the geographical location of the activity.

Technical cooperation in the WTO Secretariat is guided by the fundamental objective of assisting recipient countries in their understanding and implementation of agreed international trade rules, achieving their fuller participation in the multilateral trading system and ensuring a lasting, structural impact on the recipient country. The form is on directing all instruments towards human resource development and institutional capacity building. A follow-up of technical cooperation is increasingly part of the programmes so as to ensure long-lasting relations with beneficiary countries.

Concerted efforts are being undertaken to better coordinate WTO activities with other agencies, in particular in mapping out joint technical assistance programmes with ITC and UNCTAD. Contacts are established at the operational level between the agencies, both in Geneva and during missions, to ensure that the best use is made of available expertise and limited human and financial resources. Also, more attention in the technical cooperation activities is given to the role of the private sector in the development process. Efforts are undertaken to increase the number of participants representing the private sector in the seminars and workshops.

The funds provided by the regular WTO budget for technical cooperation and training activities have been supplemented by additional funds provided by some Members, and which have been put in the WTO Trust Fund for Technical Cooperation and Training. Considering the permanent character and the growing financial requirements of WTO technical cooperation activities, and bearing in mind the long-term objective of financing technical cooperation through the WTO regular budget, a number of WTO Members (Denmark, Finland, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom, the European Communities, and Hong Kong, China) decided, as an interim solution to the financial requirements of these activities, to establish a Global Trust Fund for WTO Technical Cooperation (GTF). The objectives of the GTF were based on the Guidelines and Implementation Modalities adopted by the Committee on Trade and Development, and were oriented to improving the management and implementation of WTO technical cooperation, to supporting and complementing the WTO regular budget, to enhancing technical assistance and to enabling the Secretariat to deliver technical cooperation in a flexible,

timely and pertinent manner. At the same time, it was intended to minimize the administrative costs and procedures that derived from having a multiplicity of trust funds on a national basis. In this sense, the GTF was designed to reflect the multilateral nature of the WTO. All WTO Members could participate in the GTF, which had been open to receive voluntary financial contributions since 1 July 1999.

In 1998, over 300 technical cooperation activities have been organized. Major efforts have been directed towards assisting African countries, while activities for countries in other regions have been maintained. Africa continues to be covered in large measure under specific programmes.

The Joint Integrated Technical Assistance Programme in Selected Least-Developed and other African Countries was pursued in eight African countries: four least-developed countries, (Benin, Burkina Faso, Tanzania and Uganda) and four developing countries (Côte d'Ivoire, Ghana, Kenya and Tunisia). In the light of experience in the conduct of this programme, its further development and extension to other African and least-developed countries is envisaged for execution in the short- and medium-term. The objective is to enhance the development prospects and competitiveness of African and least-developed countries through increased participation in international trade.

The programme is based on two fundamental themes:

- (1) close coordination at the design stage and particularly in the conduct of the programme among the three participating international organizations, i.e. WTO, UNCTAD and ITC, alongside the strengthening of relationships on these matters with the World Bank and UNDP, as well as other organizations; and
- (2) a combination of technical assistance activities directed towards human development and institutional capacity building, particularly through the use, as collaborators and not only as beneficiaries, of local institutions and local trainers, with a view to reaching a significant, durable impact. Specific country reports have been prepared and the implementation of programmes is underway.

A Trust Fund was established to receive funding from donors to finance the activities under this Joint Integrated Programme. The contributions received to date have enabled the three organizations to pursue the implementation of different aspects of the programme. The Fund is technically administered by the Fund Administrator, based at ITC.

In pursuance of the High Level Meeting (refer to Box IV.1 for more details), a number of developed and developing WTO Members announced steps they would take on an autonomous basis to enhance market access for imports from LDCs. Formal notifications of further market access and trade opportunities offered to LDCs have so far been received from Canada, Egypt, the European Communities, Mauritius, Switzerland, Turkey and the United States. Moreover, a waiver which will exempt such preferences given by developing countries from WTO's most-favoured-nation obligation has been adopted by the WTO General Council in June 1999. This serves as the legal basis for developing countries wanting to grant specific tariff concessions to LDCs only. (Preferences given to LDCs by developed countries are already exempted from the WTO MFN obligation through the so-called "Enabling Clause").

Under the Integrated Framework (IF), some twenty LDCs are in the process of organizing a trade-related meeting for 1999 and 2000. About 15 may hold such meetings in the next six to 12 months. The Administrative Unit of the Integrated Framework and the six agencies have drawn up guidelines to help the LDCs in the organization of trade-related meetings. One Roundtable Meeting has been held in Uganda in December 1998. In addition, two "Launchworkshops" have been held, in Bangladesh and in Haiti, to kick start the preparatory process of the roundtable meetings, bring all stakeholders in the country on board and generally raise the profile of the Integrated Framework, its objectives and process.

A large number of activities is currently underway by the six agencies under the IF umbrella. These include: specialized assistance by IMF teams to review and update customs legislation and regulations and rationalize import tariffs to assure efficient collection of revenues; trade information support by ITC relating to world market prices and trends for selected priority products for LDCs and coordinated activities such as buyers-sellers meetings, marketing missions and specialized workshops to assist enterprises in product and market development; consultancies provided by UNCTAD to assess the overall impact of globalization on specific LDCs in order to facilitate policy adaptation to the various WTO Agreements and enabling the countries to maximize benefits from new trading opportunities; continuous policy dialogue with LDCs' governments by UNDP on modalities for providing operational programmes and activities; advice by the World Bank to improve the national framework in selected LDCs for foreign investment in infrastructure and assistance in accessing credits for export-oriented enterprises; and specialized national and regional workshops by the WTO on the multilateral trading system in most least-developed countries, as well as advice on legislative changes to conform to WTO rules, including model legislation.

The High Level Meeting also focused on the application of new information technology to bring the least-developed countries into the mainstream of the global trading system. WTO is helping to realize the objective of offering the LDCs greatly improved access to the global information structures by installing basic equipment and the link to the Internet in the Ministries responsible for international trade in all WTO LDC Members and observers (the so-called Reference Centres). In the period under review Reference Centres have been installed in 14 LDCs, bringing the total number of LDCs benefitting from them to 38.

Two recommendations emanating from the two Thematic Roundtable discussions at the High Level Meeting relate directly to the work of the WTO: develop efforts to assist least-developed countries in the process of accession; and accommodate on a priority basis requests from least-developed countries for Trade Policy Reviews and assist least-developed countries in preparing for their Reviews. In the period under review, the General Council granted observer status to Yemen, bringing the number of LDCs with observer status in the WTO to ten, six of which are in the process of acceding (Cambodia, Laos, Nepal, Samoa, Sudan and Vanuatu); the four LDCs which are observers but have so far not started accession procedures are Bhutan, Cape Verde, Ethiopia and Yemen. The Secretariat has been taking initiatives, with the cooperation of WTO Members, to streamline the accession process of these countries to the extent possible. To achieve this, it has been necessary to ensure that the documentation required is up to standard to enable agreement on terms of entry as soon as possible. Special attention has been given to expediting the bilateral market access negotiations through an early submission and negotiation of offers from these governments. On both these fronts, the Secretariat has continued to provide focused technical assistance to these countries from the earliest stages of their accession process. Going beyond the specific needs of the accession process, the Secretariat is increasingly assisting these countries in areas such as helping draft WTO-related legislation and helping establish the trade policy infrastructure necessary to pursue their trade interests in the WTO after accession. Under the Agreement in the Trade Policy Review Mechanism, least-developed countries are subject to review at intervals of six years or more. Trade Policy Reviews have been completed, or are underway in the 1999 review programme, for ten of the 29 least-developed countries that are WTO Members. In the period under review, Burkina Faso, Mali, Togo and Guinea had their trade policies reviewed in meetings of the Trade Policy Review Body. Informal consultations with

#### **Box IV.1: The High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development**

Ministers at the WTO's first Ministerial Conference in 1996 expressed their concern over the marginalization of least-developed countries in the global economy and committed themselves to address this problem in a tangible way. As an immediate manifestation of their commitment Ministers adopted the Comprehensive and Integrated WTO Plan of Action for Least-Developed Countries.

In pursuit of the Plan of Action, a High Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development was held at WTO on 27 and 28 October 1997 and, in addition to WTO, organized by the International Trade Centre, UNCTAD and UNDP in close collaboration with the IMF and the World Bank. At the High Level Meeting, WTO Members were invited to announce steps they would be taking on an autonomous basis to enhance market access for imports from least-developed countries. The High Level Meeting endorsed the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries. The framework aims at making such assistance in least-developed countries more effective and efficient by laying down a mechanism for closer coordination of trade-related technical assistance activities. The mechanism applies to the trade-related assistance activities of the IMF, ITC, UNCTAD, UNDP, the World Bank and WTO and it is based on least-developed countries' (LDCs') requests for such assistance and on their full ownership of the process. To this end, the Integrated Framework envisages as a first step that the least-developed countries make an assessment of their needs for trade-related technical assistance. Taking this assessment as a basis, the six agencies then formulate a coordinated response of trade-related technical assistance activities which each organization individually, but in coordination with the other five, is in a position to provide in line with its own expertise, comparative advantage and available resources. So far 40 least-developed countries have submitted their needs assessments to which the six agencies have drawn up their "Integrated Responses" of assistance activities. The needs assessments typically cover areas ranging from compliance with WTO rules and obligations to supply side constraints, such as infrastructure, issues of human and institutional capacity building, needs of the private sector. The next stage is to broaden the exercise so that least-developed countries can seek support that goes beyond what the six agencies can make available to meet their needs for trade-related technical assistance. It involves each least-developed country, along with its multilateral, regional and bilateral development partners, reviewing its assessment and preparing a concrete programme – a portfolio of projects – of technical assistance to meet those needs. To this end, the LDC will call a "roundtable" to which it will invite the development partners of its choice and which will provide the opportunity to endorse such a multi-year programme. The Integrated Framework has resulted in a smooth-running inter-agency mechanism between the six agencies involved, to which WTO not only contributes its particular technical expertise to the endeavour but also the commitment and leadership that it has demonstrated in the process so far. To handle the day-to-day work of and to service meetings of the inter-agency coordination mechanism, an Administrative Unit has been established at ITC, which ensures its day-to-day management. The Integrated Framework is now on the Internet: <http://www.ldcs.org>

their bilateral development partners were organized en marge of their TPRs, in the context of the Integrated Framework.

In 1998 and during the first half of 1999, specific technical assistance activities included:

- national, regional and sub-regional seminars/workshops on the WTO multilateral trading system and on specific agreements;
- a series of regional seminars on services;
- training courses on dispute settlement procedures and practice, both in Geneva and the regions;
- regional seminars on trade and environment, customs valuation, and intellectual property;
- short trade policy courses for least-developed countries;
- workshops for Geneva-based delegations on trade and investment;
- briefing sessions on a regular basis for Geneva-based delegations and visiting officials of least-developed countries, developing countries, economies in transition and countries in the process of accession;
- technical missions on notification requirements, and on electronic commerce;
- technical missions to assist countries in the accession process to the WTO and other countries that are contemplating accession;
- technical assistance in the preparation of the trade policy reviews of developing countries and least-developed countries.

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## III. Training

### Trade Policy Courses

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#### Introduction

In the period under review, the WTO Secretariat organized three regular Trade Policy Courses and one six-week Special Course on Accession to the WTO for Eastern and Central European and Central Asian Countries.

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#### Regular Courses

The three regular Courses, two in English and one in French respectively, were held for developing country officials who are involved in the formulation and implementation of trade policy. Each regular Course lasted for 12 weeks and took place at the WTO in Geneva. Course participants (24 places on each regular Course) were financed by WTO fellowship awards which cover expenses for the duration of the Course.

The Course objective is to widen participants' understanding of trade policy matters, the multilateral trading system, international trade law and the functioning of the WTO. The knowledge acquired in the Course is expected to allow participants to improve the effectiveness of their work in their own administrations and to promote a more active participation of their countries in the work of the WTO.

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#### Special Course

The Special Course (for 21 participants) was funded by the Swiss Government, the first four weeks being held at the WTO in Geneva and the remaining two weeks of the Course in Lugano. The programme of the Special Course is similar to that of the regular Trade Policy Course whereby it is designed to familiarize participants with the functioning of the multilateral trading system. Special emphasis is, however, given to issues relating to accession of relevance to economies in transition.

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## IV. Cooperation with other international organizations

Since its establishment, the WTO has had extensive contacts with other inter-governmental organizations interested in its activities. Relations have been established with relevant organizations in the United Nations system, the Bretton Woods organizations, or various regional bodies to ensure that the resources and expertise of the international community remain focused, coordinated and, most important, relevant to the most pressing global needs.

Many of the organizations have observer status in one or more of the various WTO Committees, Councils or working groups. Some of them are also represented in the negotiating groups for trade in certain services sectors. A list of all organizations with observer status is provided below.

Table IV.10

**International intergovernmental organizations**

a. Observer status in the WTO

		GC	TPRB	CTG	CTE	TRIPS	ADP	SCM	SG	AG	SFS	BOFS	CMRA	CTD	CTE	MA	UC	RO	TBT	TRIMS	WAL	GATT/CPS	GATT/CNCL	GATT/CTD
UN bodies and specialized agencies:																								
U N	United Nations	X		X	X	X								X	X					X		X	X	X
Codex	Codex Alimentarius Commission										X								X					
CSD	Commission for Sustainable Development														X									
CBD	Convention on Biological Diversity					P				P					X									
CITES	Convention on International Trade in Endangered Species														X									
ECA	Economic Commission for Africa													X								X	X	X
ECE	Economic Commission for Europe				P									X					X			X	X	X
ECLAC	Economic Commission for Latin America & the Caribbean													X								X	X	X
ESCAP	Economic & Social Commission for Asia & the Pacific													X								X	X	X
FAO	Food & Agriculture Organization	X	X	X		X		X		X	X		X	X	X	X			X			X	X	X
UNFCC	Framework Convention of Climate Changes														X									
ITU	International Telecommunication Union	P			<sup>1</sup>																			
UNCTAD	United Nations Conference on Trade & Development	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
UNDP	United Nations Development Programme	P												X	X									
UNEP	United Nations Environment Programme	P													X									
UNIDO	United Nations Industrial Development Organization	P												X	X				<sup>2</sup>			X		
WFP	World Food Programme									X														
WHO	World Health Organization	P									X								X					
WIPO	World Intellectual Property Organization	X				X								<sup>3</sup>	X							X	X	
Other organizations:																								
ACP	African, Caribbean & Pacific Group of States	P		P	P		<sup>2</sup>	<sup>2</sup>	<sup>2</sup>	P	P	X		X	X	X	P	X	<sup>2</sup>	P	X	X	X	
ARIPO	African Regional Industrial Property Organization					P																		
	ANDEAN Group													X								X	X	X
	Arab Maghreb Union	P		P	P								P	<sup>3</sup>										
	Arab Monetary Fund	P		P	P																	X	X	
	Arab Trade Financing Programm	P		P	P																			
CARICOM	Caribbean Community Secretariat													X								X	X	X
UDEAC	Central African Customs & Economic Union													X								X		X
	Commonwealth Secretariat													X								X		X
CMA/WCA	Conderence of Ministers of Agriculture of West and Central Africa					P																		
GCC	Cooperation Council for the Arab States of the Gulf	P	P	P	P	P				P				X	P							X	X	X

Table IV.10 (continued)

## International intergovernmental organizations

a. Observer status in the WTO

		GC	TRRB	CTG	CTE	TRIPS	ADP	SCM	SG	AG	SFS	BOFS	CRTA	CTD	CTE	MA	UC	RO	TBT	TRIMS	WAL	GATT/CPS	GATT/CNCL	GATT/CTD
EBRD	European Bank for Reconstruction & Development	P	X	P	P							X	P									X	X	
ECOWAS	Economic Community of Western African States													<sup>3</sup>										
E C O	Economic Cooperation Organization	P											P	<sup>3</sup>										
EFTA	European Free Trade Association	P	X	P	P	P					P	X	X	X	X			X	<sup>2</sup>			X	X	X
EPPO	European & Mediterranean Plant Protection Organization										P													
IDB	Inter-American Development Bank		P							P			P	X		X		X		P	X	X	X	X
IICA	Inter-American Institute for cooperation on Agriculture									P	P													
IAIGC	Inter-Arab Investment Guarantee Cooperation													<sup>3</sup>						P				
ICCAT	International Commission for the Conservation of Atlantic Tuna														X									
ICAO	International Civil Aviation Organization					<sup>1</sup>																		
IEC	International Electrotechnical Commission																		X					
IGC	International Grains Council			P						X				X										X
ILAC	International Laboratory Accreditation Cooperation																		P					
OIE	International Office of Epizootics										X								X					
ISO	International Organization for Standardization										X				X				X					
OILM	International Organization of Legal Metrology																		<sup>2</sup>					
IPGRI	International Plant Genetic Resources Institute					P									X									
ITCB	International Textiles and Clothing Bureau	P		X													X		X					
ITC <sup>4</sup>	International Trade Centre UNCTAD/WTO	X			X						X			X	X				X					
UPOV	International Union for the Protection of New Varieties of Plants					X																		
IVI	International Vaccine Institute					P																		
	Islamic Development Bank	P		P	P	P							<sup>3</sup>	P					P					
SELA	Latin American Economic System	P		P	P	P				P	P		P	X	X	P			P			X	X	X
ALADI	Latin American Integration Association												<sup>2</sup>	X				<sup>2</sup>				X	X	X
OIV	Office International de la Vigne et du Vin	P				P					P								P					
OAU	Organization of African Unity	P		P									P	<sup>3</sup>										
OAS	Organization of American States	P		P	P	P							X	X								X	X	X
OECD	Organization for Economic Cooperation & Development	X	X	X	P <sup>5</sup>	X	<sup>6</sup>	<sup>6</sup>	<sup>6</sup>	X	P	X	P	X	X			X	X	X		X	X	X
	Organization of the Islamic Conference	P	P	P	P	P							P	<sup>3</sup>	P							X		

Table IV.10 (continued)

**International intergovernmental organizations**

a. Observer status in the WTO

		GC	TRRB	CTG	CTE	TRIPS	ADP	SCM	SG	AG	SFS	BOFS	CRTA	CTD	CTE	NA	UC	RO	TBT	TRIMS	WAL	GATT/CPS	GATT/CNCL	GATT/CTD
RIOPPAH	Regional International Organization for Plant Protection and Animal Health										P													
IPPC	Secretariat of the International Plant Protection Convention										X													
SIECA	Secretariat of the General Treaty on Central American Economic Integration	P		P	P	P								<sup>3</sup>								X	X	X
	South Centre	P		P	P	P				P				<sup>3</sup>										
	South Pacific Forum	P								P				<sup>3</sup>	X									
SADC	Southern African Development Community			P	P								P	X										
WAEMU	Western African Economic & Monetary Union	P											P	<sup>3</sup>		P								
WCO	World Customs Organization			X		X									X	X		X			X	X		

1.The Committee agreed to grant ad hoc observer status.

2.The Committee agreed to grant ad hoc observer status pending further decisions.

3.The Committee agreed to grant ad hoc observer status on a meeting-by-meeting basis pending further decisions.

4.The ITC is a joint subsidiary organ of the WTO and the UN, the latter acting through the UNCTAD.

5.The Council agreed to grant observer status to OECD for its Special Session on Telecommunications Services on 25 June 1999.

6.The Committee deferred action on this request, and agreed that in the interim the OECD will be invited to attend on an ad hoc basis.

Table IV.10

**International intergovernmental organizations**

b. Observer status in certain other bodies (as referred to in Explanatory Note 3)

		Financial services	GATS rules	Domestic Regulation	Specific commitments	Working Group on Government Procurement	Working Group on Investment	Working Group on Competition Policy
<b>UN bodies and specialized agencies:</b>								
U N	United Nations	X	X	X	X	<sup>7</sup>		
UNCITRAL	United Nations Commission on International Trade Law					X		
UNCTAD	United Nations Conference on Trade & Development	X	X	X	X	X	X	X
UNIDO	United Nations Industrial Development Organization						<sup>8</sup>	
<b>Other organizations:</b>								
ACP	African, Caribbean & Pacific Group of States	X		X				
ITC <sup>4</sup>	International Trade Center UNCTAD/WTO					X		
	Energy Charter Conference						P	
SELA	Latin American Economic System					P <sup>9</sup>	P	<sup>9</sup>
OAU	Organization of African Unity						P	
OAS	Organization of American States						P	
OECD	Organization for Economic Cooperation & Development	X	X	X	X	P <sup>9</sup>	<sup>8</sup>	X <sup>10</sup>
	Organization of the Islamic Conference					P	P	P
	South Centre						P	P

7.The UNCITRAL, listed below, represents the UN.

8.The Working Group agreed to invite this organization pending further decisions.

9.The Working Group had agreed to grant ad hoc observer status for its meetings of 3-4 November 1997 and 19-29 February 1998 only.

10.The Working Group agreed to grant observer status to this organization on the basis that there would be reciprocity.

Explanatory notes to Table IV.10:

1. An "X" indicates observer status; a "P" indicates that consideration of the request for observer status is pending.

2. The bodies listed in the table are, respectively, the General Council (GC); Trade Policy Review Body (TPRB); Council for Trade in Goods (CTG); Council for Trade in Services (CTS); Council for TRIPS (TRIPS); the Committees on Anti-Dumping Practices (ADP); Subsidies and Countervailing Measures (SCM); Safeguards (SG); Agriculture (AG); Sanitary and Phytosanitary Measures (SPS); Balance-of-Payments Restrictions (BOPS); Regional Trade Agreements (CRTA); Trade and Development (CTD); Trade and Environment (CTE); Market Access (MA); Import Licensing (LIC); Rules of Origin (RO); Technical Barriers to Trade (TBT); Trade-Related Investment Measures (TRIMs); Customs Valuation (VAL). Additional information concerning the observer status of the listed organizations in the GATT CONTRACTING PARTIES (GATT CPS), Council of Representatives (GATT CNCL) and Committee on Trade and Development (GATT CTD) is provided in the last three columns.

3. Since the guidelines on observer status for international organizations (WTL/161, Annex 3) provide that requests for observer status from organizations shall not be considered for meetings of the Budget Committee or the Dispute Settlement Body, these bodies are not listed in the table. Also not listed are the Textiles Monitoring Body, which has no observers, the committees and councils under the Plurilateral Trade Agreements and working parties on accession. As for the four bodies under the Council for Trade in Services, namely the Committees on Financial Services and on Specific Commitments, and the working parties on GATS Rules, and Domestic Regulation, as well as the three working groups on Investment, Competition Policy and Government Procurement, information is provided in a separate table on the last page.

4. The IMF and World Bank have observer status in WTO bodies as provided for in their respective Agreements with the WTO (WTL/195), and are not listed in this table.

## Cooperation with the IMF and the World Bank

Cooperation between the WTO, the IMF and the World Bank is being developed on the basis of the 1994 Marrakesh Ministerial Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy-making, and the Agreements reached in 1996 between the WTO, the IMF and the World Bank.

The Director-General of the WTO, the Managing Director of the IMF, and the President of the World Bank issued a joint report in October 1998 on the mechanisms in place and the opportunities they saw for closer cooperation among the three institutions. In February 1999, the General Council agreed to initiate a series of informal meetings on specific issues raised under the WTO's Coherence mandate. Particular attention is being paid this year to issues related to preparations for the Third Ministerial Conference and new trade negotiations. In May, staff of the IMF and the World Bank were invited to make presentations on work they are undertaking that is of interest in this context. Also, discussions are taking place on recognition, in the context of WTO negotiations, of the value of autonomous trade liberalisation initiatives. In June, the WTO hosted the first conference under the Coherence mandate, with the participation of the IMF and the World Bank, on the topic of regional trade agreements.

## United Nations Conference on Trade and Development

The World Trade Organization (WTO) and the United Nations Conference and Trade and Development (UNCTAD) have continued to develop their important relationship, reflecting their shared interest in advancing the cause of global trade liberalization within the framework of the multilateral system. The two executive heads meet regularly. At one of their meetings on 20 January 1998, also attended by the Executive Head of ITC, they focused on a number of issues, of particular importance being the follow-up to the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' held in October 1997 (see Box IV.1 on page 104).

One of the outcomes of the High-Level Meeting is the Integrated Framework for Trade-Related Technical Assistance for LDCs, a coordination mechanism of trade-related assistance to LDCs, involving WTO and UNCTAD as well as the IMF, ITC, UNDP and the World Bank (see following section on ITC). The Integrated Framework foresees a self-assessment by least-developed countries of their development needs, leading to a number of activities designed to improve their integration. The WTO, UNCTAD and the other agencies involved – including the International Trade Centre, which is the shared responsibility of the WTO and UNCTAD – will continue to work together on this task.

The two organizations and the International Trade Centre (see following section on ITC) are collaborating in the establishment of an unprecedented Technical Assistance Programme, designed to target specific African countries and help them expand and diversify their trade, and ease their integration into the multilateral trading system. The drive for greater coordination between WTO and UNCTAD underscores the broader need to integrate the developing countries – and especially the least-developed countries – more fully into the global economy. The WTO is also collaborating with UNCTAD as well as the IMF, UN, OECD and EUROSTAT, on preparing an international manual on concepts and definitions on trade in services, within the context of the Inter-Agency Task Force on Statistics of International Trade in Services. There has also been research cooperation between the WTO and UNCTAD on a joint study on market access prepared for the 1998 ECOSOC High-Level held segment in New York on 6, 7 and 8 July 1998.

