Chapter One

The state of world trade, trade policy and the World Trade Organization

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This issue of the WTO Annual Report – inaugurating a completely new format – is released on the eve of the first WTO meeting at Ministerial level.[1] The outcome of that meeting will offer the world community insights into how governments view the implementation of the WTO Agreements, what they see as the key trade issues now and for the immediate future, and the role they see for the WTO in addressing those issues. Singapore will provide an opportunity not only to evaluate and reinforce the achievements of the Organization's first two years, but also to guide the future evolution of the trading system.

This first chapter highlights aspects of the background of trends and developments in world trade, in trade policies and in the activities of the WTO against which the Ministers will meet. Many of the themes touched on in this chapter are developed at greater length in subsequent chapters.

I. Recent trends in world trade

1995: Growth Continues

With strong growth in both merchandise and services trade in 1995, the value of total cross-border trade in goods and services exceeded $6,000 billion for the first time.

Last year was a good year for world trade, as the detailed analysis in Chapter Two makes clear. True, the 8 per cent increase in the volume of world merchandise trade in 1995 represented a moderate slowdown from the unusually large 10 per cent gain in 1994. But it exceeded the average growth of trade over the past five years (6 per cent) and tied with 1988 for the second highest growth in the volume of trade in the past 10 years. Moreover, the 5 percentage point excess of trade growth over merchandise output growth (8 per cent versus 3 per cent) was the second largest in a decade, indicating that globalization is continuing at a rapid pace. In contrast, the last time output grew by 3 per cent – in 1986 – trade grew by only $4^{1}/_{4}$ per cent.

In value terms, world merchandise trade increased 19 per cent, and world trade in commercial services 13 per cent, in 1995.

Growth in merchandise trade in 1995 varied across regions, with the transition economies experiencing the strongest rates of growth: their exports and imports increased respectively by 26 and 23 per cent. Even for Africa and the Middle East, which registered below-average growth rates in 1995, the surge in trade was strong enough to exceed their performance during the first half of the 1990s. For instance, benefiting from an increase in commodity prices, the value of Africa's exports grew by 12 per cent, compared to 3 per cent in the previous year and negative growth in the three preceding years. In Africa, countries with export growth exceeding 20 per cent included Angola, Central African Republic, Kenya, Tanzania and Togo.

Countries that achieved comparatively high trade growth in 1995 covered a wide geographical area. For instance, among the top 50 merchandise exporters, the value of merchandise exports increased by 30 per cent or more for Argentina, Chile, Finland, Mexico, Poland, Republic of Korea, Sweden, and the Philippines. Similarly, among the top 50 merchandise importers, the value of merchandise imports increased by 30 per cent or more for Brazil, Chile, Czech Republic, Malaysia, Poland, Republic of Korea, South Africa, Thailand, Turkey, and Venezuela.

[1]The new WTO Annual Report format incorporates in one publication not only the former International Trade and WTO Activities, but also the Director-General's Annual Report to the Trade Policy Review Body (TPRB) entitled Overview of Developments in International Trade and the Trading System The latter report is required by Part G of Annex 3 of the WTO Agreement, which provides for the TPRB to undertake, as part of the Trade Policy Review Mechanism, an annual overview of developments in the international trading environment which are having an impact on the multilateral trading system. That overview is assisted by an annual report by the Director-General setting out major activities of the WTO and highlighting significant policy issues affecting the trading system.

Prospects: after a comparative slowdown in 1996, trade growth to speed up again in 1997

At the beginning of 1996, modest slowing of trade growth was widely anticipated for the year as a whole. Based on the limited data now available for the first half of the year, it appears the slowdown may be somewhat sharper than predicted. But the volume of merchandise trade for 1996 as a whole is expected to increase by about 5 per cent. If that projection proves accurate, trade growth this year will match the expansion in 1990 and exceed the growth of trade in four of the past 10 years.

The slowdown in the rate of expansion of world trade appears to be largely the result of reduced consumer demand in Western Europe and North America. Related to this is the less rapid expansion of trade in Asian developing countries – though with merchandise export volumes expected to increase by 9 per cent, and import volumes by 10 per cent, these countries are expected to continue to expand their trade at a rate well above world average.

In fact, it is not so much a question of a sharp slowdown in global trade growth, as a return to more typical trade growth following two exceptional years. With output projected to grow this year at about the same 3 per cent as last year, a 5 per cent expansion of trade would also bring the excess of trade growth over output growth back to a level more typical of the postwar average.

The recent comparative slowdown in trade and economic growth of several Asian countries also reflects the result of domestic policies designed to achieve better macroeconomic stability and prevent emergence of inflationary pressures. This can be seen as a consolidation of gains made during the last 10 years when the volume of world trade grew by 80 per cent, and as providing a basis for stronger growth in future years. Moreover, in 1997, world merchandise trade growth is expected to accelerate as economic activity picks up in Western Europe.

The sustained high growth trend in developing countries' trade is largely explained by the implementation of domestic policies conducive to growth, and by the liberalization commitments they have undertaken in the context of the multilateral trading system. For developing countries, excluding oil exporters, the average ratio of trade to GDP has risen from 10 per cent in 1970 to nearly 30 per cent in 1995; the latter proportion is about 10 percentage points higher than the corresponding ratio for developed countries. In 1996, the growth rate of developing countries' output is expected to remain at around 6 per cent, compared to 2 per cent for industrialized countries, despite an expected lower rate of increase in import demand in industrialized countries as a group. It is estimated that by the middle of the next decade, developing countries will generate a slightly larger share of total world output than industrialized countries.

The rapidly expanding intra-developing country trade flows now constitute a significant growth stimulus not only among developing countries but for the global economy as a whole. For example, the intra-regional exports of developing Asian economies at $287 billion in 1995 are catching up with their combined exports of $314 billion to North America and Western Europe. During 1990 to 1995, North American exports to developing Asian economies grew by $13\frac{1}{2}$ per cent per annum, compared to $7\frac{1}{2}$ per cent for exports to the rest of the world. Exports from Western Europe and Japan to developing Asia grew even faster at 15 and $16\frac{1}{2}$ per cent per annum, respectively, about three times the growth in their exports to all other regions. The total share of developing Asian economies in world trade is now about the same as that of North America, exceeds that of the European Community (excluding intra-EC trade), and is approximately double that of Japan. This share is expected to increase further in coming years and serve as a major source of growth for the global economy.

II. Trends in trade policies

It is no exaggeration to say that the last 10 years have seen a revolution in trade policies. When the Uruguay Round began in 1986, the world was a very different place. As detailed in Chapter Three, substantially reduced average tariff levels on industrial products applied by developed countries were offset by the widespread use of quantitative restrictions. Agriculture in these countries was increasingly protected from international competition by a variety of trade-distorting devices.

In many developing countries, import-substitution policies were still the norm, resulting in high tariffs as well as quantitative restrictions. As a result, these countries were marginal players in the international trading system.

Central and Eastern European countries were operating centrally-planned economies and their participation in international trade was dictated not by the market but by bureaucratic decisions.

The multilateral trading system was fragmented because membership of several key GATT agreements – and indeed of the General Agreement itself – was not universal. Trade in services was largely outside the scope of multilateral disciplines. Intellectual property rights, while governed by international standard-setting conventions, were not subject to any treaty for enforcement of these standards. This provided a fertile ground for the rise of unilateralism and bilateralism in trade relations. The dispute settlement machinery of GATT had become less effective because of the opportunities that existed for blockages. Confidence in GATT and in multilateralism was at a low ebb.

The extent and speed of the changes since then are striking. Developed countries have not only reduced further their tariffs on industrial products, but have also eliminated or undertaken to phase out quantitative restrictions on these products. They have begun the process of reforming the agriculture sector, reducing market-access restrictions, trimming trade-distorting domestic and export subsidies, and converting a variety of non-tariff measures into tariffs.

Developing countries have generally abandoned import-substitution policies and made significant progress in lowering trade barriers. During the Uruguay Round they made commitments to reduce and bind tariffs and the process of reduction has continued after the conclusion of the Round in many important countries, particularly in Asia. Some developing countries maintain quantitative restrictions for balance-of-payments reasons, but this is the exception rather than the rule and the prospects for their elimination in the near term are bright. The commitment by many developing countries to economic and trade reform has not only brought them fully into the trading system but also made them leading players.

Likewise, the erstwhile socialist economies have generally embraced the market economy and have become, or are in the process of becoming, part of the trading mainstream.

Looking at the pattern of reform overall, the WTO's experience with Trade Policy Reviews suggests that reform works best under conditions which involve a long-term policy framework, where alternative forms of protection do not replace those which are phased out, where a transparent framework is adopted for policy development and monitoring, and where there is mutually supportive domestic, regional and multilateral liberalization.

The significance of these changes has sometimes been obscured by the dramatic geo-political shifts of the last decade. Yet, though they lack a symbol like the fall of the Berlin Wall, their importance over the longer term may be even greater. The emergence of a virtual global consensus on the fundamentals of trade policy reinforces economic and political liberalization and lessens the risk of a reversion to old ways. Furthermore, open trade policies help encourage the rapid advance of global economic interdependence, not only releasing enormous energy for growth but also promoting a community of interest among countries at different levels of development. The WTO in turn embodies the new trade policy paradigm and gives it contractual solidity and enforceability.

A number of indicators show the growing economic interdependence among nations. Over the period 1973-1995, the estimated value of annual outflows of foreign direct investment multiplied 12 times (from $25 billion to $315 billion), and the value of merchandise exports multiplied eight and a half times (from $575 billion to $4,900 billion). Sales of foreign affiliates of multinationals are estimated to exceed the value of world trade in goods and services (the latter was $6,100 billion in 1995).

The reality of the global economy has outstripped international trade rules and policy approaches agreed half a century ago, in a different world. More than adjusting specific rules and disciplines in periodic negotiating rounds, what has become increasingly necessary is a permanent framework around which the trading system can grow and evolve continuously in a way which reflects the changing nature of world trade and of the participants in it.

This is why the establishment of the WTO deserves to be seen as one of the outstanding international achievements of the decade, as important in its time as the original foundation of the multilateral system was in its.

In systemic terms, the change that the WTO represents is clear. For example, the dispute-settlement machinery of WTO is now much more effective in dealing with disputes among Members and defusing them at an early stage. Expansion of the scope of multilateral rules to cover trade in services and intellectual property rights, coupled with the more effective dispute settlement machinery, discourages recourse to bilateralism and unilateralism and thus reduces international trade friction. All the past ills of the trading system may not have been cured, but it is now better equipped than ever before to promote growth and bolster stability.

III. WTO activities in 1996

When the WTO took over from the GATT, it did not have the luxury of a relaxed beginning and a gradual build-up to its new and greatly expanded mandate. The demanding pace of work in its first year, and again now in its second year, is a good indication of the central role the WTO is playing in the ongoing integration of the world economy. At the most basic level, the pace of the work is evident from the number of meetings. There were 1,650 meetings in 1995 (up 5 per cent from an already busy 1994), and in the first half of this year, the number of meetings was running 17 per cent ahead of 1995 (and 55 per cent above the first half of 1994). Allowing for periods when there are few, if any meetings, this means an average of nearly 40 meetings a week in 1995 and 46 meetings a week in 1996. All delegations in Geneva, and especially the ones with relatively smaller staff and fewer back-up resources in capitals, are feeling the pressure of this work load.

As regards the substance of those meetings, even a brief glance at the review of WTO Activities in ChapterFive reveals the extraordinary breadth of the WTO's mandate. The trade issues covered included:

- market access
- rules pertaining to specific product categories such as agriculture and textiles and clothing
- rules relating to anti-dumping, subsidies and safeguards, regulations and standards covered by technical barriers to trade and sanitary and phytosanitary measures
- import licensing procedures
- rules of origin
- trade in services
- trade-related intellectual property measures
- trade and environment
- accession

The work was carried out through some 30 different bodies. The discussions in these bodies provide Members with an opportunity to clarify and monitor the policies used by other Members; this process is the first stage of the mutually beneficial interaction among Members which eases trade tensions and helps to contain possible disputes.

For issues that cannot be resolved in other ways, the WTO's reinforced **dispute settlement** system continues to prove its effectiveness. The WTO dispute settlement procedures offer both a pragmatic approach which encourages the resolution of differences through consultations and a formal mechanism for resolving disputes through their submission to a panel and the WTO Appellate Body.

As of 16 October 1996, 59 requests for consultations covering 41 matters had been made under the WTO's Dispute Settlement Understanding. Of these, nine matters were settled without even the establishment of panels, and three were settled after the panel's establishment but prior to the conclusion of the panel process. Two panels (the Gasoline case and the Japan Taxes case) have completed their work, and these cases have also been reviewed by the Appellate Body. Currently, there are seven active panels on a variety of issues.

In a marked change from the past, when the dispute settlement system was mostly used by developed countries, both developed and developing countries are actively using the system to settle their trade disputes. This is a sign of increased confidence in the impartiality and effectiveness of the WTO's multilateral dispute settlement system. Ministers at Singapore can justly regard the dispute settlement system as an outstanding success story of the WTO's first two years.

The central focus of the WTO's work in 1996, as in 1995, has been the **implementation** of the commitments undertaken at the end of the Uruguay Round. These included commitments to continue negotiation in a number of vitally important sectors of trade in services. Two of these negotiations were due for completion in 1996: **maritime services and basic telecommunications.**

Though the negotiations in maritime services were suspended this year, the negotiators were able to agree on some positive points. Negotiations will resume in the next major round of services liberalization, which is only three years away, and they will resume on the basis of the best offers tabled in this negotiation. Meanwhile, there is an understanding that countries will respect a "peace clause", i.e. not take measures to improve their negotiating position except in response to measures taken by others. In basic telecommunications, 34 members, counting the EC as one, made offers to grant foreign access to domestic telecoms markets for a wide variety of services. Thirty of these members also offered commitments in the vital area of domestic regulation. This was the first time that multilateral commitments were negotiated on fundamental competitive principles. Since the negotiations could not be completed by April this year, it was decided to freeze the existing offers until a one-month period beginning 15 January 1997, when participants will be able to improve, change or withdraw their offers.

Concluding the telecoms negotiation is clearly a top priority for the new year – as is improving on the result obtained in 1995 in financial services. The telecom sector alone is worth over $500 billion in global revenue annually, and the offers tabled so far cover 93per cent of this amount. These sectors are the arteries and the nervous system of all economies, whatever their level of development.

These negotiations also open a window on the future of trade negotiations. Negotiations in new knowledge-based sectors transcend the traditional notions of exchanging concessions among opposing interests. In a world where economic prospects will more and more depend on access to an efficient financial and communications infrastructure, all parties to the negotiations have essentially the same interest. Liberalization within agreed rules can thus be seen as a shared understanding, not a trade-off of conflicting agendas. A more widespread appreciation of this perception would contribute significantly to the momentum for successfully concluding these negotiations – and others like them in the future.

Another way in which the WTO is embracing its future potential is through expanding its membership. Since the establishment of the WTO, the **accession** process for four countries (Ecuador, Bulgaria, Mongolia and Panama) has been completed, three of them in 1996. With the accession of Panama, all countries in the Latin American region are now Members of the WTO. The WTO currently has 28 accession Working Parties. The most recent requests for accession were from Georgia, the Kyrgyz Republic and the Sultanate of Oman. Existing requests include important economies like Belarus, China and Chinese Taipei, the Russian Federation, Saudi Arabia, Ukraine and Vietnam, economies in transition like those of the CIS, Estonia, Latvia and Lithuania, Croatia and the Former Yugoslav Republic of Macedonia, and important developing economies like Jordan. These are all important players on the international economic and trade scene. They are also among the most significant emerging markets. The strong desire among these countries to join the WTO shows the growing appeal of the concept of a truly universal trading system based on internationally agreed and enforceable rules.

The accession of new Members and the more active participation of many existing ones have placed an added importance on the **technical cooperation** activities of the WTO. This programme, which involves a very modest budget commitment relative to other international development aid activities, aims at building human and institutional capacity in developing and in transition economies so that they can benefit to the maximum from their trading opportunities.

Since the entry into force of the WTO in January 1995, a total of 173 technical co-operation activities has been organized both in developing regions and in transition economy countries, of which 94 were organized in 1996. These activities, including those organized at the regional level, benefited over 100 countries. A lasting, structural impact of these activities is sought through human resource development and institutional capacity building. In this context, a joint framework agreement[2] was concluded between WTO, UNCTAD and the International Trade Centre (ITC), to promote complementarity among these institutions and to avoid duplication of technical assistance activities provided by them to African countries. Furthermore, as a result of an initiative by the Director-General following his visit to Africa in January 1996 with the Executive Director of the ITC, an "Integrated Technical Assistance Programme in Selected Least-Developed and other African Countries" was developed in close coordination between WTO, UNCTAD and the ITC.

This Integrated Programme initially covers eight African countries, including four least developed countries: Benin, Burkina Faso, Tanzania, Uganda, Côte d'Ivoire, Ghana, Kenya and Tunisia. It is envisaged to extend this programme to other countries 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. Other joint technical cooperation activities include WTO collaboration with the ACP Secretariat and the European Union, which resulted in a series of subregional seminars for ACP countries undertaken between February and October 1996, including five in Africa, one in the Caribbean and one in the Asia-Pacific region.

1996 has also been the year in which the **least-developed countries** began to receive the attention their situation deserves. The urgent need for concrete measures to counter their marginalization was one of the main themes at the G7 Summit in Lyon this year, at which the WTO was present for the first time. On that occasion, and on numerous occasions thereafter, the Director-General has put forward proposals to improve the situation of least-developed countries. These include:

- full and rapid implementation of the Marrakesh Declaration on the Least-Developed Countries
- improving their market access by working towards the elimination of all tariff and non-tariff barriers faced by their exports
- helping to improve their investment climate, especially by negotiating, when appropriate, multilateral rules on investment
- helping build human and institutional capacity by improving the effectiveness and coordination of technical cooperation.

The collective effort to help least-developed countries continues to be a major theme for the **cooperation between the WTO and other international organizations.** In 1996 these links were further developed and deepened. In particular, the Marrakesh Ministerial mandate to work for greater coherence in global economic policymaking was acted upon through the negotiation of cooperation agreements between the WTO and the IMF and World Bank. These agreements provide a basis for, inter alia, improving the exchange of information among the three organizations, attendance at each other's relevant meetings and pursuing mutually consistent and supportive policies. At the time of writing they were in the process of final approval by the respective governing bodies of the three institutions.

In addition, the WTO's already close cooperation with UNCTAD has been further strengthened, through the joint technical cooperation projects noted above, and

[2] "Technical Cooperation for Africa in the Multilateral Trading System, Main Activities by the International Trade Centre (UNCTAD/ITC), the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO)".

through collaboration between the two secretariats at all levels. The Director-General has continued to hold regular meetings with Mr. Ricupero, the Secretary-General of UNCTAD, and made addresses to UNCTAD IX and UNCTAD's Trade and Development Board; Mr.Ricupero has in turn addressed the WTO General Council and Committee on Trade and Development.

Cooperation has likewise been intensified with the United Nations and its specialized agencies, notably in the context of the campaign for the least-developed countries. The WTO has also maintained cooperative contact in 1996 with a wide range of other organizations such as the OECD, WIPO, the World Customs Organization and the FAO, whose World Food Summit in November the Director-General is scheduled to address.

Throughout this increasing network of contact and collaboration the WTO is reinforcing the message that **trade is a central concern of international relations** and that the **trade dimension of growth and development** is one that cannot be underestimated.

Another very important area in which the WTO made significant progress in 1996 was the consideration of **regional trade agreements** in relation to the multilateral system. The considerable recent expansion in the number, scope and ambition of such initiatives has made it all the more essential to ensure not just that they conform to WTO rules but also that, in a wider sense, they reinforce, rather than detract from, the multilateral system. This year, the WTO's Members greatly improved the Organization's capacity to handle these issues by establishing a Committee on Regional Trade Agreements, which met for the first time in May 1996. The Committee was able to identify, through the examinations it conducted, a number of issues related to the relevant WTO rules which are of importance for its consideration of the systemic implications of regional trade agreements. In addition, the Committee undertook the examination of 21 regional trade agreements out of the 32 outstanding as of June 1996; provided a single forum for consideration of a variety of issues related to regional trade agreements under the WTO; and developed the "Standard Format for Information on Regional Trade Agreements" which is expected to accelerate the provision of information on agreements notified to the WTO.

Lastly, as the scope of the multilateral trading system has evolved and traditional external barriers have been reduced by Members, domestic deregulation and international investment have assumed greater importance. The **special topic** in this year's annual report is "**Trade and Foreign Direct Investment**" (Chapter Four), which examines the evidence and the literature concerning the subject, sets out the policy choices WTO Members face, and concludes that only a multilateral negotiation in the WTO, when appropriate, can promote a global and balanced framework for dealing with the linkages between trade and investment.

The Significance of the Singapore Ministerial

This brief survey of the challenges and achievements of the WTO's second year makes clear the significance of the issues that are on the table at Singapore.

The Ministerial Meeting will be an event of political significance and it should send a strong political message, one which emphasizes the opportunities in the new global economy while not ignoring the challenges. It should be a message of ambition and confidence for the multilateral system as it approaches its 50th anniversary in 1998.

Unlike most of its GATT predecessors, the Singapore Ministerial will not be the start or the end of a major negotiation. The first ministerial meeting of the WTO will, instead, be a very important point on a continuum – the evolution of the multilateral trading system. This report sets out some of the challenges that the pace and the extent of global economic integration pose to the system. The new effectiveness and credibility that it has gained through the WTO must be maintained by ensuring that the Organization is mandated and equipped to respond to these challenges, and to assist its Members to do so. As the trading world moves ahead, the WTO cannot stand still. The issues at stake are not just ones of growth and prosperity, vital though these are; the existence and expansion of a trading system based on internationally agreed and enforceable rules and disciplines is one of the great successes of postwar international relations, and the world needs it to continue as an example of cooperation and a guarantee of stability.

Chapter Two

World trade in 1995 and prospects for 1996

World trade in 1995 and prospects for 1996

Overview

World GDP grew at almost the same rate in 1995 as in 1994, or by roughly 2 per cent.[1] At the same time, and despite increasing commodity prices, inflation declined by about one half in the developing and transition economies as a group, while continuing to be very low in the industrialized countries. The expansion of world output was broadly based. For instance, 103 out of 137 countries are estimated to have recorded positive per capita income growth in 1995, compared with 93 countries the previous year, and 63 countries in 1993.[2] However, many countries continue to suffer from a sluggish growth in total and per capita income.

World merchandise exports expanded 8 per cent in volume terms in 1995, moderately below the unusually large 10 per cent increase in 1994 but above the 6 per cent average annual gain for the previous five years. Following the pattern evident since 1991, the expansion of world merchandise trade exceeded by a wide margin the expansion of world merchandise production. With the possible exception of the Middle East, this large gap between trade growth and output growth was evident in 1995 in all the main regions.

Data on the volume of trade in services are not available, but the value of trade in commercial services is estimated to have expanded by 13 per cent, compared with the 9 per cent expansion in 1994 and stagnation in 1993. However, the growth in the value of trade in commercial services again fell substantially short of the growth in the value of merchandise trade, which expanded by 19 per cent 1995.

The volume of exports of all three main categories of world merchandise trade – agricultural products, mining products and manufactures – grew during 1995 by between 5$^1/_2$ and 9 per cent, with agricultural products and manufactures growing at a slightly slower pace than in the preceding year, and mining products expanding somewhat faster.

At a more disaggregated level, exports of non-ferrous metals, ores and minerals, and iron and steel increased by more than 24 per cent in value terms, benefiting from rapid price increases in US dollar terms. Office and telecom equipment continued its brisk expansion also in 1995, growing by more than 25 per cent in value terms, reflecting the strength of demand stimulated by new products and relatively stable prices in the electronic sector. Among sectors with below-average growth were fuels and clothing. The value of trade in agricultural products expanded at a pace slightly below that of all merchandise, as above-average unit value increases were more than offset by below-average volume increases.

At the regional level, GDP growth in the industrial countries and the developing countries slowed slightly in 1995 compared to 1994, while for the transition economies the rate of decline of output slowed down substantially (and output is expected to turn upward during the first half of 1996). GDP growth in non-OECD Asia, Central and South America, and several of the transition economies continued to be more dynamic than in the industrial countries.

The growth in the value of merchandise trade was unevenly distributed across regions, with above-average rates experienced by the transition economies and Western Europe, as well as by Latin American exports and Asian imports. In the remaining cases, rates of growth of imports and exports fell short of the average rates for the world as a whole. But, even if below the world average, the growth of the exports of Africa, North America and the Middle East was significantly higher than during the earlier part of the 1990s.

[1]This figure is obtained using market exchange rates when aggregating the GDP growth rates of different countries. An alternative approach, used since 1993 by the IMF, is to use GDP on a purchasing power parity basis as weights when estimating regional and global output growth. This has the effect of increasing the relative contribution of the GDP of many non-OECD countries to world GDP, and thus increasing the weights of these countries in calculations of the average GDP growth for the world as a whole. Since the non-OECD countries (as a group) have experienced faster GDP growth than the OECD countries in recent years, the IMF figures show higher output growth rates than do figures based on the traditional approach, which uses market exchange rates to convert each country's GDP into US dollars. For the year 1995 the IMF approach yields a world GDP growth of 3$^1/_2$ per cent, slightly lower than the preceding year (in other words, the change between 1994 and 1995 is very similar to the change indicated by the traditional approach). For an explanation of the IMF approach, see IMF (1993, Section VI).

[2]United Nations (1996, Table I.1).

GDP

Based on IMF projections, world GDP is expected to expand at a slightly higher rate during 1996 than during 1995.[3] The output of the industrial countries is expected to grow slightly faster than in 1995, or 2.3 per cent. The outlook for developing countries as a group remains excellent as they are projected to increase their output by nearly $6\frac{1}{2}$ per cent. For the economies in transition, the previous years' negative output growth is expected to change into a modestly positive rate of roughly 0.5 per cent.

The projected developments diverge with regard to the industrialized countries. Growth is expected to slow down in the European Community, from 2.4 per cent in 1995 to 1.5 per cent in 1996, with a slight increase expected for the latter part of the year. Western Europe continues to be plagued by high unemployment and subdued consumer confidence, leading to low consumer demand. At the same time, fiscal policies are expected to remain tight in order for countries to meet the convergence criteria for the Economic and Monetary Union (EMU). However, the successful curbing of inflation and inflationary expectations, and the associated declines in nominal and real interest rates, are expected to gradually stimulate economic activity.

After a prolonged period of slower growth, Japan's recovery began in mid-1995, and is expected to accelerate in 1996. This growth is stimulated by supportive fiscal and monetary policies and the depreciation of the yen starting in mid-April 1995. For the United States, economic growth is expected to increase to 2.3 per cent from the previous year's 2.0 per cent, largely driven by strong consumer and business investment demands. Other contributing factors include expanding net exports.

Although projections for developing Asia point to a slight reduction in GDP growth (to 8 per cent) in 1996, this region is expected to be once again the fastest-growing region in the world. Latin America is expected to grow more rapidly than in the preceding year, in part as a result of the resumption of growth in Argentina and Mexico after the recent financial turmoil (the peso crises). Africa as a whole is expected to increase its growth from 3 to 5 per cent in 1996. The growth picture will continue to be heterogenous, however. Morocco and Tunisia are projected to recover strongly and grow at markedly above-average rates. Nigeria and South Africa are expected to expand by about 4 per cent, a moderate improvement compared with 1995.

The Middle East region is expected to continue to grow at about half the average rate of developing countries, but with considerable differences between individual countries. The economies in transition are expected to see a turn-around from negative to a modest positive growth of 0.4 per cent. Rapidly falling inflation, structural adjustments, and general improvements in macroeconomic conditions are providing a foundation for more rapid growth.

World trade

Although global GDP growth is expected to remain roughly unchanged in 1996 as compared with 1995, the rate of increase in global trade is expected to slow significantly. The value of world merchandise trade is estimated to have slowed from an annual increase of 19 per cent in 1995 to less than 5 percent in the first half of 1996 (relative to the first half of 1995). A marked slowing of growth in the value of trade could be observed for North America, Latin America, Western Europe and Asia. For all regions the deceleration affects both exports and imports. The decrease is more pronounced on the import side than on the export side in North America and Western Europe, while the opposite holds true in Asia. This pattern of trade developments among these three regions was already evident in 1995 and reflects principally differences in demand growth.

A large part of this sharp slowing of growth in the value of merchandise trade is due to developments in dollar prices. "Valuation effects" due to exchange rate movements, especially of the yen and some Western European currencies vis-à-vis the US dollar, were the key factor.[4] For example, Japanese exports rose in dollar terms by $11\frac{1}{2}$ per cent in 1995, while they decreased by 10 per cent in the first six months of

[3]This section draws on IMF (1996). It should be recalled that IMF's aggregate growth numbers are based on purchasing power parity weights (see footnote1).

[4]In 1995, the US dollar depreciated against the Japanese yen and the ECU by 8 and 9 per cent, respectively, which automatically raises the dollar value of trade flows invoiced in those (and other appreciating) currencies. In the first half of 1996, the dollar appreciated vis-à-vis the yen and the ECU by 18 and $2\frac{1}{2}$ per cent, respectively.

1996. France and Germany reported growth in the dollar value of their exports of about 20 per cent in 1995, and an absolute decrease in the first half of 1996.

However, exchange rates are not the only factor at work. Export prices in national currencies have been very weak in many industrial countries and the deceleration in volume terms has also been marked in many cases. Unfortunately, volume data for the Western European countries in the first half of 1996 are scarce. Given the sluggish economic growth in most Western European countries, imports of merchandise are most likely to expand only moderately in volume terms during the first half of 1996. Indeed, in France and the Netherlands merchandise import volume growth was actually negative in the first quarter of 1996. Data for the United Kingdom, it should be noted, show an unabated strength in exports and even an acceleration in import growth. However, the United Kingdom performance is not representative for Western Europe as a whole, as its economic growth is well above the Western European average.

North America's merchandise import volume growth continued to decelerate sharply – to less than 5 per cent – with a very sharp contraction in Canada's imports. Very sharp deceleration in import growth is also reported for Japan, Korea, Chinese Taipei and Hong Kong. In Japan, import volume growth was only 3½ per cent in the first six months of 1996, compared with an increase of 12½ per cent for all of 1995. China's imports, in contrast, expanded more rapidly in the first half of 1996 than in 1995.

The slowdown in North American merchandise exports was relatively moderate due to the continued strength of United States exports. In Asia, large differences could be observed among the leading exporters. While the growth in volume of merchandise exports was negative in the first half of 1996 for Japan, China, Chinese Taipei and Hong Kong (domestic exports), export growth in Korea and Singapore was still in the double-digit range, although somewhat lower than in 1995.

In summary, while the information available at the time of writing is incomplete, it points to a stronger slowdown in world merchandise trade growth than was foreseen at the beginning of this year. At present, it seems likely that global merchandise trade will grow in volume by about 5 per cent in 1996, compared to 8 per cent in 1995.

World trade in 1995

I. Global developments

The volume of world merchandise exports expanded by an estimated 8 per cent in 1995, somewhat below the 10 per cent increase in 1994, but still above the 6 per cent average annual gain for the previous 10 years (ChartII.1).[5] The growth of world merchandise output also slowed somewhat, to 3 per cent compared with the 4 per cent gain recorded during the strong economic recovery in 1994.[6] Following the pattern evident since 1991, the expansion of world merchandise trade exceeded by a wide margin the expansion of world merchandise output.

Exports of manufactured goods remained the most dynamic component of world merchandise trade in 1995 in volume terms, growing at 9 per cent. This exceeded slightly the 8 per cent growth in exports of mining products, while exports of agricultural products lagged behind, with 5½ per cent growth in volume (Table II.1). While all three sectors expanded more rapidly than the average for 1990-95, only mining products recorded a higher rate of export growth compared to 1994.

In contrast to the moderately slower volume growth, the 19 per cent increase in the value of world merchandise trade in 1995 represented a sharp acceleration from the 13 per cent gain in 1994 (Table II.2). The increase – the largest since 1979 – pushed the value of world merchandise exports to nearly $4,900 billion. This acceleration in value growth is due primarily to the depreciation of the US dollar vis-à-vis the Japanese yen (a trend which was reversed in mid-April 1995) and many Western European currencies, together with the recovery of prices of some major primary commodities, in particular non-ferrous metals, and to some extent crude oil (see Table II.3 below).

The valuation effect of the dollar's depreciation was also a factor behind the acceleration in the growth of the value of world trade in commercial services. Exports of

[5]At present it is not possible to make reliable estimates of growth rates for the volume of world trade in commercial services. An estimate of the growth in the value of trade in commercial services is given below. For detailed explanations of all aspects of the statistics in this Annual Report, see the Technical Notes in Volume II.

[6]Merchandise output growth is estimated on the basis of global production indices for agriculture, mining and manufactures. In contrast to GDP, services and construction are not included.

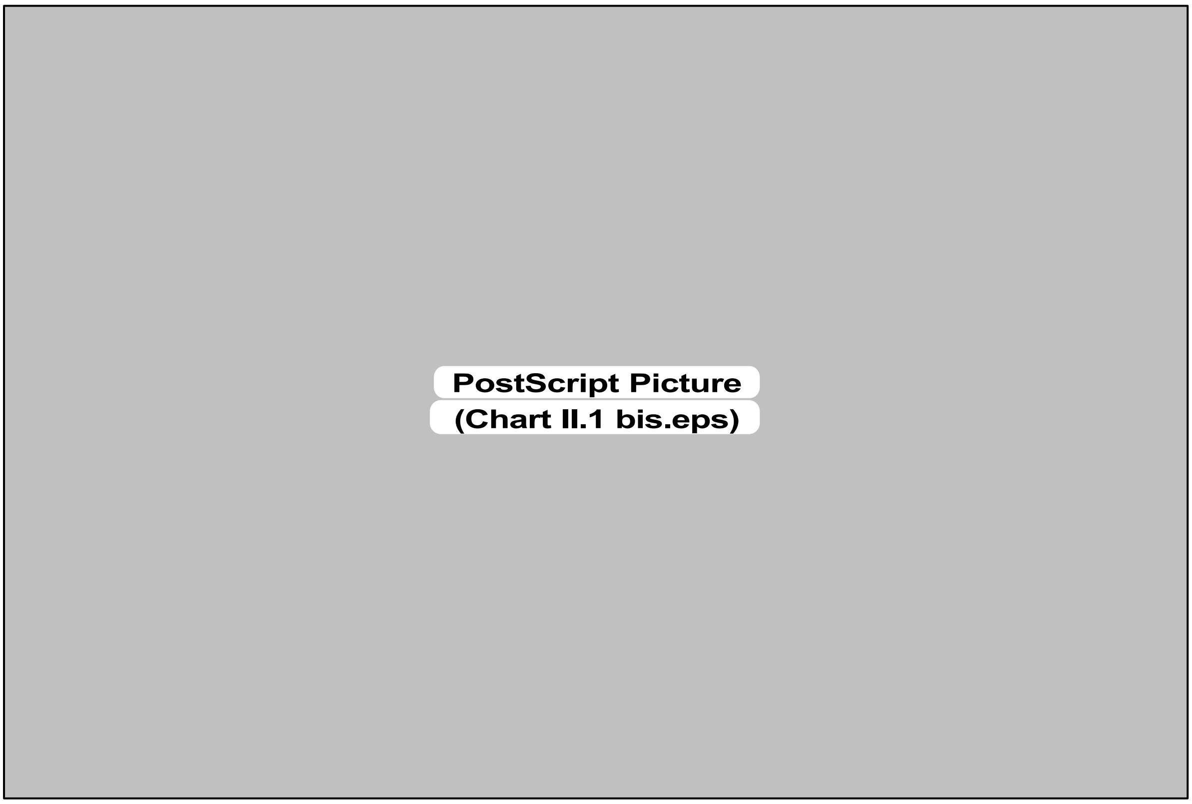


Table II.1
Growth in the volume of world merchandise exports and production by major product group, 1990-95
(Percentage change)

	Annual average 1990-95	1994	1995
World merchandise exports	**6.0**	**10.0**	**8.0**
Agricultural products	4.5	6.0	5.5
Mining products	4.5	5.5	8.0
Manufactures	6.5	11.0	9.0
World merchandise production	**1.5**	**4.0**	**3.0**
Agriculture	1.5	3.0	1.5
Mining	2.0	4.0	3.5
Manufacturing	1.0	4.0	3.0
World GDP	**1.0**	**2.0**	**2.0**
Excluding transition economies	2.0	3.0	2.5

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

commercial services are estimated to have approached $1,200 billion in 1995, up 13 per cent from the previous year. As in 1994, the growth of trade in commercial services lagged behind the growth of merchandise trade, a development which can be observed in North America and Western Europe for both exports and imports.

While Asia's exports and imports of commercial services again recorded the highest growth among the regions, the acceleration in the growth of commercial services exports was particularly pronounced in Western Europe. Available data by major sectors indicate that exports of travel and transportation services increased less, while other private services (insurance, banking, telecommunications and so forth) expanded somewhat faster, than total services.[7]

[7]According to the World Tourism Organization (1996), international tourism receipts are estimated to have increased by 7.2 per cent to reach $372 billion in 1995 after an increase of 10.2 per cent in 1994. Above-average growth in tourism receipts was recorded in Asia, the Middle East and to a lesser extent Western Europe, while those of North America actually decreased. The OECD Secretariat (OECD Press Release, March 1996) has estimated that tourism receipts (expenditures) of OECD countries rose by 9.7 (11.0) per cent in 1995 after 5.4 (7.3) per cent in 1994. Despite this nominal acceleration, the increase in tourist receipts adjusted for inflation is estimated to have decelerated from 4 per cent in 1994 to 2 per cent in 1995.

Table II.2
Growth in the value of world exports by major product group, 1990-95
(Billion dollars and percentage change)

	Value 1995	Annual average 1990-95	1994	1995
World merchandise exports[a]	**4890**	**7.5**	**13.0**	**19.0**
Agricultural products	580	7.0	14.0	17.5
Mining products	510	1.0	3.5	16.5
Manufactures	3640	9.0	14.0	19.5
World exports of commercial services	**1170**	**–**	**9.0**	**13.0**

[a] Including unspecified products.

Note: The statistics for exports of commercial services and for exports of merchandise are not directly comparable, primarily because the former are taken from balance-of-payments statistics and the latter from customs statistics.

With both categories of trade growing strongly in value terms, total crossborder trade in goods and commercial services passed the $6,000 billion mark in 1995.[8]

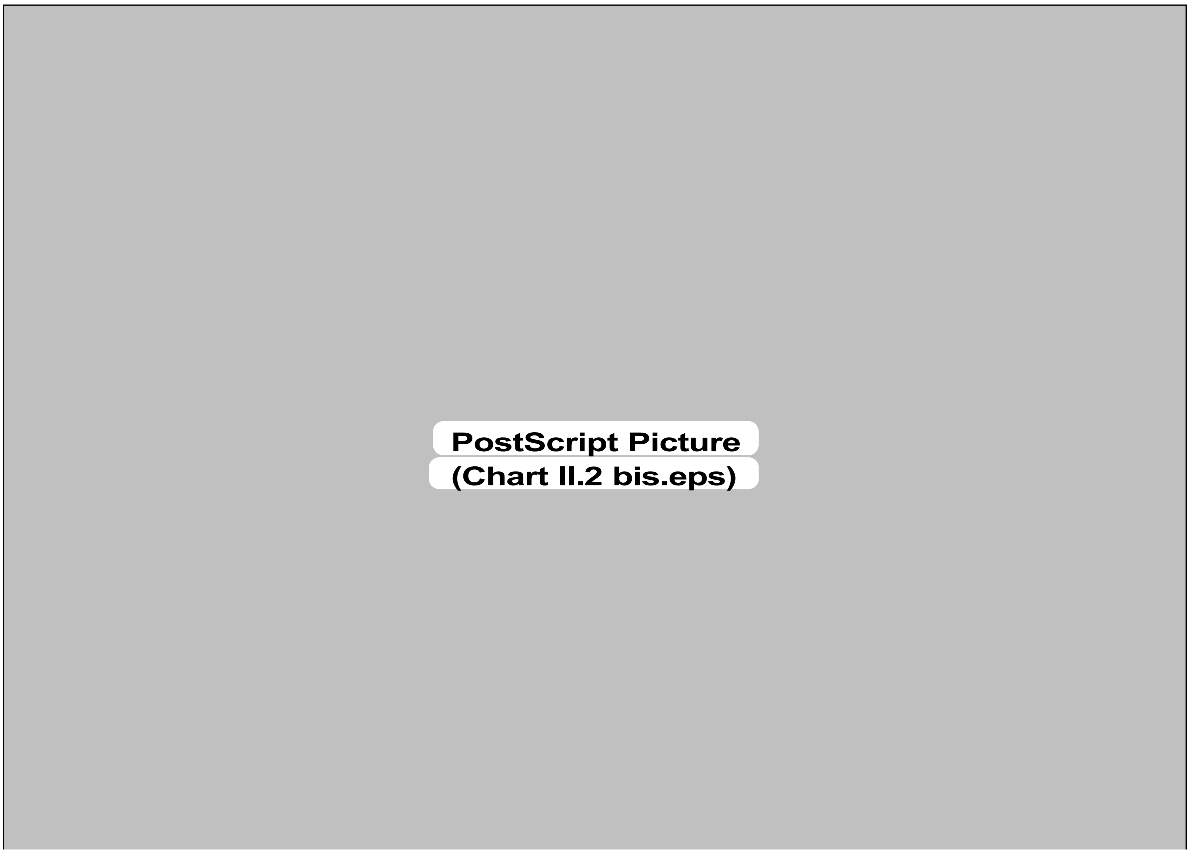
II. Merchandise trade by product[9]

As noted above, the value of merchandise exports grew by 19 per cent in 1995. Chart II.2 subdivides these exports into 11 major product groups. The growth among these groups was relatively evenly spread, with all categories except clothing expanding by 15 per cent or more. Exports of office and telecom equipment continued to grow rapidly, up 26 per cent.[10] Below average growth was recorded for automotive products, clothing, textiles and mining products (including fuels).

[8] Statistics for commercial services are taken from balance-of-payments statistics, while the statistics for merchandise trade are taken from customs data. Because the two sets of data are not directly comparable, the combined figure for the two categories of trade must be treated as a rough estimate.

[9] The discussion in this section draws partly on statistics in Volume II, Part IV, (Merchandise trade by product), and in the Appendix Tables of this Report.

[10] Global shipments of semiconductors rose by 40 per cent in dollar terms, reaching $155 billion, while global shipments of personal computers rose by 25 per cent to nearly 60million units (global shipments comprise domestic sales and sales abroad). Source: Dataquest as quoted in the Neue Zürcher Zeitung of 10 and 30 January 1996.



Highly divergent regional trends can be concealed by global averages. For automotive products, North America's import growth decelerated sharply to about 5 per cent contributing to the fall in Japanese exports of automotive products. West European exports and imports of automotive products rose by about one quarter. For the first time West European exports to Asia exceeded shipments to North America.[11]

As regards global clothing exports, a noteworthy development in 1995 was the stagnation or decline of exports of the four major exporters in Asia, while clothing exports from Latin America and the transition economies increased by one quarter.[12] The strength of these two regions' clothing exports in recent years stems largely from the rapid rise in outward processing trade.

The value of trade in agricultural products expanded at a pace below that of all merchandise, as above-average increases in unit values were offset by below-average volume changes.