In March 1999, UNCTAD was a major participant in the two High-Level Symposia on Trade and Environment and Trade and Development. The Secretary-General of UNCTAD, Mr. Rubens Ricupero, made a keynote statement in the High-Level Symposium on Trade and Development and chaired the panel on the "Trade and Development Prospects of Developing Countries". UNCTAD was one of the main speakers in the High-Level Symposium on Trade and Environment.

WTO staff have been involved in regional and inter-regional meetings sponsored by UNCTAD to prepare developing and least-developed countries for the Seattle Ministerial Conference, and the WTO Secretariat is a member of the task force convened by the UNCTAD Secretariat in preparation for the Third United Nations Conference on Least-Developed Countries, scheduled to take place in Brussels in 2001.

In February 1998 and again on 8 and 9 June 1998, UNCTAD held joint seminars with the WTO on "Investment, Trade and Economic Development" for officials from permanent missions to the UN and the WTO. A third UNCTAD-WTO seminar on investment was held on 21-22 April 1999 in Evian-les-Bains, France. On 29 November 1997 and again on 25 July 1998, the WTO Secretariat organized jointly with UNCTAD and the World Bank a symposium on competition policy. The two events were held close to the times of UNCTAD's Expert Meeting on Competition Policy and the WTO's Working Group on the Interaction between Trade and Competition Policy to take advantage of the presence of national experts. The aim of the two symposia was to enable an exchange of views in a non-official setting on issues relating to the implications of competition policy for economic development and their interaction with international trade.

Within the overall objective of across the board coordination and making better use of collective resources for the benefit of all developing countries, the major focus of WTO-UNCTAD joint efforts has been to assist least-developed countries, and African countries in particular, in integrating more fully and effectively into the world trading system.

## The International Trade Centre UNCTAD/WTO

Established by GATT in 1964, the International Trade Centre UNCTAD/WTO (ITC) is a joint subsidiary organ of the WTO and the United Nations, the latter acting through the UN Conference on Trade and Development (UNCTAD). The WTO General Council and the UNCTAD Trade and Development Board determine the broad policy guidelines of ITC's programme and the two contribute equally to ITC's regular budget, which in 1998 totalled CHF28,727,800. ITC has also been designated by the UN Economic and Social Council as the focal point for technical cooperation in trade promotion with developing countries.

Since 1996, cooperation among ITC, WTO and UNCTAD has been given additional impetus through continued and systematic efforts undertaken in the three organizations to better coordinate and integrate respective technical cooperation activities. The framework agreement concluded among the Executive Heads of ITC, WTO and UNCTAD, at the time of UNCTAD IX, for a joint and integrated technical assistance programme in selected least-developed and other African countries is a significant case in point. This programme was launched in 1996.

At the 1997 High-Level Meeting on Least-Developed Countries (see Box IV.1 on page 104), an Integrated Framework for Trade-related Technical Assistance to Least-Developed Countries was established. The Integrated Framework lays down a mechanism for closer coordination of the trade-related technical assistance activities of the IMF, ITC, UNCTAD, UNDP, the World Bank and the WTO. The first step in this Integrated Framework is for least-developed countries to make an assessment of their needs for trade-related technical assistance. So far 40 least-developed countries have submitted their needs assessments to which the six agencies have drawn up their "Integrated Responses" of assistance activities.

To support the Integrated Framework, an Administrative Unit has been set up at ITC to handle the day-to-day coordination. The Integrated Framework is now in its second phase and sectoral trade-related roundtable meetings are being organized with the authorities of the least-developed countries concerned. Through such meetings, effective multi-year programmes of trade-related assistance are put in place.

During 1998-9, ITC completed its institutional restructuring and ITC moved its focus towards building up its operational strengths. ITC continued to undertake technical cooperation activities as a follow-up to the Uruguay Round agreements, in cooperation with WTO and UNCTAD. These activities included dissemination of information through seminars and workshops based on its Business Guide to the Uruguay Round; the identification of priority areas for further action to expand the business community's participation in the new trading environment; and strengthening of local capacities to provide information and advice on the Uruguay Round Agreements. ITC is also exploring new routes to partnership with the private sector and civil society, and pursuing the initiatives launched at the Partners for Development meeting held in Lyon last year.

## Relations with non-governmental organizations/civil society

Although NGOs have been interested in the GATT since its inception in 1947, the period since the creation of the WTO has vividly demonstrated that the multilateral trading system is being scrutinized by public opinion like never before.

When Ministers adopted the Marrakesh Agreement they also decided to include a specific reference to Non-Governmental Organizations (NGOs) in Article V:2. On 18 July 1996 the General Council further clarified the framework for relations with NGOs by adopting a set of guidelines (WT/L/162) which “recognizes the role NGOs can play to increase the awareness of the public in respect of WTO activities”. These guidelines are instrumental for both Members and the WTO Secretariat in maintaining an informal and positive dialogue with the various components of civil society. Since 1996 relations with NGOs have essentially focused on attendance at Ministerial Conferences, participation in issue-specific symposia, and the day-to-day contact between the WTO Secretariat and NGOs. The WTO Secretariat receives a large number of requests per day from NGOs from all over the world and Secretariat staff meet NGOs on a regular basis – both individually and as a part of NGO organized events.

To enhance the dialogue with civil society, during the General Council meeting on 15 July 1998 the Director-General informed Members of certain new steps he was taking. Since the Autumn of 1998, the WTO Secretariat has been providing regular briefings for NGOs and has established a special NGO Section on the WTO website with specific information for civil society, e.g. announcements of registration deadlines for ministerial meetings and symposia. In addition, a monthly list of NGO position papers received by the Secretariat are compiled and circulated for the information of Members.

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### Ministerial Conferences

The Singapore Ministerial Conference in December 1996 represented the first experience with NGO attendance at a major WTO meeting. This was followed by the Geneva Ministerial Conference and 50<sup>th</sup> Anniversary Celebration of the multilateral trading system in May 1998, which in many ways epitomized the evolving relationship with NGOs and underlined the growing interest of civil society in the work of the WTO. For the Third Ministerial Conference of the WTO to be held in Seattle from 30 November to 3 December 1999, WTO members agreed to renew the same procedures for registration adopted for the two previous Ministerial Conferences.

Hence, it was decided that (i) NGOs would be allowed to attend the Plenary Sessions of the Conference and (ii) NGO applications to register would be accepted by the WTO Secretariat on the basis of Article V:2, i.e. NGOs had to demonstrate that their activities were “concerned with matters related to those of the WTO”.

The NGO Centre in Seattle will provide the NGOs with a large number of meeting rooms, computer facilities and documentation from the official event. As in the case of the Geneva Ministerial Conference, NGOs will be briefed regularly by the WTO Secretariat on the progress of the working sessions. This is a feature which has been welcomed by NGOs as a genuine sign of commitment to ensure transparency.

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### Symposia

In March 1999, the WTO held two high-level symposia. A High-Level Symposium on Trade and Environment was held from 15-16 March 1999, which was directly followed by a High-Level Symposium on Trade and Development from 17-18 March 1999. The symposia provided representatives from non-governmental organizations, for the first time, the opportunity to exchange views on issues of trade and environment, and trade and development, with senior government officials from WTO member and observer governments, and with high-level representatives from international organizations and academics.

A wide range of issues were discussed in both symposia. The High-Level Symposium on Trade and Environment discussed the linkages between trade and environment policies; synergies between trade liberalization, environmental protection, sustained economic growth and sustainable development; and interaction between trade and environment communities. While the High-Level Symposium on Trade and Development considered the linkages between trade and development policies; trade and development prospects of developing countries; and the further integration of developing countries including least-developed countries into the multilateral trading system.

The two symposia represented an important step forward in WTO’s dialogue with civil society. They demonstrated that governments and civil society alike, can engage in open and constructive dialogue, and on issues where differences may exist, move towards identifying solutions.

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## Annex I – New publications

The World Trade Organization’s publications are available in print and electronic versions, in English, French and Spanish. They cover legal texts and agreements, country and product studies, analytical economic data, special trade-related studies and histories of various trade

negotiations and agreements. The electronic versions are produced on CD-ROM and on diskettes. The former include electronic search and text management facilities. An increasing number of these publications are produced under co-publishing agreements with commercial publishers. Listed below is a selection of some of our newest publications. For details on pricing, availability and on all other titles, contact WTO Publications or consult the complete listing at our on-line bookshop: <http://www.wto.org/wto/publicat/publicat.htm>. Bernan Press can be contacted at 4611-F Assembly Drive, Lanham, MD 20706-4391, Toll Free: 1-800-274-4888. Kluwer Law International can be contacted at 675 Massachusetts Avenue, Cambridge, MA 02139, USA, tel. (617) 354-0140, fax (617) 354-8595, e-mail: [sales@kluwerlaw.com](mailto:sales@kluwerlaw.com)

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### Free publications

Three basic information brochures about the WTO are now available in English, French and Spanish, providing short introductions to the WTO, its agreements and how it works: "The WTO in brief" – a starting point for essential information about the WTO; "10 benefits of the WTO trading system" – the WTO and the trading system offer a range of benefits, some well-known, others not so obvious; and "10 common misunderstandings about the WTO" – criticisms of the WTO are often based on fundamental misunderstandings of the way the WTO works. These three brochures are complemented by "Trading into the Future" – a lengthier introduction to the WTO and its agreements already available in all three languages. A charge will be made for requests exceeding 25 copies of these publications.

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### The WTO website

The WTO website ([www.wto.org](http://www.wto.org)) in English, French and Spanish offers access to over 10,000 pages of information that is updated on a daily basis. In addition, users can use the website to access the WTO Document Dissemination Facility. This contains over 60,000 trilingual WTO working documents. New documents are added daily. The site also hosts the WTO broadcasting service which enables users to view and hear highlights of key WTO events, some of which are broadcast live on the Internet. Over the past year the number of users accessing the site had continued increase, reaching a maximum of 200,000 users in a single month. The volume of information that is retrieved by users varies from 15 to 25 gigabytes per month (25 gigabytes is equivalent to about 15 million pages of text). The WTO also maintains a joint website with the World Bank ([www.itd.org](http://www.itd.org)) focusing on trade and development.

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### WTO video – Solving trade disputes

How can trade disputes between governments end in harmony? WTO members have designed a system to help them solve their differences through the rule of law. When a government believes that another has violated WTO rules, or has acted in a way which deprives businesses of their trading benefits, it can lodge a complaint before the WTO. The video explains in simple terms how these disputes are resolved, illustrated through two concrete cases: When the two sides find an amicable solution: a dispute over sound recording copyright, involving the United States, European Union and Japan. When the case goes through the full litigation process: a dispute between Venezuela, Brazil and the United States over gasoline and environmental protection. The video also looks at the possible future evolution of the dispute settlement system. It is a tool for information and for training, for governments, universities, lawyers, businessmen and for a wider public interested in widening their knowledge of the WTO.

Length: 30 minutes. In English, French and Spanish.

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### WTO Agreements Series

The WTO's agreements are the legal foundation for the international trading system that is used by the bulk of the world's trading nations. This series offers a set of handy reference booklets on selected agreements. Each volume contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

Volumes 1-4 are already available, the remaining volumes will be available over the coming months in English, French and Spanish.

The volumes in this series (the sequence follows their order of appearance in the WTO Agreement):

1. Agreement Establishing the WTO
2. GATT 1994 and 1947
3. Agriculture
4. Sanitary and Phytosanitary Measures
5. Textiles and Clothing
6. Technical Barriers to Trade

7. Trade-Related Investment Measures
8. Anti-dumping
9. Customs Valuation
10. Preshipment Inspection
11. Rules of Origin
12. Import Licensing Procedures
13. Subsidies and Countervailing Measures
14. Safeguards
15. Services
16. Trade-Related Intellectual Property Rights
17. Dispute Settlement
18. Trade Policy Reviews
19. Trade in Civil Aircraft
20. Government Procurement

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### **WTO computer-based training**

This is the first in a series of, trilingual, easy-to-use interactive guides to WTO Agreements on CD-ROM.

Each CD-ROM module is designed to guide the user through the complex WTO agreements in a simple step-by-step manner. This module, which covers the WTO Agreement on Textiles and Clothing, includes text, video and audio material and is complemented by a multiple-choice test to enable users to monitor their individual progress. The complete text of the Agreement is also included.

A module on sanitary and phytosanitary measures will be available by end 1999.

## **Co-publishing with Kluwer Law International**

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### **From GATT to the WTO**

On the occasion of the fiftieth anniversary of the multilateral trading system, the WTO Secretariat and the Graduate Institute of International Studies jointly organized a symposium to examine issues facing the trading system, both past and present. Eleven scholars and trade policy practitioners, well known for their contributions over the years to the trade policy debate, were invited to participate in the symposium. They were each asked to write a paper for the symposium on any issue that they considered interesting in relation to the GATT/WTO trading system, focusing both on lessons from the past and challenges in the present and future. Also included in the volume are the opening remarks by Mr. Renato Ruggiero, then Director-General of the WTO, and Professor Alexander Swoboda, Director, Graduate Institute of International Studies.

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### **Reshaping the World Trading System – a history of the Uruguay Round (Second edition)**

Take 120 governments and territories, each bent on vigorously seeking its own self-interest. Give them a mandate to reach agreement on new rules for more open markets – not only for goods but for services and intellectual property as well. And give them a time-limit – four years. It sounds impossible... and it almost was. This is the story, told in frank, lively and non-technical terms, of how and why the Uruguay Round came about, what the participant countries sought, the twists, turns, setbacks and successes encountered in each stage and sector of the negotiations (which took over seven years)... and how, in many instances, the final achievement in many instances surpassed the original goals.

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### **Guide to the Uruguay Round Agreements**

A companion volume to Reshaping the World Trading System, this new book takes the non-specialist reader through the legal texts that were the results of the Uruguay Round. It includes an economic analysis of the impact of the agreements and a number of other features such as "how to read GATS schedules".

## **Co-publishing with Bernan Associates**

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### **Trade Policy Reviews series**

The Trade Policy Review Mechanism was launched in 1989 to improve transparency by enabling GATT members collectively to examine the full range of trade policies and practices of individual members. This process has continued under the WTO in much the same format. The evaluation is conducted on the basis of two reports: one presented by the government of the country concerned, and the other prepared by the GATT/WTO Secretariat. The four largest traders – Canada, Japan, the United States and the EC (as a single entity) – are

reviewed every two years. Other countries are reviewed every four or six years, depending on their relative importance in world trade.

Countries available to date: Argentina, Australia, Burkina Faso and Mali, Canada, Guinea, Hong Kong, China, Hungary, India, Indonesia, Jamaica, Japan, Nigeria, SACU (Botswana, Lesotho, Namibia, South Africa and Swaziland), Solomon Islands, Togo, Trinidad and Tobago, Turkey, Uruguay,

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**CD-ROM: Trade Policy Review Series (1999 edition)**

The WTO Trade Policy Reviews are now also available on CD-ROM. The 1999 version contains member countries reviewed from 1995-1998, including the United States, Japan, the EU and Canada in English, as well as member countries reviewed between 1995-1997 in French and Spanish. Each CD-ROM contains these reports, with links, bookmarks, and search facilities, using Folio 4 software. A new, updated disk will be released every year to include the new reviews that have become available.

Countries include: Benin, Brazil, Canada, Chile, Columbia, Côte d'Ivoire, Costa Rica, Cyprus, Czech Republic, El Salvador, European Union, Fiji, Korea, Malaysia, Mauritius, Mexico, New Zealand, Norway, Paraguay, Sri Lanka, Slovak Republic, Singapore, Switzerland, Thailand, Uganda, United States, Venezuela, and Zambia.

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**WTO Basic Instruments and Selected Documents**

This annual series presents the principal decisions, resolutions, recommendations and reports adopted by WTO Members every year.

The 1995 volume contains protocols, decisions and reports adopted in 1995. It also contains selected documents related to the Uruguay Round negotiations. The 1996 edition, available end 1999, contains protocols, decisions and reports adopted in 1996.

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**CD-ROM: GATT Basic Instruments and Selected Documents\***

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## Annex II – Trade Policy Review Body – Concluding remarks by the Chair of the Trade Policy Review Body

### Japan – 28-29 January 1998

During the last two days, the Trade Policy Review Body (TPRB) has conducted the fourth review – the first under WTO provisions – of Japan's trade policies and practices. These remarks, made under my own responsibility, summarize the salient points raised during the discussion; they are not intended to substitute for the collective evaluation and appreciation of Japan's trade policies and practices.

The discussion, including the introductory statement of Japan and the remarks of the two discussants, developed under three main themes: (i) macroeconomic background and structural reform, (ii) trade policies, and (iii) sectoral issues. Participants also raised a number of questions in writing. The representative of Japan provided a comprehensive reply in the context of the meeting and undertook to provide further details as necessary.

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**Macroeconomic background and structural reform**

Participants emphasized Japan's important role in the global and regional economy, in the context of the economic crisis experienced by several countries in East Asia. Members welcomed recent measures aimed at increasing domestic demand in Japan. However, some doubts were expressed whether these measures were sufficient and would produce results quickly enough, to address the current economic issues facing Japan. Some members queried whether official projections for growth should be adjusted downwards in the light of current developments. Participants emphasised the need for Japan to stimulate domestic demand,

rather than rely on exports to revive growth. Some participants expressed concern on the recent widening of the current account and trade surpluses.

Participants commended the progress made to date in deregulation and structural reforms and the recent announcement of a new programme to replace the current Deregulation Action Programme. They asked for supplementary information on the new programme. Some members noted that certain sectors remained highly regulated, including agriculture, food processing, construction, transportation, telecommunications, financial services and distribution, and urged widening of the scope of deregulation and a faster pace of reform. Concerns were also raised that deregulation might result in new types of regulation. While some welcomed the opportunities given by Japan for comment by foreign authorities on deregulation, others raised concerns regarding the membership of the monitoring group for the deregulation process.

Participants raised questions relating to the enforcement of competition policy by the Japan Fair Trade Commission, and urged Japan to strengthen its competition policy regime. Questions were also raised on Japan's perspectives on the balance between outward and inward investment.

In reply, the representative of Japan said that recent tax reductions should add some 0.2 per cent to Japan's growth, together with a positive psychological effect on consumption. Structural reform should add a further 0.9 per cent per annum to growth in the period 1998-2003. Efforts to stimulate domestic demand through deregulation and reduction in prices were bearing fruit. The Asian currency crisis could affect Japanese exports adversely – both directly, and indirectly through changes in competitiveness – while stimulating imports from Asian countries. A possible fall in Japanese investment in East Asian domestic consumption could be balanced by investment for future exports.

Concerning the current account and trade surpluses, the authorities expected export growth to slow and imports to accelerate in FY 1998: the surplus in goods and services could be some 1.2 per cent of GDP and the current account surplus around 2.4 per cent, comparable to previous levels.

Deregulation was having a stimulating economic effect and these efforts would be continued. Concrete examples of structural reform included the liberalization of gasoline imports, elimination of demand/supply requirements in distribution and transportation, and foreign exchange deregulation. Agriculture, construction and international transport had not been excluded from the programme.

The work of the Administrative Reform Committee had been completed. The Government had set up a body to promote new deregulation efforts. A new three-year deregulation programme had been established, covering all administrative areas. Comments on the programme were welcomed.

The representative of Japan stressed that numerous exemptions to the Anti-Monopoly Act had already been abolished, and others would be reviewed by March 1998. The exemptions for anti-recession and rationalization cartels had been abolished in December 1997. The JFTC worked closely with the public prosecutor in enforcing the law through administrative decisions and criminal penalties. Care would be taken that administrative guidance would not replace anti-competitive regulations and that restrictive practices not be introduced by trade associations.

Japan had adopted in 1995 a decision on increased transparency in governmental advisory bodies. Japan attached importance to increasing inward foreign investment, both as a means to increase competition in the domestic market and to encourage restructuring. Potential investors in Japan benefited from a law providing a preferential tax system, and a scheme to make available preferential credit.

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### Trade policies

Participants welcomed Japan's emphasis on multilateralism in its trade relations and commended Japan's contribution to the WTO process. It was stressed that Japan conducts its trade almost entirely on an MFN basis, avoiding participation in preferential trade arrangements; assurance was sought that Japan's bilateral trade agreements would consistently be applied on an MFN basis.

Participants noted that average tariffs in agriculture were higher than in manufacturing, and raised concerns on tariff peaks and escalation in agriculture, food manufacturing, textiles, leather and footwear. Some participants raised concerns on tariff quotas, including high out-of-quota rates; the lack of a reallocation mechanism for unused tariff quotas; import quotas on certain products; length of customs clearance times; and Japan's use of origin marking requirements.

Participants welcomed Japan's efforts towards increased international harmonisation of standards, including embodying of performance based criteria, and the adoption of new mutual recognition arrangements, while noting that further progress could be made. Participants welcomed the increase of transparency in quarantine procedures and the

revision of some Japan Agricultural Standards. However, concerns were raised on the complexity and cost of sanitary and phytosanitary conditions; variety-specific approval procedures for fruits and vegetables; and restrictive standards for frozen foods. Participants encouraged further revision of Japan's Food Sanitation Law.

Some participants noted that Japan's import and investment promotion scheme did not adequately address obstacles to investment and that tax incentives under the Import Promotion Scheme may favour industrial imports from developed countries. Questions were raised on the advantages of the Foreign Access Zones for foreign exporters.

Participants also raised concerns on the scope of state trading in Japan, as well as issues regarding transparency and the state of liberalization in government procurement procedures.

Participants noted recent reductions in the examination periods for patent approvals, and asked for the scope of further actions. Participants also requested information on the proposed amendment to the Civil Procedures Act concerning trade secrets.

Participants raised concerns on the product coverage of Japan's GSP scheme; and on trade policy towards least-developed countries, including in the follow-up to the recent High Level meeting.

The representative of Japan thanked Members for their recognition of Japan's commitment to the MFN principle in the multilateral trading system. He saw no possibility under present conditions of this commitment weakening. Regional trading agreements, while they could contribute to trade liberalization, had the potential danger of undermining the MFN principle. He noted that tariff rates were reviewed every year on the basis of requests from foreign and domestic entities. Customs clearance times were difficult to compare among countries with differing import systems but efforts were constantly being made to reduce delays; for example, an immediate release system had been introduced for air cargo, and cut flower imports from the EU and Australia were cleared in an average of 1.8 hours.

On TBTs, Japan had decided in 1997 on a review of procedures to facilitate imports. Legislation to adopt performance criteria had been sent to the Diet to encourage the adoption of international standards. The representative provided details on standards, both concerning JIS and JAS. Japan was giving consideration to recognizing foreign certification agencies.

The representative also provided information on Japan's SPS measures, including those on frozen products, fruits and vegetables, and plants. Details were given on animal inspection, including disease control.

The representative of Japan noted that the share of manufactured imports in GDP had risen from 3.2 to 4.5 per cent between 1994 and 1996: therefore he was confident that the import promotion programme was working. Its central focus was not on incentives; deregulation and recognition of foreign standards were also import promotion measures. The import promotion tax concession system had been extended until 1999: it was applied on an MFN basis to all countries exporting duty-free items, not favouring imports from industrialized countries. Imports into Foreign Access Zones had grown more rapidly than the total: again, the infrastructure of FAZs were available to imports from all sources.

State trading enterprises sought specific policy objectives, and Japan believed their operation was consistent with WTO rules. Information was given on state trading in livestock and tobacco.

Foreign participation in government procurement varied across products, but overall it was higher than in other major trading partners. Moreover, Japan was going beyond its obligations under the GPA.

Regarding IPRs, Japan was making efforts to shorten the period of examination for the granting of patents, trademarks and designs. Administrative procedures were also being streamlined.

Japan's GSP system had a broad coverage and efforts had been made to simplify its use. The system offered particular advantages to least-developed countries. The GSP was currently under review to remove countries that had reached higher stages of development; LDCs had more favourable treatment under the GSP scheme.

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## Sectoral issues

Some participants raised concerns about the levels of protection and support for agriculture, and likely policy options in the future, including in the next round of liberalization negotiations. Questions were also raised on testing and certification requirements for agricultural products and regulatory obstacles to trade in pigmeat. Others raised concerns about the WTO consistency of the SBS system on rice, the continuation of import quotas on fisheries and the import cartel of laver. A number of participants suggested that the results of Japan's agricultural policies had been inconsistent with the Government's own food security objective. Questions were raised on moves to review Japan's Basic Agricultural Law.

Some participants raised concerns about inadequate reimbursement prices of pharmaceuticals, also noting burdensome and costly testing procedures for medical devices,

pharmaceuticals, chemicals, mechanical and electrical appliances. The continuation of regulatory obstacles to trade in leather and leather footwear was also noted.