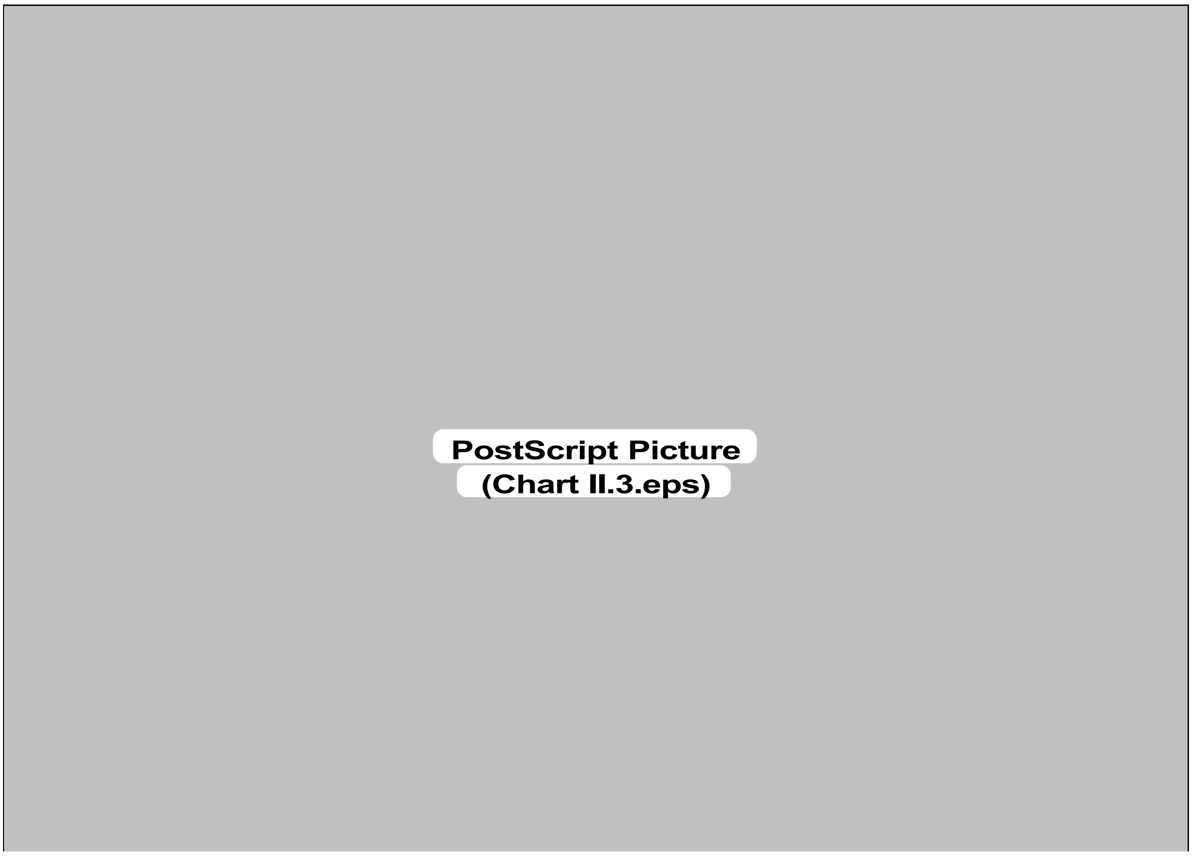
Decomposing the data further reveals one of the most interesting features of last year's developments, namely the strong growth in exports of primary and intermediate commodities (excluding oil).[13] For example, exports of non-ferrous metals grew in value terms by more than 30 per cent, and iron and steel, and ores and minerals by some 25 per cent. Also, within the agricultural products group, raw materials increased by 23 per cent, substantially faster than the 16 per cent increase for food. A large part of the value growth is explained by the rapid price increases for these products.

The respective shares of the 11 product groups in total merchandise trade are shown in Chart II.3. Since the beginning of the decade, the shares have varied little, with the exception of two trends: first, the share of mining products has declined from about $14\frac{1}{2}$ to $10\frac{1}{2}$ per cent, mainly due to a one-quarter decline in the prices of petroleum products; secondly, the share of manufactures has increased from $70\frac{1}{2}$ to $74\frac{1}{2}$ per cent, mostly due to an increase of $3\frac{1}{2}$ percentage points (to slightly above 12 per cent) in office and telecom equipment.[14]

[11] See Volume II, Tables IV.43 and IV.44.

[12] See Volume II, Tables IV.55 to IV.60.

[13] See Volume II, Table IV.1.



Turning to price developments, the price index for all primary commodities increased by 8 per cent in 1995 (Table II.3). While the price of cereals increased by 17 per cent, meat prices fell by 17 per cent, limiting the increase to 6 per cent for food, beverages and tobacco. Prices of minerals (excluding crude petroleum) and non-ferrous metals were up 19 per cent, while the price of crude petroleum, recovering from the downward trend experienced during the first half of the decade, and increased by 8 per cent.

Comparing the first half of 1996 to the corresponding period of 1995, several aspects are noteworthy. The price index for all primary commodities increased by 2 per cent, substantially less than the 8 per cent gain in 1995. In contrast, the significant price increases for cereals that took place during 1995 were followed by the even more dramatic increase of 48 per cent in the first half of 1996.[15] Two other dramatic price swings in the first half of 1996 involved bananas, up 26 per cent versus 1 per cent in 1995, and coffee, down 30 per cent versus gains of 2 per cent and 116 per cent in 1994 and 1993, respectively.

Table II.3
Recent changes in export prices of primary commodities, 1994-96
(Percentage change)

	1994	1995	1996 Jan.-June[a]
Food, beverages and tobacco	15	6	13
Cereals	7	17	48
Oil seeds, oils, fats, cake and meals	8	8	16
Meat	-9	-17	-6
Bananas	-1	1	26
Coffee	116	2	-30
Agricultural raw materials	10	5	-9
Minerals and non-ferrous metals (excl. petroleum)	16	19	-7
All non-fuel primary commodities	**1 4**	**8**	**1**
Crude petroleum	-6	8	7
All primary commodities	**9**	**8**	**2**

[a] Figures indicate the percentage change over the corresponding period of the previous year.

Note: Data are period averages based primarily on spot market prices. These prices may differ significantly from the corresponding unit values for primary commodities which, in principle, measure the average price for all transactions in a given period.

III. Merchandise trade by region[16]

The growth in the value of merchandise trade in 1995 varied across regions (Table II.4). The strongest rates of growth were experienced by the transition economies, with exports up 26 per cent and imports up 23 per cent. Western Europe also showed above-average rates for both exports and imports, as did Latin America for exports and Asia for imports. While the growth rates for the trade of Africa and the Middle East were below the world average, they were significantly above the average figures for those two regions in the first half of the 1990s.

As was stressed earlier, the growth rates for the value of trade partly reflect exchange rate movements. The preferable measure of trade growth is changes in the volume of trade. Not all regions shared in the slowdown in the rate of growth in the volume of world merchandise exports from 10 per cent in 1994 to 8 per cent in 1995. For North America, Latin America and Asia, export volume growth was essentially unchanged (within Asia, Japan saw a moderate recovery with a 2 percentage point increase to 3½ per cent growth in exports). On the other hand, the growth rate of the volume of exports of Western Europe fell by 4 percentage points, to 7 per cent.

[14] If the 1995 shares are compared with those for 1984, these two product groups again show the biggest changes. The share of office and telecom equipment in world merchandise trade nearly doubled over the 11 years, from 6½ to slightly above 12 per cent, while that of mining products declined by more than half, from 23 to 10½ per cent. Agricultural products also lost ground, from 14½ to 12 per cent. All of the other product groups saw small changes over the period.

[15] Cereal price developments during 1995 and the first half of 1996 have been attributed by some observers to the agricultural reforms agreed to in the Uruguay Round. However, other observers have pointed out that these reforms have largely not yet been implemented and that the price movements rather represent "normal" price fluctuations. Furthermore, simulation studies undertaken by the FAO, the OECD, the World Bank, and others, indicate that the effects of these reforms are predicted to have a much less dramatic impact on prices even when fully implemented. See, for example, Ingco, Martin (1996).

[16] The discussion in this section draws largely on statistics in Volume II (Part III).

Table II.4
Growth in the value of world merchandise trade by region, 1990-95
(Billion dollars and percentage change)

Exports					Imports			
Value 1995	Annual average 1990-95	1994	1995		Value 1995	Annual average 1990-95	1994	1995
4890	**8**	**13**	**19**	**World**[a]	**5025**	**8**	**13**	**19**
775	8	11	14	North America[b]	940	8	14	11
225	9	16	22	Latin America	245	14	17	11
2190	6	13	21	Western Europe	2185	5	12	21
2030	6	13	22	European Union (15)	2010	5	12	21
155	8	15	26	Transition economies[c]	145	5	11	23
75	10	18	25	Central and Eastern Europe[c]	90	14	11	28
105	0	3	12	Africa	120	5	8	16
140	1	2	13	Middle East	130	6	-3	11
1300	12	15	18	Asia[a]	1260	12	17	23
445	9	10	12	Japan	335	7	14	22
150	19	32	23	China	130	20	11	14
515	14	18	23	Six East Asian traders[a, d]	565	15	20	26

[a] Excluding Hong Kong re-exports and imports for re-export.
[b] Canada and the United States.
[c] Figures for the 1990-95 period are affected by changes in the country composition of the region beginning in 1992.
[d] Including Chinese Taipei, Hong Kong, Republic of Korea, Malaysia, Singapore and Thailand.

The growth in the volume of imports into Latin America slowed dramatically in 1995 to 2½ per cent (from 14 per cent in 1994), presumably in response to the monetary tightening triggered by the peso crises, as countries subjected to speculative attacks increased interest rates in order to avoid large outflows of capital. North America also experienced a slowdown in the growth of the volume of imports, from 13 to 8 per cent, partly in response to the slowdown in GDP growth, as well as the depreciation of the US dollar against the major currencies in recent years.

Developments in merchandise trade by region

Despite a slower growth of domestic demand in **Western Europe** (around 2 per cent), the volume of imports in 1995 increased by nearly 7 per cent, with imports into the European Community (15) growing 6½ per cent. Among the members of the European Community, the most rapid growth rates were recorded for Greece, Ireland, the Netherlands and Sweden, with rates exceeding 9 per cent. At the other end of the scale were Denmark, Germany and the United Kingdom, with increases between 1 and 3 per cent. Outside the European Community, the most striking development was the rapid expansion of Turkey's imports, which recovered by almost 25 per cent following a steep decline in 1994. The value of imports into Western Europe grew at 21 per cent, compared to 12 per cent during 1994. All countries, except for Finland, contributed to this growth rate.

The volume of exports from Western Europe also expanded by 7 per cent last year, markedly less than the 11 per cent recorded in 1994. The strongest export performances were reported by Ireland (close to 18 per cent) and Sweden (more than 14 per cent). At the other end were Denmark, Greece, and Iceland, which experienced declining export volumes. The value of exports from Western Europe grew significantly faster than in 1994, 21 compared to 13 per cent. As in the case of the expansion in the value of imports, almost all countries shared in this growth, Iceland being the only exception.

Last year witnessed the enlargement of the European Community to 15 member countries, which now accounts for more than 40 per cent of the value of world

Table II.5

Growth in the volume of world merchandise trade by selected region, 1990-95

(Percentage change)

Exports				Imports		
Annual average 1990-95	1994	1995		Annual average 1990-95	1994	1995
6.0	10.0	8.0	World[a]	6.5	10.5	8.5
7.0	10.0	9.5	North America[b]	7.5	13.0	8.0
8.0	10.0	10.5	Latin America	11.5	14.0	2.5
5.0	11.0	7.0	Western Europe	4.0	9.0	7.0
5.0	11.0	7.0	European Union (15)	4.0	9.5	6.5
7.5	10.0	9.5	Asia[a]	10.5	13.5	14.0
1.5	1.5	4.0	Japan	6.5	13.5	12.5
11.0	15.0	14.5	Six East Asian traders[a, c]	12.0	15.0	15.5

[a] Excluding Hong Kong re-exports and imports for re-export.

[b] Canada and the United States.

[c] Including Chinese Taipei, Hong Kong, Republic of Korea, Malaysia, Singapore and Thailand.

merchandise exports and imports, intra-trade alone exceeding one quarter of world merchandise exports.[17] Last year, intra-European Community exports expanded by 23 per cent, somewhat faster than European Community exports to third countries. The share of intra-trade rose slightly, to 63 per cent of total merchandise exports.

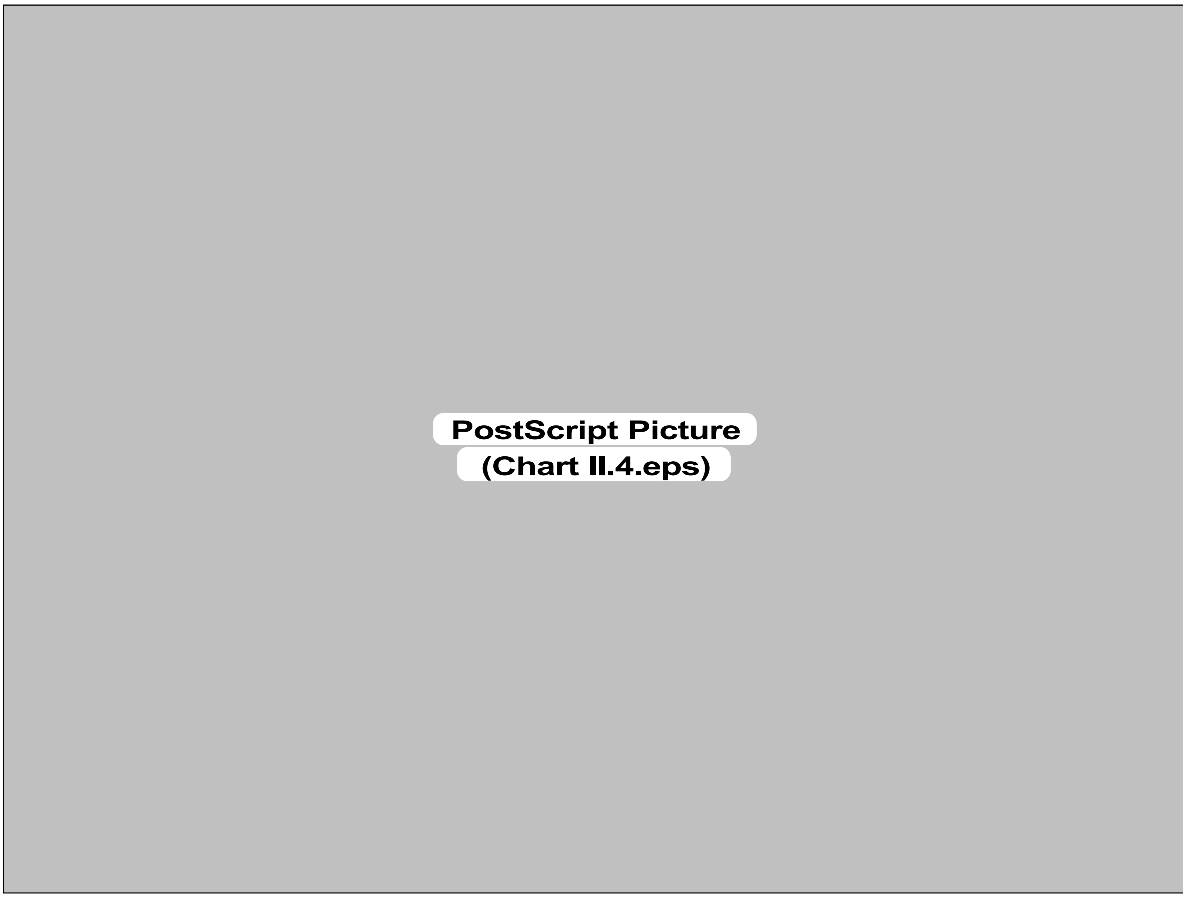
Central and Eastern Europe, the Baltic States, and the Commonwealth of Independent States (the transition economies) saw a continuation of the increase in trade that began in 1993, then accelerated in 1994 and remained very strong, with export and import volume growth above the world average. The value of imports expanded slightly faster than the world average, with a rate of increase of close to 23 per cent. The import record of the CIS members was especially varied, ranging from increases of nearly 80 per cent for Armenia, around 50 per cent for Azerbaijan, Belarus, the Republic of Moldova and Ukraine, and 40 per cent for the Kyrgyz Republic, to declines of nearly 40 per cent in Turkmenistan and 10 per cent in Kazakstan. Imports of the Russian Federation expanded by 12 per cent as in the preceding year.[18] In Central and Eastern Europe, rapid import growth was reported in the Czech Republic (almost 40 per cent), and Poland, the Slovak Republic and Romania (each around 30 percent). Rapid import growth was also evident in the Baltic States, with the value of imports into Estonia and Latvia increasing by almost 50 percent, and into Lithuania by approximately 25 per cent.

The value of exports of the transition economies performed better than the world average, with an increase of nearly 26 per cent. The most striking increases in export values were again found in some member countries of the CIS, with Armenia recording an increase of 80 per cent, the Republic of Moldova reporting around 70 per cent, and Belarus and Tajikistan around 60 per cent. At the other end were also some CIS members, notably Georgia with a fall of more than 23 per cent, and Azerbaijan, with a fall of close to 8 per cent. The exports of the Russian Federation, which alone accounts for more than 80 per cent of CIS exports, rose by 26 per cent, more than twice the rate of 1994. The value of exports of the Baltic States also grew very fast, with Estonia recording over 70 per cent growth, Latvia over 40 per cent, and Lithuania over 30 per cent. In Central and Eastern Europe export growth ranged from nearly 20 per cent in the Czech Republic to more than 30 per cent in Poland.

In **North America**, the slower GDP growth in Canada, down from $4^1/_2$ per cent in 1994 to 2.2 percent in 1995, and in the United States, from $3^1/_2$ to 2 per cent, was a factor behind the slower growth of imports. The value of imports from Asia, North America's largest regional trading partner (with a share of 37 per cent in total imports, more than twice that of Western Europe) rose by 11 per cent in 1995, again slightly

[17] See Appendix Table 2 for the ranking of the world's 30 leading merchandise exporters and importers when intra-European Community trade is excluded from European Community trade and total world trade.

[18] Caution is necessary concerning the interpretation of these figures, since they exclude intra-CIS trade, which means that most increases are from low levels of imports.



below average. Sluggish growth of imports from Japan (4 per cent) is the principal factor, as imports from non-OECD Asia expanded by 16 per cent, again well above the average rate. Between 1990 and 1995 the share of Japan in North American imports decreased by $1\frac{1}{2}$ percentage points, while that of non-OECD Asia increased by $4\frac{1}{2}$ percentage points to nearly 22 per cent. Imports from Western Europe, which account for 18.2 per cent of total imports, recorded over the last two years growth rates of 14 and 12 per cent, corresponding to the average North American import growth. Imports from the transition economies recorded very high growth rates but they still accounted in 1995 for less than 1 per cent of North America's imports. Since the entry into force of NAFTA (1 January 1994) North America's imports from Mexico have risen by more than 50 per cent, or more than twice the rate of growth from all other regions combined. Imports from Mexico as a share of total imports of North America now represent 7 per cent, compared to 5 per cent in 1990.

The continuing rapid economic growth of developing Asia sustained the demand of that region for North American exports. The value of exports to Asia as a whole increased by almost 25 per cent, or nearly double the 14 per cent increase in exports to all destinations. Moreover, it is noteworthy that North American exports to Japan grew by some 21 per cent in spite of the modest GDP growth in Japan during 1995 (only 0.9 per cent).

North America's exports of office and telecom equipment to Japan rose by 35 per cent to $10.6 billion. Shipments of automotive products increased even by 40 per cent, to $4.2 billion, while exports of other transportation equipment (largely aircraft) decreased by 11 per cent. Agricultural products, which account for about one third of North America's exports to Japan, increased by 15 per cent in 1995.

Largely due to price developments, United States' exports of ores and minerals, non-ferrous metals and agricultural products rose at above-average rates. Among manufactures strong export growth for office and telecom equipment (24 per cent)

Box II.1: NAFTA developments

For the first time since 1990, the value of intra-NAFTA trade (exports and imports combined) increased last year less rapidly than trade with other regions. The share of intra-trade decreased slightly, to less than 42 per cent, but remained above the 37 per cent share recorded in 1990. The share of intra-NAFTA trade in total merchandise trade of the United States and Canada decreased somewhat to 28 and 75 per cent, respectively, while for Mexico the share increased slightly to reach a record 81 per cent. The difference in intra-trade developments in 1995 is linked to the sharp recession in Mexico (related to the peso crisis), which led to a stagnation of Mexican imports from NAFTA countries and a steep fall of imports from other countries (an increase in imports from the United States for export processing helped to sustain Mexican imports from NAFTA partners).

For all three NAFTA countries intra-trade accounts for a larger share in exports than in imports. This difference is most pronounced in the manufacturing sector and, in particular, in the trade of automotive products. For this product category, intra-exports accounted for nearly 82 per cent of total exports, while the corresponding share for imports was slightly less than 60 per cent in 1995. Automotive products are also the largest single product group in intra-NAFTA trade. In 1995, intra-area trade in automotive products, reached nearly $90 billion, or more than one quarter of total intra-area exports.

contrasted with sluggish growth for automotive products (6 per cent) and a decline for exports of aircraft.

As regards United States' imports an interesting feature is the diversification of sources for clothing imports in the first half of the 1990s. While imports of clothing from Asia stagnated in 1995, those coming from Latin America rose by more than one quarter. While Asia remains, with a 64 per cent share, the major supplier of clothing to the United States, it has lost 12 percentage points since 1990. Latin America, however, has gained 10 percentage points and accounted in 1995 for 22 per cent of United States imports of clothing.[19]

The strong deceleration of **Latin American** economic growth in 1995 left its mark on trade developments. Throughout 1990-94, Latin America recorded export and especially import growth rates well above the global average, recovering thereby much of its share in world markets lost in the 1980s as a result of the debt crisis. In 1995, however, while export growth again exceeded the world average, import growth decelerated sharply to below the world average.

A prominent feature of the slowdown in Latin America's GDP growth was the highly divergent developments by country. Under the impact of the sharp recessions in Mexico and Argentina, imports contracted strongly in value and volume terms, while strong demand growth in Brazil, Chile, Peru and a number of Central American countries resulted in a boom in imports (a continuing boom in many cases). On balance, Latin American imports increased in value terms by 11 per cent in 1995, markedly less than in 1994 and well below the global merchandise trade growth, while on a volume basis the slowdown was even sharper.

The 22 per cent increase in the dollar value of Latin American exports benefited from a strong increase in export prices, in particular for a number of primary commodities, such as copper and wheat. However, exports of manufactures which account for one half of Latin America's exports, expanded 21 per cent, only slightly less than the average. On a country level, export growth in excess of 30 per cent in value was recorded for Argentina, Chile, Guatemala, Mexico and Nicaragua. Sluggish export growth of less than 7 per cent was reported by Bolivia and Brazil.

For the **Asian** region as a whole, 1995 was the third year in a row in which import growth exceeded export growth (in both value and volume terms) and import growth was markedly more dynamic than world trade. In certain Asian countries, among others, the Republic of Korea, Malaysia and Thailand, dynamic imports have contributed to rising current account deficits and raised some concern over the sustainability of current policies.

As in preceding years, the above-average trade and output growth of the Asian region contributed to a sharply rising share of intra-trade (both exports and imports), which exceeded one half in 1995. Manufactured exports account for 83 per cent of the region's exports, the largest share among the seven major regions. Office and telecom equipment – the fastest-growing product group in 1995 and in 1990-95 – alone accounts for nearly one quarter of the region's exports. More than one half of world

[19] For more details, see Volume II, Table IV.57.

Box II.2: MERCOSUR developments

Highly divergent domestic demand developments among the MERCOSUR countries provoked strains in intra-regional trade flows. Buoyant domestic demand in Brazil, which led to a surge in merchandise imports from all sources of nearly 50 per cent in 1995 (and an increase of 100 per cent in the first months of 1995), contrasted sharply with the recession in Argentina and Uruguay which led to a fall in these countries' total import volumes.

For the first time since 1990, the growth of MERCOSUR's intra-trade (exports and imports combined) in 1995 was, at 18½ per cent, somewhat less strong than the trade expansion with other regions. This was largely due to merchandise imports. While the share of intra-trade continued to rise in 1995 for exports (to 20½ per cent), it decreased to less than 18 per cent for imports.

Intra-MERCOSUR trade plays a significantly larger role for the smaller economies of Uruguay and Paraguay than for the two larger economies. While the former countries' intra-trade accounted for 40 to 50 per cent of their total merchandise trade, the corresponding ratio for Argentina and Brazil is 28 and 13½ per cent, respectively. Although the share of intra-trade varies sharply among the MERCOSUR partners, all of them have experienced a sharp increase in the importance of intra-trade between 1990 and 1995. The strongest rise in intra-trade could be observed for the exports of Argentina and Brazil, as the shares of intra-trade more than doubled between 1990 and 1995.

The rise of intra-trade in the first half of the 1990s had been of particular importance to the MERCOSUR countries' manufacturing sectors, as manufactures account for a larger share in intra-trade (more than 60 per cent) than in extra-regional trade (less than 50 per cent). The opposite holds true for agricultural products. However, even for agricultural exports, the share of intra-MERCOSUR trade in total agricultural exports increased between 1990 and 1995.

exports of office and telecom equipment originated in Asia in 1995. Below-average export growth over the last three years has been recorded for automotive products and clothing. The corresponding shares fell to 7½ and 5½ per cent in 1995.

The growth in the volume of imports slowed significantly in Australia, Malaysia and New Zealand, while Chinese Taipei, Indonesia, Pakistan and Thailand saw substantial increases in import volumes.[20] Despite China's above-average GDP growth, its import growth in volume terms remained well below Asia's overall import expansion in 1995 of 14 per cent. This is virtually the same import expansion as in 1994, but significantly below the three preceding years, when volume growth averaged some 25 per cent. Whether this is a change of trend is too early to tell. However, as a result of the rapid inflow of foreign direct investment into China in recent years, it may be that some products that were previously imported are now being produced by the local affiliates of multinational firms (see Chapter Four below for an analysis of the interaction between trade and foreign direct investment).

The Philippines, Korea and Vietnam were the three Asian countries that experienced the most rapid increase (and an acceleration) in export volumes, with growth rates in excess of 20 per cent. Recovering from the recession, Japan was able to expand its export volume by a modest 4 per cent, up from the 1½ gain in 1994, and the absolute decline in 1993. The growth of exports from China slowed from the record expansion of more than one quarter in 1994 to less than 20 per cent in 1995. Other countries with a marked deceleration in exports were Singapore, Australia and New Zealand.

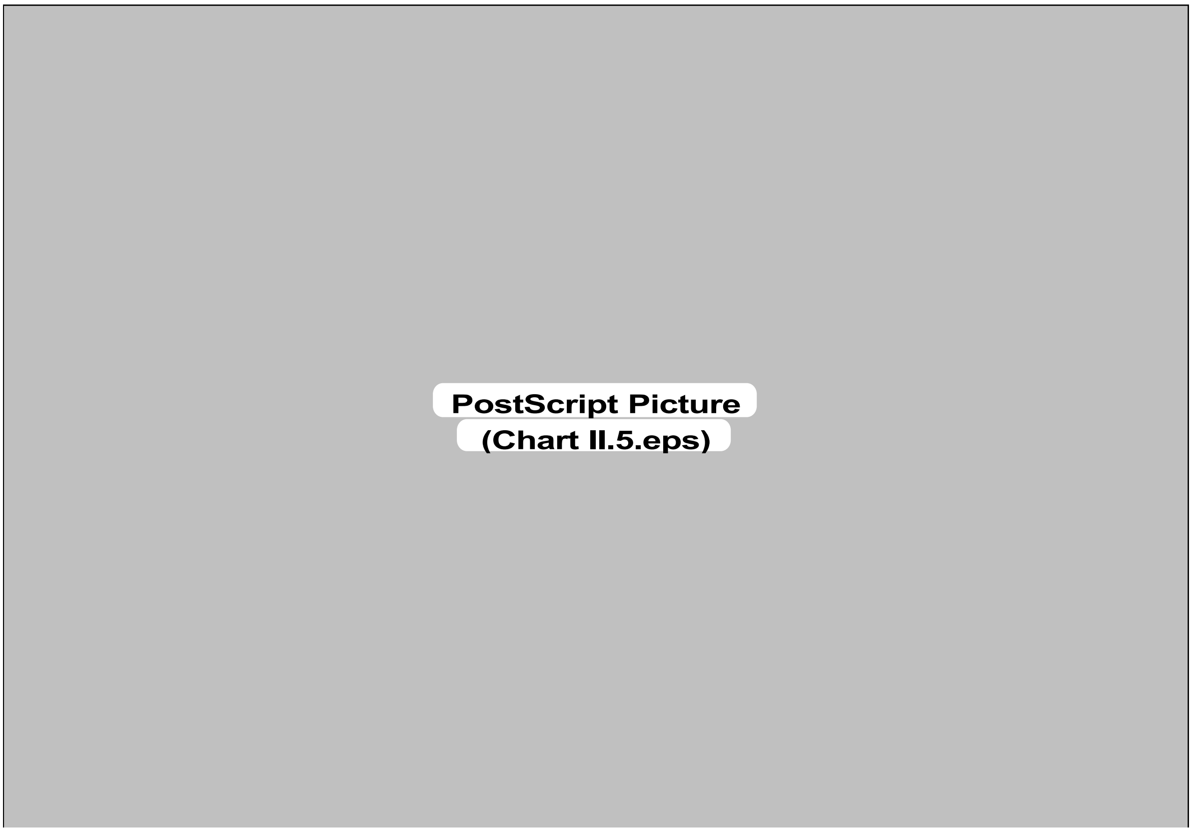
Partly because of faster GDP growth of the Asian economies than that of the rest of the world, the economic integration of the Asian region is continuing at a rapid pace (Chart II.5). Intra-Asian merchandise trade grew 24 per cent in value terms, compared with 18 per cent for exports to other regions. For example, while Japan's merchandise exports to North America grew by a mere 2½ per cent in value in 1995, and 15 per cent to the European Community, they grew by more than 20 per cent to Asia.

African GDP increased 3 per cent in 1995 matching the 1994 growth rate.[21] The most pronounced expansion occurred in sub-Saharan Africa, where output grew by 4½ per cent in 1995. As a result, output grew faster than population, and for the first time since 1989 sub-Saharan Africa experienced positive per capita GDP growth.[22] Benefiting from the increase in many commodity prices, Africa's exports grew by 12 per cent in value terms, a considerable improvement compared to the 3 per cent of the previous year and the preceding three years of negative growth in value. However, Africa's export growth continued to lag behind world trade growth in both value and volume terms. The rise in 1995 has brought African exports only back to the 1990 level. Average coffee prices in 1994 and 1995 were more than twice as high as in the first years of the 1990s, and the price index of minerals and non-ferrous metals jumped

[20] See Volume II, Table III.68.

[21] IMF (1996). The figures exclude Egypt and Libya.

[22] See World Bank (1996).



by almost 20 per cent last year (however, for certain commodities, such as tea and tobacco, prices have fallen by some 10 per cent).[23] Prices of fuels – Africa's major export product – recovered by about 8 per cent. Excluding South Africa, fuels account for nearly one half of Africa's exports.

Based on the available statistics, countries with a growth in exports exceeding 20 per cent included Angola, Central African Republic, Kenya, Reunion, Tanzania and Togo. Despite their strong export performance in 1995, exports of Angola and Togo are still below the level attained in 1990. The value of imports increased for the region as a whole by 16 per cent, twice the increase in the preceding year. However, this aggregate figure masks a considerable divergence in country performances. For example, while imports grew by 73 per cent in Togo and by 51 per cent in Cameroon, they fell by 35 per cent in the Gambia.

The export performance of most countries in the **Middle East** depends heavily on price and output developments for petroleum and natural gas. The share of fuels, although declining since 1990, is still about 70 per cent of total merchandise exports. In terms of export volumes the region saw a very modest increase. But, as oil prices recovered by 8 per cent last year, the value of exports from the region increased by 13 per cent. Middle East countries with a more diversified export structure performed far above this average. For instance, in value terms, the exports of Cyprus grew by 27 per cent and of Jordan by 24 per cent (the latter increase in value stems almost entirely from an increase in export volume). A main feature in Middle East exports are a trend to increased reliance on Asian markets. While the share of Middle East exports to North America and Western Europe have eroded steadily since 1990, to 12 and 23 per cent respectively, that of Asia increased by almost 8 percentage points to 47½ per cent. The rise in Asia's share is entirely due to non-OECD Asia (in particular the Republic of Korea), as Japan's share remained, at 20 per cent, roughly unchanged from 1990.[24]

The region's import growth paralleled its export performance. Import volume grew by 1 per cent, while the value of imports was up 11 per cent. Countries whose import values expanded by 15 per cent or more include Cyprus, Israel, Lebanon, and Saudi Arabia. Countries which saw their import values fall included Bahrain, Iran, and in particular Syria.

[23] The price of coffee fell drastically during the last quarter of 1995, however.

[24] For developments in the destination of fuel exports, see Volume II, Table III.58.

Regional developments in commercial services trade

As is evident from Table II.6, the accelerated growth in the value of world exports of commercial services is largely due to the strong performance of Western Europe and Asia (the extent to which the acceleration is due to the "valuation" effect of the dollar's depreciation against the major currencies is not clear). On the other hand, North American trade in commercial services recorded lower growth in 1995 than in the preceding year. With a 17 per cent increase in 1995, Asia once again reported the highest export and import growth among the regions for which 1995 data are available. Although Asia's export growth exceeded import growth in the first half of the 1990s, the level of imports continued to exceed the level of exports by about $50 billion.

Preliminary data for Hong Kong – the second largest commercial services exporter in Asia – indicate an export growth of 20 per cent in 1995, compared with import growth of 16 per cent. Singapore, like Hong Kong a large net exporter of commercial services, experienced a strong expansion of its trade in commercial services, with exports and imports expanding by nearly one-quarter in 1995. One of the highest rates of expansion in Asia last year was reported by the Republic of Korea, as exports and imports of commercial services expanded by more than one-third.

In Western Europe, which alone accounts for nearly one half of world trade in commercial services, export and import growth in 1995 was marginally above the world average, in contrast to the developments in the 1990-94 period, when Western Europe's trade lagged behind. France and the United Kingdom reported export and import growth below the Western European average, while Germany, Italy and Spain were more dynamic exporters and importers. The strongest trade performance in Western Europe was reported by Finland, with exports and imports of commercial services up by more than one third.

United States' exports of commercial services rose by 6 per cent, with travel exports stagnating, transportation exports up by 7½ per cent, and all other commercial services exports together up nearly 10 per cent. Within the latter group, receipts for construction services and royalties increased by 15 per cent. As regards United States imports of commercial services, the import growth of 5½ per cent in 1995 was only half the rate recorded in 1994. Again, the transportation and travel sectors (4½ per cent growth each) remained below the average, while other commercial services imports rose by 7 per cent.

Table II.6
Growth in the value of world trade in commercial services by selected region, 1994-95
(Billion dollars and percentage change)

Exports				**Imports**		
Value	Annual change			Value	Annual change	
1995	1994	1995		1995	1994	1995
1170	**9**	**13**	**World**	**1180**	**8**	**13**
210	7	6	North America[a]	160	8	5
40[b]	10	...	Latin America	50[b]	8	...
580	8	14	Western Europe	550	7	15
520	8	14	European Union (15)	510	7	15
22[b]	2	...	Africa	32[b]	3	...
260	17	17	Asia	310	14	17
64	10	13	Japan	122	10	15
38	13	20	Hong Kong	21	16	16

[a] Canada and the United States.
[b] Refers to 1994.

Among the Latin American countries, the sharp rise in Brazilian and Chilean imports (by 33 and 17 per cent, respectively) contrasted with the 27 per cent contraction of Mexico's imports of commercial services. As regards exports of commercial services, those of Mexico stagnated while those of Brazil rose by nearly one quarter. Mexico remained the largest exporter of commercial services in Latin America in 1995, but Brazil replaced it as the largest importer.

Table II.7
Leading exporters and importers in world merchandise trade, 1995
(Billion dollars and percentage change)

Rank	Exporters	Value	Share	Annual change	Rank	Importers	Value	Share	Annual change
1	United States	583.9	11.6	14	1	United States	771.3	14.9	12
2	Germany	508.5	10.1	19	2	Germany	443.2	8.6	16
3	Japan	443.1	8.8	12	3	Japan	336.0	6.5	22
4	France	286.2	5.7	22	4	France	274.5	5.3	20
5	United Kingdom	242.1	4.8	18	5	United Kingdom	265.3	5.1	17
6	Italy	231.2	4.6	22	6	Italy	204.0	3.9	22
7	Netherlands	195.3	3.9	24	7	Hong Kong	196.1	3.8	18
8	Canada	192.2	3.8	16		retained imports[a]	52.1	1.0	21
9	Hong Kong	173.9	3.5	15	8	Netherlands	175.9	3.4	25
	domestic exports	29.9	0.6	4	9	Canada	168.4	3.3	9
	re-exports	143.9	2.9	17					
10	Belgium-Luxembourg	168.3	3.3	23	10	Belgium-Luxembourg	154.2	3.0	21
11	China	148.8	3.0	23	11	Korea, Rep. of	135.1	2.6	32
12	Korea, Rep. of	125.1	2.5	30	12	China	132.1	2.6	14
13	Singapore	118.3	2.3	22	13	Singapore	124.5	2.4	21
	domestic exports	69.6	1.4	19		retained imports[a]	75.8	1.5	18
	re-exports	48.7	1.0	27	14	Spain	114.8	2.2	25
14	Chinese Taipei	111.7	2.2	20	15	Chinese Taipei	103.6	2.0	21
15	Spain	91.6	1.8	25	16	Switzerland	80.2	1.6	18
16	Switzerland	81.6	1.6	16	17	Malaysia	77.8	1.5	30
17	Sweden	79.9	1.6	30	18	Mexico[b]	72.9	1.4	-10
18	Mexico[b]	79.7	1.6	31	19	Thailand[c]	70.9	1.4	30
19	Malaysia	74.0	1.5	26	20	Austria[c]	67.3	1.3	22
20	Russian Federation[c, d]	64.8	1.3	26					
21	Austria[c]	58.1	1.2	28	21	Sweden	64.4	1.2	25
22	Thailand[c]	56.5	1.1	25	22	Australia	61.3	1.2	15
23	Australia	53.1	1.1	12	23	Brazil	53.8	1.0	49
24	Denmark	48.8	1.0	17	24	Denmark	43.5	0.8	21
25	Saudi Arabia[c]	48.2	1.0	13	25	Indonesia	40.9	0.8	28
	Total of above[e]	4264.7	84.7	–		Total of above[e]	4231.8	81.9	–
	World[e]	**5033.0**	**100.0**	**19**		**World[e]**	**5170.0**	**100.0**	**19**

[a] Retained imports are defined as imports less re-exports.
[b] Includes shipments through processing zones (maquiladoras).
[c] Secretariat estimates.
[d] Excludes trade with the Baltic States and the CIS. Including trade with these States would lift Russian exports and imports to $82 billion and $58 billion, respectively.
[e] Includes significant re-exports or imports for re-export.

IV. Leading traders of merchandise and services

Merchandise

As noted above, the value of world merchandise exports increased during 1995 by 19 per cent. Three countries among the 25 largest exporters recorded increases of 30 per cent or more: the Republic of Korea, Mexico and Sweden.[25] The value of merchandise imports increased by 30 per cent or more in four countries among the top 25 importers – Brazil, the Republic of Korea, Malaysia and Thailand.[26] The top 10 exporters accounted for just over 60 per cent of world merchandise exports, and the top 20 for almost 80 per cent. The corresponding figures for imports are 55 and 74 per cent.

Commercial services

Among the 15 leading exporters and importers of commercial services, the growth rates varied from 4 per cent to 36 per cent in 1995. The United States – the leading exporter and importer of commercial services – recorded increases in its exports and imports of 6 and 5 percent respectively, and thereby only half the growth of world trade in commercial services. Canada reported the smallest import increase of the 15 leading traders (4 per cent), but its commercial services exports rose by 13 per cent corresponding to the world average. Although Western European countries' commercial services trade was boosted by exchange rate changes, France, the United Kingdom and the Netherlands reported export and import growth rates between 7 and 10 per cent, below the global average. Strong increases – for both exports and imports – are, however, reported for Germany, Italy and Spain. The Asian countries among the 15 leading traders reported growth rates above or close to the world average. The highest export and import growth is reported by the Republic of Korea which expanded its exports and imports by more than one third.

The 15 leading exporters and importers of commercial services account for 72 and 69 per cent of world exports and imports in 1995. On both sides, exports and imports,

[25] If the list is extended to the top 50 merchandise exporters, Argentina, Chile, Finland, the Philippines and Poland join the "30 per cent plus" group (see Volume II, table I.5).

[26] If the list is extended to the top 50 merchandise importers, the Czech Republic, Turkey, Chile, Poland, South Africa and Venezuela join the "30 per cent plus" group.

Table II.8
Leading exporters and importers of world trade in commercial services, 1995
(Billion dollars and percentage change)

Rank	Exporters	Value	Share	Annual change	Rank	Importers	Value	Share	Annual change
1	United States	188.2	16.1	6	1	United States	131.6	11.2	5
2	France	95.1	8.1	7	2	Japan	121.6	10.3	15
3	Italy	70.2	6.0	18	3	Germany	119.2	10.1	20
4	Germany	68.8	5.9	25	4	France	76.4	6.5	9
5	United Kingdom	66.4	5.7	10	5	Italy	69.0	5.8	19
6	Japan	63.9	5.5	13	6	United Kingdom	55.3	4.7	8
7	Netherlands	46.5	4.0	10	7	Netherlands	44.6	3.8	9
8	Spain	39.6	3.4	17	8	Belgium-Luxembourg[a]	34.9	3.0	-
9	Hong Kong	37.6	3.2	20	9	Canada	29.3	2.5	4
10	Belgium-Luxembourg[a]	36.1	3.1	-	10	Korea, Rep. of	27.5	2.3	36
11	Austria[b]	33.0	2.8	...	11	Austria[b]	24.0	2.0	...
12	Singapore	28.1	2.4	23	12	Chinese Taipei	23.8	2.0	13
13	Switzerland	26.1	2.2	14	13	Spain	21.6	1.8	17
14	Korea, Rep. of	25.1	2.1	34	14	Hong Kong	21.0	1.8	16
15	Canada	21.7	1.9	13	15	Thailand [b]	18.2	1.5	...
	Total of above	846	72.3	...		Total of above	818	69.2	...
	World	**1170**	**100.0**	**1 3**		**World**	**1180**	**100.0**	**13**

[a] Methodological change in recording data lead to a break in time series. Annual growth rates for 1995 are therefore not applicable.

[b] Secretariat estimates.

one finds the same countries as in the preceding year. The ranking, however, has changed somewhat under the impact of data revisions and different growth rates. Compared with 1994, Germany lost one rank on both exports and imports, while Japan moved up one position and became the second largest importer of commercial services. Korea moved into the group of the 10 leading importers of commercial services.

The share of services in world trade in goods and services by region and country has been estimated on a balance-of-payments basis for 1994.[27] World trade in commercial services accounted in 1994 for about 20 per cent of world exports and imports of goods and services. The share of services in regional exports and imports of goods and services varies between $15\frac{1}{2}$ per cent and 24 per cent. North America and Western Europe recorded above-average shares of services in their total exports, while Latin America, Africa and Asia recorded shares of services below the global average. Not surprisingly, on a country basis the variations are considerably larger, ranging on the export side from nearly two thirds for Greece and Egypt to less than 10 per cent for three oil exporting countries – Venezuela, Algeria and Nigeria. The variation in the share for services on the import side is considerably smaller, as only five countries record a share for services in the 30-35 per cent range and none below 10 per cent. The larger variation of the shares on the export than on the import side is a feature that can also be observed for major product groups in merchandise trade. This points to the conclusion that the specialization of exports has a stronger impact on the product structure of exports than the differences of import demand on the product composition of imports. For more details on commercial services, especially the sectorial and regional breakdown, see Volume II of this report.

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[27] See Volume II, Table 1.8.

Chapter Three

Trade policy developments

Trade policy developments

I. Introduction

This chapter seeks to trace the main trade policy developments of the past decade – through and beyond the Uruguay Round – as they have taken place at three levels: autonomously, regionally and multilaterally. It therefore covers a longer period of time, and a wider spread of issues, than would normally be included in a review covering only one year. The chapter draws mainly on the substantial experience, accumulated since 1989, of the Trade Policy Reviews conducted under the GATT and WTO.

The trading world since the Uruguay Round presents a very different appearance from that in the years before. The changes are, to a very large extent, due to the effects of the negotiations themselves; but the success of the Round was also dependent on the major changes that took place in thinking about, and attitudes to, trade policies during the 1980s and early 1990s.

In the early and mid-1980s, the outlook for trade policy was far from optimistic:

- High tariffs were widespread, despite the reductions achieved, mainly by developed markets, in the Tokyo Round; very few developing countries had bound their tariffs to any great extent and their general attitude towards tariff reform was negative. Non-tariff barriers to trade of all types were common, both in developed and in developing countries.
- Agriculture in developed countries and industry in developing countries was increasingly protected from international competition by quotas, surcharges, variable levies and other distorting devices, some enshrined in GATT waivers or Protocols of Accession.
- Many developing countries were still on the margin of the international trading system, while central and eastern European countries were operating under state-trading regimes that largely insulated their economies from world markets.
- The GATT and its related agreements were not universal in scope; in particular, the membership of the Tokyo Round Agreements on non-tariff measures was far from complete. Trade in services was almost completely outside the scope of multilateral disciplines.
- Regional trading arrangements – mainly in Europe – were creating concerns and non-participants were considering how to counter a possible "Fortress Europe".
- Bilateralism and unilateralism – particularly by the United States through the use of "Section 301" and its derivatives – were serious concerns in trade relations; and the GATT dispute settlement mechanism was incomplete, with Panel decisions easily blocked.