Participants welcomed Japan's contributions to the WTO financial services and basic telecommunications negotiations. However, they raised concerns about low productivity in some services sectors and openness of certain services areas; complex regulations in certain services sectors; and the low level of competition in some services. Particular attention was paid to construction, financial, legal, accounting and distribution services. Participants sought an assessment of the effects of weakness in the financial sector on the trade policy of Japan. Questions were raised on transparency and disclosure in the financial sector, including criteria for receiving public funds. Members requested an up-to-date assessment of the implementation of the "Big-Bang" programme, especially in the light of recent regional developments.

Some members urged further deregulation in construction materials, including further recognition of international certification procedures, moving towards performance-based standards, revision of fire safety restrictions, and recognition of qualified foreign organizations as Registered Grading Organizations.

In view of the limited time, the representative of Japan in his reply focused on selected sectoral issues.

In respect of **agriculture**, he said that as regards rice, Japan was faithfully implementing the Uruguay Round agreement, particularly by setting the price for minimum access rice some 20 per cent below that for domestic rice and promoting consumption of minimum access rice in Japan's market. Administration of unfilled tariff rate quotas had been improved in FY 1997 by permitting applications for unused quotas at different periods. He noted that the trigger level for special safeguard provisions was based on imports in the previous three years, which in Japan's view was in conformity with the Agriculture Agreement. The import quota on fisheries was intended to prevent resource exhaustion in surrounding waters and was, in Japan's view, justifiable under GATT ArticleXI:2(i).

Concerning footwear and leather, the representative described Japan's tariff quota system, and noted the specific difficulties of this sector. He also stated that prior confirmation system for silk aimed to ensure the faithful application of bilateral agreements, not to limit imports; this measure would be phased out by 2004.

Japan had eliminated tariffs on autos in 1978, and imports had increased substantially in recent years. There was no government involvement in dealership arrangements. The representative gave information on the reclassification of vitamins, herb and mineral products and noted that Japan's tariff classification would not be affected.

The representative of Japan noted concerns regarding low productivity in services, particularly distribution, and suggested that differences in productivity levels between services and manufacturing were not significantly different from other countries. He said that the Deregulation Action Programme sought to promote transparency in services and to simplify administrative procedures and notification or reporting requirements. He gave examples of increases in recent years in foreign service providers in telecoms, construction, legal and all areas of financial services. He called attention to liberalization measures in various areas of telecommunications and broadcasting, including the abolition of the KDD Law, the forthcoming abolition of the "100 destination rule", improvements in interconnection liberalization on cable providers, modification of accounting rates, and the liberalization of foreign investment.

We have had a very constructive discussion of Japan's economy and trade policies, which has been held at a difficult time for Japan and the world economy. Many participants have emphasized the importance of market opening and deregulation as well as Japan's role in assisting the resolution of the Asian financial crisis.

Structural reform, deregulation and market stimulation – leading to more open markets – have been common themes running through this TPR discussion. The Japanese economy was, in earlier days, a major engine of world trade and investment and the TPRB has clearly expressed the hope that Japan can again effectively assume this role through its economic recovery and the positive effects of deregulation.

All participants have recognized Japan's strong and active participation in the WTO system and the importance attached by Japan to MFN treatment has been welcomed. We hope that Japan will respond positively, as they have undertaken, to the large number of specific or bilateral concerns raised during this meeting by various Members.

## India – 16-17 April 1998

The second Trade Policy Review of India was conducted by the TPRB on 16-17 April 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion and not to be a full report. Details of the discussion will be reflected in the minutes of the meeting. Participants raised a large number of questions in writing. The

representative of India provided written replies in the context of the meeting and undertook to supply further details as necessary.

The discussion developed under three main themes: (i) the economic environment, (ii) import and export policy issues and (iii) sectoral issues.

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### **The economic environment**

Members commended India for the pursuit of its economic reforms initiated in 1991, which had contributed to healthy economic growth. However, in the light of the fiscal imbalance, the sustainability of this economic performance was queried; it was suggested that comprehensive tax reform and a reduction in subsidies would be desirable to reduce the fiscal deficit. On the structural front, infrastructure services were identified as a severe bottleneck to trade and growth; Members encouraged India to promote further investment in these areas. It was also emphasized that trade liberalization would assist further effective agricultural reform.

It was noted that in recent years the overall policy stance appeared to focus on export-orientation, rather than more general outward orientation. Clarification was sought on whether the recently announced Export-Import Policy reflected a continued emphasis on exports or a more neutral policy orientation.

Some members noted that, in India, liberalization of foreign investment in combination with restrictive import licensing could mean that investment substituted for trade, rather than being a complement to it. Further liberalization of the trade regime was, in their view, essential for attracting the right kind of foreign direct investment. Clarification was sought on the discrepancy between approved and effective foreign investment; increased transparency in the approval mechanism was seen as necessary.

Several members sought a statement of the new Government's commitment to ongoing reform and the promotion of competitiveness through more open import policies. Some members questioned the implications of the new Government's National Agenda for Governance for protection of local industry, as well as the policy stance regarding investment in "core" and "non-core" areas. It was stressed that internal deregulation could complement the trade liberalization process.

In reply, the representative of India described the scope and context of India's economic and trade reforms and reiterated the new Government's commitment to the reform process. Trade, investment, tax and exchange reforms were all important elements in the process. The removal of infrastructural bottlenecks was a priority commitment, being addressed by streamlining procedures for foreign investment and decentralizing decision-making. The problem of the fiscal deficit was being addressed, inter alia, by efforts to increase public sector savings and better targeting of domestic subsidies.

The new Government was committed to liberalization within an open, equitable multilateral trading system. The new Export-Import Policy, oriented to enabling India to maximize its international trade, provided for further liberalization, greater transparency, and simplification of import procedures. Domestic deregulation, tax reform and foreign investment reforms complemented the trade reform process.

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### **Import and export policy issues**

Members complimented India for its tariff reform, under which the simple average rate had fallen from 71per cent in 1993/94 to 35per cent in 1997/98, with a weighted average of 20per cent. However, concerns were raised regarding the complex structure of the tariff system; the distinction in treatment between capital goods and inputs, on one hand, and consumer goods on the other; and remaining tariff escalation in several industries. Some Members sought clarification about the timetable for elimination of the special rate of 5 percentage points. Noting significant gaps between WTO bound rates and MFN applied rates in some areas, several Members asked if there were plans to bind closer to applied rates; they also raised concerns about India's proposals to renegotiate some of its bindings. Members noted that import duties constituted a large share of Government revenues and that continued tariff reductions, complemented by tariffication of import licensing, could contribute to raising revenue.

Members noted that, since the previous review, the number of items subject to import licensing had decreased; some restricted items had also been liberalized by permitting their importation through freely transferable Special Import Licences (SILs). However, this liberalization was mainly applied to capital and intermediate goods, while most consumer goods remained subject to import licensing. Some members noted that the SIL, which can be sold at a premium of some 15per cent, may be perceived as an export subsidy. Details on the phase-out plans for quantitative restrictions negotiated with several WTO Members were sought.

Information was requested on plans to reform India's various export assistance schemes (including exemption from income tax, export finance at below-market interest rates,

guaranteed access to a minimum of 10per cent of commercial bank net credit, export insurance and guarantees, access to a wide range of export promotion and marketing assistance schemes, and import access to restricted items). The WTO consistency of the income tax exemption was questioned.

Some members noted that India had become an active user of anti-dumping procedures, and was even strengthening its capacity to conduct anti-dumping investigations. In addition while no safeguard measures had been enforced up to the end of 1997, India had recently initiated several such investigations; Members asked if it was the new Government's intention to continue using safeguard measures.

Some members requested information regarding India's state trading system, including reasons for the increased coverage of products subject to state-trading, and concerning plans to modify or remove privileges granted to state-trading agencies.

Some delegations noted that India's industries could benefit from more effective intellectual property protection, and asked about the timetable for bringing intellectual property legislation into line with the TRIPS Agreement.

In reply, the representative of India noted that the phasing out of QRs was proceeding according to a six year programme; he gave an explanation of the import licensing system and the use of SILs. Items recently added to the free list included 99 textile items, 49 agricultural items, 26 marine products, with most of the balance in consumer goods. All capital goods, assemblies, etc. were already in the free list. Reduction and rationalization of tariffs was also an integral part of India's trade liberalization. The simple average tariff had fallen to 35per cent, but the import-weighted average had declined from 87per cent in 1990-91 to 20per cent today, even taking into account the temporary duty of 5per cent. Applied tariffs were maintained well within bound rates. He described the tariff-setting process, including the recent establishment of the Tariff Commission. The new Exim policy facilitated imports of capital goods at zero duty as well as raw materials for export production. The number of exemptions had been substantially reduced and the simplification of tax laws was an ongoing process. Negotiations for revised bindings under Article XXVIII were related to tariffs bound at historically low levels. Liberalization of industrial licensing and administered pricing, decontrol of banking and capital market reforms were important domestic complements to trade policy reforms.

India remained committed to a rule-based multilateral trading system; in this context, India regarded safeguard and anti-dumping measures as an integral part of the WTO system. The Customs Tariff Act had been amended in early 1997 to provide for GATT-consistent safeguard procedures; there had been a surge of safeguard actions following this measure. The Government had also set up an independent Directorate of Anti-Dumping, primarily to provide transparency and independence to the process and expedite cases.

India's investment policy was to encourage FDI in core areas, to overcome significant bottlenecks; such areas included infrastructure, fuel, fertilizers, cement and information technology. Improvement of implementation was a clear priority and India's attraction for FDI was increasing.

He gave details of the standard-setting process in India and the extent of harmonization of Indian with international standards, including in health- and food-related areas.

The representative outlined India's traditions in knowledge-related areas and recalled that, as a developing country, India had until 1 January 2000 to bring its intellectual property laws into conformity with the TRIPS Agreement, and until 1 January 2005 to extend product patents to areas of technology not protected so far. He gave details of licensing procedures under patents, "reasonable price" conditions and protection of well known trademarks.

India had no export subsidies; exports were disadvantaged by the wide range of national, State and local taxes. Policy sought to neutralize these handicaps through permissible means. Minimum export prices for wheat and coarse grains had been abolished on 13April 1998.

The representative believed that state trading for a few items of mass consumption (such as petroleum products, vegetable oils and cereals) was inevitable in view of the level of production, seasonal variations, the size of the domestic market and social sensitivity. The list of items under canalization was shrinking, not expanding. Canalizing agencies were independent corporate entities with full authority to function as independent commercial organizations; import or export of canalized items could also be effected by private businessmen in consultation with canalizing agencies, and in some cases exceeded those of the agencies.

### Sectoral issues

Some members stated that the agriculture sector in India had been almost unaffected by the reform process. It was suggested that the public distribution system, with minimum prices, was a disincentive to agricultural development and an ineffective means of poverty

alleviation. Some delegations urged India to extend outward-oriented reform policies to agriculture.

While noting that important trade policy reforms had been pursued in manufacturing, some members noted the continued wide application of import licensing in textiles and clothing, which constrained Indian producers in improving productivity and preparing for a more liberal world market, as envisaged in the WTO Agreement on Textiles and Clothing. Some members questioned the consistency of India's export bans on leather, hides and skins with WTO provisions; they also noted that certain local-content measures and trade balancing requirements in the motor vehicles sector included in recently concluded Memoranda of Understanding between the Indian Government and car manufacturers, could be inconsistent with India's WTO obligations.

The role of the services sector in supporting many economic activities was noted; however, Members took note of the uneven pattern of liberalization in this area. While banking had been gradually liberalized, insurance was still closed to foreign participation. Members also noted that access for foreign suppliers in basic telecommunications services had been implemented more slowly than planned and that many licenses awarded were being disputed in the courts. Members asked about plans for further liberalization of the services sector and welcomed India's active participation in the recent negotiations.

In reply, the representative of India recalled that more than 70 per cent of the population was directly or indirectly dependent on agriculture for its livelihood. Production had increased thanks, inter alia, to improved use of fertilizers and increased access to credit. The pace of reform had been, and had to be, carefully calibrated; however, the direction was clear and both liberalization and other reforms had been introduced in agriculture, including frontloading of some agricultural products in the proposed phase-out plan for quantitative restrictions, removal of restrictions on agro-processing units, acceleration of infrastructural investment, improving the public distribution system and reforming the support price system to take into account the interests of both producers and consumers. Agriculture had also benefited from other reforms, including the reduction of high tariffs and controls on imports of manufactures. India's domestic support measures continued below the *de minimis* levels and no export subsidies were being provided at present. India's draft agricultural policy resolution, currently under finalization, sought to accelerate the process of liberalization and reform.

Regarding textiles and clothing, he noted that very few restricted items had yet been integrated into GATT by developed country members, resulting in lower export earnings than anticipated when India agreed to the ATC. India had included textile and clothing items in its phase-out programme for import restrictions; 99 tariff lines had been liberalized to date.

He stated that the MOU policy for automobile investment has been framed to create a level playing field for all foreign investors; import licensing procedures for CKD/SKD cars by foreign automobile companies had been liberalized to provide the companies unlimited access to such imports in return for certain minimum criteria.

Exports of hides and skins were restricted because of a domestic shortage owing to socio-cultural and religious reasons.

The representative emphasised the importance of services in promoting economic growth. Commitments were in line with the GATS provisions which seek to achieve progressively higher level of liberalization of trade through successive rounds of multilateral negotiations, with flexibility for members. India's legislation for banking was liberal; for non-banking financial services, foreign investment up to 51 per cent was allowed, and up to 49 per cent for stockbroking. In the field of insurance, reforms proposed by the Malhotra Committee could not be passed by the previous Parliament: the scope and pace of reform were yet to be examined by the new government. The Government was committed to rapid expansion of telecommunications; six licences for basic telecom services had been signed and cellular services were in operation. All such companies could have foreign equity up to 49 per cent. The independent telecommunications statutory regulatory authority (TRAI) was fully operational. To encourage the rapid development of trade in services, the Government had autonomously undertaken greater liberalization of foreign equity participation in sectors such as financial services and telecoms, than was reflected in India's schedule of specific commitments. New guidelines for private participation in ports, highways and civil aviation had been announced and approval given for mass rapid-transit systems in Delhi and other major cities. He gave details of conditions for multi-modal transport and in shipping. India was engaged in discussions with its major trading partners regarding liberalization of professional services; at the same time, India felt that the outcome of the negotiations on movement of natural persons left much to be desired.

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## Conclusions

Overall, Members commended India for its continued programme of economic reforms, including trade reforms which have constituted an integral part of the programme. Members

appreciated the direction of reforms, welcomed the commitment expressed by India to further broad-based trade liberalization, domestic deregulation, and encouragement of private investment and looked forward to further concrete, well-coordinated implementation in these areas. Members also welcomed India's continued positive participation in the WTO and the importance attached by the Indian delegation and authorities to a stable, liberal, rules-based multilateral trading system. Members looked forward to receiving written replies to major outstanding questions and clarifications of various areas of interest.

## Members of the Southern African Customs (SACU) – 21-23 April 1998

Over the past three days the TPRB has conducted the first group review of the members of the Southern African Customs Union (SACU), Botswana, Lesotho, Namibia, South Africa and Swaziland; this has also been the second review of South Africa. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion and not to be a full report. Details of the discussion will be reflected in the minutes of the meeting. The SACU members provided written replies in the context of the meeting and have undertaken to supply further details as necessary.

The discussion developed under three themes: (i) the macroeconomic and structural environment; (ii) trade policies and sectoral issues; and (iii) trade agreements.

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### Macroeconomic and structural environment

Members commended the SACU countries for the fundamental economic reform that they were undertaking; they had moved away from import-substitution to more outward-oriented policies and were adjusting to the political transformation of South Africa as well as to the fast changing environment of globalization.

Members welcomed **South Africa's** pursuit of structural adjustment and its reintegration into the world economy. Members emphasized that the reform and its continued pursuit, including substantial trade liberalization, would contribute to further diversifying South Africa's exports away from their dependence on mineral products, particularly gold, and would help to attract foreign direct investment. Noting in this context the role of the Growth, Employment and Redistribution (GEAR) framework, Members sought clarification on its coherence as a macroeconomic and structural strategy, comprising elements such as wage policy and incentives schemes geared at capital intensive sectors, with the objectives of job creation and an improvement in competitiveness. Some concern was expressed about the perceived slowdown in privatization; and there was a certain worry that, as the region's largest economy, South Africa might divert resources from neighbouring countries and make it difficult for them to compete. Some Members also asked about the effects of the east-Asian crisis on the SACU economies.

Members commended **Botswana** on its recent economic performance; they asked about the coordination of its monetary and trade policies, with Botswana not a signatory to the Multilateral Monetary Agreement linking the other SACU members. It was emphasized that further liberalization under SACU would help diversify the Botswana economy away from its dependence on diamonds and meat, and create employment.

Members recognized that **Lesotho's** status as a least-developed country posed special challenges. They noted that Lesotho was heavily dependent on SACU revenues and asked about efforts to widen and improve the fiscal base; this question applied equally to Swaziland and, to a certain extent to Namibia. It was further noted that these revenues could decline as SACU further liberalized its trade regime. They added that Lesotho's market-oriented reforms, and trade liberalization under SACU, should help to diversify the economy away from its dependence on remittances from migrant workers.

Participants congratulated **Namibia** on its efforts since independence in 1990 to restructure and diversify its economy, including its export base, away from mining and agricultural and fisheries production; combined with further trade liberalization under SACU, the reforms should help to create a free-market environment and contribute to meeting objectives such as job creation.

Members asked about **Swaziland's** development plan. Noting that investment, mainly in the industrial sector, had stagnated since the political transformation in South Africa, some participants stressed that a free-market environment should contribute to attracting foreign capital to Swaziland.

In reply, the representative of **South Africa** said that coherent macroeconomic policies had resulted in an unprecedented stability in South Africa's national accounts and in improved business confidence; this, and the ongoing restructuring of the productive base, constituted a strong platform from which future targets could be reached. On employment, he indicated that South Africa had a multifaceted strategy to promote labour-intensive

sectors in manufacturing and to increase value-added in capital intensive sectors. He contested the suggestion of any slowdown in privatization; rather an overall strategy was being followed that would lead to improved efficiency and competitiveness. He added that in moving toward a free-trade area in the Southern African Development Community (SADC), South Africa would liberalize more rapidly than its partners, so as to allow them a longer adjustment period; in addition, South Africa was convinced of the need to promote investment in the smaller economies in order to help accelerate their development process.

The **Botswana** representative noted that his country's currency was fully convertible and that international reserves were the equivalent of 30 months of imports. She added that the Government had established a task force for privatization, which was seen as an important element in liberalizing and diversifying the economy. Both the representatives of Botswana and Namibia indicated that the east-Asian financial crisis would affect their economies, particularly through the slowdown in the sale of gem diamonds.

The representative of **Lesotho** stated that his country's Structural Adjustment Plan had been implemented since the late 1980s and was improving Lesotho's economic performance, thus helping to reduce reliance on remittances from migrant workers. The new Lesotho Highlands Water Project had also made a significant contribution.

The representative of **Namibia** said that the planned introduction of a value added tax (VAT) in 1999 should help diversify the revenue base and lessen the impact of any changes in the SACU regime. Namibia believed that the ongoing commercialization of public enterprises would put them in a better position for successful privatization. He added that Namibia had embarked upon a process of industrial development and export diversification supported by a tax-based incentive scheme and an export processing zone regime.

The representative of **Swaziland** noted that his authorities were also considering the introduction of a VAT, which together with improved tax administration, should improve the revenue base and reduce reliance on SACU customs duties. To promote investment, the Government had recently launched a one-stop shop for investors and an Investment Act had been finalized.

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### Trade policies

Members welcomed the recent changes in the trade policy of SACU members and the adoption of more outward-oriented trade practices. However, some Members considered that SACU's existing tariff structure might not be completely appropriate for the smaller economies. Moreover, some import prohibitions and controls were maintained. Overall, the trade regime still appeared to show a certain anti-export bias. Members welcomed the Tariff Rationalization Process, but a rather complex tariff regime remained, which lacked a certain transparency and stability. Some sectors were protected behind high and escalating tariffs. One Member expressed concern about the recent tariff increases on dairy products. Several Members inquired about proposed tariff increases on certain electronic and agricultural products. Members encouraged SACU countries to further simplify the tariff and reduce the rates.

Questions were raised about rules of origin. Some Members questioned South Africa's VAT regime on imports, and raised concern about the implementation of the WTO Customs Valuation Agreement by SACU countries.

Some Members sought information on efforts to restructure South Africa's trade remedy regime, expressing some worry about the application of anti-dumping measures. Questions were also asked about the use of local content requirements in industries such as motor vehicles and telecommunications. Some Members thought that certain technical standards were unnecessarily stringent and cumbersome. Questions were raised on government procurement, including as to whether South Africa intended to join the Government Procurement Agreement.

On intellectual property, concerns were expressed about certain aspects of South Africa's TRIPS legislation, including its application to pharmaceuticals. South Africa was encouraged to modify its TRIPS legislation and thus provide a model on intellectual property protection to other SACU members. Information on the status of the various TRIPS-related bills was requested.

Members welcomed South Africa's removal of the General Export Incentive Scheme, but drew attention to the wide variety of export incentive schemes that still remained.

Speaking on behalf of its SACU partners, **South Africa** noted that the perceived anti-export bias in its trade policy instruments was not simply related to the tariff structure but to a complex set of factors. In this respect, it was essential to examine specific trade matters as part of the integrated approach South Africa had adopted on trade, industrial, investment and competition policy matters. Industrial and trade policies aimed at accelerating industrial restructuring and raising competitiveness. To achieve such restructuring, legitimate industrial instruments and export promotion measures were being used.

The representative added that the tariff structure was not complex, except perhaps with respect to textiles. The ongoing tariff restructuring, which had incorporated a downward trend in rates, would continue reducing the number of tariff bands. Moreover, South Africa was committed to a structure of ad valorem tariffs and, excluding some agricultural products, this would be achieved by 1999. The still frequent tariff changes were mainly linked to the restructuring process. Strict guidelines were used to consider tariff increases; thus while policy had at times been selective, changes were made in transparent manner. Compound and formula tariffs applied to only a few items. South Africa would allow formula tariffs to lapse by January 1999. Tariff phase-down schedules had also been published for major sectors such as textiles, clothing, and motor vehicles.

Remaining quantitative import restrictions were not a significant trade barrier with almost all such restrictions having been removed. Restrictions on black tea would be tariffed and local content requirements on this product removed within the next few months. Licensing was used on a non-restrictive basis. Import restrictions on used goods would remain in order to protect against disruptive prices. Most export controls were not applied restrictively and were to be removed. The representative of **Namibia** added that his Government was in the process of reviewing Namibia's import and export licensing regime, to assure full conformity with WTO rules.

The representative of South Africa noted that while it would be a major challenge to streamline the rules of origin in existing and future trade agreements, and in the Lomé Convention, such rules were, by the nature of customs unions, not an issue for SACU itself.

South Africa applied trade defence measures in accordance with WTO rules and legislation was being amended to reflect this. He added that given South Africa's short experience with such measures, further experience and capacity would be required to cope with the growing number and complexity of investigations.

The South African representative noted that South Africa's approach to government procurement was based on the desire to employ it as an instrument to achieve socio-economic objectives without forfeiting good financial management. The representatives of the SACU members provided details on their standards and technical requirements.

On intellectual property, the South African representative said that his country was the only developing country to have assumed full and immediate obligations under the TRIPS Agreement. To bring domestic legislation into line with international rules, several legislative amendments had been enacted over the last five years. The representative of **Botswana** gave details on the Copyright and Neighbouring Rights Bill that was expected to be tabled in Parliament in July 1998.

## Sectoral issues

Expressing full appreciation for the progress made by South Africa in liberalizing its agricultural sector, Members inquired about plans for the abolition of the remaining control boards; some participants expressed concern about the evolution of tariffs on agricultural products, including for wine and dairy items. Questions were raised about trade policy instruments in manufacturing, including in the motor vehicle sector. Questions were also asked about the gold tax formula, and about further liberalization and privatization in services, particularly in the telecommunications, transport and financial areas. Similar questions on services were addressed to the other SACU members and Lesotho was also asked about self-sufficiency in agriculture and outward processing in clothing.

**South Africa** indicated that its Government had been engaged in an agricultural policy reform process that would result in a White Paper for agriculture by end 1998. In line with such reform, all agricultural marketing boards had been phased out in 1997 and export controls on agricultural products had either been removed or were not applied restrictively. Price controls had also been eliminated, except on sugar. Reform of the marketing of wine and sugar was under way.

He added that the industrial subsector was being restructured, with an emphasis on the use of supply-side measures. In addition, reforms were also under consideration in telecommunications and in transport.

The representative of **Botswana** noted the liberalization already achieved in telecommunications in her country, and the representative of **Lesotho** indicated that steps were being taken to promote tourism. He added that his Government had removed distortions caused by the agricultural self-sufficiency policy followed in the 1980s; policy was now geared to exploiting Lesotho's comparative advantage in the production of high value crops. In manufacturing, Lesotho was committed to maintaining the momentum achieved in the past decade, including in clothing, with an export-led growth strategy. The representative of **Namibia** added that Namibia was committed to liberalizing its service sector and that it would participate in the next WTO round of negotiations on trade in services. The representative of **Swaziland** noted that liberalization of telecommunications in his country was under consideration.