It would be an exaggeration to say that all these problems have been resolved. But a sea-change has taken place:

- Greater market-orientation has become the general rule.
- Tariff-based protection has become the rule, rather than the exception. MFN tariffs, in both developed and developing countries, have been substantially reduced, both autonomously (principally in developing countries) and through the Uruguay Round negotiating process. Duty-free treatment in developed markets is to increase significantly, and the stability of tariffs has been greatly enhanced through binding of all agricultural tariffs and the extension of bindings on industrial goods by developing and "transition" economies.
- Not all non-tariff restrictions have been abandoned; but all such barriers on agriculture, unless otherwise justified[1], are required to be eliminated or converted to tariffs (tariffied) under the WTO Agreement, and the Agreement on Textiles and Clothing has established a clear timetable for phasing out distortive quota regimes, while the use of restrictive measures for balance-of-payments reasons has declined markedly.
- Services trade has been brought into the multilateral system and many countries are, as in goods, opening their markets for trade and investment either unilaterally or

[1]The WTO Agreement on Agriculture prohibits Members from maintaining, resorting to or reverting to "quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogations from the provisions of GATT 1947, but not measures maintained under balance-of-payments provisions or under general, non-agriculture-specific provisions of GATT 1994 or of the other Multilateral Trade Agreements in Annex 1A to the WTO Agreement".

through regional or multilateral negotiations.

- All Members of the WTO are equally committed to all the Multilateral Trade Agreements, although with time-based phasing provisions for developing countries in many areas.
- The built-in agenda from the Uruguay Round envisages further negotiations in various areas, such as agriculture and services, with specific timetables.
- Many developing countries have undergone radical trade, exchange and domestic reforms which have improved the efficiency of resource use, opened new investment opportunities and, thus, promoted economic growth.
- The move towards greater regional integration has continued; however, the combination of membership of regional agreements with WTO commitments has prevented a drift towards the creation of "fortresses" and negative, trade-diverting effects.
- Bilateralism has been, to a great extent, placed under control by the extension of WTO provisions to services, TRIPS and TRIMs, and by the unified dispute settlement mechanism, in which the possibility of unilaterally blocking the adoption of panel decisions no longer exists. The mechanism, completed by an the Appellate Body, is being actively used by WTO Members at all levels of development, and the consultation provisions are helping to resolve many disputes before they come formally to the Panel stage.
- The Trade Policy Review Mechanism has created a process of continuous monitoring of trade policy developments that, by promoting greater transparency, has assisted in the process of liberalization and reform. Through the TPRM, WTO members have had a front-row view of the dramatic move towards greater outward-orientation in trade policies, and of its consequences. The mechanism, as a non-legalistic forum, has also been able to explore a number of trade-related issues not yet on the WTO agenda, such as domestic deregulation, investment and competition policies.

This broadly positive picture must be tempered by some reservations. Firstly, the trade reform process is incomplete in many countries; some tariff peaks remain, negotiations are still proceeding in various areas, notably basic telecommunications and financial services, and negotiations on maritime services are postponed until the year 2000. Next, the results of the Uruguay Round, particularly in services, textiles and clothing, are evidently not fully satisfactory to all participants. Then there appear to have been at least some reversals in the overall liberalization process in some developing countries; examples may be the increasing use of anti-dumping measures (although this may also be seen as a necessary safety-valve), selective tariff increases (within ceiling bindings) and investment-related measures. More generally, concerns have been raised that the adjustment process involved in trade liberalization and greater globalization may be causing a long-term, irrecoverable leakage of employment from developed to developing economies; or (more sophisticatedly) that the combination of globalization and technological change creates a premium on high-skill as against low-skill jobs, with growing social divisions in both groups of countries.[2]

Moreover, not all WTO members are equally integrated in the multilateral system. The liberalization of trade and trade policies has gone considerably further in Europe, the Americas and Asia than in Africa, and too many small and least-developed countries continue to play marginal roles in international trade forums. Inclusion of all participants, and ensuring their active participation in the rule – and decision-making process, represent major challenges for the trading system in the next decade.

At the same time, while the share of world trade accounted for by WTO Members is close to 90 per cent, a significant number of countries are currently seeking accession. Paving the way towards membership remains a challenging and rewarding task for both the applicants, including many economies in transition, and present Members. They have a common interest in extending WTO membership and, thus, further improving reliability and predictability in international trade relations.

[2]For a recent discussion and survey of literature on this issue see Sachs, Jeffrey D. and Howard D. Schatz, "US Trade with Developing Countries and Wage Inequality", Papers and Proceedings of the American Economic Association, American Economic Review, Vol.86 No.2, May 1996.

Box III.1: The role of the Trade Policy Review Mechanism (TPRM) in the multilateral system

The TPRM, an early result of the Uruguay Round in 1989, has significantly increased transparency in the trade policies and practices of GATT and WTO members. The 70 reviews conducted to date have highlighted interlinkages between trade and internal economic reform, the inter-sectoral effects of protection (and liberalization), and their implications for the multilateral system. Many reviews have also illustrated the importance of "new" issues such as the relationship between trade and competition policy and the trade impact of investment measures. The TPRM has stimulated the internal evaluation of trade policies in Member countries. Changes have taken place either as the Trade Policy Reviews are being conducted or in response to discussion in the Trade Policy Review Body. The Review process can strengthen the hands of domestic agencies promoting liberalization, support trade reforms and, thus, help individual Members to become better WTO citizens.

1) Outward-orientation

The TPRM has had a front-row view of the growth and effects of outward-orientation:

a) Outward orientation helps to reduce anti-export bias and encourage growth in line with comparative advantage.

b) External liberalization is often a driving force for domestic liberalization, as domestic costs of protection are recognized and internal barriers become more visible. Outward orientation has encouraged deregulation in Australia, Japan, Korea and Switzerland, as well as in financial services, telecommunications and transport in the UnitedStates.

c) Outward orientation is facilitated by an open multilateral system As resources move towards a country's comparative advantage, exports are likely to grow; if world markets are closed, pressure is likely to build up against outward-oriented policies. For example, in Slovakia, as factors shift during economic transition, there is growing frustration about barriers in the European Community to steel and agricultural trade.

d) Outward orientation may also help to promote the advance of multilateralism As economies open, they tend to integrate more fully; regulations in such areas as standards, investment, competition policy, or environmental protection are brought closer.

e) Outward orientation has fundamentally changed the attitude of many countries toward economic management in crises. Thus, in 1982, the Mexican authorities' first reaction to the financial crisis was to erect import barriers; in the recent crisis, following Mexico's trade liberalization, the question of increasing import barriers was never a live issue.

2) Linkage of trade and macroeconomic policies

Most TPRs have emphasised linkages between macroeconomic and trade policies. Open trade policy can support sensible macro-economic policies; for example, greater openness to world trade can help to control domestic inflation. Recent current account problems in some Latin American countries have demonstrated the need to pursue trade and macroeconomic reforms in a co-ordinated manner.

3) Lessons regarding trade liberalization

Recent policy changes in many developing and transition countries have been autonomous, sometimes with support from the IMF and the World Bank, or related to regional agreements; multilateral binding of reforms has followed. By contrast, despite some exceptions (including Australia, New Zealand and Sweden), most developed countries have linked domestic reform efforts to multilateral or regional negotiations.

Trade reforms have generally started with the elimination or reduction of non-tariff measures (NTMs), thus reaffirming the role of tariffs. Through bindings, the Uruguay Round has helped to lock in autonomous reforms. In many developing countries, however, bindings are not yet universal, and applied MFN rates remain below ceiling bound levels. TPR reviews have also identified the significant role of other trade taxes and charges; it is not evident that all such measures have been bound despite the Uruguay Round market access commitments.

As external barriers fall, domestic deregulation has become more important. Attempts have thus been made (Switzerland, Japan, Argentina) to streamline regulatory regimes, break up cosy business arrangements, and redefine the role of large industrial conglomerates (Korea). A number of Members are introducing new policies and creating stronger mechanisms to deal with anti-competitive practices.

Most Members have been able to sustain the reform process against lobbying pressure. There have been relatively few major reversals of liberalization initiatives, but reforms have slowed in a number of countries (Morocco, Venezuela, Indonesia) and measures have been revised or suspended, particularly in some African and transition economies. External impetus, including through regular involvement in the WTO (and TPRM) process, and membership in regional agreements may help support the momentum of reforms. This could be amplified by systematic follow-up discussions in the TPRB between country reviews.

While sectoral targeting policies continue to play a role, they have been broadened in focus, and thus been defused, as a result of WTO commitments. Some Members also seem to acknowledge that, at an advanced level of development, the risk of policy misguidance increases as there are less and less "model cases" to emulate. For example, Korea abandoned its strategic trade policies in the late 1970s in favour of a more open approach.

Some smaller developing countries rely heavily on export-oriented free zones to provide foreign exchange and promote employment. Although a number of such zones have proved viable, three main disadvantages can be seen: shallow linkages with the rest of the economy and, thus, lack of synergy effects; limited access to foreign expertise and capital; and vulnerability to economic shocks. Free zones are also used as a politically expedient instrument to distract from broader liberalization needs; in some countries they coincide with high continued levels of protection for domestic agriculture and industry, thus creating a dual economy.

4) Institutional proposals for reform

The TPR experience shows that trade policy reform works best under clearly defined circumstances:

a) A long-term policy framework

Trade liberalization should be pursued in the context of long-term strategies that give industries time to adjust. The well-programmed tariff liberalizations in Australia, Argentina, Pakistan and India, and the reduction of NTMs in Korea, are good examples.

b) No exemptions that could result in major policy slippages or reversals

Liberalization should be comprehensive and avoid exemptions that may be precedents for sectors seeking continued protection. While complimenting Australia for its generally broad-based approach, the 1994 TPR also pointed to continued high tariff dispersion in textiles, clothing, footwear and motor vehicles.

c) Closing loopholes offering alternative forms of protection

Although emergency protection through anti-dumping, countervailing or safeguard measures is covered (and disciplined) by WTO rules, it is also for the individual Members to prevent these from being used as substitutes for previous tariff and non-tariff barriers. Australia has introduced new procedural safeguards in its anti-dumping legislation in connection with its general liberalization programme.

d) A transparent framework for policy development and monitoring

Liberal economic policies may have short-term negative consequences (e.g. Argentina, Mexico). It is thus important to mobilize internal lobbies benefiting from liberalization, including consumers and (potential) growth industries. This involves a process of public information and education about the social costs of protection. In Australia, such a role was played by the Industry Commission, which also provided independent trade policy monitoring and helped counterbalance pressure from industry associations and "client departments" within Government.

e) Mutually supportive domestic, regional and multilateral liberalization

The experience of the late 1980s and early 1990s shows a synergy among autonomous, regional and multilateral liberalization. Domestic and regional level efforts are best served by a strong external framework; at the same time, they can also help to support and promote the multilateral process. Parallelism on all three fronts serves individual members and the system.

II. Trade policy developments

1) Industrial countries

Between the Tokyo and Uruguay Rounds, there were relatively few changes in MFN tariffs in the industrial countries. Australia and New Zealand began implementing major tariff reform programmes, while Japan made some unilateral reductions in its applied rates. In 1986, Spain and Portugal aligned their rates with those of the European Communities (EC) on achieving membership; in 1995, coinciding with the conclusion of the Uruguay Round, Austria, Finland and Sweden followed. For Sweden at least, this implied a degree of policy reversal, in that its agricultural protection had previously fallen to below EC levels and its textile regime had been free of quotas.

In the Uruguay Round, the developed countries made average trade-weighted tariff cuts of 40 per cent on industrial products; for developed markets as a group, the tariff average is scheduled to be reduced from 6.3 to 3.8 per cent.[3] Some participants (e.g. Norway) have immediately introduced the scheduled tariff reductions. Full or partial elimination of tariffs, or harmonization, on an MFN basis, through the "zero for zero" approach was agreed among industrial countries for a wide range of sectors including pharmaceuticals, chemicals, steel, construction equipment, wood, paper, furniture, farm equipment, scientific equipment, toys, beer and spirits. Lesser commitments were made, and tariff peaks remain, for a range of products of particular export interest to developing countries such as textiles and clothing, leather, rubber, footwear, travel goods and foodstuffs.

Binding commitments were substantially extended through the universal binding of tariffs in agriculture, although replacement of non-tariff measures, including variable levies, by tariff quotas has led to some extremely high out-of-quota rates in the first instance. The WTO Agreement on Agriculture commits all parties to continuing negotiations beginning in the year 2000.

[3] GATT(1994),The Results of the Uruguay Round of Multilateral Trade Negotiations – Market Access for Goods and Services; an Overview of the Results, Geneva.

Before the Uruguay Round, developed countries employed a variety of non-tariff measures (NTMs), including quantitative restrictions, price controls, import monitoring, subsidies on production and exports, and technical barriers. These measures tended to target industries suffering a loss of comparative advantage to developing countries and to remain in place for a long period of time; their application was frequently discriminatory. By the early 1990s, "voluntary" export restraint (VER) arrangements, including those maintained under the Multifibre Arrangement (MFA), had become a significant instrument of trade policy, particularly in the United States and the European Community, and there was a decided drift towards managed trade.

The Uruguay Round negotiations – particularly in safeguards and textiles – contributed to the decline in the use of such measures and a clear turn away from trade management. Outside the scope of the Agreement on Textiles and Clothing, few export restraint agreements now exist, and the provisions of the Agreement on Safeguards have introduced new disciplines.

As the use of other NTMs has declined, contingency measures have proliferated. Anti-dumping measures (AD) are widely applied in industrial countries, and their use has grown in some developing countries. The OECD countries as a group, including Mexico and Turkey, maintained 738 final anti-dumping measures at end-1995, with non-OECD countries maintaining 89. The United States and the European Community were the principal users, with 292 and 145 measures in force (Table III.1). The number of cases has fluctuated considerably from year to year, peaking at 68 initiations in 1992-93 in the United States and 47 in the EC in 1993-94; the peak in the United States was associated with strong pressure from the steel industry, following the lifting of export restraint agreements with a wide range of countries, and new filings have since fallen considerably. On the other hand, the use by WTO Members of countervailing measures (CV) is much less common, with 108 measures in force at end-December 1995.

The "chilling" effect on trade of the mere initiation of anti-dumping measures has often been noted; moreover, AD or CV cases may be resolved, before the application of fixed duties, through such measures as price undertakings which, while arguably providing a more liberal solution than the imposition of flat-rate duties, may provide economic rents to the exporters concerned and thus implicate them in the process.[4] Certain country-specific practices for calculating dumping margins and other variables have long been subject to contention. In addition, because of an absence of effective "sunset" procedures, many AD and CV measures have, in the past, been in force for very long periods of time. The WTO Agreements include clauses that are intended to alleviate these situations, for example, through provisions clarifying cost and dumping calculations and the introduction of review and sunset procedures.

Within the European Economic Area (EEA) and the Australia-New Zealand Closer Economic Relations Trade Agreement (ANCZERTA), the use of AD and CV measures has been abandoned in favour of common or harmonized competition policy rules among their members[5]; however, other free-trade agreements, such as NAFTA or the Europe Agreements, retain such trade-remedy provisions. The interaction between anti-dumping and competition policies has inspired an active public debate.

In the late 1980s and early 1990s, instances of trade friction among developed countries increased against a background of slow growth and increasing unemployment. The period also saw growing recourse to bilateral and unilateral approaches to foreign market opening by the United States, fuelled by policy pressures related to persistent current account imbalances. Threatened by "Section 301" action, Japan agreed to remove quantitative restrictions (QRs) on some industrial products; to take a number of measures to liberalize foreign investment, deregulate the distribution system, and enforce competition laws more strictly; and to

Table III.1
Final anti-dumping and countervailing measures in force, 31 December 1995

WTO Member	Anti-dumping	Countervailing
United States	292	72
European Community (15)	145	3
Canada	93	6
Australia	87	13
Mexico	58	7
Turkey	38	0
New Zealand	25	1
Brazil	21	6
South Africa	15	0
India	13	0
Other	30	0
Total	817	108

Source: Semi-Annual Reports of Committees on Anti-Dumping Practices.

[4]Under the WTO Agreement on Implementation of Article VI of the GATT 1994 (the Anti-Dumping Agreement), an anti-dumping measure may conclude either in a duty levied by the importing country or in a voluntary undertaking by an exporter "to revise its prices or to cease exports to the area in question at dumped prices so that the authorities are satisfied that the injurious effect of the dumping is eliminated." (Article 8.1)

[5]The EEA Agreement, however, does not eliminate AD and CV measures for fishery products.

improve transparency in government procurement in construction. These changes were generally extended on an MFN basis. Bilateral market-opening negotiations have also taken place between Japan and the European Community, which has armed itself with new potential trade remedy legislation in the Trade Barriers Instrument.

However, even when concessions are extended on an MFN basis, trade liberalization based purely on bilateral approaches will tend to focus on products that interest the major protagonists and not necessarily others. Thus, the bi- or trilateral negotiations with Japan have focused on sectors such as motor vehicles, pharmaceuticals, medical equipment and microchips, championed by US and EC suppliers.

2) Developments in individual markets

In the Uruguay Round, the **United States** committed itself to an average reduction in industrial tariffs of 35 per cent, with its trade-weighted average tariff on industrial products falling from 5.4 to 3.5 per cent. Under the US commitments, the share of duty-free tariff lines will increase to 40 per cent of the total by the end of the phase-in period; some 70 per cent of US tariff lines will be subject to MFN rates of 5 per cent or less. Tariff peaks of over 15 per cent remain in textiles and footwear. As part of the agricultural tariffication process, the United States agreed to lift the quotas previously justified under the long-term GATT waiver of Section 22 of the Agricultural Adjustment Act. The United States has also signed all of the Plurilateral Trade Agreements except for the International Dairy Agreement.

Concern has recently arisen about the "extraterritorial" use of United States' trade legislation. Particular attention has been created by the passage of the Cuba Liberty and Democratic Solidarity (Libertad) Act (the "Helms-Burton Act"). This Act permits the denial of entry to the United States to directors or senior executives, and their families, of companies with interests in property "seized" by the Government of Cuba from US residents. US residents affected may also sue the companies involved (although the latter provision is currently suspended).

Before the Uruguay Round, **Japan** had been making modest unilateral cuts in its generally low applied MFN tariffs on industrial goods. Japan's Uruguay Round bindings – with a nominal trade-weighted tariff reduction on industrial products of 56 per cent, giving an average of 1.7 per cent – were generally based on its "statutory" or bound rates, often binding reductions already in application. For some sensitive items, such as leather shoes, specific duties remain, with ad valorem equivalents ranging to over 100 per cent, and import surveillance and non-automatic licensing still affect a few non-agricultural products. The Uruguay Round led to an opening of Japan's rice market, with guaranteed minimum access levels, but duties on a range of agricultural products will remain high even after full implementation of the cuts agreed in the Round. With border measures falling, attention is now focused on barriers resulting from domestic regulations, as well as alleged cartel and vertical restraint practices.

The Uruguay Round tariff reductions on industrial goods made by the **European Community** (EC) resulted in a trade-weighted average of 3.6 per cent, a cut of 37 per cent. Nearly 30 per cent of industrial goods will enter duty-free, following the phase-in period. In the early 1990s, EC member States abolished numerous restrictions previously maintained against East Asian suppliers, in particular Japan, as internal market requirements coincided with negotiating pressures in the Uruguay Round. Confounding earlier fears of a fortress Europe, very few of these restrictions were "communitized", i.e. transformed into EC-wide barriers. One of the most prominent cases, the new EC banana regime, is currently subject to WTO dispute settlement.

All voluntary restraint arrangements have gone, according to EC notifications, except for the "car consensus" with Japan which, under an exception permitted by the WTO Agreement on Safeguards, may be maintained until end-1999. Under the Agreement on Agriculture, the trade-related provisions of the Common Agricultural Policy have been made subject to stricter, more effective multilateral rules. As in other Members, high tariffs persist on "tariffied" products, but tighter disciplines have been introduced on export subsidies and subsidized export volumes.

In the Uruguay Round, **Canada** has also made significant reductions in its tariffs on industrial products, with an average cut of 47 per cent to 4.8 per cent on a trade-weighted basis. Canada also autonomously reduced tariffs on a wide range of industrial inputs in 1995, and has begun a radical revision and simplification of its structure of preferential and concessional tariffs. Other important trade policy changes include greater market opening to the United States, first under the Canada-US FTA and subsequently in NAFTA. Exchange rate depreciation against the US dollar in the first years of NAFTA helped Canadian companies to compete in the US market, and two-way trade has grown strongly. Trade frictions with the United States may be settled either under NAFTA or WTO provisions; recent cases have involved softwood lumber (where a new agreement has been reached) and the provisions of the Helms-Burton Act, where Canada has introduced countering legislation.

The stronger disciplines of the Uruguay Round coincided with federal and provincial budgetary pressures to bring about substantial cutbacks in industrial and agricultural subsidies. However, restrictive supply management arrangements persist for dairy, egg and poultry producers. Canada, formerly one of the major users of anti-dumping actions, was the first major industrial country to introduce a "sunset" clause in the mid-1980s; its use of such measures has, as a result, diminished markedly. Canada has also argued for the replacement of anti-dumping by competition law in NAFTA, so far unsuccessfully.

Since the late 1980s, **Australia** and **New Zealand** have been pursuing major autonomous trade reform programmes, which are still continuing. Australia's Uruguay Round tariff reductions will result in a trade-weighted average of 12.2 per cent on industrial products; tariff quotas for textiles, clothing and footwear, and a subsidy programme for automobiles involving export performance requirements, are to be phased out by 2000. However, Australia has become a significant user of contingency measures, with 87 final anti-dumping and 13 countervailing measures currently in force. Import quotas in New Zealand, formerly applied to a wide range of mainly industrial products, have been eliminated in the context of an extensive structural reform programme, covering all sectors, which has borne fruit in a revitalization of the economy. NewZealand has also lowered tariffs considerably and eliminated all forms of subsidies to industry and agriculture.

With low duties on industrial goods, and tariffication in agriculture, **Switzerland** now maintains few NTMs. Switzerland is also in the process of overhauling its "internal market" regulations to encourage greater competition, aligning them in most cases with EC provisions; this process should reduce the scope of anti-competitive practices, open internal procurement markets to some degree and improve internal factor mobility.