## Trade agreements

Members took note of the importance attached by SACU countries to their participation in the multilateral trading system and of their determination that their regional agreements would conform with the rules of the multilateral system. Certain SACU countries still faced some challenges in reviewing their domestic legislation to ensure conformity with multilateral rules. Some SACU members might also need to strengthen their institutional capacity to implement their individual WTO rights and obligations; the WTO could provide technical assistance for this.

Several WTO Members highlighted the interlinkage among Southern African countries, which collaborated closely through an elaborate network of regional agreements including SACU, SADC, and COMESA. Details were requested on the status of the renegotiation of the SACU Agreement and the implementation of the SADC Trade Protocol. The matter of a possible free-trade agreement between South Africa and the European Union was raised, and some Members stressed the requirement that it apply to substantially all trade. Members inquired about the notification to the WTO of the regional arrangements.

Members noted that for the countries under review, SACU was the focal point of their trade policy regime. It was recognized that the network of agreements in which these countries participated facilitated economic exchange. However, this network may have complicated trade relations and perhaps created certain conflicts between national and collective interests.

The representative of **South Africa**, speaking on behalf of the other SACU members, stated that their countries were engaged in efforts to foster economic growth and balanced development through a basis for more effective integration into the world economy. Given the disparity of economies involved, this process would require strategies to boost supply capacity in the smaller SACU economies. Measures would also be needed to ensure that these countries did not suffer sudden reductions in SACU revenue. The representatives of **Botswana** and **Namibia** stressed that their Governments sought to make SACU more democratic.

With regard to the SADC Trade Protocol, the South African representative indicated that SACU partners would make a comprehensive offer at the soon to be held SADC Ministerial meeting. The ratification of the SADC Trade Protocol was progressing and concerns about delays were premature. It would be notified to the WTO following the conclusion of the substantive agreement and its ratification.

Negotiations were still in progress on a comprehensive trade, cooperation and development agreement between South Africa and the European Union. Both parties desired to conclude those negotiations by June 1998.

**Overall**, Members welcomed the collective participation by Botswana, Lesotho, Namibia, South Africa and Swaziland in the review process. Members appreciated the recent measures taken by them towards economic reform and market opening. Members also emphasized the importance of the continued pursuit of these policies, both to increase market access and to improve the stability and transparency of the SACU trade regime. I wish to emphasize that the thrust of the discussion was supportive of the underlying direction of economic and trade policies in Southern Africa during a period of sharp transition in that region. Members offered strong encouragement to the five countries reviewed to consolidate and build on the achievements of recent years.

## Nigeria – 23-24 June 1998

Over the past two days the TPRB has conducted the second review of Nigeria's trade policies and practices. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion, and they do not constitute a full report. Details of the discussion will be reflected in the minutes of the meeting, and you will recall that the Nigerian delegation provided written replies in the context of this meeting.

The discussion developed under three themes: (i) economic performance and institutional framework; (ii) trade measures; and (iii) sectoral issues.

### Economic performance and institutional framework

Members welcomed the progress made since 1995 in restoring macroeconomic stability, under an extensive programme for private sector-led growth, encompassing the liberalization of foreign investment and a reform of the capital market. However, they noted that development remained uneven and social indicators were not improving. Noting that the economy remained dependent on oil export revenues, members asked about future economic prospects in the context of weak oil prices. They emphasized that integration of the informal sector into the economy could increase tax revenue and provide a more stable basis for trade.

Some Members stressed that the Nigerian economy had suffered from persistent political and institutional uncertainty. They emphasized that democracy, good governance and the

rule of law were fundamental to economic development and urged the new Government to continue the reform programme, including the transition to democratic civilian rule. Members stressed the need for clarification regarding the new Government's plans to adopt well-defined constitutional arrangements.

Participants asked how the Government intended to address the problem of foreign public debt, which was a serious burden on the economy. It was also noted that the use of a dual exchange rate system distorted public sector accounts and was an obstacle to resumption of multilateral credits and debt rescheduling.

Participants urged Nigeria to pass domestic legislation implementing the WTO Agreements and, where necessary, to seek assistance from the relevant WTO Committees to bring its legislation into conformity. Some members urged Nigeria to establish a consistent follow-up mechanism which would provide a framework to measure achievements, implement further legislative amendments and define technical assistance needs. Some Members asked how the ECOWAS trade liberalization scheme had reinforced trading links among countries in the region, and what benefits it had brought to Nigeria.

In response, the representative of Nigeria observed that the uneven distribution of growth had resulted from the lagged response of some sectors to the economic reforms undertaken in recent years. The Government was making efforts to address these problems, particularly in manufacturing and services. He recognized that the economy remained dependent on oil revenue, and that weak oil prices would affect the Budget outcome. However, foreign exchange reserves of over US\$8 billion, prudent fiscal policies and budget adjustments would ensure the effective implementation of the 1998 Budget.

The representative also pointed out that the stock of external debt had been reduced to US\$28 billion as of December 1996. The Government intended to achieve sustainability of external debt service and debt stock by the turn of the century. Reconciliation of the various debt estimates continued; Nigeria's total debt to the Paris Club members had fallen to just under US\$19 billion on 31 December 1997. On the dual exchange rate he noted that the use of the official rate was strictly limited to settling public foreign debt payments and transfers to Nigerian missions abroad.

The representative of Nigeria stated that a new constitution would be promulgated on 1 October 1998. All laws that inhibited competition and reduced transparency were being reviewed. An interministerial committee had been established to advise on changes required to bring domestic legislation into conformity with the WTO Agreements. Gaps had already been identified in areas such as intellectual property, government procurement, anti-dumping, safeguards and customs valuation.

The representative noted that Nigeria's bilateral agreements did not include preferential trade arrangements. Nigeria was participating actively in the ECOWAS scheme, which however had been hampered by the volume of informal trade within the region and by the failure of some members to meet their commitments.

Steps were being taken to integrate the informal sector into the mainstream economy, including setting up border markets, which the authorities expected would help reduce smuggling.

The representative of Nigeria indicated that technical assistance was required to study the informal sector and develop the ECOWAS scheme. Assistance was also needed to realign domestic regulations with multilateral rules and develop the institutional capacity to implement the WTO Agreements, notably on customs valuation.

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### Trade measures

While welcoming the reduction in tariff levels and dispersion since 1995, participants noted that duties on consumer products remained high and that Nigeria's tariffs were subject to frequent changes; they called for a simplification of the system by removal of annual duty rebates and import surcharges. Predictability would also be enhanced by increasing tariff bindings on industrial products, and closing the gap between applied and bound rates.

Members noted that import procedures were cumbersome and lengthy; reference prices were still in use; the preshipment inspection scheme appeared to be expensive, discriminatory and inefficient; and Customs frequently re-evaluated payable duty as assessed by the PSI companies. In this context, some Members asked about the Government's plans to introduce the ASYCUDA scheme for customs data processing and how the Government intended to comply with the provisions of the WTO Customs Valuation Agreement by the end of the transitional period.

Members welcomed proposals submitted to the Nigerian Government to phase out all remaining import prohibitions by the year 2000. Meanwhile, some Members regretted the maintenance of import prohibitions and sought clarification on their WTO justification in the absence of WTO-consistent domestic legislation on safeguard measures.

Members also questioned the coherence of Nigeria's export policies. They noted that several prohibitions continued to restrict potential export diversification while administrative

export requirements, designed primarily to ensure repatriation of export proceeds, also acted as a constraint to export. In contrast, a wide array of export assistance instruments remained in place.

Public sector companies continued to dominate large segments of the economy and trade, accounting for 30-40 per cent of fixed capital investment. Participants deplored the lack of transparency in public procurement. While welcoming the announcement of the privatization of several public entities, including that of the telecommunications operator before the end of 1998, Members emphasized the need for a competition policy to ensure market efficiency.

Some participants noted the need for improved enforcement of intellectual property rights, and asked for the Government's plans to bring its intellectual property legislation into conformity with the provisions of the TRIPS Agreement.

The representative of Nigeria replied that Nigeria's import and export regimes had undergone several reforms since 1991 to establish a more stable framework for trade. The overall objective of the Nigerian tariff structure was to encourage efficiency by reducing tariffs on consumer goods relative to those on raw materials and intermediate products.

Customs clearance procedures were being reformed to implement fully the Kyoto Convention. Preshipment inspection was being applied across-the-board without discrimination. Documentation requirements had been drastically reduced through the introduction of a Single Goods Declaration, which was a first step towards implementation of the ASYCUDA scheme. The objective was to allow importers to clear goods within 48 hours. Nigeria had also produced a draft Customs code that was already approved by the World Customs Organization; this code, and answers to the WTO customs valuation questionnaire, would be forwarded to the Secretariat for comment.

The representative restated that prohibitions falling under balance-of-payments provisions would be phased out by 1 January 2000: and in this regard, a notification would be submitted very soon. In addition, his Government was studying a proposal to address all remaining items on the Import Prohibition List with a view to their eventual phase out. Licensing had been abolished except for prohibited items allowed as part of foreign investment contracts, on which a 100 per cent duty was imposed.

Anti-dumping duties were not incorporated into the tariff structure. Nigeria did not yet have the capacity to investigate dumping claims, but plans to establish an investigating authority were under consideration.

Nigeria provided export incentives but no subsidies to trade. The Government was reviewing those incentives to ensure their WTO consistency. There were no state-trading companies in Nigeria and no import privileges were granted, except for those awarded to the national oil company as an emergency measure following the breakdown of the country's refineries. There was no express policy giving preference to local goods in government procurement.

The representative noted that a full description of Nigeria's technical regulations was already available in WTO documents, and that Nigeria had complied with all its notification obligations under the TBT and SPS Agreements.

Nigeria was reviewing its laws on intellectual property to make them WTO consistent. Certain legislative gaps and enforcement problems had been identified, and would be addressed in collaboration with WIPO and WTO. The authorities were also aware of the need to ensure that appropriate competition rules were put in place.

## Sectoral issues

Members raised questions on various sectoral issues, including:

- The performance of the agricultural sector, which was inhibited by certain import and export prohibitions, despite recent liberalization of fertilizer imports and cassava exports;
- Structural and environmental issues relating to oil and gas production, which represented 95 per cent of export earnings and three quarters of government revenue, including fuel shortages resulting from a breakdown of refinery capacity;
- The need for a reform of the mining law to encourage development of the solid mineral sector;
- Obstacles to industrial development stemming from the complexity of import and export policies and the high level of Government intervention, and the prospects for reform;
- Obstacles stemming from infrastructural inadequacies in ports, transport, power and telecommunications, and the prospects for improvements through privatization and other measures to enhance efficiency.

In response, the representative indicated that agricultural trade had been further liberalized. He emphasized that there was no import ban on meat and meat products. Measures to enhance competition in the provision of infrastructure and foreign exchange were expected to improve prospects for industry.

Nigeria had begun a review of the Minerals Act to encourage foreign investment in the solid minerals sector, while the capital gains tax had already been abolished. Nigeria

recognized the adverse environmental consequences associated with gas flaring and was providing incentives for producers to decrease such practices.

Recognizing the problems associated with the operation of ports, the representative indicated that the Government had already started a reform programme in that area. The privatization of NITEL would begin before end 1998, while the electricity utility NEPA was being reorganized in view of privatization. Nigeria's shipping policy was also under review with a view to liberalization. A number of other activities were already open to private investment, including banking, air and road transport.

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## Conclusions

In conclusion, let me say that in this review, most Members have recognized the progress made by Nigeria in macroeconomic and trade policies in recent years. However, at the same time, Members have pinpointed, in a clear and frank manner, a large number of governance, structural and policy-related issues that still inhibit the development of Nigeria's economy and trade.

As Chairman, I welcome the frankness of the discussion and of the replies made by the Nigerian delegation. I hope that Nigeria's transition to a democratic regime – clearly signalled by the Delegation – will resolve many of the serious concerns expressed in this meeting regarding governance, stability and predictability of policies. I welcome Nigeria's identification of technical assistance needs, the indications that have been given as to where such assistance can be found, and hope that the dialogue initiated in the last two days can be continued. I also trust that the questions and points raised by delegations will be taken seriously into consideration by the new administration in Abuja, and translated into a positive programme of ongoing economic reform that can enable Nigeria and all its people in all economic sectors to fulfil their considerable potential as a major economic power in Africa.

## Australia – 30 June and 2 July 1998

The third Trade Policy Review of Australia was conducted by the TPR Body on 30 June and 2 July 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Details of the discussion will be reflected in the minutes.

Members raised a large number of written questions, which have been answered in writing today. The discussion developed under three main themes: (i) the economic environment; (ii) trade and investment measures; and (iii) sectoral issues.

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## Economic environment

Members welcomed Australia's strong and active participation in the multilateral trading system. They commended the high degree of transparency in the conduct of Australia's trade and investment policies. Members also recognized that Australia's unilateral approach to trade liberalization, which complemented internal structural and regulatory reforms, had greatly improved the country's overall economic performance, leading to high rates of growth in output and productivity together with low inflation since the last Trade Policy Review, and contributing to a substantial fall in unemployment from a peak of 11 per cent in 1992/93 to near 8 per cent at present.

Some Members noted that a slowdown in the process of liberalization had occurred in recent months. They pointed to an increase in export assistance, slower unilateral reduction in tariff peaks, an increasing threat of contingency measures and a more active industrial policy as symptoms of the slowdown. In this connection, they expressed concern about the likely impact of the continuing Asian crisis on Australia's economic growth rate and current account deficit, sought reassurance concerning the Government's policy response, and encouraged Australia to continue to open and deregulate its markets.

In response, the representative of Australia emphasized that economic projections of 3 per cent growth in 1998/99 remained valid, although caution was required in the light of the continuing Asian crisis. The current account deficit did not so much reflect trade imbalances, as payments for previous borrowings, and would therefore be addressed by fiscal consolidation, not by trade measures. Delegates were assured of the Australian Government's commitment to keeping its markets open and continuing to pursue overall economic reform, while taking into account the legitimate needs of individual sectors for assistance in adjusting to the challenges of globalization.

The representative reiterated the Government's determination to push ahead with autonomous, gradual and predictable MFN trade liberalization under its WTO and APEC commitments. In the latter context, it remained committed to the achievement of free trade by 2010, including in textiles, clothing, footwear and motor vehicles.

Delegations expressed concern that Australia might be moving to a more interventionist industry policy. The representative of Australia stressed that the Government was not

attempting to pick winners. Instead, policy focused on improving the business environment through a sound macroeconomic stance and the vigorous pursuit of microeconomic reforms, including the pursuit of more labour market flexibility, tax reforms and competition policy in key sectors like telecommunications, energy and transport.

Questions were raised about relations between Commonwealth and State Governments, notably the adherence by State authorities to the Commonwealth Government's trade and investment commitments. In response, Australia stressed that States did have constitutional responsibilities in several areas and outlined the consultation mechanisms in existence to ensure consistency of State and Commonwealth policies.

### Trade and investment measures

Members raised the following concerns over specific trade and investment measures:

- remaining tariff peaks and escalation, and the tariff "pause" in the textiles, clothing and footwear and passenger motor vehicle sectors, which also retained higher than average tariff protection; new export assistance policies in the PMV sector were also noted in this connection;
- the effects on developing countries of the "pause" combined with a phaseout of GSP preferences;
- recently introduced changes in anti-dumping and safeguard legislation leading to shorter lead times before introduction of such measures;
- the continuing restrictive nature of Australia's SPS system, under which import of many food products was virtually impossible;
- measures seeking to increase "strategic" investment in Australia;
- concerns relating to Government procurement including local preference schemes operated at the State level and offset requirements at both State and Commonwealth levels; a number of Members questioned Australia's policy not to participate in the WTO Agreement on Government Procurement;
- the application of intellectual property rights including on software decompilation, protection of test data and parallel importation.

In response, the Australian representative said that the pause in tariff reductions in the TCF and PMV sectors would be followed by a significant autonomous cut in tariffs in 2005, lowering tariffs to the same point as would have been reached under a gradual reduction. He expressed the view that, as most of Australia's tariffs were at or less than 5 per cent, preferences for developing countries became largely meaningless; preferences for the least-developed countries would, however, be maintained as tariffs declined. The fall in 2005 in tariffs in the textile sector would be also to the benefit of developing and other textile-exporting countries; moreover, he emphasized that Australia had no quotas in this area.

He stressed that the new Automotive Competitiveness and Investment Scheme was not linked to export performance in any manner and, instead, encouraged competitive investment, research and development and productivity improvements in the sector.

The recently introduced changes in anti-dumping legislation would streamline the process further and reduce the degree of duplication in investigations. Furthermore, an additional appeal mechanism, not available under the previous system, would now be available. It was also stressed that the private sector will not have an enhanced role in the investigation process.

On safeguards, Australia had established, and notified to the WTO, a mechanism by which to undertake actions required under the WTO Agreement. The first investigation was initiated in June 1998 on imports of frozen pork. He emphasized that no actions had yet been taken.

On quarantine, the representative said that Australia took its obligations under the SPS Agreement very seriously, including the need to base SPS measures on sound science, risk assessment and a consistent approach to risk management. Contrary to what was claimed by many delegations, despite quarantine measures, import penetration in Australia's agricultural market was high. He stressed that in all risk analyses, the quarantine authorities consulted with all stakeholders, limiting their consideration to matters of science and not economic or other unrelated matters. However, the entry of imported pests could have devastating and expensive consequences for production and trade.

Australia remained committed to aligning its standards with relevant international standards and in fact there was already a substantial degree of alignment. However, the representative expressed concern at what seemed to be a push for international standards to take on a dominant role in the area of technical regulations. The Australian Government's policy was that regulations should be written for a specific purpose, and must not be more burdensome than is necessary to achieve their objectives.

In reply to questions about recent measures to attract foreign investment, the representative stated that no separate funds had been set aside to provide investment incentives in the new policy. Rather, the Government would consider granting incentives only in limited and special circumstances for projects which met the eligibility criteria.

Screening policies through the Foreign Investment Review Board were liberal, limited to proposals in sensitive sectors and for investment above a certain threshold. He stressed that the "national interest" test placed the onus on the authorities to show reason to reject a proposal.

Australia's position on joining the Government Procurement Agreement was that the Agreement, in its present form, did not necessarily encourage open and transparent government procurement practices. The conditional basis for accession to the Agreement had potentially made the markets of several major industrialized countries more restrictive than Australia's. Australia's approach to WTO activities regarding government procurement was being developed by a Consultative Group comprising agencies of Federal, State and territory governments. Australia's federal structure was not relevant to the fact that Australia had not joined the Agreement: all sectors considered that the present Agreement was disadvantageous to Australia.

On intellectual property rights, the representative pointed out that Australia had implemented all its obligations under the TRIPS Agreement: in addition, a number of legislative reforms had been introduced relating to parallel importation, maintaining high standards for protection while avoiding unnecessary restrictions on the market for legitimate copies of protected works. Australia also paid close attention to enforcement, as demonstrated by recent increases in penalties for pirated intellectual property products, and was involved in promoting improved intellectual property protection throughout the region.

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### Sectoral issues

Members raised a number of questions regarding agricultural trade, in particular relating to levels of protection as reflected in AMS and PSE data, and the role of federal and State marketing boards.

Questions were posed concerning the scope and effects of Government bounties in the machine tool and shipbuilding sectors, and the operation of the "factor f" scheme in pharmaceuticals.

Many delegations raised issues relating to trade policies and conditions in services sectors, including banking, telecommunications, coastal shipping, civil aviation, audio-visual services, and the movement of persons, particularly in regard to Federal and State conditions for exercising professional services.

In reply, the representative of Australia emphasized that whatever measure was used, Australian agricultural support was low. In addition, Australia did not use export subsidies and domestic support measured only one third of the level to which Australia was entitled.

The Government had continued the reform agenda to make Australia's state-trading accountable to their stakeholders. He stressed moves to privatize the Wheat Board and bring all government business activities subject to competition policy. Australia also supported greater transparency in the WTO of state trading activities and actively supported the new WTO questionnaire on state trading enterprise operations.

The representative expressed his appreciation of the acknowledgements, made by many delegations, of the liberalization in Australia's services sector. He stressed that progressive liberalization would continue to be a main pillar of Australian trade policy and Australia would press its trading partners to do the same in the next round of trade negotiations.

Australia would continue to deregulate its financial sector. The new financial system structure, when in place, would provide flexible, efficient, coordinated and consistent regulations in a highly competitive and transparent environment. In telecommunications, deregulation would continue, including, subject to Parliamentary approval, further privatization of the largest carrier, Telstra; the Australian telecommunications sector was now fully open to competition. Another service area high on the Government's agenda was electronic commerce, where Australia was pursuing a forward-looking strategy to ensure that it remained at the forefront of developments in the area. Australia would also continue to make changes and push for greater market access as deregulation of the domestic economy continued.

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### Conclusions

Australia's participation in this review has reflected its commitment to the WTO process. The statements made on Tuesday, and again this morning, have indeed been transparent and helpful to Members. I am sure that Members will also be greatly assisted by the very full written answers provided by Australia to questions.

I would agree with Ambassador Krirk-Krai that many WTO members have much to learn from Australia's process of reform and liberalization. I believe members can be reassured by the Australian Government's replies regarding the status of the "pause" in tariff reductions in a few sectors and the clear liberalization objectives set out up to the year 2010.

I thank Australia for its clear statements and its helpful participation in the Review.

## Hungary – 7-8 July 1998

The second Trade Policy Review of Hungary was conducted by the TPR Body on 7-8 July 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Details of the discussion will be reflected in the minutes.

The discussion developed under four main themes: (i) economic background and transition issues; (ii) regional integration issues; (iii) trade and investment measures; and (iv) sectoral issues.

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### Economic background and transition issues

Members congratulated Hungary on the remarkable changes that had been achieved, during the short period since the previous TPR in 1991, in its transition to a market-oriented economy. It was recognized that these changes had taken place under difficult economic and social conditions, including the collapse of trade with the CMEA, the bankruptcy of a large number of companies and the consequent temporary loss of jobs. Members welcomed the fact that, despite these circumstances, Hungary had pursued its liberalization process and continued to make an important contribution to the WTO.

With regard to macroeconomic management, Members recognized the Government's achievement in restoring domestic and external balance following the March 1995 stabilization package. However, questions were raised as to whether fiscal consolidation could be maintained in the absence of further large-scale receipts from privatization, now in its final phase, and in view of difficulties in creating an efficient and equitable tax collection system. Questions were also raised whether the impact on the external balance of recent real effective appreciation of the currency might not lead to renewed contractionary measures.

In response, the representative of Hungary said that the improvement in government finances was not the result of a one-time windfall from privatization, but due to cuts in government expenditures. The budgetary situation was expected to strengthen further, due to improved tax collection methods and to the gradual shrinking of the unofficial, grey sector of the economy as tax rates were to be reduced. He added that improvements in the trade and current account balances implied that there would be few risks of negative effects from the real appreciation of the currency. While the crawling-peg devaluation of the forint might have been lower than the difference between the rates of inflation in Hungary and in its major export markets, this gap was offset by productivity improvements in Hungarian exporting sectors.

While welcoming the considerable structural changes to the economy through privatization and the role of the price mechanism in allocating resources, Members sought clarification of the role of industrial policies, including investment incentives, in influencing the future structure of the economy. In response, the representative of Hungary emphasized that direct investment in Hungary was fully liberalized. Hungary did not apply specific sectoral incentive schemes; investment incentives in general, and tax concessions in particular, were equally available to any sector.

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### Regional integration issues

Members recognized that the move toward EU accession had been a major element in Hungary's liberalization process. However, questions were raised on possible trade diversion stemming from preferences, and there was a considerable debate on this issue and its systemic implications. In response, the representative of Hungary stressed that WTO rules and commitments had been, and would be, thoroughly observed during the whole process of integration into the European Union. He rejected allegations that European integration had diverted trade to the disadvantage of third countries; on the one hand, trade flows had moved in favour of western markets, following the collapse of the CMEA, and before the introduction of EU preferences; on the other, imports from non-European trade partners, both in North America and in the Pacific region, had grown faster than those from EU sources.

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### Trade and investment measures

Members raised concerns over the scope of unbound tariffs on a number of items, such as some fish products, footwear, precious stones, transportation equipment and agricultural products, and on the average levels of bound and applied tariffs in some areas. In response, the Hungarian representative noted that 95.7 per cent of tariff lines were bound and that the data on bound and applied items in the Secretariat report reflected averaging of bound and unbound items.

While welcoming the phase-out of the global quota on consumer goods, Members raised questions concerning its allocation and the reasons for its under-utilization. Members also sought clarification of the Government's future import and export licensing policies. In

response, the Hungarian representative said that details of the operation of the quota had already been notified to the WTO. The reasons for the under-utilization of some subquotas was that the yearly 10per cent increase of the quota in many cases exceeds the actual demands.

Members also raised questions on:

- the alignment of technical regulations and standards to international norms, as well as inspection procedures; investment incentives conditional upon [export] performance and plans to notify existing TRIMs to the WTO;
- Hungary's attitude to joining the Government Procurement Agreement, to which it is not a party;
- state-trading, and plans and priorities to further reduce Government involvement in enterprises through privatization; and
- the enforcement of laws pertaining to the protection of intellectual property.