Norway has applied Uruguay Round tariff cuts – with a trade-weighted average for industry of 2 per cent – in advance on many products; the scope of import quotas on textiles and clothing has been somewhat reduced, and non-automatic licensing is applied on agricultural products subject to tariff rate quotas. Import monopolies remain for pharmaceuticals and alcoholic beverages.

3) Developing and transition economies

Since the mid-1980s, many developing and transition economies have undertaken major autonomous programmes of liberalization of foreign trade and investment policies, combined with internal economic deregulation. These are often part of comprehensive, integrated policy packages that include macro-economic and other structural reform measures. In this process, a strong new emphasis on outward-orientation has reversed the earlier policy of industrialization through import-substitution.

The integration of developing and transition economies in the multilateral trading system is clearly visible through their increased participation first in the GATT and now in the WTO, and the continuing drive towards WTO accession. The developing and transition economies also played a more active role in the Uruguay Round than in any previous round of trade negotiations.

In the Round, the transition economies bound 100 per cent of their industrial tariffs at applied rates, confirming the substantial cuts, in some cases to low levels, introduced in their economic transformation. Thus, the trade-weighted average industrial tariffs of the Czech and Slovak Republics, already under 5 per cent before the Round, were reduced to 3.8 per cent; that of Hungary from 9.6 to 6.9 per cent; and that of Poland from 16 to 9.9 per cent. However, some countries have subsequently encountered fiscal and balance-of-payments pressures which have led to the introduction of new temporary import surcharges, subject to consultation under WTO balance-of-payments (BOP) procedures.[6]

In developing countries, tariffs have largely replaced quantitative restrictions (QRs) and other non-tariff measures as the main form of protection. In this way, protection has become more transparent, measurable and predictable, and the extent of discretion has declined. Tariff structures have been, or are being, rationalized and applied rates have been cut significantly. In a few cases, uniform tariffs have been introduced; in other cases, there are now fewer, broad bands of tariffs, which tend to escalate with the level of processing, providing manufacturing with higher levels of effective protection than is evident from the nominal rates. This pattern is reinforced by rate reductions or exemptions on imported components, e.g.,in automotive assembly, subject in some cases to local content or export performance requirements.

The scope of tariff bindings by developing countries on industrial products was extended significantly in the Uruguay Round, in many cases (including most Latin American Members)[7] from low or negligible levels to 100 per cent. There is still, however, a considerable number of developing countries whose bindings cover relatively small shares of industrial goods, and many have bound their tariffs at "ceiling" levels, often well above the applied rates, which give less stability of access than bindings at applied rates.[8]

The number of developing country Members relying on balance-of-payments restrictions has declined sharply, because of improved economic management and the realization that restrictive measures tend to inhibit the structural change that is required to resolve BOP problems; the provisions of the WTO Understanding on Trade Measures Taken for Balance-of-Payments Purposes have also reinforced surveillance in this field.[9]

As in industrial countries, developing countries have started to make greater use of trade remedies such as anti-dumping actions. This trend is particularly marked in Latin America, where 101 final anti-dumping measures were in force at end-1995, up from 78 six months previously, mainly applied by Mexico and Brazil. No such measures have yet been introduced by transition economies that are WTO members.

4) Developments in individual regions

a) Asia

The outward orientation of East and Southeast Asian countries (now the most rapidly-growing region in the world) is increasing. Liberalization is likely to advance in accordance with the commitment in APEC to achieve free trade by 2010 or 2020, although the possibility of increasing protection has been discussed in countries experiencing growing current account deficits. While India and Pakistan have made major steps towards greater liberalization in recent years, consumer goods (a broadly defined group) remain restricted.

Hong Kong, **Macau** and **Singapore** have for years been virtually open, outward-oriented economies, and there has been little change in this situation. However, none has made comprehensive binding commitments in the Uruguay Round. In Singapore, there remains a significant degree of State guidance of the economy, and domestic financial services are largely closed to foreign investment. All three have, at this stage, still a number of restrictions or monopoly suppliers in some service areas, notably telecommunications, although changes are taking place. All three entities have become significant regional service and trading centres, although Singapore is also concentrating heavily on high-technology manufacturing.

The **Republic of Korea** and the ASEAN countries other than Singapore have been continuing their moves in the direction of autonomous liberalization and deregulation. **Korea**'s average industrial tariff is down to around 7 per cent, with few NTMs in place; however, some restrictions on agricultural imports and in services remain. Despite significant deregulation efforts, including through the Uruguay Round implementing legislation, and a new competition law, some substantial changes are still necessary to

[6]Hungary, Poland and the Slovak Republic have been consulting with the WTO Balance-of-Payments Committee on import surcharges introduced in 1995, 1992 and 1994 respectively; Poland and Slovakia have committed themselves to abolishing the surcharges at the end of 1996, while Hungary reduced its surcharge from 8 to 6 per cent during 1996 and, at the time of writing, was committed to phasing it out by end-1997.

[7]As a general rule, recent accessions to GATT by Latin American countries have implied the binding of all duties and, in some cases, of phase-out commitments for non-tariff measures. Chile had already bound all its tariffs in the Tokyo Round.

[8]For example, most Latin American Members have bound their post-UR industrial tariffs at rates ranging between 25 and 45 per cent, while applied tariffs tend to be much lower in range.

[9]Since the beginning of the Uruguay Round in 1984, 12 countries classed at the time as "developing" have disinvoked, or given undertakings to disinvoke, the BOP provisions; in chronological order, Greece, Portugal, Republic of Korea, Argentina, Brazil, Peru, Colombia, Egypt, Israel and South Africa have disinvoked, and Turkey and the Philippines have given undertakings to phase out remaining measures by end-1996 or (Philippines) end-1997. Currently, only five developing countries (Bangladesh, India, Nigeria, Pakistan and Tunisia) are in active consultation with the WTO Committee on Balance-of-Payments Restrictions.

improve market-orientation. Malaysia has reduced its average tariff to some 15 per cent, although the escalating structure, combined with indirect taxation, gives a wide range of effective protection to value-added; import licensing remains important, and some exports are still subject to controls and taxes, while substantial incentives are provided for industrial development. Thailand has also made progress in opening its markets by reducing tariffs, binding a substantial proportion in the Uruguay Round, cutting support to agriculture and eliminating local content requirements in industry; but tariff peaks remain, the lack of a recent published tariff is a gap in transparency, and there is a significant range of tax concessions and exemptions. Indonesia has made important moves towards liberalizing its economy, reducing dependence on oil and expanding and diversifying exports, with the simple average of tariffs reduced to 20 per cent, reduced dispersion and about 95 per cent of lines bound in the Uruguay Round. Exchange and investment regulations have been liberalized and import licensing has been largely eliminated; however, state trading will apparently remain. Remaining problems include the pattern of industrial support, preferences in government procurement and export taxes on natural resource-based products. The Philippines have liberalized restrictions on agriculture, and industrial tariffs have fallen from an average of over 40 per cent in 1981 to 25 per cent. However, restrictions will remain until 1977 on energy products; export bans persist on logs and some other raw materials; and there is still substantial tariff escalation, exacerbated by local content plans for automobiles.

India's liberalization, begun in 1991, has advanced substantially, but slowed temporarily in 1994-95. Compared to 10 years ago, despite continued restrictions on balance-of-payments grounds, the Indian economy is far more open; however, despite major reductions in tariffs, the average is still high, and substantial peaks persist, while strict import licensing barriers remain on imports of consumer goods. Pakistan has also made substantial reforms of its tariff system and is reducing substantially the number of items on its "negative list" of import restrictions. Both India and Pakistan have long consulted under WTO balance-of-payments procedures. Sri Lanka has significantly reduced its tariffs in the context of a three-tier structure and liberalized its import licensing requirements; significant export incentives via duty and tax concessions for imported inputs and capital goods persist. Bangladesh is continuing a process of economic liberalization, launched in the early 1990s.

b) Latin America

Since the mid-1980s, there has been a remarkable change in trade policies in Latin America, from largely inward-oriented import substitution to more outward-oriented policies, giving much greater play to market forces. Despite some recent setbacks prompted by concerns about current-account deficits, the liberalization process is continuing as unilateral reform programmes proceed, regional agreements (including, in the future, the Free Trade Area for the Americas) expand and deepen, and as the Uruguay Round results are implemented. Trade and other structural policies have become more integrated with, and better supported by, macro-economic policies; recent economic crises have not led, as on previous occasions, to large-scale adoption of quantitative restrictions.

Today, average applied tariffs in Latin America are generally between 10 and 20 per cent, a dramatic reduction from only a few years ago. MERCOSUR, the Andean Group, Caricom and the CACM all have common external tariffs averaging between 9 and 13.5 per cent, although significant exceptions persist for individual members. Most countries in the region have adopted a tiered structure of escalating rates; with some exceptions, maxima are generally set in the range 30 to 40 per cent. Foodstuffs and basic commodities tend to attract lower rates, intermediate items bear the mid-range tariffs, while finished goods, such as automobiles, are subject to higher duties. Bolivia and Chile, by contrast, have adopted low, uniform tariffs – 10 per cent in Bolivia, 11 per cent in Chile. In the Uruguay Round, Latin American members bound 100 per cent of their industrial and agricultural tariffs, mostly at ceiling rates of 30, 35 or 40 per cent, well above the average applied rates. The flexibility permitted by ceiling WTO bindings has been used to adjust national tariffs to regional common schedules as well as, notably by Brazil, to raise rates for industrial purposes.

Most Latin American Members have abolished the principal NTMs; significant exceptions are local content plans and export balancing requirements, principally in the automotive sector. A number retain State monopolies affecting substantial areas of trade, particularly in oil. Agricultural NTMs are, or will be, tariffied or eliminated under the WTO Agreement on Agriculture. Some Members, such as Brazil and Mexico, have become significant users of anti-dumping measures; and Brazil has invoked the WTO safeguard procedure against imports of toys. On 30 July 1996, Japan requested formal consultations under GATT, the TRIMs Agreement and the Subsidies Agreement concerning Brazil's automotive investment measures.

c) Africa

While other continents have moved steadily in the direction of trade liberalization, the experience in African trade reform has been more mixed. Nevertheless, a considerable number of African countries have launched themselves on the reform path, and this has been tracked in Trade Policy Reviews.

As part of its structural adjustment strategy, Morocco embarked on an ambitious and rapid economic reform programme in the late 1980s, of which import liberalization was a major element. Currently, the process appears to have slowed; tariff exemptions continue to shield export-oriented industries from inefficiencies in the domestic economy. Egypt has made valuable progress in the implementation of its liberalization plan; in particular, remaining import restrictions on a negative list have been abolished and Egypt disinvoked the balance-of-payments provisions of the GATT in 1995. However, tariff escalation remains substantial, with many exemptions. Experience in the sub-Saharan African countries shows wide differences in trade policy and practices. Uganda is undertaking a serious and well-thought out programme of economic and trade liberalization, under way since 1987, and the results are showing up in renewed economic growth. In Cameroon, Côte d'Ivoire and Senegal, earlier reform efforts were hampered by over-valuation of the CFA franc, but a subsequent realignment of the currency has stimulated structural reform, with trade policy playing an important role. South Africa has long sought to counter the anti-export bias of import protection by subsidies and other incentives; additional distortions resulted from substantial tariff escalation, government procurement preferences for local suppliers and an arbitrary system of import protection through the Tariff Board. More recently, tariffs have been lowered and the scope of bindings increased as a result of the Uruguay Round; a second WTO Trade Policy Review in 1997 will assess progress. Zambia is in full transition from a State-controlled to a market economy, with trade reform playing a lead role; since 1991, non-tariff measures and subsidies have been eliminated, the tariff regime significantly simplified and rates lowered.

Uneven trade liberalization experience in Africa may be attributed to several factors, including, in some cases, the results of political and institutional instability. Many countries rely heavily on tariff revenue for budgetary purposes, while the weakness of the trading infrastructure often makes it difficult to exploit the benefits of economic liberalization. Generally speaking, African countries have made relatively few tariff bindings in the Uruguay Round; in many cases, their tariff structures remain escalatory and protective of inefficient industries.

To assist African countries, as well as least-developed economies, in participating more fully in the international trading system, the WTO, together with UNCTAD and the International Trade Centre, has launched a major technical co-operation initiative in the form of an integrated technical assistance programme for selected African countries. The programme is aimed at underpinning the reform process and ensuring long-lasting, positive structural effects. This programme, which will be extended to other countries in the future, seeks to assist recipient countries in understanding and implementing international trade rules, promoting trade policy reforms, and developing human resources and institutional capacities in trade-related fields. It follows a comprehensive approach, in several stages, which includes training through trade policy courses, seminars, workshops, briefing sessions and technical missions. Particular attention is given to product development, export diversification and export promotion of products of interest to the countries involved. More detailed information on the technical cooperation activities of the WTO is included in Chapter Five on "WTO Activities".

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At the political level, the WTO is also stressing the need to give high priority to the integration of least-developed countries into the trading system. This was emphasized in the statement made by the Director-General to the Summit meeting of the Group of Seven (G7) in Lyon, in June 1996, responding to the call by the G7 leaders for a "new global partnership" to help the world's poorest economies. Specific actions to help the integration of the least-developed were identified as improving market access for their exports, including bound duty-free access and the elimination of all quotas; improving foreign investment flows and coordinated programmes of technical assistance to build human and institutional capacity.

III. Integration of regional trade policies with the multilateral system

Regional trade agreements have proliferated in the 1980s and 1990s in all parts of the world, involving economies at all levels of development. While some agreements may have been partially conceived as safety nets to alleviate the uncertainties of the Uruguay Round, the drive towards completing existing agreements and taking new initiatives has not slowed. Managing relations between regional and multilateral trade liberalization, and ensuring that regional trade agreements are fully coherent with – and firmly anchored in – the multilateral system, are likely to be significant future challenges for the WTO.

When the WTO was established on 1 January 1995, most Members were parties to at least one regional agreement that had been notified to GATT; Hong Kong, the Republic of Korea and Japan were, at that time, notable exceptions. However, with the development of APEC, virtually all WTO Members now participate in at least one arrangement designed to advance regional trade liberalization in goods and/or services. In the context of the newly-established Committee on Regional Trade Agreements, the WTO Secretariat has identified 88 individual regional agreements currently in force (see Table III.2).

Such agreements and initiatives vary enormously in coverage, scope and completeness: from the European Community, the only entity with a fully fledged single market and a supranational authority, through "classic" customs unions with a common external tariff (MERCOSUR, the Andean Group and CARICOM), via free-trade areas (EEA, EFTA and NAFTA), to looser associations of trading partners with a long-term aim of free trade, as epitomized by APEC. Participants may pursue a "hub-and-spoke" approach with differing conditions attached to different groups of associates; agree on differential provisions for members at varying levels of development, as in MERCOSUR and the Andean Group; or be actively integrationist in their approach to new members or new regional relations (e.g. the EC/EEA/Europe Agreements complex, or the possible conclusion of a free-trade area between MERCOSUR and the Andean Group). Others may pursue a grand design but still be only at a conceptual stage, as in the Free Trade Area of the Americas.

The proliferation of such agreements, especially the apparent move towards the formation of continental free-trade areas, has raised many apprehensions about their relationship with the multilateral trading system. These take two main forms: the compatibility between regional and multilateral trade liberalization, and the possibility of fragmentation of the international trading system through the development of differing sets of rules.

A number of points suggest that, with the conclusion of the Uruguay Round, the scope for conflict between regional and multilateral liberalization, particularly in tariffs, has diminished:

- the vast majority of participants in regional trading agreements are also members of the WTO, committed to the liberalization process inherent in the Uruguay Round. Further liberalization will reduce the trade-diverting effects of tariff and other preferences among members of regional agreements. The compatibility of regional with multilateral obligations may also be facilitated by the ongoing process of autonomous liberalization on an MFN basis;

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- most of the "new generation" regional agreements involve countries that have undergone, or are undergoing, a process of trade policy reform; for example, members of MERCOSUR, ASEAN or the Andean Group are committed, among themselves, to objectives which tie in well with the WTO's mission; and
- the concept of "open regionalism" as embodied in the principles espoused by the APEC group, if more clearly defined, may be a useful pointer to the development of relationships between regional and multilateral obligations.

However, the danger of fragmentation is evident in the area of trade rules. While the Uruguay Round has been devoted to ensuring greater uniformity in such rules, for example through the incorporation of services into the WTO framework, the move towards regionalism has, on the other hand, increased diversity in their application.

In a number of instances, members of regional groupings have forgone their WTO rights, including dispute settlement rights, in relation to each other; as such groups expand or bring more countries into association, the range of policies removed from multilateral commitments is bound to grow. In addition, new areas for negotiation may be developed within regional agreements, without any necessary reference to multilateral principles. This raises serious questions about the legal status of multilateral and regional rules.[10] In addition, as is noted below, developments in regional agreements reveal a number of important technical issues (such as rules of origin) that must be faced in the WTO.

There can also be positive interaction between multilateral and regional rules:
- The WTO offers a forum for harmonizing trading conditions within and between regional groupings (examples are the development of common or compatible rules of origin, standards and testing procedures);
- regional agreements can increase security and predictability in trade and investment relations, locking in reform achievements early on and preparing the ground for WTO bindings at a later stage; and
- obligations assumed under regional agreements can themselves be a spur to pressing forward trade policy objectives at a multilateral level in such areas as services, investment, competition policy and government procurement.

With these considerations in mind, the WTO Committee on Regional Trade Arrangements is charged with examining "systemic" issues involved both in existing regional trading agreements notified to the WTO and in all other regional initiatives (such as APEC and the Free Trade Area for the Americas) currently under consideration.

Participation in regional groupings does not seem to have detracted from the negotiating momentum in the Uruguay Round or the attractiveness of WTO membership. There are many indications, seen also in the context of Trade Policy Reviews, that active participation in the WTO is regarded as an indispensable complement to, or even precondition for, forging closer regional ties. A number of countries currently moving towards membership in regional groupings are also seeking accession to the WTO. However, the task remains of ensuring consistency and providing orientation in a trading environment increasingly governed by institutional arrangements that differ both across regional groups and as between those groups and the WTO.

The reorientation in trade policies noted at the beginning of this chapter – away from inward-looking toward outward-looking trade and investment policies – and the success of the Uruguay Round in terms of substance and of WTO membership, should ensure that members of regional agreements are also strong supporters of multilateral liberalization. It will, however, remain a challenge for all WTO Members that their participation in regional and multilateral agreements be consistent; that no impediments be created to the globalization of concessions exchanged at regional level; and that the multilateral principles of the WTO system retain their primacy in dealing with regional trade questions.

[10] For example, in dispute settlement on issues arising under both NAFTA and WTO, a complaining NAFTA member can choose whether to use WTO or NAFTA provisions; the procedure chosen must generally be used to the exclusion of the other. However, in the event of a disagreement on the procedure to be followed, NAFTA provisions take priority. The current agreements concluded by the European Communities – unlike the earlier agreements concluded, for example, with EFTA – clearly attach legal primacy to their own rules, as against those of the WTO, except in the areas of dumping and subsidization. Thus, in introducing bilateral restrictions on steel imports from the Czech and Slovak Republics in 1992, the EC used the safeguard provisions of the Agreement in a way that suggested that GATT obligations had been suspended.