In response to these issues, the representative of Hungary pointed out that the number of Hungarian national standards was continuously decreasing, the objective being to reach a 70per cent share of international or European standards by Hungary's accession to the EU. Only 35 industrial products were subject to inspection (on health and environmental grounds), with domestic and imported products treated identically. He emphasized that Hungary had no incentives in the sense of the TRIMs Agreement. On government procurement, the representative of Hungary called attention to the transparency of the new law introduced from 1996. Having weighed the pros and cons of possible accession, Hungary did not intend to join the Plurilateral Agreement at this stage; however, it was participating actively in the Working Group on Transparency in Government Procurement as well as in the Committee on GATS Rules, where future government procurement rules are being negotiated. On state trading and privatization, the representative of Hungary stated that there was no State trading in the sense of GATT Article XVII. In the context of the full market economy, no sectors or industries were excluded from further privatization. On intellectual property rights, the representative stressed that Hungary's present legislation complied fully with the requirements of the TRIPS Agreement. As a result of new legislation and enforcement efforts, the number of infringement cases had been significantly reduced.

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### Sectoral issues

On agriculture, food and beverages, Members raised various questions referring in particular to land ownership; tariffs; plant certification; SPS measures; the nature and value of various types of support; and export restrictions and subsidies. The representative of Hungary responded that there were no plans to change land ownership regulations at present: compensation for former landowners had recently been ended. The Hungarian agricultural tariff regime was, as shown in its WTO Schedule, one of the most liberal among WTO Members. The increase in tariff dispersion was the consequence of tariffication, which reflected the variable effects of previous agricultural NTMs. Only certified plant types could be marketed in Hungary, consistent with OECD provisions: SPS standards were becoming internationalized under the 1995 Food Law. Domestic support, justified under "green box" provisions, involved advisory services and agricultural research programmes together with assistance for structural adjustment, to disadvantaged regions, and for the promotion of soil conservation. Guaranteed prices were set for five products, below the cost of production; intervention had been used only once. Export licensing was maintained only on maize, and was not restrictive in practice. As regards export subsidies, the representative reaffirmed Hungary's strict adherence to the terms and conditions laid down in the WTO waiver.

On motor vehicles, the representative of Hungary rejected allegations by Members that preferential tariffs and quotas related to regional trade agreements adversely affected third parties, citing the success of a Korean company in increasing exports to the Hungarian market during the period 1992-96. He added that the restriction on importation of used cars over four years old was designed to prevent Hungary becoming a "garbage cemetery" for used cars.

Members raised questions on trade measures applying to textiles and clothing, referring in particular to outward processing trade (OPT), and to wholesale activities for pharmaceuticals. The representative acknowledged that the share of OPT was high, reflecting existing patterns of trade. Hungary respected international practices in this regard; i.e., material inputs are imported duty-free on condition that end products are subsequently exported. On pharmaceuticals, legal provisions were in force to maintain health protection; the wholesale sector was open to foreign participation.

On services, Members welcomed Hungary's high level of commitments in the GATS. It was asked whether this level provided sufficient flexibility for Hungary; if establishment of foreign branches in Hungary was allowed for services other than financial; and whether the Government would advance the date for liberalization of national and international telephone services. The representative of Hungary replied that Hungary would not withdraw its GATS commitments; in unforeseen circumstances, GATS rules would be followed. He

confirmed that, as of 1 January 1998, all restrictions on foreign branching, including in financial services, had been abolished. As regards advanced liberalization of telecommunication services, the representative replied that the Government had a legal obligation to maintain the exclusive rights granted in business contracts with investors for the agreed periods, however, there was strong competition in the market.

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## Conclusions

Hungary's participation in this review has reflected its strong commitment to the WTO process, as well as the positive effects of its transition to a market economy. The statements made on Tuesday, and again this morning, have indeed been helpful to Members.

I would agree with the view expressed by several delegations that Members have much to learn from Hungary's process of transition to a market economy and the role of trade and investment liberalization in this process. There has also been quite a lively debate, in this connection, on systemic issues related to regionalism and its effects in terms of possible trade creation and diversion; these issues will, no doubt, be followed appropriately in the CRTA.

Finally, I should like to thank the delegation of Hungary, led by Dr. Balás, for their clear statements yesterday and today, and its positive participation in the review; and also thank our two expert discussants, Dr. Raby and Mr. Mukerji, for their very useful opening remarks yesterday and follow-up comments today. The overall success of this review has also largely depended on the full participation of other delegations, to whom I express my gratitude. I wish Hungary success in their endeavours in the further opening up of their economy in line with their WTO obligations.

## The Solomon Islands – 21-22 September 1998

The first Trade Policy Review of the Solomon Islands was conducted by the Trade Policy Review Body on 21-22 September 1998. These remarks, prepared on my own responsibility, attempt to summarize the salient points of the discussion. They are not intended as a full report; details of the discussion will be reflected in the minutes.

The discussion developed under the three main themes of: (i) background and current economic crisis, (ii) main sectoral issues, and (iii) other specific issues related mainly to its membership of the WTO. Section (iv) concludes by remarks.

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## Background and current economic crisis

Members recognized that the Solomon Islands faced immense and numerous economic difficulties. Mismanagement by the previous government had led to unsustainable levels of public debt, which could not be repaid from exports at a sustainable level. Concentration of exports in three product groups (timber, fisheries and copra) and two principal markets (Japan and the EU, particularly the United Kingdom) meant that the economy was highly vulnerable to external price developments. The effects of the Asian economic downturn had been particularly severe for the timber sector, reducing world prices by two thirds.

Members recognized the dilemmas confronting the Solomon Islands' Government, in particular, the tension in policy-making between environmental and trade considerations, given the need to service the debt. They asked what routes the authorities considered possible to resume economic growth and promote sustainable trade.

Members welcomed the efforts being made by the Solomon Islands' Government in economic reform. They stressed the need to continue the process, particularly in respect of taxation, in order to increase revenue while promoting exports. Tariff rationalization was welcomed, although rates remained relatively high and disparate, and a temporary tariff surcharge of 10 per cent had been implemented in the 1998 Budget, with no time limits. The effectiveness of export taxes was questioned and alternative means of increasing fiscal revenue (such as stumpage fees or resource rent taxes) were suggested. Members emphasized the need to introduce a transparent structure of taxation (including VAT) with minimal scope for Ministerial discretion in application.

Questions were asked about the Government's investment policies, including the utility of the negative list, and the effectiveness of incentives. Clarification was sought on the development of investment in particular sectors, including telecommunications and tourism.

In response, the representative of the Solomon Islands outlined steps that the Government had taken to address the twin problems of unsustainable debt burden, which it inherited upon coming to power, and the continuing unsustainable exploitation of forestry. The Government had succeeded in reducing outstanding government debt from SI\$185 million to SI\$140 million in an attempt to restore fiscal balance. In addition, the Asian Development Bank had approved a loan to assist the Government in meeting its objective of balancing the budget.

In order to avoid these problems in the future, the Government intended to reduce its dependence on forestry and to diversify into other activities, such as tourism, mining and the

domestic processing of raw materials; for example, all copra was now to be processed locally for export. As regards exports of canned tuna, the delegation appealed to the EU to maintain existing Lomé preferences so as to enable Solomon Islands' producers to compete with other exporters. The delegation also appreciated the contribution of the STABEX programme to agricultural development. The Government realised that it could not continue to rely on trade taxes for revenues and was seriously considering progressively reducing such taxes and their replacement by a VAT.

In recognition of the fact that the private sector must be the engine of growth in the economy, the Government had involved the Chamber of Commerce in its reform programme. It also recognized weaknesses in the administration of the Investment Act and was taking steps to increase its transparency. In addition, the Government was evaluating the role of investment incentives in the Act with a view to rationalising their use and removing discretion in their administration. The negative list was not at present in application.

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### **Main sectoral issues**

Members commented on the heavy reliance of the economy on a few sectors, namely timber, fish and copra. Questions were raised on sustainable management of timber resources, and how the current "break" from logging brought about following the collapse in timber prices could be used by the Government to implement such policies. In this connection, Members also raised questions on the Government's views on the allocation of logging and fishing licences, including the auctioning and under-utilization of such licences. The need to maintain international competitiveness in timber and fish in the face of the erosion of market access to the EU market under Lomé tariff preferences and reduced timber prices, were also matters of concern. The Government referred to rules-of-origin restrictions imposed under the Lomé arrangements for preferences as limiting the development of their fisheries industry.

The role of downstream processing of fish and timber was discussed. Some members saw adverse effects on developing efficient processing industries from export taxes on unprocessed resources. Members requested clarification on the government's intention to prohibit round log exports in 1999. The Government indicated its commitment to promoting downstream processing as a way of improving the economy's resilience and development. In its view, export taxes on unprocessed products can play a useful role in this regard.

Some members agreed with the Solomon Islands that the vulnerability of the economy to world price changes, especially for copra, was worsened by the effects of export subsidies by some WTO members on edible oilseeds. Members from the Cairns Group emphasized their aim to obtain strengthened multilateral disciplines on the use of such trade-distorting policies.

The Government raised the possibility of its multilateral partners organizing a debt-environment swap as a means of enabling the Government to service its debt while at the same time implementing sustainable forest management.

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### **Other specific issues**

Members welcomed intentions by the Government to review its legislation and to bring its policies into conformity with its WTO obligations, and saw achievement of these multilateral obligations as making an important contribution to its reform efforts. Members requested additional information on steps to be taken in areas, such as TRIPs, customs valuation, preshipment inspection, standards and state trading. Members asked the Solomon Islands whether there were any impediments to implementing such consistent policies.

The Government reiterated its commitment to meeting its WTO obligations with the aid of technical assistance. A number of members offered the possibility of providing such assistance. The Government was urged to accelerate WTO adherence if possible.

Members referred to the Solomon Islands' membership of regional arrangements, such as the Melanesian Spearhead Group, and asked that it further explain its view on their usefulness. The delegation reaffirmed its support for the closer integration of the Pacific Island countries, in particular through the Melanesian Spearhead Group, and a wider regional free trade area.

A number of Members raised the need for the Solomons to improve efficient delivery of basic service inputs, such as telecommunications and transportation. They saw additional GATS commitments in services such as telecommunications as playing an important role in this context, and asked the Government for its views and policies towards liberalising services and expanding its multilateral commitments in the coming round of negotiations. Members also encouraged the Solomons to implement policies aimed at deregulation and privatization of key service industries.

The Government indicated its intention to proceed with divesting its ownership in Solomons Telekom within the next couple of months, and the possibility of allowing new entrants.

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## Conclusions

The Chair felt this was a particularly interesting review in that it has brought into focus some key issues with wider applicability: in particular, how to reconcile policies of environmental sustainability and the steps necessary to generate foreign earnings (especially in circumstances where a government is coping with significant debt servicing burdens), and also the question of how small economies heavily reliant on a very limited number of products can maximize returns on production.

The review has shown very clearly the serious difficulties faced by the Solomon Islands, as a small, least-developed, island economy with a limited resource base. Some of these are inherited from previous economic mismanagement; others are due to external problems, including the dramatic results of the Asian crisis, erosion of preferences and the effects of subsidization of competing products.

We have also had a substantial discussion on the vulnerability of an undiversified economy to both commodity booms and external shocks. A number of delegations have addressed issues of diversification, sustainability and resource conservation, the role of export taxation; the effects of Lomé preferences; and the prospects for establishing efficient downstream processing. We hope that the signals given by Members will help the Solomon Islands in establishing a more viable economic base. One issue of overwhelming importance is the creation of a stable environment for future trade and investment, with minimal scope for discretion. Tariff reforms have already begun and, again, a stable basis for trade is crucial.

The present Government has underlined its commitment to economic reforms and the Trade Policy Review Body has given its strong encouragement to the process. We hope that the Solomon Islands Government will, as a follow-up to this review, be able to benefit from the technical cooperation opportunities that are being offered to it and will thereby be able to participate more effectively in the WTO Agreements and benefit from the multilateral system. We wish the Solomon Islands well in coping with the present difficulties and promoting its economic recovery and future development.

## Turkey – 12-13 October 1998

The second Trade Policy Review of Turkey was conducted by the TPR Body on 12-13 October 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Details of the discussion will be reflected in the minutes. The representative of Turkey provided replies in the context of the meeting and undertook to supply further written replies within one month.

The discussion developed under four main themes: (i) economic background; (ii) trade and investment regime; (iii) specific trade measures; and (iv) sectoral issues.

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### Economic background

Members commended Turkey for its implementation of far-reaching structural and legislative reforms since its previous review. These reforms had contributed to the economy's sound annual average growth of almost 8 per cent in the past three years. However, some members questioned the sustainability of this growth performance in the present macroeconomic and external framework, in which the large fiscal deficit had led to rapid inflation and high real interest rates. Members also raised issues regarding the importance of trade, including unrecorded "shuttle trade" with Russia in Turkey's external position, and sought information about the effects of the global financial crisis on the Turkish economy.

In response, the representative of Turkey said that the slowdown in economic growth in 1999, resulting principally from the three-year economic stabilization programme, would help rectify macroeconomic imbalances and reduce inflation. On the fiscal side, the primary budget surplus in the period January-August 1998 was six times higher than a year earlier and tax reforms, to be introduced from January 1999, would further increase revenues in the future. Wholesale price increases in 1998 were expected to be around 50 per cent, as projected. Increases in workers' remittances had more than offset growth in the trade deficit, leading to a continuing improvement in the current account of the balance of payments.

As Turkey's trade with the Asian region was small, the current crisis had only a slight adverse effect on exports. Moreover, since exports to the Russian Federation, a much more important trade partner, were mostly basic commodities (food and textiles), the negative effects on Turkey of the devaluation of the rouble were expected to be slight; but there would probably be an increase in shuttle trade. The turmoil in financial markets and the consequent outflow of capital from developing countries had had few effects beyond a rise in Turkey's interest rates.

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### Trade and investment regime

It was recognized that the customs union between Turkey and the European Union had given a new impetus to the liberalization process in Turkey, going beyond its Uruguay Round

commitments. The reforms had led to improved market access and a more secure trading environment for all investors and traders. Members raised questions and clarifications on the following:

- the consistency between the customs union decision, which excluded agricultural products, and the WTO requirement on removing restrictions on "substantially all trade" between parties to regional agreements;
- the effects of Turkey's adoption of common regulations in areas such as rules of origin, anti-dumping, SPS, and the introduction of quotas on textiles and clothing; and
- the possibility of trade diversion as a result of the customs union.

Members also sought information on the Government's plans to speed up privatization of state-economic enterprises; and Turkey's intention to remove remaining restrictions on foreign direct investment.

In reply, the representative of Turkey stressed that, in principle, agricultural products were covered by the customs union. However, the two parties had agreed to postpone the free movement of agricultural products until Turkey's adoption of the Common Agricultural Policy. As yet, there was no fixed plan for this, which would be negotiated bilaterally. In the meantime, a new concessional trade regime for agricultural products, implemented from January 1998, meant that 93 per cent of Turkey's exports to the EU (based on 1997 data) were now subject to duty-free treatment. Turkey was also in the process of aligning other trade regulations with EU provisions. He noted that anti-dumping procedures could only be aligned upon full harmonization; on the other hand, rules of origin had already been harmonized and Turkey would apply pan-European cumulation from 1 January 1999. Turkey would also adopt the EU's SPS measures gradually, as relevant products would be put into free circulation. He stated that the Customs Union Decision had required Turkey to apply the EU's clothing and textile arrangements, including applicable quotas. While the representative acknowledged that Turkey's imports from the EU had increased considerably during the first year of the customs union, trade with the EU was expected to reach a more balanced level eventually.

The representative also acknowledged that although progress on privatization had been slow, the new Government had intensified its efforts since June 1997. 46 state-owned enterprises were slated for privatization, the proceeds of which would be US\$5 billion in 1998. It was Turkey's intention to include telecommunications and oil refineries in privatization.

The representative emphasised that Turkey's FDI regime was based on the principle of national treatment. Almost all sectors open to private investors were open to domestic and foreign investors alike. Nevertheless, restrictions on FDI were applied to some sectors on grounds of national security, public order, health and the maintenance of professional standards. Turkey had already simplified its screening and approval process, eliminating approval requirement for investments over US\$150 million, and planned to revise its GATS schedule of specific commitments accordingly in the near future.

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### Specific trade measures

Members complimented Turkey for its implementation of important trade and trade-related reforms since its previous review. In the tariff area, the average level of border taxation had been cut from 27 per cent in 1993 to 13 per cent in 1998, while the Mass Housing Fund levy had been almost eliminated. Other liberalization measures included elimination of most export subsidies, simplification of customs procedures, the establishment of a competition authority, and the enactment of comprehensive legislation covering intellectual property rights, going beyond the TRIPS Agreement provisions in some areas. However, members raised concerns and questions on:

- tariff protection higher than the common external tariff for a number of "sensitive" items; the increasing difference between MFN applied and bound duty rates; the introduction of agricultural tariff quotas; and the Government's plans to simplify the tariff system;
- the automatic nature of the import licensing system;
- the anti-dumping procedures applied by Turkey;
- Turkey's state-aid system, including possible distortionary effects and high cost, and the system's conformity with Turkey's WTO obligations;
- enforcement of intellectual property rights, and the date when Turkey's legislation will be brought in full compliance with the TRIPS Agreement;
- Government procurement, including the law's Article on "force account"; treatment granted to foreign and domestic suppliers; channels for unsuccessful bidders to lodge complaints; and Turkey's intention to accede to the WTO Agreement on Government Procurement; and
- local-content measures in the automobile sector and their consistency with Turkey's obligations under the TRIMs Agreement.

In response to these issues, the representative of Turkey said that imports of a limited number of products had been subject to higher duties than the common external tariff (CET). However, Turkey would gradually align these rates to the CET by 1 January 2001. He also noted that the existence of 242 distinct tariff rates should not be viewed as complex, in light of the large number of tariff lines (19,000) in the 12-digit Turkish tariff nomenclature. The tariff system would be evaluated with a view to simplification. Information on the tariff quotas granted by Turkey to the EU on certain processed agricultural products was provided at the meeting. He also noted that Turkey was not prepared to re-bind its tariff at this stage.

The representative of Turkey stated that the import licensing system was in full conformity with the WTO Agreement on Import Licensing and was applicable to imports from all sources. The system was automatic in the sense that, once applicants met established objective conditions, which were based on security and safety reasons and were intended to protect consumers or the environment, the licence was issued automatically.

The representative stated that Turkey's anti-dumping legislation was yet to be fully harmonized with those of the European Union. Once the process was complete, identical practices would be applied to third countries. Meanwhile, the parties were required to coordinate their actions toward third countries. The five-year "Sunset" clause of the Anti-Dumping Agreement would become valid as from 1995.

Turning to state aid, he noted that Turkey's system of subsidies as a whole was in line with WTO rules and had been notified in July 1998. The export credit system implemented by Turkish Eximbank was in full conformity with the guidelines under the OECD Consensus. Accordingly, the Turkish Eximbank did not engage in any credit lines with operating losses.

On intellectual property rights, a new law covering unresolved copyright issues was being submitted to Parliament. Regarding patents, Turkey would protect pharmaceutical and veterinary products and their production processes at the latest on 1 January 1999. Regarding the protection of undisclosed test data on pharmaceutical and agricultural chemical products submitted for marketing approval, Turkish law was identical with the TRIPs Agreement. He gave details of provisions regarding trademarks and industrial designs. He also noted that in order to attain successful enforcement, Turkey was, inter alia, training judges, lawyers and police, disseminating information broadly to society and implementing deterrent legislative provisions.

The representative said that Turkey did not discriminate against foreign suppliers in government procurement. He also noted that unsuccessful bidders may lodge complaints against the application of the procurement procedures and the award of the contract with the procuring entity. Turkey, as an observer to the Committee on Government Procurement would consider acceding to the Agreement. Written answers would be provided to the questions on "force account commission" procedures and tendering by the Electricity and Power Generation Corporation.

The representative also noted that Turkish laws and regulations regarding foreign direct investment contained no clauses foreseeing local content requirement. Local content practices had been introduced voluntarily by the joint-venture partners and were therefore consistent with the TRIMs Agreement.

## Sectoral issues

Members noted with concern the increased protection of the agricultural sector, while the manufacturing sector had been opened up to foreign competition. With reference to the Secretariat report, members noted that this sectoral imbalance could be a tax both on consumer welfare and on manufacturing and services that compete with agriculture for production factors. On agriculture, members raised questions on the following:

- prospects of reversing the levels of tariff protection in agriculture (which had increased since the previous review from 35 per cent in 1993 to 43 per cent in 1998);
- prospects of reducing Government interventions (total transfers amounted to 7.5 per cent of GDP in 1997);
- the scientific justification for the ban on imports of live animals and meat, and its consistency with Turkey's WTO obligations; and
- the Government's intentions in the future multilateral trade negotiation in agriculture.

In reply, the representative of Turkey noted that, in line with the Agreement on Agriculture, Turkey had bound all tariff lines for agricultural products, and had applied customs duties to these products at or below its concessions. He also noted that Turkey had progressively scaled down export subsidies for its agricultural products; domestic support programmes had been reduced to three products and were in full conformity with their WTO obligations. Turkey was examining the introduction of a direct-income payment system. He noted that the ban on imports of live animals and meat was a temporary measure, related to the spread of foot-and-mouth disease. It was the Government's intention to terminate this measure once the risk of the disease no longer existed.

In contrast to the agricultural sector, the manufacturing sector had been substantially liberalized since the previous review. For example, as a result of the customs union, average border protection in the manufacturing sector had more than halved from 27 per cent in 1993 to 12 per cent in 1998.

On services, members commended Turkey for its contribution during the recent negotiations including the Information Technology Agreement, the Basic Telecommunications Services Agreement, and the Financial Services Agreement. Members asked about the Government's intentions to undertake further commitments with respect to its GATS schedule. Members also asked about the Government's plans to reform the financial sector.

In response to these issues, the representative of Turkey said that the Government was planning to include new sectors, such as research and development, in its new schedule of specific commitments during the next services negotiations in the year 2000. He gave further information on conditions for establishment in professional services and on maritime transport conditions. On the financial sector, he noted that Turkey had fully implemented its commitments. Over and above its commitments, Turkey had also, *inter alia*, increased its effectiveness of the supervision of the banking sector through more stringent enforcement of the capital adequacy requirement and of the ceiling on banks' net open foreign exchange positions.

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## Conclusions

This review has shown the strength of Turkey's economic performance in the past few years, and the wide-ranging liberalization that has taken place in Turkey's trade policies as a result of the customs union with the European Union and the application of Uruguay Round provisions. At the same time, specific concerns have been expressed about the scope of the customs union and its effects on third countries, in particular in agriculture, textiles and certain regulatory areas. Some of these concerns run parallel to issues raised in the Committee on Regional Trade Arrangements. We have benefited from replies given by Turkey in this meeting, and look forward to receiving further replies in writing within the next month, as promised.

In conclusion, I should like to extend the thanks of the TPRB to Dr. Ege and his large and able team of colleagues from Ankara and Geneva, and I wish Turkey well in its further progress towards economic liberalization.

## Jamaica – 29-30 October 1998

The first Trade Policy Review of Jamaica was conducted by the TPR Body on 29-30 October 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment; (ii) trade policy measures; and (iii) sectoral policies.

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## Economic environment

Members congratulated Jamaica on its structural reform, underpinned by prudent macroeconomic management. In consequence, inflation had been significantly reduced and the economy had become more efficient and outward oriented. Members noted, however, that challenges remained, including high unemployment and a substantial internal debt; in view of the large trade deficit, they also asked about the competitiveness of Jamaica's exports, particularly given rising unit labour costs and recent real appreciation of the currency. Members sought assurance on the Jamaican policy response, including with respect to the investment environment.

Members welcomed Jamaica's strong commitment to the multilateral trading system and stressed the view that Jamaica's growing regional links should continue to complement its contribution to the system. They asked about the coordination of Jamaica's trade policies with CARICOM and the effect of the erosion of preferences on Jamaica's exports; in this respect they inquired about efforts to diversify both Jamaica's export product mix and markets.

The representative of Jamaica reiterated his country's commitment to an open, multilateral trading system. He felt that the benefits of the system were not always equally distributed, which should be addressed, as otherwise it might be difficult to maintain wide-ranging support for it. With respect to regional trade policy, he indicated the steps taken by CARICOM to deepen economic integration, and noted that Jamaica was progressively increasing the coordination with CARICOM, with the goal of moving to a Single Market.

On the issues raised by Members, the representative of Jamaica said that government policy aimed at achieving macroeconomic stability including inflation control and reducing exchange rate volatility; given the high import content of Jamaican production and

consumption he was not sure that export competitiveness would be improved by currency depreciation. With regard to diversifying export products and markets, a number of initiatives were being taken including niche market promotion and improved techniques for innovation and product development. He recognized the concerns raised regarding the build-up of internal imbalances; these would be addressed through continued use of disciplined macroeconomic policies, improved productivity and enhanced cooperation among social partners.

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### Trade policy measures

Members welcomed the many trade-liberalizing measures taken by Jamaica in recent years; these included a lowering of tariffs, an elimination of quantitative restrictions and a reduction in the scope of import licensing. These measures had been integral to the creation of a more market-oriented economy, and had also encompassed the removal of price controls, privatization and financial sector reform. In encouraging Jamaica to continue with these efforts, Members raised a number of questions particularly with respect to: high border charges, including additional duties; customs valuation; import and export licensing; anti-dumping and government procurement procedures; the updating of standards; and the system of incentives, especially subsidies and tax allowances. Questions were also posed on intellectual property rights and competition policy, as well as on Jamaica's efforts to amend domestic legislation to give effect to the WTO obligation.

In reply, the representative of Jamaica stated that his country would continue with trade-opening measures. Jamaica would move to Phase IV of the revised Common External Tariff (CET) and adopt the six-digit tariff structure HS96 in January 1999. Clarification was provided on the application of other levies and charges, including additional duties, on imports; there was no immediate plan to reduce them but taxation review was in progress to simplify and improve compliance. Jamaica's tariff schedule would be shortly submitted to the WTO Integrated Data Base. On customs valuation, he accepted that the publication of reference prices would improve transparency, and he clarified aspects of the Fair Competition Act.

Jamaica was actively working on amending its legislation and procedures in a number of areas, including TRIPS, anti-dumping, standards, government procurement and customs valuation. The representative of Jamaica stressed the need for technical assistance to strengthen the capacity of small trading partners to meet reporting obligations under the WTO and to fully exercise their rights.

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### Sectoral and structural issues

Members acknowledged the challenges faced by Jamaica as a small island economy and welcomed its efforts to encourage a more efficient sectoral allocation of resources. A number of questions arose, particularly with respect to agriculture, textiles and clothing, and services. On agriculture, Members asked about issues such as high tariffs, preferential interest-rate schemes and other subsidies, and efforts to increase the role of the private sector. With respect to textiles, some questions arose about the industry's cost structure, particularly with respect to labour, and about access to the US market. On services, Members welcomed Jamaica's commitments in the GATS and encouraged a broadening of their scope, particularly in financial services. A number of questions were raised on specific issues, including about "exclusive rights" provisions in telecommunications and the MFN exemption in maritime transport.

The representative of Jamaica replied, that agricultural policies should reflect concerns about rural development, poverty alleviation and the building of competitiveness, as well as Jamaica's WTO commitments. Detailed information was provided regarding milk production programmes and state trading enterprises in the sector. He stressed that Jamaica did not use agricultural export subsidies. Regarding textiles, details were provided with respect to the Caribbean Basin Initiative preferential regime.

The Jamaican representative noted that his delegation would provide further written answers in some areas, including licensing, additional duties, financial services, telecommunications and tourism.

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### Conclusions

In conclusion, Members expressed appreciation for Jamaica's active participation in, and contribution to the work of the WTO. It is also my sense that Members strongly welcomed the many steps that Jamaica has already taken in becoming a more open, outward-oriented economy that is integrated into the multilateral system; they acknowledged the challenges faced by Jamaica as a small economy. It is felt that a continuation of Jamaica's trade-opening efforts would consolidate the basis for steady, sustainable growth; in this respect, the support of Jamaica's trading partners will also be important.

## Trinidad and Tobago – 12-13 November 1998

The first Trade Policy Review of Trinidad and Tobago was conducted by the TPR Body on 12-13 November 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment; (ii) trade policy measures; and (iii) sectoral policies.

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### Economic environment

Members congratulated Trinidad and Tobago on its recent liberalization and economic reforms, which had resulted in steady growth rates, low inflation and had attracted substantial foreign investment. However, challenges remained, including dependency on the energy sector, high unemployment and a still sizeable participation of the State in key sectors. Also, the traditional trade surplus had turned to deficit in 1997, primarily as a consequence of a surge in imports. There was also concern about the effect of lower oil prices on export earnings and government revenue. Members welcomed the steps taken by Trinidad and Tobago to develop a legal framework for competition policy and encouraged its prompt implementation. There was some worry about the range, cost and coherence of the various incentive schemes, particularly with respect to investment, for which procedures were also sometimes cumbersome. Members encouraged Trinidad and Tobago to continue to seek the diversification of economic activity and to accelerate the process of privatization, particularly in the agriculture and energy sectors.

Members commended Trinidad and Tobago on its commitments to the multilateral trading system particularly as seen by the implementation of WTO agreements in some cases ahead of schedule. They acknowledged the importance of Trinidad and Tobago's role within CARICOM.

The representative of Trinidad and Tobago expressed his country's firm adherence to a rule-based multilateral trading system. His country had willingly assumed the obligations resulting from the Uruguay Round. However, he felt that the WTO needed to address the particular interests and needs of developing country members and to ensure that sustained efforts were made towards balancing the obligations assumed and the benefits derived from the system. He stressed the need for new approaches to deal with the special treatment and differential treatment for developing countries in the WTO, for example through the provision of technical assistance and through technology transfer. As a small island economy, Trinidad and Tobago fully supported initiatives in international fora to identify measures to integrate small states into the global economy.

On the issues raised by Members, the representative of Trinidad and Tobago said his Government had undertaken a trade reform programme to diversify the economy away from the petroleum sector and to improve employment opportunities. Unemployment had already declined significantly. On the trade deficit, capital imports had been an important factor. He identified several sectors with the potential for sustainable export-led growth, including financial services, agro-processing, software development, specialty chemicals, engineering goods and services, and cultural tourism. Future economic strategies would include continued efforts to attract foreign investment and to foster the development of small businesses, tourism and light manufacturing sectors. The representative noted that the process of amending investment legislation would lead to a simplification of procedures and enhance transparency.

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### Trade policy measures

Members welcomed Trinidad and Tobago's trade liberalization, including a lowering of tariffs, virtual elimination of quantitative restrictions and a reduction in the scope of import licensing. In encouraging Trinidad and Tobago to continue with these efforts, Members raised a number of questions particularly with respect to: the gap between applied and bound tariff rates; high import surcharges on agricultural products; import licensing; notification of legislation dealing with anti-dumping and countervailing measures; standards and technical regulations; tax allowances for exports; and intellectual property rights, especially with respect to enforcement of copyrights.

In reply, the representative of Trinidad and Tobago stated that the maximum tariff rate had been reduced from 45 per cent to 20 per cent over five years, and that there were no immediate plans to lower tariffs further. Any alteration of the Common External Tariff would require approval from the CARICOM Heads of Government. With regard to the gap between applied and bound tariffs for agricultural products, the Government intended to re-examine bindings upon completion of a review of agricultural policies. The representative noted that only a few items were currently subject to licensing, mainly for public safety and national security reasons, as well as under CARICOM Treaty obligations. Trinidad and Tobago had

amended its anti-dumping legislation to ensure conformity with its WTO obligations; a notification in this respect would shortly be submitted to the WTO. Apart from anti-dumping, Trinidad and Tobago had amended its legislation and procedures in a number of areas, including TRIPS and customs valuation, and was in the process of drafting or revising legislation in other areas. The procedure for setting standards was also explained.

With regard to export allowances, involving a tax credit based on certain export earnings, the representative of Trinidad and Tobago said that, in accordance with the Budget Speech of 1998, they would be eliminated in 2002. Trinidad and Tobago was addressing the problem of enforcement of intellectual property rights, particularly regarding video and audio cassette piracy. The representative of Trinidad and Tobago stressed the need for technical assistance to strengthen the capacity of small trading partners to meet reporting obligations under the WTO and to fully exercise their rights.

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### **Sectoral policies**

Members acknowledged Trinidad and Tobago's efforts to diversify its economy, reducing its dependency on the energy sector by facilitating activity in non-petroleum manufacturing and services. On agriculture, Members posed questions with regard to issues such as: high import surcharges, quantitative restrictions applied to imports of live poultry, and the role of state-owned enterprises in the sector. Regarding the energy sector, Trinidad and Tobago was encouraged to implement a more transparent pricing structure for natural gas. On services, Members welcomed Trinidad and Tobago's commitments in the GATS and encouraged a broadening of their scope, particularly in financial services. A number of questions were raised on specific issues, including "exclusive rights" provisions in telecommunications; banking sector regulations and licensing requirements; transparency in the work permits regime; and licensing and cargo handling in both maritime and airline services.

The representative of Trinidad and Tobago stated that the high surcharges applied to the agricultural sector would be reviewed before 2004 with a view to ensuring compliance with WTO commitments. Regarding maritime transport services, the Government was considering a proposal for the restructuring of port operations. On financial services, national treatment was accorded to foreign providers, and the Government was finalizing an offer on banking to be presented by January 1999. The Government was pursuing the matter of exclusive rights on basic telecommunication services with the provider, with a view to advancing liberalization in this sector. Amendments were being made to the Telecommunications Act; these were expected to be approved by June 1999, allowing Trinidad and Tobago to meet its GATS obligations. Detailed answers were also provided regarding civil aviation and the issuance of work permits.

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### **Conclusions**

In conclusion, Members expressed appreciation for Trinidad and Tobago's liberalization efforts, and prompt compliance with their obligations under the WTO. Members strongly welcomed the many steps that Trinidad and Tobago had already taken in becoming a more open outward-oriented economy that was integrated into the multilateral system; they acknowledged the challenges faced by Trinidad and Tobago as a small resource-based economy and appreciated the reform programme to diversify the economy. It was felt that a continuation of Trinidad and Tobago's trade-opening efforts would consolidate the basis for economic diversification and for steady, sustainable growth; in this respect, the support of Trinidad and Tobago's trading partners would also be important.

## **Burkina Faso and Mali – 18 and 20 November 1998**

The first Trade Policy Reviews of Burkina Faso and Mali were conducted by the TPR Body on 18 and 20 November 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) macroeconomic and structural environment; (ii) multilateral and regional agreements; and (iii) trade measures and sectoral policies.

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### **Macroeconomic and structural environment**

Members commended Burkina Faso and Mali on the liberalization and economic reforms they had undertaken. These, combined with the devaluation of the CFA franc in 1994, had resulted in steady economic growth, low inflation and improved international competitiveness of some products. However, progress in restoring balance to government finances and the current account had been limited and export competitiveness was, in general, hampered by the high costs of basic utilities supplied by public enterprises. In addition, external debt was high. Noting that exports, still confined mainly to cotton, livestock products and gold, hardly

covered 50 per cent of imports, Members sought clarification on measures to diversify both economies, while containing the negative effects of recurring drought. Questions were asked about delays in implementing privatization programmes and about the foreign direct investment (FDI) regimes, with emphasis on discriminatory treatment of non-regional investors under the planned WAEMU Community Investment Code (CIC).

Members inquired about the implementation of competition policies and the effects the WAEMU common external tariff (CET) would have on tax revenues owing to the heavy reliance of both Burkina Faso and Mali on trade taxes. Questions were raised on intellectual property rights and the steps being taken to bring the Bangui Agreement into compliance with TRIPS.

There was a certain worry about price controls that still applied to certain goods in Burkina Faso, and about provisions of its investment Act that gave preference to jobs for nationals and domestically-owned service suppliers.

Noting the relatively low level of FDI in Mali, Members asked about measures envisaged by the Government to attract foreign capital.

The representative of Mali said that the CIC would not discriminate against non-regional investors. The CIC, in combination with other actions taken to establish the WAEMU customs union, would help to attract foreign capital. Moreover, the WAEMU Treaty provided for Structural Funds and the implementation of common sectoral projects to compensate for negative effects resulting from participation in the customs union.

The representative also indicated that Mali relied on trade taxes both because of the low level of domestic production and because they were relatively easy to collect; however, diversification of production and improved collection of internal taxes were envisaged to reduce reliance on trade taxes. The Government depended on the private sector to diversify its production and its exports. The absence of a capital market in Mali was a major impediment to the implementation of the privatization programme, which would also cover the services sector. Since March 1998, Mali had been eligible for the IMF/World Bank initiative for Highly Indebted Poor Countries (HIPC). He added that updated data on FDI in Mali would be provided to the Secretariat. National legislation on competition was being amended with a view to bringing it into line with WAEMU provisions in this area. The Bangui Agreement on intellectual property was being revised to bring it into conformity with TRIPS. Environmental measures were being implemented to deal with the effects of the drought.

Confirming that the CET could reduce tax revenue, the representative of Burkina Faso noted that the broadening of the tax base and improved tax collection would contribute to offsetting the losses. He indicated some of the products that would be promoted for diversification purposes, including cotton, cereals and vegetables. A shortage of investors and the need for improved transparency had delayed implementation of privatization programmes. Liberalization would also involve basic utilities. Burkina Faso had been implementing its competition policy since January 1998. However, price controls were maintained on petroleum products as these were sensitive products. On the external debt, he noted that suitable actions would be taken under the HIPC. Moreover, structural adjustment programmes and the move to CET were preparing the economies of WAEMU members for increased competition; support from the international community was necessary. To deal with the drought, environmental action was being taken.

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### Multilateral and regional agreements

Members acknowledged the determination of Burkina Faso and Mali to base their trade relations on the principles of the multilateral trading system. Within this context, some Members inquired about assistance the WTO could provide to dispel worries about marginalization. Questions were asked about the coherence and coordination of regional agreements, especially WAEMU and ECOWAS to which both Burkina Faso and Mali were party. It was noted that Burkina Faso and Mali would need to improve intraregional competitiveness of their products to meet the increased competition that would result from the implementation of the CET.

Members inquired about the effects of preferential treatment granted to Burkina Faso and Mali under the Lomé Convention and the Generalized System of Preferences, and measures envisaged by these countries to adjust to any reduction of preferences that might result from multilateral liberalization.

Recalling the Integrated Programme for least-developed countries, the representatives of Mali and Burkina Faso indicated that they looked forward to its implementation for their countries. On preferential treatment, discussions among African ACP countries had stressed the need for ACP members to maintain their commercial position.

Coordination between the ECOWAS Secretariat and the WAEMU Commission contributed to avoiding inconsistencies between these two regional agreements. ECOWAS Members agreed that, in the long run it would be the only regional agreement in West Africa.

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### Trade measures and sectoral policies

Members expressed their appreciation of the considerable progress made by Burkina Faso and Mali in liberalizing their trade regimes. However, participants voiced concerns about the complexity of their tariff structures and the low levels of WTO bindings with respect to non-agricultural products. Members sought clarification on the steps being taken to implement the CET in January 2000. Noting that neither country had legislation on contingency trade remedies, Members asked about plans for such legislation. Questions were also raised about the compatibility of restrictions on certain export products and the two countries' objectives to boost exports. It was noted that the countries' unilateral liberalization in the services sector was not reflected in their WTO commitments, and that restrictions on FDI in financial services and telecommunications monopolies were being maintained.

Members took note of the fact that, as a safeguard, Burkina Faso was implementing references prices on sugar. Specific questions were raised regarding local content schemes, other duties and charges, import licensing and state ownership in basic services, especially financial services.

Mali was encouraged to sign the Plurilateral Agreement on Government Procurement. Members noted that the special internal tax on certain products (ISCP) was included in the VAT assessment, and the service provision contribution (CPS) was applied although it did not appear in the list of other duties and charges bound by Mali. Concerns were expressed about provisions on state participation in the capital of mining companies.

The representative of Mali indicated that tariff rationalization undertaken by Mali since 1991 had prepared it for implementation of the CET. However, implementation would increase tariffs on capital goods and inputs from the current level of 0 to 5 per cent. Future imposition of other duties and charges would be in compliance with WTO commitments. Common legislation was scheduled to be introduced within the framework of WAEMU. On customs valuation, he indicated that Mali would apply the "transaction-value" basis from the year 2000. However, technical assistance was needed to familiarize customs agents with the system. An increase in the rate of the VAT would mitigate the reduction in tax revenues which might result from the planned abolition of the CPS. The representative added that the ISCP was a non-discriminatory internal tax. He added that the 3 per cent export tax was the main tax on mining activities. Privatization of public enterprises, including SOTELMA, the telecommunications company, would improve competitiveness.

The representative of Burkina Faso noted that its customs tariff was simplified in July 1998 as a first step in the move to the CET. He added that the safeguard action on sugar was to prepare the state-owned sugar company for privatization. The ban on hides and skins was to protect an infant industry; a revision of the ban was under consideration. He indicated that, in general, the services sector was liberalized. He went on to note that the CSE was collected for livestock development purposes, while special authorization was required for the export of cereals and shea nuts for statistical reasons.

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### Conclusions

In conclusion, it is my sense that Members welcomed the collective participation by Burkina Faso and Mali in the review process and the significant steps taken by their authorities towards more open and deregulated economic and trade regimes. Members recognized the difficulties of such major adaptation, particularly given the challenges faced by both Burkina Faso and Mali as landlocked least-developed countries, with a small resource base. They strongly encouraged both countries to consolidate and build on the achievements of recent years. I also thought that Members were conscious that, if the policies pursued domestically are to achieve the desired results, it is important that they receive support at the regional level and within the multilateral trading system.

### Uruguay – 23 and 25 November 1998

The second Trade Policy Review of Uruguay was conducted by the TPR Body on 23 and 25 November 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment; (ii) trade policies and measures; and (iii) sectoral issues.

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### Economic environment

Members congratulated Uruguay on the economic and structural reforms undertaken since 1992, which have resulted in steady growth and a sharp decline in inflation. The opening of the economy, pursued both unilaterally and through regional and multilateral fora, had resulted in a better allocation of resources and an increase in trade flows. However, unemployment had increased and the current account deficit had widened, with imports

outpacing exports. Some Members, in expressing concern about the deficit, asked if the real appreciation of the peso had played a role, and enquired about the reliance on external resources for financing the current account, especially in the context of today's financial crisis. Members encouraged Uruguay to diversify both its export products and markets and asked about the role of existing tax incentives in achieving this goal.

Members commended Uruguay for the reform of its public sector and for dismantling several monopolies, but noted that state intervention remained important and that there was no competition legislation. Members welcomed Uruguay's new investment regulations which put domestic and foreign investment on the same footing.

Members acknowledged MERCOSUR's importance in shaping Uruguay's trade and economic policy. Some concern was raised on the convergence to the Common External Tariff (CET); the possibility of trade diversion; and the lack of a regional mechanism for managing the collection of import duties. Questions were also raised on the state of MERCOSUR's negotiations with the Andean Community, and with the European Union.

In response, the representative of Uruguay stated that the effect of the current world financial problems on Uruguay was likely to be modest. Uruguay's ability to withstand external shocks resulted from its drive to improve competitiveness by reducing taxes and public charges, maintaining prudent fiscal policies, and deepening integration within MERCOSUR. Recently private savings and investment had risen, while inflation had fallen sharply. The current account deficit was sustainable, particularly with the reduced foreign external debt to GDP ratio. Unemployment had increased, but measures were in place to address this and improvement was discernible. Fiscal incentives were provided to the forestry, tourism and manufacturing sectors, but any resulting reductions on direct tax revenues were largely offset by increased revenues from expanded economic activity.

The representative gave details on liberalization within MERCOSUR. MERCOSUR had approved a number of common trade policy instruments, including safeguards and anti-dumping. A Common Customs Code and customs procedures were being prepared, and rules on consumer protection and public procurement were under negotiation. There were also negotiations on commitments to liberalize trade in services. Uruguay had no competition authority or statutes, but MERCOSUR discussions in this area were ongoing. On incentives under the new Investment Law, Uruguay had introduced regulations that would be made available to the WTO Secretariat.

Diversified trade flows, notably with Argentina and Brazil, had reduced reliance on European export markets. Consistent with open regionalism and complementary to multilateral liberalization, Uruguay and its MERCOSUR partners had completed free trade agreements with Bolivia and Chile, and were pursuing initiatives with the Andean Community, Canada, the Central American Common Market, the European Union and under the FTAA.

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### Trade policies and measures

Members welcomed Uruguay's trade liberalization, including the lowering of applied tariffs within MERCOSUR's framework. However, the schedule of convergence to the CET was complex. Several Members questioned the recent temporary increase in the CET by 3 percentage points, noting that as a result tariff bindings have been exceeded in some instances. Questions were also asked about the provision of information to the Integrated Data Base (IDB); import charges for services rendered; and the consistency of excise taxes with national treatment obligations.

Members congratulated Uruguay on streamlining customs procedures. There were questions about customs valuation procedures; preferential rules of origin; the use of international standards; and preferences for domestic products in government procurement and about Uruguay's possible accession to the Government Procurement Agreement (GPA).

Uruguay was commended for eliminating export taxes in all but one area. Several questions were raised regarding export incentives and subsidies, and on existing barriers to Uruguay's exports. Questions arose about the status of pending legislation on intellectual property rights and on efforts to strengthen their enforcement and train the judiciary in this area.

In reply, the representative noted that Uruguay had adopted MERCOSUR's Common External Tariff (CET) on 1 January 1995, with rates between 0 and 20 per cent. The temporary increase of CET rates by 3 percentage points, would end on 31 December 2000. Applied tariffs were within WTO bindings, except for a few lines, which Uruguay intended to correct by 1 January 1999. Uruguay agreed to the tariff schedule being provided to the WTO's Integrated Data Base. Other import charges were based on the estimated cost of services rendered. Uruguay was reviewing its regulations to ensure that excise duties were applied in a non-discriminatory manner.

On customs valuation, the representative noted that transaction value was used whenever possible. Rules of origin were currently applied to MERCOSUR intraregional trade, but would be eliminated when convergence to the CET was completed. Uruguay did not

now envisage joining the Agreement on Government Procurement. The use of international standards was common practice in Uruguay.

The representative noted that Uruguay's agricultural exports faced a number of barriers, including tariff peaks and non-tariff barriers; access was also distorted by subsidies in a number of countries. Export taxes in Uruguay were applied only on one product; elimination depended on negotiations within MERCOSUR. On export subsidies, the concessions granted to the motor vehicles industry had been notified to the WTO. Uruguay applied a system of temporary admission and import duty drawbacks in a manner consistent with WTO obligations. Uruguay had recently introduced new trademark legislation; draft laws on copyrights and patents were in Parliament. Uruguay was addressing the problem of enforcement of intellectual property rights, particularly regarding trademark and copyright infringement.

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### Sectoral issues

Members commended Uruguay on the performance of its agriculture sector, but posed questions on the pricing mechanism for milk and its impact on exports. Clarification was sought regarding the criteria to grant incentives under the "national interest" provision of the Industrial Promotion Law. Questions were also asked about the minimum "export" price system for textiles and clothing, and on the automotive regime. On services, Members welcomed Uruguay's liberalization and encouraged further private sector participation. Questions were raised on specific service issues, including the contribution of financial services to GDP and high spreads in interest rates; promotion of competition, particularly in basic telecommunications; commercial presence in port services; and incentives granted to the tourism sector.

The representative of Uruguay explained the pricing mechanism for milk, clarifying the objectives and nature of the quota system and quality controls. The national development bank (BROU) granted credit in a transparent manner. Details were provided on the criteria for "national interest" under the Industrial Promotion Law, and on the operation of the system of minimum "export" prices. Since 1995, this system had applied only to sugar and textiles and would in the future be replaced by the trade defence and safeguard mechanisms established in the Uruguay Round. Uruguay had notified one TRIM in the automotive industry; MERCOSUR partners were negotiating a common regime for the industry.

On financial services, the representative noted the sector's continued importance in terms of GDP, the increased bank deposits by non-residents, and the availability to firms of credit at highly competitive interest rates. The provision that banks authorizations may not exceed 10 per cent of the number of banks in the preceding year was maintained for prudential reasons. The insurance sector was open to foreign investment, but there were no plans to eliminate the state monopoly on insurance related to work accidents and public procurement. Neither were there plans to eliminate the state monopoly on basic telecommunications services (ANTEL), although private investment was possible in value added services. There were no restrictions to private participation in port services, and locally established foreign firms received national treatment. Restrictions on foreign professionals were virtually non-existent.

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### Conclusions

In conclusion, it is my feeling that this Body welcomed Uruguay's wide-ranging structural reform programme, including the significant steps taken in trade liberalization and the reform of the public sector. Delegations appreciated Uruguay's involvement in and commitment to the multilateral trading system and were in no doubt that Uruguay would play, as in the past, an important and constructive role in future negotiations. Members encouraged Uruguay to continue to liberalize its economy thus consolidating the basis for steady growth and diversification, including of export markets and products. It is also my sense that Members saw the importance for trade liberalization within MERCOSUR to contribute to strengthening the multilateral trading system.

## Indonesia – 3-4 December 1998

The third Trade Policy Review of Indonesia was conducted by the TPR Body on 3 and 4 December 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment and structural reforms; (ii) trade policies and measures; and (iii) sectoral issues.

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### Economic environment and structural reforms

Members noted that 25 years of continuous economic expansion had been abruptly interrupted by the Asian financial crisis. Despite extremely difficult economic and social

circumstances, Indonesia had resisted protectionist pressures. Instead, it had adopted a comprehensive programme of macroeconomic and structural reforms, which included, inter alia, an acceleration of trade and investment liberalization, a major review of anti-competitive practices (such as monopolies and cartels) and a reform of the banking sector. Indonesia was commended for its steadfast implementation of these measures, which had already resulted in substantial liberalization of the economy and set the stage for a recovery of growth.