Table III.2

List of Regional Agreements Notified to the GATT/WTO and Currently in Force[a]

A. Agreements Notified Under Article XXIV

Agreement (Unofficial title)	Date of Signature	Report on the Examination: Date	Report on the Examination: Reference (BISD)
1. EEC and EURATOM	25.03.57	29.11.57	6S/70+6S/109, (L/778), and report of the Intersessional Committee and Thirteenth Session 7S/69 (L/696)
EC - Accession of Denmark, Ireland and UK	22.01.72	11.07.75	Oral statement of the Chairman (L/3688/Rev.1, C/M/107, Spec(73)11)
EC - Greece Accession Agreement	28.05.79	09.03.83	30S/168, (L/5453)
EEC - Portugal and Spain Accessions	12.06.85	19.10.88	35S/293, (L/6405)
EC - Austria, Finland, Sweden Accessions	25.06.94	n.a.	To be submitted
2. EFTA	04.01.60	04.06.60	9S/70, (L/1235)
EFTA/FINEFTA - Iceland Accession	04.12.69	29.09.70	18S/174, (L/3441)
3. Central American Common Market	13.12.60	23.11.61	10S/98, (L/1639)
4. Arab Common Market	06.07.62	06.04.66	14S/94, (L/2518)
5. EEC - Turkey Association Agreement of 1963	12.09.63	25.03.65	13S/59, (L/2265)
EEC - Turkey Additional Protocol	23.11.70	25.10.72	19S/102, (L/3750)
EC - Turkey Association Agreement of 1973	30.06.73	21.10.74	21S/108, (L/4086)
EC - Turkey Customs Union	22.12.95	n.a.	To be submitted
6. EC - Association of certain non-European countries and territories (PTOM II)	29.09.70	09.11.71	18S/143, (L/3611)
7. EC - Malta Association Agreement	05.12.70	29.05.72	19S/90, (L/3665)
8. EC - Switzerland / Liechtenstein Agreements	22.07.72	19.10.73	20S/196, (L/3893)
9. EC - Iceland Agreements	22.07.72	19.10.73	20S/158, (L/3902)
10. EC - Cyprus Association Agreement	19.12.72	21.07.74	21S/94, (L/4009)
11. EC - Norway Agreements	14.05.73	28.03.74	21S/83, (L/3996)
12. CARICOM	04.07.73	02.03.77	24S/68, (L/4470)
13. EEC - Israel Agreement of 1975	11.05.75	15.07.76	23S/55, (L/4365)
14. EEC - Algeria Agreements of 1976	26.04.76	11.11.77	24S/80, (L/4559)
15. EEC - Morocco Agreements	27.04.76	11.11.77	24S/88, (L/4560)
16. EEC - Tunisia Agreements of 1976	25.04.76	11.11.77	24S/97, (L/4558)
17. Australia - Papua New Guinea Agreement (PATCRA)	06.11.76	11.11.77	24S/63, (L/4571)
18. EEC - Egypt Interim Agreement of 1977	18.01.77	17.05.78	25S/114, (L/4660)
19. EEC - Jordan Interim Agreement of 1977	18.01.77	17.05.78	25S/133, (L/4662)
20. EEC - Lebanon Interim Agreement of 1997	03.05.77	17.05.78	25S/142, (L/4663)
21. EEC - Syria Interim Agreement of 1977	18.01.77	17.05.78	25S/123, (L/4661)
22. Australia - New Zealand (ANZCERTA)	28.03.83	02.10.84	31S/170, (L/5664)
23. Israel - United States Free Trade Area Agreement	22.04.85	14.05.87	34S/58, (L/6140)
24. Canada - US Free Trade Agreement (CUSFTA)	02.01.88	12.11.91	38S/47, (L/6927)
25. EC - Faroe Islands Agreement	02.01.91	n.a.	To be submitted
26. EFTA - Turkey Agreement	10.12.91	07.12.93	40S/48, (L/7336)
27. EC - Hungary Interim Agreement of 1991	16.12.91	n.a.	To be submitted
28. EC - Poland Interim Agreement of 1991	16.12.91	n.a.	To be submitted
29. EFTA - Czech and Slovak Federal Republic Agreement	20.03.92	08.12.94	L/7570
30. Estonia - Norway Free Trade Agreement	15.07.92	07.12.93	40S/56, (L/7337)
31. Latvia - Norway Free Trade Agreement	15.06.92	07.12.93	40S/56, (L/7337)
32. Lithuania - Norway Free Trade Agreement	15.06.92	07.12.93	40Q/56, (L/7337)
33. EFTA - Israel Free Trade Agreement	17.09.92	n.a.	To be submitted
34. Czech Republic and Slovak Republic Customs Union	29.10.92	04.10.94	L/7501
35. Lithuania - Switzerland Free-Trade Agreement	24.11.92	31.12.95	To be submitted
36. EFTA - Poland Agreement	10.12.92	n.a.	To be submitted
37. EFTA - Romania Agreement	10.12.92	n.a.	To be submitted
38. NAFTA	17.12.92	n.a.	To be submitted
39. CEFTA	21.12.92	n.a.	To be submitted
40. Estonia - Switzerland Free Trade Agreement	21.12.92	n.a.	To be submitted
41. Latvia - Switzerland Free Trade Agreement	22.12.92	n.a.	To be submitted
42. Faroe Islands - Iceland Free Trade Agreement		n.a.	To be submitted

Table III.2
List of Regional Agreements Notified to the GATT/WTO and Currently in Force[a]
A. Agreements Notified Under Article XXIV (continued)

Agreement (Unofficial title)	Date of Signature	Report on the Examination: Date	Reference (BISD)
43. Faroe Islands - Norway Free Trade Agreement		n.a.	To be submitted
44. Faroe Islands - Switzerland Free Trade Agreement		n.a.	To be submitted
45. EEC - Bulgaria Interim Agreement	08.03.93	n.a.	To be submitted
46. EFTA - Bulgaria Free Trade Agreement	29.03.93	n.a.	To be submitted
47. EFTA - Hungary Agreement	29.03.93	n.a.	To be submitted
48. EC - Czech Rep. Europe Agreement	04.10.93	n.a.	To be submitted
49. EC - Slovak Rep. Europe Agreement	04.10.93	n.a.	To be submitted
50. Slovak Republic - Slovenia Free Trade Agreement	22.12.93	n.a.	To be submitted
51. EEC - Romania Interim Agreement	01.02.93	n.a.	To be submitted
52. EC - Estonia Agreement	18.07.94	n.a.	To be submitted
53. EC - Latvia Agreement	18.07.94	n.a.	To be submitted
54. EEC - Slovenia Cooperation Agreement	05.04.93	-[b]	-
55. Hungary - Slovenia Free Trade Agreement	06.04.94	n.a.	To be submitted
56. EC - Lithuania Agreement	18.07.94	n.a.	To be submitted
57. Czech Republic - Romania Free Trade Agreement	24.10.94	n.a.[c]	n.a.
58. Slovak Republic - Romania Free Trade Agreement		n.a.[c]	n.a.
59. Czech Republic - Slovenia Free Trade Agreement	15.12.94	n.a.	To be submitted
60. EFTA - Slovenia Free Trade Agreement	13.06.95	n.a.	To be submitted
61. EFTA - Estonia Free Trade Agreement	07.12.95	n.a.	To be submitted
62. EFTA - Latvia Free Trade Agreement	07.12.95	n.a.	To be submitted
63. EFTA - Lithuania Free Trade Agreement	07.12.95	n.a.	To be submitted

n.a. Not yet available.

[a] According to the information within the Secretariat, the agreements listed in this Table are still in force.

[b] The CTG did not provide for an examination of the Agreement.

[c] Not yet submitted to the CTG.

Table III.2
B. Agreements Notified Under the Enabling Clause

Agreement (Unofficial title)	Date of Signature	Working Party Report: Date	Reference
1. The Tripartite Agreement (Egypt, India, Yugoslavia)	23.12.67	14.11.68	16S/83, (L/3032)
2. Protocol relating to Trade Negotiations among Developing Countries	08.12.71	-*	-
3. Bangkok Agreement	31.07.75	14.03.78	25S/109, (L/4635)
4. ASEAN Preferential Trading Arrangements	24.02.77	29.01.92	26S/321, (L/4735)
Preferential Tariff Scheme for the ASEAN Free trade area (AFTA)	28.01.92	-*	-
5. South Pacific Regional Trade Cooperation Agreement (SPARTECA)	14.01.80	-*	-
6. Latin American Integration Association, "LAIA"	12.08.80	-*	-
7. Gulf Cooperation Council	08.06.81	-*	-
8. GSTP	13.04.88	-*	-
9. Laos - Thailand Trade Agreement	20.06.91	-*	-
10. MERCOSUR	26.03.91	n.a.	To be submitted
11. Preferential Tariffs among members of the Economic Cooperation Organization	17.02.92	-*	-
12. Andean Pact	12.05.87	-*	-
13. South Asian Preferential Trade Arrangement (SAPTA)	11.04.93	-*	-
14. Common Market for Eastern and Southern Africa (COMESA)	05.11.93	-*	-

* Not relevant.

Table III.2

C. Regional and Preferential Agreements Covered by GATT/WTO Waivers

	Country	Title	Article(s) waived	Date of Decision	Reference	Date of expiry[a]	Reporting requirement	Remarks on Reporting
1.	Australia[b]	Treatment of products of Papua New Guinea	I	30.05.59	8S/28	No time limit	Annual	
2.	Canada	CARIBCAN	I	26.11.86	33S/97	5.06.1998	Annual	Biennial review by the CPs
3.	EEC	Fourth ACP-EEC Convention of Lomé	I	09.12.94	L/7604	29.02.2000	Annual	
4.	France[c]	Trading arrangements with Morocco	I	19.11.60	9S/39	No time limit	None	
5.	Members of the European Coal and Steel Community	Coal and steel products	I	10.11.52	1S/17	No time limit	None[d]	
6.	UnitedKingdom	Special problems of dependant overseas territories	I, VI, XVI, XIX	05.03.55	3S/21	No time limit	Annual	
7.	United States	Trust territory of Pacific Islands	I	08.09.48	II/9	No time limit	None	
8.	United States	Imports of automotive products	I	20.12.65	14S/37	No time limit	Annual	Review by CPs after 2 years and if necessary biennially thereafter
9.	United States	Andean Trade Preference Act	I	19.03.92	39S/385	04.12.2001	Annual	Annual review by the CPs
10.	United States	Caribbean Basin Economic Recovery Act	I	15.11.95	WT/L/104	31.12.2005	Annual	Annual review by the GC
11.	Zimbabwe	Customs treatment for products of United Kingdom territories	I	19.12.60	9S/47	No time limit	Annual	

[a] In accordance with the Understanding in Respect of Waivers of Obligations under the GATT 1994, all but one of the waivers listed below will expire on 31.12.96, unless extended in accordance with the WTO procedures. The only exception is the CBERA, which was extended last year in accordance with WTO rules.

[b] These tariff preferences are now granted within the framework of the Papua New Guinea/Australia Trade and Commercial Relations Agreement, which entered into force on 1 February 1977 and was notified under Article XXIV (L/5138).

[c] The waiver applies to those products not covered by the Cooperation Agreement between the EEC and Morocco (Exchange of letters attached to Final Act, L/4381).

[d] Annual reports were required until the end of the transitional period defined in paragraph4 of Section I of the Convention.

Source: Document WT/REG/W/3.

Chapter Four

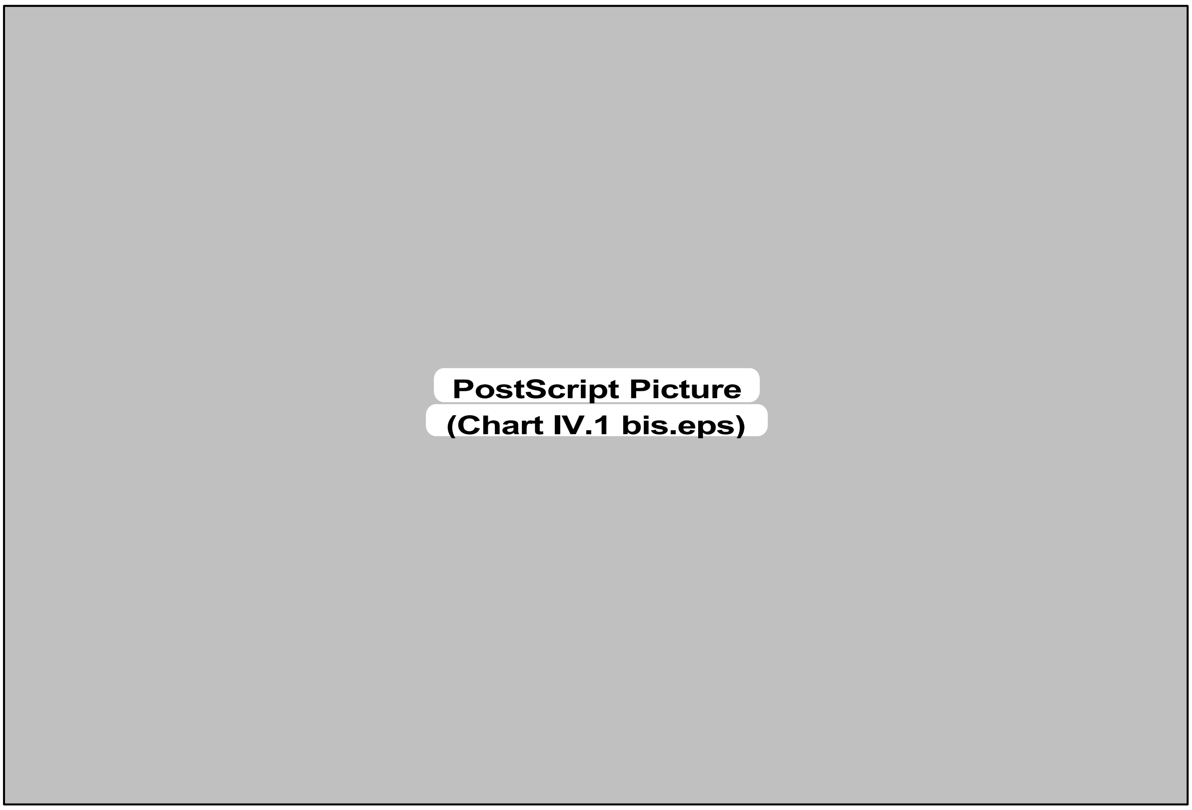
Trade and foreign direct investment

Trade and foreign direct investment

I. Introduction

There are many reasons why foreign direct investment (FDI) has become a much-discussed topic. One is the dramatic increase in the annual global flow between 1985 and 1995, from around $60 billion to an estimated $315 billion (Chart IV.1), and the resulting rise in its relative importance as a source of investment funds for a number of countries.[1] Stocks of FDI, in turn, have been growing and estimates suggest that the sales of foreign affiliates of multinational corporations (MNCs) exceed the value of world trade in goods and services (the latter was $6,100 billion in 1995), that intra-firm trade among MNCs accounts for about one third of world trade, and that MNC exports to non-affiliates account for another third of world trade, with the remaining one third accounted for by trade among national (non-MNC) firms.[2]

The keen interest in FDI is also part of a broader interest in the forces propelling the ongoing integration of the world economy, or what is popularly described as "globalization". Together with the more or less steady rise in the world's trade-to-GDP ratio, the increased importance of foreign-owned production and distribution facilities in most countries is cited as tangible evidence of globalization.[3]



[1]The figures are in current dollars. Adjusted by the deflator for OECD gross fixed investment, the percentage increase between 1985 and 1995 is just under 200 per cent, compared with the 400 per cent increase in current dollar value.

[2]See UNCTAD (1995). UNCTAD figures on the sales of foreign affiliates are estimated by extrapolating the worldwide sales of foreign affiliates of MNCs from France, Germany, Italy, Japan and the United States on the basis of the relative importance of these countries in worldwide outward FDI stock. These figures indicate that the sales of MNC foreign affiliates have exceeded world exports of goods and non-factor services in every year since the beginning of the series in 1984. The excess increased from 5 per cent in 1984 to 29 per cent in 1989, then declined to 6 per cent in 1992 (the latest year for which figures are available). UNCTAD estimates that in 1992, sales of foreign affiliates of MNCs totalled $5,200 billion. The WTO estimate of the combined value of goods and commercial services exports in 1992 is $4,600 billion. The UNCTAD estimate that one third of world trade in goods and services is intra-firm trade among MNCs is based on United States data.
JETRO, the Japanese trade organization, recently reported on its Internet "home page" that in fiscal year 1995 sales by overseas Japanese manufacturers exceeded Japan's total merchandise exports for the first time ($427 billion versus $410 billion).

[3]For an overview of the globalization process, see WTO (1995a), pages 15-23.

Foreign direct investment is also viewed as a way of increasing the efficiency with which the world's scarce resources are used. A recent and specific example is the perceived role of FDI in efforts to stimulate economic growth in many of the world's poorest countries. Partly this is because of the expected continued decline in the role of development assistance (on which these countries have traditionally relied heavily) and the resulting search for alternative sources of foreign capital. More importantly, FDI, very little of which currently flows to the poorest countries, can be a source not just of badly needed capital, but also of new technology and intangibles such as organizational and managerial skills, and marketing networks. FDI can also provide a stimulus to competition, innovation, savings and capital formation and, through these effects, to job creation and economic growth.[4] Along with major reforms in domestic policies and practices in the poorest countries, this is precisely what is needed to turn around an otherwise pessimistic outlook.

At an institutional level, the growing importance of FDI, coupled with the absence of binding multilateral rules on national policies toward FDI, has created what in many quarters is viewed as an obstacle that could slow down the pace of further integration of the world economy. The perceived need for multilateral rules on investment is not new – indeed, the Havana Charter for the stillborn International Trade Organization (origin of the GATT and "spiritual ancestor" of the WTO) contained provisions on foreign investment – but attempts to reach a comprehensive multilateral agreement with binding rules have thus far not been successful.

Renewed interest in FDI within the trade community has been stimulated by the perception that trade and FDI are simply two ways – sometimes alternative, but increasingly complementary – of servicing foreign markets, and that they are already interlinked in a variety of ways. The 27 OECD countries (plus the EC Commission) are negotiating an investment agreement, scheduled to be completed in time for the 1997 OECD Ministerial meeting. On a multilateral level the WTO's General Agreement on Trade in Services, by including rules on "commercial presence", recognizes that FDI is a prerequisite for exporting many services (there are no corresponding rules on commercial presence in the General Agreement on Tariffs and Trade, which governs trade in goods).

It is important to recognize that not everyone is enthusiastic about these developments. Critics are concerned about the possible negative effects of FDI. In "home" countries (where the outflow of capital originates), there are claims that FDI exports jobs and puts downward pressure on wages. In "host" countries (which receive the FDI), there are worries about the medium-term impact on the balance of payments, about potential monopolization of the domestic market, and more generally about the impact of FDI on the government's ability to manage the economy. Critics are also worried about the implications of having a multilateral agreement that lays down common standards for national FDI rules and requires each signatory to bind its rules under the agreement. Having to bind national FDI policies under a multilateral agreement would be viewed by critics as going even further in pre-empting a country's right to manage inflows of FDI.

Answers to these concerns are developed below, along with a careful documentation of the many benefits which FDI brings to host countries and which must be considered in formulating a country's overall attitude toward FDI inflows.

The focus of this chapter

There is, by now, a fairly extensive academic literature on the general topic of the economics of FDI.[5] In addition, UNCTAD's annual World Investment Report regularly analyses a variety of aspects of FDI, and extensive statistics on FDI are provided by the IMF, UNCTAD and the OECD. Together this material offers a comprehensive introduction to many FDI-related issues on both a conceptual and an empirical level.

From a WTO perspective, the most interesting and relevant aspect of FDI is its interlinkages – economic, institutional, legal – with world trade. With this in mind, it was decided to focus this chapter on the interlinkages between FDI and trade, rather than on FDI per se. The goal is to help to fill a modest lacuna in the literature, and to assist the trade community in its evaluation of various proposals on how the WTO should respond to the growing importance of FDI.

This introductory section is followed by an examination in Section II of the inter-action of trade and FDI, including the impact of FDI on the trade of home and host countries. Section III reviews the perceived costs and benefits of FDI, and considers the implications of competition for FDI among host countries. Regulations governing foreign investment (other than those in the WTO) are reviewed in Section IV, followed by a brief discussion in Section V of existing investment-related WTO rules and disciplines. Section VI concludes the chapter with a review of the economic, institutional and legal interlinkages between FDI and trade, and their implications for the options facing WTO members.

Before turning to the main body of the chapter, however, it would be useful to review briefly a few basic statistics on FDI in order to put the subsequent analysis in perspective (see BoxIV.1 on the definition and measurement of FDI).

Recent trends in FDI

Chart IV.1 above spans a little more than two decades. By the end of the 1970s, the annual outflow of FDI from OECD countries to all destinations (including one another) had doubled from around $25 billion to nearly $60 billion (the OECD countries currently are host to 73 per cent, and home to 92 per cent of the world's stock of FDI). These are nominal figures, however, and recalling that the OECD countries went through two periods of double-digit inflation in the 1970s, it is clear that in inflation-adjusted real terms there was little or no increase in the annual outflow. After declining sharply in the early 1980s, it began once again to increase. During the years 1986-1989 annual FDI flows increased at a phenomenal rate, multiplying fourfold in four years. In the second half of this four-year burst of activity, the global total

[4]For a recent analysis of China's experience, see Sun (1996).

[5]See, for example, Markusen (1995) and Wong (1995).

Box IV.1: Defining and measuring foreign direct investment

Foreign direct investment (FDI) occurs when an investor based in one country (the home country) acquires an asset in another country (the host country) with the intent to manage that asset. The management dimension is what distinguishes FDI from portfolio investment in foreign stocks, bonds and other financial instruments. In most instances, both the investor and the asset it manages abroad are business firms. In such cases, the investor is typically referred to as the "parent firm" and the asset as the "affiliate" or "subsidiary".

There are three main categories of FDI:

- Equity capital is the value of the MNC's investment in shares of an enterprise in a foreign country. An equity capital stake of 10 per cent or more of the ordinary shares or voting power in an incorporated enterprise, or its equivalent in an unincorporated enterprise, is normally considered as a threshold for the control of assets. This category includes both mergers and acquisitions and "greenfield" investments (the creation of new facilities). Mergers and acquisitions are an important source of FDI for developed countries, although their relative importance varies considerably.
- Reinvested earnings are the MNC's share of affiliate earnings not distributed as dividends or remitted to the MNC. Such retained profits by affiliates are assumed to be reinvested in the affiliate. This can represent up to 60 per cent of outward FDI in countries such as the United States and the United Kingdom.
- Other capital refers to short or long-term borrowing and lending of funds between the MNC and the affiliate.

The available statistics on FDI, which are far from ideal, come mainly from three sources. First, there are statistics from the records of ministries and agencies which administer the country's laws and regulations on FDI. The request for a licence or the fulfilment of notification requirements allows these agencies to record data on FDI flows. Typically, reinvested earnings, intra-company loans, and liquidations of investment are not recorded, and not all notified investments are fully realized in the period covered by notification. Second, there are the FDI data taken from government and other surveys which evaluate financial and operating data of companies. While these data provide information on sales (domestic and foreign), earnings, employment and the share of value added of foreign affiliates in domestic output, they often are not comparable across countries because of differences in definitions and coverage. Third, there are the data taken from national balance-of-payments statistics, for which internationally agreed guidelines exist in the fifth edition of the IMF Balance of Payments Manual. The three main categories of FDI described above are those used in balance-of-payments statistics.

At present, many countries – including some G7 countries – have not yet fully implemented the IMF guidelines (in particular, reinvested earnings and intra-company transactions are not always covered), which impairs the comparability of FDI data across countries. In addition, a large number of developing countries do not provide FDI data. UNCTAD's World Investment Report 1995 had to rely on OECD partner statistics to estimate FDI flows for about 55 economies. Despite recent improvements, more efforts at the national level are needed before comparable and reasonably comprehensive FDI data will be available at the global level.

was given a further boost, albeit a minor one, by a tripling (from a very low base) of FDI outflows from non-OECD economies, in particular from Hong Kong. More specifically, the share of non-OECD countries in worldwide outflows of FDI increased from 5 per cent in 1983-87 to 15 per cent in 1995.[6]

In the OECD countries, this period of high growth for FDI was followed by five years (1990-94) of stagnant or declining annual outflows, no doubt reflecting in part the widespread economic slowdown. Then, in 1995, there was another dramatic turn-around, with outflows of FDI from the OECD area estimated to have increased by 40 per cent.[7]

A commonly asked question is whether FDI is growing more rapidly than world trade. The answer depends on the period. During 1986-89 and again in 1995, outflows of FDI grew much more rapidly than world trade. In contrast, during 1973-84 and 1990-94, FDI growth lagged behind trade growth.[8] Over the entire period 1973-95, the estimated value of annual FDI outflows multiplied more than 12 times (from $25 billion to $315 billion), while the value of merchandise exports multiplied eight-and-a-half times (from $575 billion to $4,900 billion).

A comparison of flows of FDI and flows of international portfolio investment for the period 1988-94 reveals that the average annual flows of the two types of international investment were more or less equal during 1988-90, after which portfolio investment began three years of rapid growth that brought it to a level ($630 billion in 1993) more than double that of FDI.[9] A sharp slowdown in the growth in portfolio investment in 1994 then narrowed the gap somewhat (data on portfolio investments for 1995 are not yet available). A third category of financial flows, and one of particular importance to many developing countries, is official development finance.[10] In 1994, when the flow of international

[6]UNCTAD (1996e).

[7]OECD (1996b). UNCTAD (1996b) reports a preliminary estimated increase of 40 per cent in worldwide FDI inflows in 1995.