Members also focused on the issue of macroeconomic stabilization and the effects of the depreciation of the Rupiah, stressing the need for macroeconomic stability while ensuring adequate social spending both to alleviate poverty and to achieve development objectives. They also pointed to the effects of the Rupiah's depreciation, together with a decline in trade finance, on trade flows and external debt, but viewed the recent recovery of the currency as a direct outcome of economic and trade reforms. In addition, Members asked what other investment liberalization measures were contemplated.

In response, the representative of Indonesia said that, in the face of economic urgency and rising poverty, the Government had focused on macroeconomic stabilization and measures aimed at providing adequate supplies of food at affordable prices to the population. It also aimed at extending reforms to the most protected sectors of its economy, in order to increase competitiveness and strengthen the export base. However, economic recovery was likely to be slow and difficult, and would depend on the implementation of a complex agenda of reforms and on the necessary support from the international community. The representative explained that the depreciation of the Rupiah had contributed to the sharp contraction of the economy. However, the Government was determined to restore the confidence of international investors and, in this regard, reaffirmed its commitment to maintain an open capital account. As regards further liberalization of its investment regime, among the measures envisaged were annual reviews of the negative list, simplification of investment procedures and a review of policies and regulations pertaining to investment. Measures to liberalize investment were also under consideration in ASEAN.

### Trade policies and measures

Members commended Indonesia for having significantly liberalized its trade regime with: the reduction of MFN tariffs, from an average of 20 per cent to 9.5 per cent, well beyond Indonesia's WTO commitments; the phasing-out of all import surcharges; the reduction by half of restrictive licensing requirements and the commitment to remove all remaining measures by 2000; the phasing-out of local content programmes; and the conversion of restrictions and specific taxes on exports into low resource rent taxes, to remove the long-standing anti-export bias of Indonesia's trade policy.

Indonesia was commended for establishing a freer and more competitive market-orientated economy. This involved recent efforts to modernize legislation in the areas of customs, banking and intellectual property rights; the termination of a number of monopolies and restrictive marketing arrangements in sensitive sectors; and the removal of trade and tax privileges to specific groups. Members welcomed Indonesia's progress throughout the review period in liberalizing its investment regime, which is now one of the most open in the region. This contributed to attracting an unprecedented amount of foreign investment to the country. They pointed to recent liberalization of retail and wholesale trade and the possible further opening up of banking and telecommunications sectors.

Members raised questions and concerns in some specific areas on customs, including on the inspection and administration of imports. On tariffs, questions were raised on the possible binding of recent unilateral tariff reductions, which would reduce uncertainly for traders. Members pointed to remaining tariff peaks on motor vehicles, alcoholic beverages, and certain chemicals, and to tariff escalation in industry. Non-tariff barriers notably import licensing and bans, also attracted attention. Some Members raised questions concerning export restrictions and taxes as well as local content rules. They recommended further progress in creating a more competitive business environment, particularly by strengthening the competition framework and bankruptcy laws, introducing greater transparency in the attribution of government loans and subsidies and a better enforcement of laws and regulations in areas such as customs, intellectual property rights and government procurement. Members encouraged Indonesia to speed up privatization of state-owned enterprises, and cautioned on the excessive use of tax incentives to attract foreign direct investment.

In response, the representative of Indonesia stated that the Government was continuously taking steps to improve customs inspection and administration procedures, which included implementation of the early phase of the EDI system. Notwithstanding the recent cuts in applied tariffs, bindings would be maintained in accordance with Indonesia's existing commitments (which excluded automobiles and chemicals). Whereas applied tariffs on chemicals and steel would be reduced further, there were no plans to reduce high tariffs on

alcoholic beverages, which were justified on social grounds. Import licensing had been significantly reduced and simplified, so that it now applied only for reasons involving public health and safety, security, public morals and environmental protection. As regards export measures, the Government had relaxed export controls on several products, including plywood, and cut export taxes on logs. The only sector subject to local content rules is the automobile sector. The representative outlined steps taken by the Government to foster competition, including the removal of exclusive or special privileges previously enjoyed by BULOG and implementation of a competition law, a draft of which is in Parliament. Measures were being taken to ensure protection of intellectual property rights. The representative stressed the Government's commitment to privatization, which would proceed in a transparent fashion. On incentives, the Government felt that such measures were necessary to help restore investors' confidence.

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### Sectoral issues

Members commended Indonesia for the extensive liberalization of its agricultural sector; some sought clarification on the use of import subsidies. Some Members stressed that social considerations should be fully taken into account when reforming the sector. Questions on industry focused on recent liberalization and de-monopolization measures, but also on remaining tariff peaks and escalation in textiles and clothing, motor vehicles and steel. Questions were also raised on the state of implementation of the recommendations of the WTO panel on the National Car Programme and on the continuation of government support to IPTN, the national aircraft manufacturer. On services, Members commended Indonesia for its contribution to the recent GATS negotiations on telecommunications and financial services and asked about plans to further open these sectors to foreign investment.

In response, the representative of Indonesia provided further clarification on the liberalization of agriculture but expressed concern about its effects on net-importing countries, including current difficulties financing imports of basic foodstuffs at the current exchange rate, to guarantee its supply to the population at affordable prices and to ensure food security.

On industry, the representative confirmed that all customs and tax privileges obtained under the National Car Programme had to be repaid to the Government by the company concerned, and reiterated that Government had discontinued support to IPTN. On services, the representative confirmed that a new telecommunications law was under consideration. The representative confirmed the entry into force of a new Banking Law on 10 November 1998, which, among other improvements, removed foreign ownership limits in joint-venture banks.

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### Conclusions

In conclusion, it is my feeling that this Body strongly supported Indonesia's impressive reform programme and expressed confidence that it would ensure thorough implementation in the next few months. Delegations appreciated that these reforms were being implemented on an MFN basis. Members have also recognized that Indonesia had taken seriously the need for timely implementation of its WTO commitments, and had applied the principle of open regionalism in its relations with ASEAN and APEC. It is my sense that Members saw the importance of keeping their markets open and maintaining stable and predictable trading conditions, in order to support Indonesia's recovery from the current economic crisis. In turn, Members recognized that once Indonesia's reform had been fully implemented, it would have one of the most open economies among developing countries. It is my sense that the meeting also felt that the consolidation of this liberalization in the WTO would contribute to the strengthening of the multilateral trading system.

## Hong Kong, China – 7-8 December 1998

The third Trade Policy Review of Hong Kong, China was conducted by the TPR Body on 7 and 8 December 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment; (ii) trade policies and measures; and (iii) sectoral issues.

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### Economic environment

Members congratulated Hong Kong, China on both the smooth transfer of sovereignty and on its reaction to the Asian crisis. Notwithstanding these two major developments, the present economic regime could be characterized as "business as usual". Indeed, the Hong Kong, China economy remained among the most open of WTO Members, a feature which had contributed to Hong Kong, China having one of the highest standards of living in the

world. Despite the current economic difficulties, notably the contraction of GDP and rising unemployment, Hong Kong had maintained its traditional openness to both trade and investment and had not taken any measures directly affecting imports or foreign direct investment, thereby demonstrating its continuing commitment to the primacy of the WTO, to which Hong Kong, China had contributed significant leadership.

Members raised a number of questions particularly with respect to the special role and status of the Hong Kong Special Administrative Region (HKSAR) in China; the impact of the Asian financial crisis on Hong Kong, China's macroeconomic performance, its exchange rate system and fiscal policy; recent stock market intervention; and the change in the economic and trade structure of Hong Kong, China.

In reply, the representative of Hong Kong, China thanked Members for their support for Hong Kong, China's policies and for their confirmation that Hong Kong, China continued to conduct "business as usual". She added that under the Basic Law the HKSAR had a firm, guaranteed, framework to pursue free and open economic policies on all fronts.

On Hong Kong, China's macroeconomic performance, she stated her conviction that the economy's fundamentals were sound and that Hong Kong, China was well placed to react once local sentiment and external circumstances, on which Hong Kong, China was heavily dependent, improved. The linked exchange rate system had served the economy well and its abandonment was not an appropriate response to the existing difficulties; the link remained essential both to Hong Kong, China's role as a major international financial centre and to its efforts to promote international trade, particularly given the external orientation of the economy. In addition, with zero government debt and high fiscal reserves, the Government maintained a prudent fiscal stance, which would contribute to a rapid recovery.

On Members' questions about the Government's recent incursion in the stock market, the representative assured the meeting that this did not represent a departure from Hong Kong, China's long established policy of free trade and an open economy; intervention had been exceptional, probably unique, intended to maintain the stability and integrity of Hong Kong, China's financial system. The Government did not believe that this intervention conferred any advantage on those companies whose shares were purchased and the shareholding would be sold in an orderly manner. On the decline of manufacturing, the representative noted that this was more apparent than real and was, in any event, not something to try to reverse, but rather should act as a spur to ensure that the needed skills would be available to meet the challenges posed by a changing environment.

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### Trade policies and measures

Members commended Hong Kong, China on its continued trade-liberalization effort and on the transparency of its trade and investment regime, which remained one of the most attractive in the world. In particular, Members welcomed Hong Kong, China's accession to the WTO Agreement on Government Procurement and its early completion of the necessary legislation implementing the TRIPS Agreement. Members also expressed their appreciation of Hong Kong, China's industrial development policy, which involved "minimum intervention and maximum support".

Members raised a number of questions, particularly with respect to: the prospects of further binding Hong Kong, China's tariff lines, less than half of which were currently bound; anti-dumping; a bid challenge system in government procurement practices; the maintenance of the non-interventionist industrial policy; the continuing problem of forged trade marks and copyright piracy, notwithstanding strengthened legislation on intellectual property; and the adequacy of Hong Kong, China's competition policy.

In reply, the representative stated that Hong Kong, China saw no need to accelerate its schedule to bind tariffs, particularly as it had already taken significant action in this regard, for example, under the ITA. Hong Kong, China had no enabling legislation on anti-dumping, countervailing duties and safeguards because it did not believe in protecting its domestic industries through such measures. Hong Kong, China's accession to the Agreement on Government Procurement had not changed the Government's procurement policy, which was open and non-discriminatory. Hong Kong, China's support programmes were aimed at providing the necessary infrastructure to move into areas that require innovation and skills, but not to pick special sectors. Hong Kong, China had effectively implemented the provisions of the TRIPS Agreement and stronger enforcement actions had been taken. Hong Kong, China was committed to promoting competition and economic efficiency through a comprehensive, transparent and overarching competition policy; the introduction of a general competition law was not necessary given Hong Kong, China's small, externally-oriented, highly competitive economy.

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### Sectoral issues

Members congratulated Hong Kong, China on its market-driven regime for production and trade in goods and services. In addition, they complimented Hong Kong, China on its

sound regulatory framework, which provided the right mix of guidance and flexibility. Members also commended Hong Kong, China on its acceptance of the Fourth and the Fifth Protocols of the GATS, concerning telecommunications and financial services, respectively, in which Hong Kong, China's commitments had contributed significantly to the successful outcome of the negotiations.

Members raised a number of questions particularly with respect to seemingly high mark-ups associated with the rice control scheme; and restrictions in some service sectors, notably foreign banking operations, telecommunications and transportation.

In reply, the representative stated that Hong Kong, China had taken steps to liberalize the rice trade and was actively considering ways to further enhance competition. Most of Hong Kong, China's markets for services were free and open. Hong Kong, China remained committed to greater liberalization of the banking system, where regulation was applied only when essential. The "one-building" rule had not caused any market access difficulties for foreign banks; there were no restrictions on foreign direct investment into the sector. On telecommunications, the Government was in the process of opening the sector well beyond its commitments under the Fourth Protocol of the GATS. The Basic Law clearly specified that Hong Kong, China would maintain its previous system of shipping management and regulation. Hong Kong, China enjoyed no special privileges in the ports of mainland China.

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### Conclusions

In conclusion, it is my feeling that this Body strongly commended Hong Kong, China for maintaining its predictable trade and investment regime following reunification with China and despite the Asian crisis. Notwithstanding these two major developments, the free-market principles underlying Hong Kong's trade and investment policies together with its respect for the rule of law had not changed. Members also expressed their confidence that with these policies Hong Kong, China's economy would soon resume strong and sustained economic growth. In short, it is my sense that Members felt that Hong Kong, China remained one of the most open economies in the world, and that they looked forward to Hong Kong, China's consolidation of this status by, for example, increasing its bindings and GATS commitments. Members also looked forward to seeing Hong Kong, China continuing to contribute, by its example and leadership at the WTO, to the further strengthening of the multilateral trading system.

## Canada – 15-17 December 1998

The fifth Trade Policy Review of Canada was conducted by the TPR Body on 15 and 17 December 1998. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic and institutional environment; (ii) trade measures; and (iii) sectoral issues.

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### Economic and institutional environment

Members praised Canada's strong economic performance since the last Review, an outcome due to Canada's macroeconomic discipline and continued efforts towards trade liberalization and domestic deregulation. Unemployment had fallen steadily, although it remained relatively high. Members noted, however, the vulnerability inherent in the level of economic integration with the United States, with the US share of Canada's merchandise exports now at 83 per cent.

Participants recognized Canada's efforts to further increase transparency in policy-making, and asked about the role of the TPR in helping Canada formulate domestic policies. Members noted the progress made in removing inter-provincial trade barriers under the Agreement on Internal Trade, but expressed concerns about remaining provincial measures in areas such as standards, alcoholic beverage marketing, government procurement and subsidies.

Canada's continued commitment to strengthening the multilateral trading system was fully acknowledged, but Members were concerned that the growing number of preferential arrangements might cause trade diversion. Some Members suggested that Canada consider extending on a MFN basis the bilateral and regional preferences already covering most of its imports. Questions were raised about Canada's market access for exports from developing countries.

In response, the representative of Canada confirmed that the TPR had contributed to better public understanding of, and had helped build support for, Canada's trade policy. The recent tariff simplification exercise was a concrete example of the positive influence of TPR discussions.

Canada did have a heavy reliance on the US market but this was seen as representing opportunity rather than vulnerability. On the multilateral/regional relationship, Canada considered regional and multilateral liberalization as complementary and sharing the same ultimate end; regional initiatives could allow moving ahead more quickly. On developing countries issues, the representative described several Canadian initiatives which had resulted in a growth of imports from developing countries into the Canadian market, with the trade balance in their favour.

The representative drew attention to a number of general points concerning federal-provincial relationships, including the legitimate and increasing provincial interest on the broader international agenda, especially trade. The status of the Agreement on Internal Trade, of which the Federal Government was but one of 13 parties, did not affect Canada's ability to meet its WTO obligations. Further answers to questions on the AIT would be provided in writing after the appropriate consultations were undertaken. Canada was of the view that it had met its obligations under the WTO Government Procurement Agreement.

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### Trade policies and measures

Members welcomed the autonomous liberalization and rationalization of Canada's tariff, but noted that the tariff structure remained uneven, with tariff peaks still affecting items such as food products, textiles and clothing, footwear, and shipbuilding. Certain import regulations could favour selected trading partners, for example rules of origin or mutual recognition agreements on standards. The number of anti-dumping measures in force had fallen, but certain concerns remained both about their concentration in the steel sector and the duration of orders.

Information was also requested on recent amendments to the Patent Act, and on Canada's regulations covering parallel imports, particularly of books, levies on blank tapes, and trademarks. Questions were also asked regarding Canada's foreign direct investment rules.

In response, the delegate from Canada stressed that Canada had actively pursued the reduction of MFN tariffs, notably on pharmaceutical and information technology products. Rules of origin had no effect on the MFN import regime. Details were given of proposed amendments to the legislation on trade remedies, including with respect to transparency of procedures, public interest inquiries, and lesser-duty provisions; these are expected to enter into law in the new year. To date, provincial governments had not advised that they maintained any notifiable subsidy programmes. The investment screening mechanism was fulfilling its established objectives. Answers in writing had been provided to questions regarding intellectual property rights, except on those associated with the Patents Act which touch on matters currently on the agenda of the Dispute Settlement Body.

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### Sectoral issues

On agriculture, Members welcomed reductions in public financial support, including to exports, but were concerned that the supply management regimes for dairy, poultry and egg products still restricted foreign access. Members also questioned the high out-of-quota rates, and the administration of quotas including the reserved access for preferential suppliers. It was recognized that Canada had gone beyond the requirements of the WTO Agreement on Textiles and Clothing but several Members noted that high tariffs and tariff escalation continued to restrict market access in this area of interest to developing countries. Members also noted the differential tariff on assembled cars applied to imports by Auto Pact and non-Auto Pact car companies.

On services, participants commended Canada for making commitments during the 1997 Financial Services negotiations to allow foreign bank branching, and enquired about the timeframe for implementation. The recent liberalization of telecommunications was also welcomed and Members asked whether restrictions on foreign investment might be lifted in this area. A number also asked about the prospects for harmonizing provincial regulations on professional services, and for providing greater market access to foreign suppliers. Members took note of the importance Canada attached to protecting its cultural identity, emphasizing however that this should be done in the least trade restrictive manner.

In response, the delegate from Canada noted that since 1995 Canada had eliminated agricultural export subsidies and significantly reduced trade-distorting domestic support to agriculture. Current commodity markets had made the recent emergency assistance necessary, but Canada was seeking ways to assist farmers without distorting world trade; support levels, however, were low and could even fit within Canada's AMS commitment. Detailed written replies had been provided to questions regarding agricultural measures, including tariff quota administration, domestic support, specific food safety and plant and animal health issues.

Canada had gone beyond its obligations under the Agreement on Textiles and Clothing, and reduced MFN tariffs on these products; it remains fully committed to the integration of

the sector into GATT by January 2005. The Auto Pact was consistent with Canada's WTO obligations and Canada was prepared to consider further liberalization through mutually beneficial negotiations in this sector. Policies and practices on marketing of alcoholic beverages were determined by provincial liquor boards, were based on market considerations and did not discriminate against foreign products.

On financial services, the representative indicated that legislation on foreign bank branching would be introduced soon, and that the Financial Services Agreement would be ratified before the end of January 1999. He noted that Canada was implementing its commitments under the Basic Telecommunications Agreement on or ahead of time, and had announced steps to end the last telecoms monopoly on schedule in March 2000. In professional services, Canada had eliminated a number of discriminatory measures, and intended to pursue broader market access results in the next round of negotiations.

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### Conclusions

In conclusion, it is clear that this Body appreciates Canada's commitment to a strong rules-based multilateral trading system, demonstrated through its active and constructive participation in all aspects of the WTO work. They welcome Canada's commitment to contribute to international economic stabilization by keeping its markets open. Delegations fully acknowledge Canada's efforts during the past two years to move forward internal deregulation, enhance transparency, rationalize its import regime and generally further its integration into the global economy.

It is also clear, however, that a number of concerns evident in earlier Reviews remain. These include high dependence on a single market, complexities arising from the federal-provincial division of responsibilities and the possible trade diversion inherent in Canada's preferential arrangements. Concerns also persist on market access for developing countries as well as trade and investment barriers in sensitive sectors, particularly in certain areas of agriculture and textiles and clothing. Welcoming what has been achieved, delegations continue to signal the scope for further improvements commensurate with Canada's leadership role in the multilateral system.

## Argentina – 20 and 22 January 1999

The second Trade Policy Review of Argentina was conducted by the TPR Body on 20 and 22 January 1999. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under three main themes: (i) economic environment; (ii) trade measures; and (iii) policies and measures by sector.

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### Economic environment

Members praised Argentina's economic performance since the last Review, due to macroeconomic discipline, and wide-ranging structural adjustment, under the Convertibility Plan. GDP per capita had doubled, inflation drastically reduced and Argentina had become a major FDI destination, although unemployment remained high. In tribute to its sound fundamentals, Argentina had weathered well the Asian financial crisis. With Brazil the major export destination, there were questions about the effect of the recent depreciation of the Brazilian Real, particularly with respect to the currency board, the external accounts and further liberalization of the MERCOSUR market.

Participants welcomed Argentina's active participation in, and support of the WTO and recognized the importance of the MERCOSUR process. Questions were asked on the nexus between multilateral and regional trade objectives, trade diversion and progress on common régimes for sugar and automobiles.

In reply, the representative of Argentina expressed confidence in the soundness of the Argentinian economy and in its ability to deal with the potential effects of the recent economic evolution in Brazil, which would be handled within MERCOSUR and in a manner fully consistent with the WTO. Unemployment was down to around 12 per cent and continued prudent fiscal and debt management, improved levels of investment, and economic and export diversification should contribute to lower rates; in this context, tariffs on imports of capital goods from non-MERCOSUR sources had yesterday been lowered from 14 to 6 per cent.

He noted that MERCOSUR was built on the principle of open regionalism, and was consistent with the process of multilateral liberalization, which was actively promoted. No visible trade distortions had emerged and both intra- and extra-regional trade had grown rapidly; this also reflected the profound structural reform by the regional partners in recent years. On 1 January 2001, the CET would cover all tariff lines; tariffs now affected only a minimal volume of intra-regional trade. MERCOSUR aimed to establish a common market by

2005, including the free movement of production factors and the harmonization of national standards.

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### Trade measures

Members warmly commended Argentina's trade reforms, making it a considerably more outward-oriented, secure market. The tariff was bound and ceiling rates had been considerably reduced; progress was clear in the reduction of non-tariff measures; and trade procedures had been simplified. Timely notification of measures to the WTO was encouraged. Questions arose on a number of issues including, preshipment inspection, price bands for customs purposes, non-preferential rules of origin, the temporary 3 percentage point tariff increase, the implementation of anti-dumping, countervailing and safeguard actions, fiscally-driven production and trade measures, and plans to eliminate Argentina's two remaining export assistance schemes.

Noting the importance of the procurement market, some Members encouraged Argentina to accede to the Government Procurement Agreement and asked, in particular, about contract procedures and the participation of foreign firms. Efforts for harmonizing standards within MERCOSUR attracted attention, as did matters such as certification arrangements and mutual recognition agreements. There were also inquiries about the legal framework for competition policy. On intellectual property rights, a number of Members expressed interest in the establishment of a common regime for MERCOSUR and questions were raised in several areas including patents, copyrights and enforcement.

In response, the representative said that Argentina attached great importance to its WTO notifications requirements and the relevant authorities were periodically reminded of those obligations. Pre-shipment inspection aimed to deal with a number of issues including tax evasion, unfair trade practices, and improved compliance with standards; the system was temporary. Origin certificates were used mainly for products subject to trade defence measures. Price bands for customs allowed price comparisons for goods from different sources.

The 3 percentage points increase in the CET would be phased out on 31 December 2000. For a small number of products bound rates had been exceeded and the list had been submitted to the WTO for negotiations. The number of antidumping measures had increased only relative to the limited measures in force under the earlier less open import regime. Recent investigations had not exceeded the 18 months time-limit. A common MERCOSUR anti-dumping regime would be considered before the end 2000. Argentina had notified its export incentive regimes in 1998: benefits under the Industrial Specialization Regime, which had been suspended in 1996, would end on 31 December 1999.

On government procurement, Argentina was an observer to the GPA but had no plans to accede to the Agreement; it took part in regional initiatives within MERCOSUR and the FTAA. Aspects of Argentinian procurement were explained. Argentina sought to improve international cooperation in the area of sanitary and phytosanitary measures, having signed bilateral agreements with a number of partners. New competition statutes had been submitted to Congress in late 1998, amending and expanding the existing legislation.

On intellectual property, patents submitted after 1 January 1995 were granted 20 years protection; problems were being handled by the judicial system. Protection to software had been granted in 1998 under copyright legislation. Details were given on the link between marketing permits and patents, exclusive marketing rights, the Confidentiality Law, and the protection of vegetable varieties. MERCOSUR was working on various regional protocols for the protection of intellectual property rights.

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### Policies and measures by sector

Members welcomed the fact that Argentina's trade policies were largely free of distortive elements and that resource allocation was mainly market driven. In this context, Argentina was asked about its sectoral trade policy objectives. The health, viability and efficiency of Argentine agriculture was noted as was the suggestion that further multilateral trade liberalization would improve sectoral prospects. Improvements in Argentina's meeting of international sanitary requirements, opening export markets for beef, were recognized. Questions arose on variable import levies on sugar, price support for tobacco, and export taxes on oilseeds, hides and skins. In manufacturing, the automobile sector came under some question, especially with respect to local-content requirements. There were also queries about protection for toys, textiles and clothing and particularly for footwear. Argentina was encouraged to participate in the Information Technology Agreement. Members recognized and welcomed the openness of Argentina's services sector. Information was requested on privatization in banking and on criteria for FDI in financial services. In telecommunications, the implementation by November 2000 of liberalization commitments in basic services was noted, and questions arose about mobile telephone services and personal communication systems. Maritime and air services were of particular interest to some Members, including

cargo-sharing and rights for the national carrier, respectively. Information was sought on Argentina's MFN exemptions under GATS and on MERCOSUR negotiations in services.

In reply, the representative said that Argentina did not implement sectoral policies except for automobiles. He explained the operation of the import levy on sugar and noted that the export tax on oilseeds compensated for tariff escalation on downstream products; he confirmed that export taxes were applied on hides and skins. On the automobiles, he noted that the 1996 changes to its regime had been notified to the TRIMs Committee; the regime was transitory and would be replaced by a common MERCOSUR policy in 2000, entailing free intra-MERCOSUR trade, and common external tariffs and export promotion policies. Footwear measures were subject to dispute settlement, and any provision on toys would meet WTO provisions.

In financial services, a regulation restricting market access in the insurance sector had been eliminated in October 1998; however, Argentina was not envisaging to modify its WTO schedule of commitments. The liberalization of basic telecommunication services was proceeding according to schedule; Argentina complied with its specific commitments on mobile telephones. There were no restrictions on the supply of maritime transport services but Argentina had bilateral maritime agreements containing cargo-sharing provisions. Under MERCOSUR, negotiations had begun to define sector-specific commitments.

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## Conclusions

In conclusion, it is my feeling that this Body welcomed Argentina's robust macroeconomic performance and structural reforms, including sustained trade liberalization efforts; not only has GDP per capita increased sharply but sound fundamentals have allowed Argentina to cope well with a series of external shocks. This bodes well for Argentina's capacity to deal with the recent depreciation of the Brazilian Real. It is my feeling that delegations appreciate Argentina's involvement in and commitment to the multilateral trading system, and look forward to Argentina's constructive role in the preparatory process for the upcoming negotiations. Members encouraged Argentina to pursue the liberalization of its economy, based on WTO principles and thus take steps to address allocative distortions, including in sensitive manufacturing sectors. It is also my sense that Members saw the importance for further trade liberalization within MERCOSUR to contribute to the strengthening of the multilateral trading system.

## Togo – 27-28 January 1999

The first Trade Policy Review of Togo was conducted by the TPR Body on 27 and 28 January 1999. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under two main themes: (i) economic environment; and (ii) trade measures and sectoral policies.

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## Economic environment

Members commended Togo on its unilateral liberalization and economic reforms. Government revenue had increased with improved revenue collection. The reforms and the devaluation of the CFA franc in 1994 had resulted in high economic growth, although this contained a catch-up element given the economic slump resulting from the socio-political crisis of the early 1990s. Noting that progress in addressing the current account situation had been limited by service deficits and that export competitiveness was hampered by the high costs of utilities, under monopolist public enterprises, Members asked Togo about measures envisaged to maintain economic growth and diversify exports. They inquired about the impact of the Asian financial crisis, Asia being a destination for about one quarter of exports from Togo, and the expected effects of the WAEMU customs union, on the economy of Togo.

Noting Togo's limited WTO involvement, some Members asked how this might be remedied. They also inquired about progress on trade-related technical assistance to Togo under the Integrated Programme, and sought information on measures to adjust to any reduction of preferences resulting from multilateral liberalization.

Questions were asked about the coherence and coordination of overlapping regional agreements, especially WAEMU and ECOWAS, to which Togo was party. Some Members asked about measures being taken by Togo to guard against investment distortions, particularly with respect to export processing zones, and inquired about the impact of the WAEMU's forthcoming common investment regime. Participants also sought clarification on steps being taken to implement the WAEMU Common External Tariff (CET) in January 2000, including with respect to sensitive products, and on the way Togo intended to manage its bilateral trade agreements under the WAEMU customs union.

The representative of Togo responded that in order to maintain economic growth and diversify exports Togo was promoting non-traditional products, including processed agricultural and mineral goods; regional integration would contribute to this by increasing market access. Noting that Togo's legal environment had not contributed to the promotion of investment, she said that the planned WAEMU common investment code, and common institutional framework, would help to attract foreign direct investment. WAEMU was studying the introduction of common legislation on competition and on anti-dumping. Technical assistance, including under the Integrated Programme, was needed to improve Togo's involvement in the WTO.

In light of the impact of the Asian financial crisis on its economy, Togo intended to diversify the destinations of its exports. The current account would be improved through the liberalization of the services sector, the promotion of tourism and a better management of foreign debt. On privatization, she indicated the need for specific strategies for each public enterprise, and that a shortage of investors had delayed implementation, but that nevertheless the process was ongoing. Structural adjustment programmes and the move to the CET were preparing the economies of WAEMU members for increased competition; support from the international community was necessary. Coordination between the ECOWAS Secretariat and the WAEMU Commission contributed to avoiding inconsistencies between these two regional agreements. ECOWAS members agreed that, in the long run, it would be the only regional agreement in West Africa. Therefore, fast liberalization under WAEMU would contribute to speedier regional integration in West Africa. On preferential treatment, discussions among African ACP countries had stressed the need for ACP members to maintain their commercial position.

### Trade measures and sectoral policies

Members expressed their appreciation of Togo's considerable progress in liberalizing its trade regime. Togo's import duties were among the lowest in WAEMU. There was some concern that, despite a certain simplification, the structure of border duties remained complicated; similarly, there was a certain worry about the high margins between bound and applied tariffs, and about the low level of bindings for non-agricultural products. It was pointed out that Togo's unilateral liberalization in the services sector was not reflected in its limited WTO commitments.

Members inquired about the consistency of Togo's import duties with its economic development objectives, and about the probable consequences of the introduction of the CET on activities, such as re-exportation, which were currently favoured by low tariffs. There was a certain concern about the discriminatory application of internal specific taxes, smuggling, seasonal prohibition of imports of potatoes and price approvals in the tourism branch.

Specific questions were raised regarding local content schemes, Togo's transit regime, registration and customs formalities, pre-shipment inspection, standards, and measures to liberalize the regimes for cotton, phosphates and basic services, including harbour facilities, telecommunications and financial services. Members sought clarification on the protection of intellectual property in Togo and on steps being taken to bring the Bangui Agreement into compliance with TRIPS. Togo was encouraged to sign the plurilateral Government Procurement Agreement.

In reply, the representative said that a single window had been established to simplify the formalities applicable to foreign trade and the establishment of enterprises. She took note of pertinent comments by participants on Togo's free zone regime and pointed out that pre-shipment inspection in Togo was required by the IMF. On customs valuation, she confirmed that WAEMU members would apply the "transaction-value" basis from the year 2000. She noted that the introduction of the CET would simplify the structure of border duties; it would, however, also increase tariffs on products such as "wax", sugar and milk, and she indicated that Togo and the WAEMU Commission were looking for remedies to the socio-economic consequences of the CET. She also indicated that with the introduction of the CET, the WAEMU intended to renegotiate the WTO tariff concessions of its members. The community solidarity levy (PCS) and the community levy (PC) were collected by all members on behalf of WAEMU and ECOWAS, respectively.

On smuggling, goods in transit were transported under escort of customs agents to the border of importing countries; customs administration in WAEMU member countries would be restructured for efficiency purposes. On issues such as quantitative restrictions and standards, common legislation was scheduled to be introduced within the WAEMU framework. The Bangui Agreement on intellectual property rights was being revised to bring it into conformity with TRIPS. The port of Lomé had been restored and its management was being improved. The liberalization of telecommunication services was scheduled to lead to the privatization of Togo Telecom before the year 2001, and the privatization of state-owned banks was under way.

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## Conclusions

In conclusion, it is my feeling that Members welcomed the participation by Togo in the review process and the significant steps taken by Togo towards more open and deregulated economic and trade regimes. Members recognized the difficulties of such major adaptation, particularly given the challenges faced by Togo as a least-developed country with a small resource base, and in the wake of recent socio-political problems. They offered strong encouragement to Togo to consolidate and build on the achievements of recent years. Members were conscious that, if the policies pursued domestically are to achieve the desired results, it would be important that Togo continue to build a favourable environment for private capital, and that it would also be important for Togo to receive support at the regional level and within the multilateral trading system.

## Guinea – 25-26 January 1999

The first Trade Policy Review of Guinea was conducted by the TPR Body on 25 and 26 February 1999. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion; they are not intended as a full report. Further details of the discussion will be fully reflected in the minutes.

The discussion developed under two main themes: (i) economic environment; and (ii) trade measures and sectoral policies.

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### Economic environment

Members commended Guinea on its unilateral liberalization and economic reforms that had resulted in sustained GDP growth of almost 5 per cent a year in recent years. Inflation had been contained and the trade account was improving. Noting that progress in addressing the current account situation had been limited by service deficits, and that export competitiveness was hampered by high costs of utilities, negative tariff escalation and high taxation of petroleum products, Members asked about measures envisaged by Guinea to maintain economic growth, diversify exports, promote the development of the private sector, improve external competitiveness, and combat corruption. They sought clarification on the link between Guinea's long-term development strategy (Guinea, Vision 2010) and the ongoing economic reforms.

Noting Guinea's limited WTO involvement, participants inquired about how this might be remedied, about progress on trade-related technical assistance under the Integrated Programme, and about measures to adjust to any reduction of preferences resulting from multilateral liberalization. Clarification was sought on the current status of implementation of competition legislation and privatization programmes, on exchange arrangements, and on restrictions on foreign direct investment. Some Members asked about Guinea's position with respect to regional agreements and integration in West Africa.

The representative of Guinea responded that continued economic and trade reforms, including tariff rationalization, would contribute to maintaining economic growth; but in this respect the impact of the refugee situation could not be ignored. Trade activities had been liberalized, a support centre (the Center for Export Formalities (CAFEX)) and the Framework Project for the Promotion of Agricultural Exports (PCPEA) established, export taxes abolished, and tariff concessions granted, with a view to promoting and diversifying exports, and regaining Guinea's former market shares. The Garafiri dam was being constructed, with financing from the local population and the donor community, to increase Guinea's self-sufficiency in energy, and public investment was contributing to the development of infrastructure. Privatization of public enterprises, liberalization of supply of basic services and the establishment of industrial zones were also under way. These measures, combined with statutory and institutional reforms, would attract foreign investment. He noted that macroeconomic forecasts under Guinea, Vision 2010 were reliant on the successful implementation of structural adjustment.

The representative reiterated Guinea's need for technical assistance, which would also improve its WTO involvement; future amendments to Guinea's tariff would comply with its multilateral commitments. On preferential treatment, Guinea, like other African ACP countries, stressed the need that its commercial position be maintained. Guinea relied on its comparative advantages to increase its market access in WAEMU; future amendments to legislation and tariffs would take into account similar reform in WAEMU. He noted that Guinea's trade account had been in surplus in 1998, due to an increase in mineral and agricultural exports. He also stressed that corruption difficulties were being resolutely addressed.

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### Trade measures and sectoral policies

Members acknowledged Guinea's significant progress in liberalizing its trade regime. Applied tariffs on industrial products were around 15 per cent. However, there was some concern that: the structure of border duties remained complex; import duties on almost all

non-agricultural products were unbound; there were high margins between bound and applied tariffs; the applied DFE rates on rice, flour and vegetable oil were higher than the bound rates; Guinea's tariff displayed negative escalation; the application of the consumption surcharge was discriminatory; and that seasonal quantitative restrictions were maintained on potatoes. Members also asked about plans to review the fee structure for pre-shipment inspection.

Specific questions were raised regarding Guinea's schedule for adopting a "transaction-value" basis for custom's valuation; local content schemes; standards; measures to promote exports; the rationale for export taxation; participation of the private sector in the analysis of trade problems; workers representation in the ILO Conference; and the use of data contained in the Secretariat report for IDB purposes. Some Members sought clarification on restrictions affecting certain services activities. Information was also sought on plans for further privatization and liberalization of various sectors of the economy, including agriculture, mining and services, and on exploiting Guinea's agricultural potential. Questions arose on Guinea's intentions regarding its limited WTO commitments in services, especially financial services and telecommunications.

Members asked about protection of intellectual property rights in Guinea, including the role of the Guinean Association for the Promotion of Invention and Innovation (AGUIPA), and about steps being taken to bring the Bangui Agreement into compliance with TRIPS. Guinea was encouraged to open its government-procurement market to all suppliers.

In reply, the representative of Guinea noted that pre-shipment inspection had been launched in 1996 with a view to improving duty collection; provisions of the contract between SGS and Guinea might be amended. The ongoing amendments to tariff were largely being based on the WAEMU Common External Tariff and would simplify the structure of Guinea's import duties. Publication of the Secretariat report meant that the data it contained could be used for IDB purposes. The private sector participated in the national analysis of trade and related policies. The representative noted that Guinea needed technical assistance to collect trade data and to implement Guinea's standards-certification system. He noted that the seasonal prohibition of imports of potatoes had been abandoned. On local content schemes, he said that Guinea would comply with its WTO obligations. The government procurement Act was being revised. In Guinea, workers' associations were privately run. The Bangui Agreement on intellectual property rights was being revised to bring it into conformity with TRIPS.

The devaluation of the Guinean franc, liberalization reforms, private investment and the dismantling of controls on producer prices had contributed to an increased agricultural production; food security was the major objective of agricultural policies in Guinea. Major policy objectives in the mining sector included the restructuring of companies, the adoption of an institutional and juridical framework, and the construction of infrastructure.

The services sector was liberalized. However, the lack of investment, including FDI, delayed the privatization of companies such as Air Guinea and SOGETRAC. Guinea needed technical assistance to improve its multilateral commitments in trade in services.

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## Conclusions

In conclusion, it is my strong feeling that Members welcomed the participation by Guinea in the review process and expressed their appreciation for significant steps taken by Guinea towards a more outward-oriented, market-driven economy, with social development a priority. Members recognized the difficulties inherent to such a significant economic adaptation, particularly given the challenges faced by Guinea as a least-developed country, with a formerly centralized planned-economy system. They strongly encouraged Guinea to consolidate and build on the achievements of recent years. Members were also very conscious that, if the policies pursued domestically are to achieve the desired results, it would be important that Guinea continue to build a favourable environment for private capital and that it receive support at the regional level and within the multilateral trading system.

## Egypt – 24-25 June 1999

The second Trade Policy Review of Egypt was conducted on 24 and 25 June 1999. These remarks, prepared on my own responsibility, summarize the main points of the discussion; they are not a full report. Details of the discussions will be fully reflected in the minutes of the meeting.

The discussion developed under three main themes: (i) economic environment; (ii) trade policies and practices; and (iii) sectoral policies.

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## Economic Environment

Members congratulated Egypt on its economic reform initiated in 1990/91, in which trade liberalization had been important; macroeconomic indicators and growth had improved

significantly and GDP per capita had virtually doubled. Members felt that for Egypt to achieve its objective of annual growth of 7-8 per cent, it would need to expand and diversify exports, attract more foreign investment and improve confidence through greater transparency and predictability in its economic environment. Members welcomed Egypt's commitment to the multilateral trading system and noted the importance of its increased participation in regional agreements remaining in accord with multilateral rules.

In response, the Egyptian delegate emphasized that reform would continue. Efforts to expand and diversify exports were under way, including through export promotion, but Egyptian exports faced market-access constraints, particularly anti-dumping measures and technical requirements. Investment would be encouraged, including by an increased national capacity, the further removal of restrictions and by improving accountability and predictability of the trade regime. Egypt's economic reform emphasized private sector participation and market based competition, supported by an adequate social safety net such that benefits were distributed among the population. Egypt remained committed to the multilateral trading system, with regional and other links fully in compliance with WTO obligations and seen as a step towards increasing exports.

### Trade policies and practices

Members congratulated Egypt on its wide-ranging trade reform. They noted that most non-tariff barriers had been removed, tariff rates had been reduced and rationalized, although a degree of escalation remained. There was concern that some 12 per cent of applied tariffs appeared to breach WTO bindings. Some Members asked about the requirement that goods be shipped directly from their country of origin and about recent changes raising margins on letters of credit. Questions were asked about customs procedures, the application of standards and about quality controls on imports.

Members commended Egypt for the removal of export controls. Egypt was encouraged to bring its intellectual property rights and trade defence legislation into conformity with WTO Agreements. Some Members asked when Egypt would accede to the Agreement on Government Procurement and suggested that the 15 per cent preference for Egyptian bidders might lead to inefficiencies.

In response, the Egyptian delegate noted that special shipment requirements were a response to a surge in imports of counterfeit consumer goods; the requirement would be reconsidered as part of a programme to harmonize rules of origin. Customs ensured that applied tariffs did not breach WTO bindings. Egypt intended the timely implementation of its WTO obligations on TRIPS, Textiles and Clothing, and Customs Valuation. Trade defence legislation had been notified to the WTO, and was applied in accord with multilateral rules.

The Egyptian delegate detailed the application of technical requirements, stressing that most imports were subject to international standards, but he agreed that there was scope for a greater harmonization of domestic standards with international norms. Quality controls had been necessary to ensure compliance with standards. The increased appeals against customs decisions reflected the high level and diversification of imports. Banks were not subject to restrictions on financing imports, including by letters of credit.

### Sectoral policies

In agriculture, Members noted that there now remained virtually no controls on trade. Some saw Egypt as having a comparative advantage in exports of horticultural products but wondered about market access for these products. The manufacturing sector was seen as a future area of growth especially in industries such as food processing and textiles and clothing. Some Members asked why textiles and clothing remained subject to quantitative restrictions and it was noted there appeared to be restrictions on cement and poultry. In the automobile sector, some Members questioned the recent ruling restricting imports of motor vehicles to their year of manufacture.

Services were seen as crucial infrastructural support and their further reform was thought vital for continued economic growth. Financial services and telecommunications were particularly important for attracting foreign direct investment, and a Member urged further liberalization of maritime transport. Members looked forward to Egypt's continued participation in future services negotiations in the WTO.

In response, the delegate from Egypt mentioned various steps being taken to raise productivity in the manufacturing sector. On textiles and clothing, restrictions would be phased out by 2002. All imported goods, including automobiles, had to be new. There were no import restrictions on cement and poultry slaughtered according to Islamic law could be freely imported. In services, he noted that the ongoing liberalization and privatization of key activities allowed Egypt to look forward, in future negotiations, to an opening of markets in areas where it enjoyed a competitive advantage. Liberalization and privatization in agriculture had been far-reaching, the policy focus having shifted from self-sufficiency to food security and export-competitive production. However, Egypt remained deeply concerned

that the expectations of net food importing developing countries at the end of the Uruguay Round had not been met.

## Conclusions

In conclusion, it is my feeling that Members greatly appreciated Egypt's reform programme, particularly on the trade front, which had produced results in a relatively short period of time. Not only had economic growth been strong, but Egypt has successfully withstood the effects of external shocks. Egypt's emphasis on a strong social safety net, to support reform, is particularly welcome. Egypt was strongly encouraged to build on these achievements and to accelerate its trade reforms, including by improving the predictability and transparency of its economic environment, which could lead to improved trade and investment flows. It is also my feeling that Members welcomed Egypt's commitment to the multilateral trading system and that the system should support the Egyptian reform effort, particularly by keeping markets open.

## United States – 12-14 July 1999

We have had serious, positive and open discussions. Members of the TPRB are clearly impressed by the United States' recent outstanding economic performance which is reflected, inter alia, in strong growth, low unemployment and low inflation. No doubt, this performance is partly due to the considerable trade and investment liberalization achieved by the Uruguay Round and WTO Agreements.

Members acknowledged that the US economy is among the most open and transparent in the world. This openness and its recent impressive economic performance have meant that the United States has played a pivotal role in supporting the world economy in the wake of the Asian financial crisis. At the same time, imports, often at lower prices, have served as an important safety valve for the US economy, helping to meet domestic demand and subdue inflationary pressures that might otherwise have emerged. Further, foreign investment has enabled the US economy to grow faster than would have been the case had it relied solely on domestic saving.

Members acknowledged that while the resulting large and widening US current account deficit, and difficulties faced by some sectors (notably steel and agriculture), have led to certain protectionist pressure, hitherto the Administration has, by and large, resisted these pressures, to the benefit of the multilateral trading system.

Nonetheless, one senses that Members are worried that if the US economy slows substantially, and unemployment starts to edge up, it may become more difficult for the Administration to resist domestic protectionist pressures. Moreover, given that the United States is the world's single largest trader and the importance that Members attach to its leadership role on multilateral issues, delegations asked clarification or voiced concerns about a number of features of the US trade and investment regime and recent developments therein, particularly those of a unilateral or extra-territorial nature. Among these features were:

- the impact of regional initiatives on the WTO-based multilateral system;
- the existence of tariff "peaks", often embodied in specific rates, and tariff escalation;
- some recent high profile anti-dumping (notably in steel), countervailing and safeguard (inter alia, lamb) actions;
- conditions attached to the GSP;
- import protection and the export enhancement programme for agriculture;
- rules of origin, especially with respect to textiles and clothing;
- speed and scope of implementation of commitments pertaining to the ATC;
- measures, notably 301 and related actions, aimed, inter alia, at securing market access abroad for US exporters;
- actions by the US in matters that have not fully worked their way through WTO disputes settlement procedures;
- extra-territorial application of US and sub-federal laws (including those pertaining to labour, health, sanitary and environmental standards);
- state-federal relations relating to US WTO commitments;
- protection of US shipbuilders and providers of shipping services;
- government procurement, in particular the Buy American Act.
- harmonization of US intellectual property rights with international practice.

Clarification has been brought to these issues and we look forward to written replies on outstanding matters.

The US commitment to the full implementation, and compliance with, WTO rules and principles has to be noted. Although the above matters may appear to be relatively insignificant for an economy as large as the United States, some can have extremely serious repercussions for US trading partners, especially smaller less-developed economies.

Looking to the future, Members expressed some worry over the Administration's difficulty, for the time being, in securing "fast-track" authority, which many Members perceived as a reflection of a certain erosion of support within the United States for trade liberalization. While noting that "fast-track" was not needed for negotiations and the endeavours of the US Administration to build overall (domestic, institutional and international) support for a meaningful, transparent trade agenda, with the next Ministerial being hosted by the United States in Seattle later this year, Members look to the United States to demonstrate its traditional leadership role in undertaking future multilateral trade negotiations.

## Bolivia – 19 and 21 July 1999

We have had very open and constructive discussions, with Members commending Bolivia in very favourable terms on its economic stabilization and reform programme implemented since the previous review in 1993. Despite external shocks, including El Niño, and institutional weaknesses, Bolivia has achieved steady growth, sharply reduced inflation and attracted considerable foreign capital. No doubt major factors in this performance have been the modernization of the state, including the privatization of public enterprises, and consistent trade and investment liberalization, largely carried out on an unilateral basis.

Members viewed Bolivia's trade and investment regime as predictable and transparent. They highlighted the virtually uniform ad valorem tariff of 10 per cent and Bolivia's shunning of non-tariff trade barriers and trade defence measures. Bolivia was also praised for its largely neutral incentive structure that does not discriminate among sectors. Members noted especially that agriculture was largely free of government intervention, and had become the major export.

Members welcomed Bolivia's Economic and Social Development Plan XXI based on the principles of opportunity, equity, dignity and institutionality with a view, inter alia, to alleviate poverty and marginalization. Indeed, reform will have to benefit large sections of the population as poverty remains a problem. Moreover, Bolivia's trade and investment regime is undermined by longstanding administrative weaknesses and a large informal sector. Members strongly encouraged Bolivia to further consolidate and build on its recent achievements by focusing on areas such as stricter enforcement of the rule of law and bringing informal activities into the formal economy. And the multilateral system must contribute, particularly with technical assistance; once needs are clearly identified, I think that every effort should be made to meet them.

Members considered Bolivian commitments under the GATS as relatively modest in light of the liberalization of recent years. Bolivia's trading system would be strengthened by expanding its WTO bindings. Members also invited Bolivia to consider undertaking new multilateral engagements to close the wide gap between applied and bound tariffs, and to sign the Agreement on Government Procurement.

Delegations provided orally or in writing detailed clarification on a number of features of Bolivia's trade and investment regime, including:

- statistical reliability due to a large informal sector; the apparent dispersion of trade policy responsibilities across a number of ministries;
- customs administration reform process and new customs legislation. We noted the objectives of efficiency, transparency and simplification;
- the gap between certain bound and applied tariff rates;
- lower domestic taxes levied on certain locally produced alcoholic beverages;
- potentially discriminatory rail-freight charges collected on imports;
- the nature (voluntary/compulsory; national/regional) of technical standards and their WTO notification;
- expectations for export diversification;
- the application of trade-related investment measures under the Hydrocarbons Law;
- existing competition provisions and possible adoption of a general and sectoral competition law;
- government procurement practices;
- the adoption of new intellectual property legislation and efforts to improve enforcement;
- the ratification of the Fifth Protocol to the GATS on financial services;
- participation in regional trading arrangements, particularly the Andean Community and with MERCOSUR, Chile, Cuba and Mexico, and their notification under the GATT and GATS.

Members expressed their appreciation for the clarification and the oral and written replies by Bolivia provided in the context of the meeting and are grateful that Bolivia has undertaken to respond in writing to some specific questions from Members and to make these responses available to the Membership; Bolivia has set a good example for all Members. Members recognized the challenges Bolivia faces as a small developing economy in the application of WTO commitments, and that complying with these commitments had

conveyed social and political costs. Members were conscious of the importance of complementing domestic reform efforts with support from the multilateral trading system, and expressed their readiness to consider positively Bolivia's further specific requests for technical assistance. Finally, it is my sense that in view of the dynamism showed by the Bolivian delegation during this review, Members look forward to its constructive role in the preparatory process for the upcoming multilateral trade negotiations.