[8]A comparison between the growth in annual flows of FDI and the growth in annual gross fixed investment in the OECD countries shows the same results as the comparison of FDI flows and trade.

[9]The figure for portfolio investment is an average of inflow and outflow figures, between which there often is a large discrepancy.

[10]OECD (1996a). The concept of official development finance embraces the "resource receipts" measure of official development assistance (ODA) together with non-concessional disbursements for development purposes from multilateral institutions and other official bilateral flows for development purposes (including refinancing loans) which have too low a grant element to qualify as ODA.

portfolio investment was about $350 billion and the flow of FDI $230 billion (in both cases to all destinations), the OECD countries provided about $60 billion of official development finance, of which about $50 billion went to developing countries and the remainder to the transition economies.

In 1995, inflows of FDI into the non-OECD area totalled an estimated $112 billion. Of this, approximately $65 billion went to Asia, and another $27 billion to Latin America (including Mexico). The remaining $20 billion was divided almost equally between transition economies in Europe on the one hand, and Africa and the Middle East on the other.

The share of the non-OECD countries in world FDI inflows, which decreased in the 1980s, increased from nearly 20 to about 35 per cent between 1990 and 1995.[11] China as a host country played a major role in this increase, but other developing countries, in particular in Asia and Latin America, have also benefited from a sharp increase in FDI. At the same time, FDI flows to non-OECD countries are highly concentrated. In 1995, China accounted for about one third of all FDI inflows into non-OECD countries ($38 billion out of $112 billion), and another nine countries for another 35 per cent.[12] The remaining 31 per cent or $36 billion was divided (not equally) among the approximately 135remaining developing and transition countries. The least-developed countries attracted throughout the 1990-95 period on average $1.1 billion of FDI inflows which corresponds to about one half of 1 per cent of global FDI flows.[13]

Switching to cumulative inflows, Table IV.1 presents figures on aggregate cumulative inflows into the leading host economies for the period 1985-95. Seven out of the 20 are developing economies. China is in fourth place, with Mexico, Singapore, Malaysia, Argentina, Brazil and Hong Kong also on the list.[14] Table IV.1 also calls attention to the fact that the leading host economies for FDI are, for the most part, also the leading home economies for FDI (the names of the latter are in bold). The first nine host economies, plus seven of the remaining 11 host countries, are on the list of the 20 leading home economies.

Cumulative inflows are also shown on a per capita basis in Table IV.1 (note that there is no reason to believe that these are the 20 leading countries on a per capita basis). In many instances the ranking is very different from that based on the aggregate figures. The most dramatic change is the drop in China's ranking from 4th on an aggregate basis to 20th on a per capita basis. The next largest declines are for the United States (from 1st to 13th) and France (from 3rd to 10th). The counterpart, of course, is that some economies – especially some of the smaller economies – rank higher on the basis of per capita figures: Denmark, Switzerland, Hong Kong and Singapore jump 10 places (or more) each.

The upper half of Chart IV.2 indicates where the MNCs in six major home countries have been putting their FDI (the six countries were selected on the basis of data availability; together they accounted for about two thirds of the global outflow of FDI during the past decade).[15] In both 1984 and 1994, the dominant destination was other OECD countries.

Table IV.1
Leading host economies for FDI based on cumulative inflows, 1985-95

Rank	Country	Total inflow (billion $)	Inflow per capita ($)	Rank*
1	**United States**	477.5	1820	(13)
2	**United Kingdom**	199.6	3410	(7)
3	**France**	138.0	2380	(10)
4	**China**	130.2	110	(20)
5	**Spain**	90.9	2320	(11)
6	**Belgium-Luxembourg**	72.4	6900	(2)
7	**Netherlands**	68.1	4410	(3)
8	**Australia**	62.6	3470	(6)
9	**Canada**	60.9	2060	(12)
10	Mexico	44.1	470	(17)
11	**Singapore**	40.8	13650	(1)
12	**Sweden**	37.7	4270	(4)
13	**Italy**	36.3	630	(16)
14	Malaysia	30.7	1520	(14)
15	**Germany**	25.9	320	(18)
16	**Switzerland**	25.2	3580	(5)
17	Argentina	23.5	680	(15)
18	Brazil	20.3	130	(19)
19	**Hong Kong**	17.9	2890	(9)
20	**Denmark**	15.7	3000	(8)

* Figures in parentheses indicate the ranking of the leading host economies on a per capita basis.

Note: Economies in bold are also among the 20 leading home economies for FDI (note that definitions of FDI vary considerably across the economies). This table excludes Bermuda, for which cumulated FDI inflows, largely in the financial sector, amount to $21.5 billion.

Source: UNCTAD, FDI database for the top 20 host economies, and United Nations (1996) for the population figures used to derive the per capita inflow.

[11] However, the 1994 share of 40per cent in the proportion of FDI inflows going to non-OECD countries is marginally less than the 47per cent recorded in 1982 (UNCTAD FDI database).

[12] The 10 developing economies with the largest FDI inflows in 1995 are (in descending order) China, Mexico, Malaysia, Singapore, Brazil, Indonesia, Argentina, Chile, Thailand and Hong Kong. See UNCTAD (1996e).

[13] UNCTAD (1996e). The share of the least-developed countries in global FDI inflows is rather similar to their shares in world merchandise trade and world output, but differs sharply from their share of nearly 10 per cent in world population.

[14] Japan is the only G7 country not among the top 20 host economies. However, Japan's statistics exclude re-invested earnings. If partner statistics (which include re-invested earnings) are used to estimate FDI inflows into Japan, the figures place Japan also among the leading host economies.

[15] Regarding both the regional and sectoral distribution of FDI, it should be kept in mind that an important component of the annual outflow of FDI – more than 60 per cent in recent years for the United States and the United Kingdom – is re-invested earnings of affiliates. This imparts a degree of inertia to the regional and sectoral shares. Note also that a large proportion of the world's stock of FDI is intra-industry – that is, those industries for which a particular country is home for FDI tend to coincide with those industries for which that country is host to FDI.

PostScript Picture
(Chart IV.2 bis.eps)

Even Japan, which had been the least focused on OECD countries in 1984, saw the share of its FDI stock in the OECD area jump by more than one third between 1984 and 1994. Of the three European countries in the Chart, only the United Kingdom had more than a very minor share of its stock of FDI in non-OECD Asia in either year.

There is more variation among the six countries when it comes to the sectoral breakdown of their stocks of FDI abroad, shown in the bottom half of Chart IV.2. The share of FDI in the agriculture and mining (mainly fuels) sectors was highest in the United Kingdom and lowest in Germany. The United Kingdom is the only country among the six that increased the share of FDI in manufacturing between 1984 and 1994, and France is the only one that increased the share in agriculture and mining between those two years. On the other hand, all six countries increased the share of FDI in the services sector between 1984 and 1994, with Germany and the United States reporting the largest gains.[16] The share of FDI in the services sector in 1994 exceeded the share in manufacturing in these countries, with the exception of the United Kingdom and Germany, where the two shares were equal (in Japan the share in services was more than double that in manufacturing).

Relatively detailed statistics on FDI flows in 1995 are available only for the United States, the main highlights of which are given in Box IV.2. Regarding the point that a large proportion of the outflow of FDI from the United States continues to go to "higher wage" countries, it appears that outflows of FDI from Japan follow a broadly similar path. According to a recent World Bank study, based on a survey by Japan's Ministry of International Trade and Industry, Japanese MNCs investing in Asia attach a higher priority to the availability of skilled workers, minimal restrictions on businesses and a large domestic market, than they do to low wages.[17]

[16] By 1993, service sales to United States persons by majority-owned affiliates of foreign MNCs exceeded imports of services into the United States ($140.5 billion versus $125.5 billion); see WTO (forthcoming).

[17] Dasgupta, Mody and Sarbajit (1996).

II. Trade and foreign direct investment

For the most part, empirical work on the linkages between FDI and trade has not tried to establish causation – that is, to determine, for example, whether inflows of FDI cause exports to be greater than they would otherwise be or whether, instead, expanding exports attract increased FDI. The focus, rather, has been on the more modest goal of seeking to determine whether an increase in one is systematically associated with an increase or decrease in the other – in other words, whether they are correlated. This is commonly referred to as testing whether trade and FDI are substitutes (negatively correlated) or complements (positively correlated).

When the focus is on interlinkages, the question of whether FDI and trade are substitutes or complements is of secondary importance. A substitute relationship can create just as strong an interlinkage as a complementary one. And if they are interlinked, it means that trade policy affects FDI flows, and FDI policies affect trade flows, and therefore that both sets of policies would benefit from being treated in an integrated manner.

Box IV.2: Trends in the foreign direct investment of United States multinationals in 1995

Moderately detailed statistics on outflows of FDI from MNCs in the United States are available for 1995. Highlights of those statistics include:

- Rapid growth of FDI. The outflow of FDI by US multinationals increased by more than 110 per cent in 1995 to $97 billion, up from $46 billion in 1994.
- Reinvested earnings and mergers and acquisitions. The record level of FDI abroad in 1995 was largely attributable to US multinationals' reinvestment of earnings and acquisition of new businesses. Reinvested earnings were $58.9 billion in 1995, up from $34.7 billion in 1994. In addition, equity capital outflows increased to $41.6 billion from $11.7 billion, a jump of 255 per cent over 1994 due to a wave of US mergers and acquisitions, especially in Western Europe. Most active in the M&A activities have been US pharmaceutical manufacturers and electric utility companies.
- Orientation towards Europe. Europe continues to maintain its attractiveness for US multinationals, capturing $50.2 billion or 53 per cent of total US FDI flows in 1995. The flow of US multinationals' investment to Europe tripled over 1994 levels.
- US FDI into Asia and Latin America also grew rapidly in 1995. The outflow of into Asia increased by 66 per cent in comparison to 1994. The comparable figure for Latin America was 35 per cent.
- Towards higher-wage countries. Although access to low wages and raw materials remains a factor, the rapid growth of FDI to Europe suggests that lower costs for these inputs are not the main determinant of the bulk of US FDI.
- Major role of manufacturing. Overall, manufactures accounted for more than one half of US FDI outflows in 1995. Again, Europe dominates US manufacture's investments, while outflows to South America and Asia also increased significantly in 1995. Among manufacturing industries, chemicals was the largest source of outward FDI (42 per cent of total US manufacturing FDI), followed by machinery (12 per cent), other manufacturing (12 per cent), transport equipment (8 per cent), food processing (6 per cent) and metals (5 per cent).

Source: Baxter (1996).

This section provides an overview of the results of research on the relationship between FDI and trade, beginning with a brief review of current thinking on the driving forces behind FDI at the level of the individual firm. As will become clear, an awareness of the motivations behind FDI is an important part of understanding the interlinkages between FDI and trade. The focus in the remaining part is on the empirical evidence on interlinkages between FDI and trade, first from the viewpoint of the home country, and then from that of the host country.

1) Why firms engage in FDI

Why do firms expend the effort required to invest abroad, rather than staying home and producing for export and/or licensing their technology to foreign companies? Researchers have examined this issue for almost 40 years. There is now a degree of consensus that an MNC typically is the outcome of three interacting circumstances.[18] First, the firm owns assets that can be profitably exploited on a comparatively large scale, including intellectual property (such as technology and brand names), organizational and managerial skills, and marketing networks. Second, it is more profitable for the production utilizing these assets to take place in different countries than to produce in and export from the home country exclusively. Third, the potential profits from "internalizing" the exploitation of the assets are greater than from licensing the assets to foreign firms and are sufficient to make it worthwhile for the firm to incur the added costs of managing a large, geographically dispersed organization.

The assets of MNCs

It is often observed that the assets possessed by MNCs include many that are "intangible", consisting primarily of intellectual property, including technology, brand names and copyrights, plus the "human capital" (employee skills) associated with these assets. Much of the literature on MNCs emphasizes technology as a driving agent for the internationalization of the operations of such firms. The technology may centre on products (the firm might produce a product variety that is, by virtue of technology embodied in it, preferred by consumers over variants of the same product produced by rival firms) or on processes (the firm might be able to produce standardized products at a lower cost than its rivals). At the same time, however, technology-based competitive advantages of firms often tend to become obsolete with the passage of time. Hence the real advantage possessed by certain firms may be not a given technology, but rather the capacity to consistently innovate such technologies.

As powerful as technology might be in driving the internationalization of firms, it is not the only intangible asset that firms may seek to exploit worldwide. Patents and copyrights can impart obvious competitive advantages to the firm that holds them. In some industries, the assets are in the form of brand names for which consumers worldwide are willing to pay a premium (for example, cola beverages). Firms owning such assets can, of course, license country-specific production rights, rather than deciding to invest in foreign production facilities.

Why produce in more than one country?

The fact that a firm owns assets that can be exploited on a large scale and that make it competitive internationally, still does not explain the international character of the MNC. After all, managing assets located in foreign countries entails extra costs, such as those associated with obtaining information about local laws and regulations, managing local labour relations, increased management travel, and the need to manage operations in different languages and cultures. Why not produce in one location and serve foreign markets through exports?

For many service industries, the answer is very simple. In order to be competitive in foreign markets, the service provider must have a physical presence in those markets. Indeed, the fact is that most cross-border trade in services has been propelled by FDI. Whereas with manufactured goods FDI often follows trade, in services it is more often the other way around. This was explicitly recognized in the Uruguay Round when the participants agreed to include rules on "commercial presence" in the General Agreement on Trade in Services.

There are several reasons why multinational operations also may be superior for industries producing goods, many of which fall into one of two broad categories. First, there are those which tend to emphasize vertical FDI, where a firm locates different stages of production in different countries.[19] These types of investment are typically seen as the result of differences across countries in input costs. An MNC involved in an extractive industry, where the endowment of natural resources is concentrated in certain countries, is an obvious example. Another is the case in which a firm locates a certain labour-intensive stage of its production chain in a country with low labour costs, while at the same time locating production stages requiring substantial amounts of "human capital" in a nation where highly skilled workers are in relatively abundant supply. In other words, the firm, in an effort to minimize production costs, establishes production sites in a number of nations, and uses trade as a means of supplying demand for particular products – including inputs – in particular markets.[20]

[18] This idea, known as the "OLI" or "eclectic" paradigm, was first proposed by Dunning (1977 and 1981). See also Markusen (1995) and Graham (1996c).

[19] See, for example, Brainard (1993b) and Wong (1995).

[20] During the 1970s, for example, the production of semiconductor-based integrated circuits involved several steps, including wafer fabrication (highly capital intensive), photo-lithography (capital and skill intensive), wire-bonding and encapsulation (very intensive in relatively low-skilled labour), and testing (medium labour intensive). Unit transport costs being very low and the processes being physically separable, the various steps were often conducted in different locations widely separated from one another. The wirebonding and encapsulation steps were, in particular, performed in what were (then) low wage nations in East Asia while the wafer fabrication and photo-lithography steps were performed (mostly) in the United States.

The other main category of advantages from multinational operations gives rise to horizontal FDI, where similar types of production activities take place in different countries.[21] Motivations behind this type of FDI are, for instance, that transport costs for products with high weight/value ratios may render local production more profitable; that certain products need to be produced in proximity to consumers; that local production makes it easier to adjust to local product standards; and that local production yields better information about local competitors. The FDI may also be driven by trade barriers, either existing measures – "tariff-jumping" FDI – or with the intention of reducing the probability of future protectionist measures, the so-called "quid pro quo" FDI.[22]

Why not license?

The possession of intangible assets, and differences across countries in production costs, cannot by themselves explain why a firm undertakes the production itself. Many intangible assets, including technology, can be – and in practice often are – licensed to foreign firms. When a firm decides to engage in FDI, there must be reasons why it prefers to "internalize" the use of its assets rather than to exploit them through licensing.

Many benefits from internalization have been identified in the literature.[23] One category are those that stem from the avoidance of the transaction costs associated with arm's length market transactions. Such costs include those of contracting and quality assurance in dealing with suppliers, with export/import firms and with foreign licensees. These and other costs can be reduced, perhaps significantly, by internalizing the transactions within a single firm. A closely related consideration is whether the legal environment in the host country, especially for the protection of intellectual property, gives an MNC that licenses its technology an amount of control over the use of the technology that is equivalent to the control it would have if it set-up an affiliate and undertook the production itself.

Another motivation is that the external market for technologies may undervalue technologies relative to their value to the firm that developed them. For example, to fully exploit a particular technology might require that other, complementary, technologies be present, or that the organization employ persons with certain specific knowledge and skills not easily available elsewhere. In such cases, the technologies are likely to be of greater value inside the organization responsible for their creation than to outside organizations, which means that the organization cannot receive this value by licensing the technology on the open market. The greater the discrepancy, the more likely it is that the firm's managers will decide to internalize the use of the technology.

[21] See, for example, Brainard (1993c) and Markusen (1995).

[22] See Kojima (1977) and Bhagwati (1987). See also Wong (1995).

[23] See Buckley and Casson (1976), Markusen (1995) and Wong (1995).

[24] Blonigen and Feenstra (1996).

[25] UNCTAD (1995), page 286.

[26] See the comprehensive study by UNCTAD (1996a) of incentives and foreign direct investment.

[27] UNCTAD (1996a).

[28] World Bank (1995).

2) The impact of trade policies on FDI

Trade polices can affect the incentives for FDI in many ways, two of which were just mentioned. A sufficiently high tariff may induce tariff-jumping FDI to serve the local market. Other types of import barriers can have the same effect, of course. It is no coincidence that Japanese automobile manufacturers began producing in the European Union and the United States following the imposition of so-called "voluntary export restraint" agreements (VERs) limiting the number of automobiles that could be shipped from Japan. FDI may also be undertaken for the purpose of defusing a protectionist threat. Such quid pro quo investments are motivated by the belief that the added cost of producing in the foreign market is more than compensated by the reduced probability of being subjected to new import barriers on existing exports to that market. There is evidence, for example, that the perceived threat of protection had a substantial impact on Japanese FDI in the United States in the 1980s, and that these investments reduced the subsequent risk of being subjected to contingent protection resulting from anti-dumping and escape clause actions.[24]

While some host countries intentionally use high tariffs as an incentive to induce investment, the gains from doing so may be limited. FDI attracted to protected markets tends to take the form of stand-alone production units, geared to the domestic market and not competitive for export production.[25] Indeed, high tariffs on imported raw materials and intermediate inputs can further reduce international competitiveness, especially if local inputs are costly or of poor quality (as suggested by the need to protect the domestic producers of those goods in the first place). To counteract the negative effects of high input tariffs, host countries often provide duty drawback schemes for foreign inputs entering into production for export. This is part of the standard incentive package offered to foreign investors, particularly in export processing zones.[26]

A low level of import protection – especially if it is bound – can be an even stronger magnet for export-oriented FDI than duty drawback schemes. Comparing FDI flows to the relatively open markets of certain Asian countries with the (until recently) relatively protected Latin America markets, a recent study found that the former tended to attract export-oriented FDI, while the latter tended to attract local market-oriented FDI.[27] These results are supported by another study, which found that in 1992 the ratio of exports to total sales of Japanese affiliates in the manufacturing sector in Asia was 45 per cent, while the corresponding figure for Japanese affiliates in Latin America was just 23 per cent.[28]

The evidence supports the view that low tariffs is the preferred strategy for host countries with ambitions to integrate themselves more fully into the global economy – and those tariffs need to be bound in order to give the tariff regime credibility. Investment decisions are by their very nature long-run, and investors are certain to be affected by uncertainty about the durability of duty drawback schemes and other incentive packages that can be withdrawn or altered at the discretion of the government.

Regional trade agreements and FDI

Market size is an important consideration for an MNC contemplating a particular FDI. By removing internal barriers to trade, a free trade area or customs union gives firms the opportunity to serve an integrated market from one or a few production sites, and thereby to reap the benefits of scale economies. This can have a pronounced impact on investment flows, at least while firms are restructuring their production activities. The single market program of the European Union stimulated substantial investment activity, both within the Union and into the Union from third countries, and similar effects on FDI flows have been observed for other regional trade agreements.[29]

The most common form of regional trade agreement is a free trade area, which differs from a customs union in that each member retains its own external tariff schedule. This creates a need for "rules of origin" to determine whether a product that has been imported into one of the members, and undergoes further processing, is entitled to free trade treatment between member States (in other words, is it still a product of the third country from which it was purchased, or is it now a product of the partner country?). Because rules of origin can have a protectionist effect (if not an intent), they can affect the location of FDI.[30] For example, under NAFTA rules of origin, clothing produced in Mexico gains tariff-free access to the United States market, provided it meets the "yarn forward" rule, which for many products requires virtually 100 per cent sourcing of inputs in North America. Mexican clothing manufactures face a choice between sourcing all inputs beyond the fibre stage in North America to obtain free trade area treatment, or sourcing inputs outside NAFTA at potentially lower cost, but forgoing duty-free access to its most important market. As MFN tariffs on clothing are still high, they may choose to source inside the area rather than outside. This obviously creates greater incentives for third-country textile producers to invest in production facilities inside the NAFTA area, to regain lost customers, than would less restrictive rules of origin.

Some regional integration agreements have evolved into "hub-and-spoke" systems. This can happen, for example, if members of a customs union sign individual free trade agreements with country X and country Y, but there is no free trade agreement linking X and Y – in which case the customs union is the "hub" and countries X and Y are the "spokes". Such trade arrangements distort the pattern of FDI because there is an added incentive to locate FDI in the hub, from which there is duty-free entry to all three markets, rather than in one of the spokes, since goods do not move duty-free between the two spokes.[31]

These examples indicate that trade policy can have a significant impact on FDI flows. The opposite relation also holds, as is shown in the next section.

3) The impact of FDI on trade

It is frequently alleged that FDI reduces home country exports and/or increases home country imports, and thus has negative consequences for the home country's employment and balance of payments. The counterpart is the belief that FDI reduces host country imports and/or increases host country exports. The origin of these views is the traditional thinking about FDI, which has focused on the possibility of using foreign production as a substitute for exports to foreign markets.

Two developments explain much of this traditional view that FDI and home country exports are substitutes. An influential theoretical article published in 1957 demonstrated that, under certain restrictive (simplifying) assumptions, the free movement of capital (and labour) was a substitute for free trade – that is, that the completely free movement of factors of production would produce the same results as the completely free movement of goods and services.[32] A substitute relationship between capital flows and trade obviously is at the heart of this analysis. The other development was the popularity of import-substitution policies in large parts of the developing world until the early 1980s. As has already been noted, high import barriers encouraged – often at the explicit wish of the governments imposing the barriers – tariff-jumping FDI, with the result that local production replaced imports.

Whatever its origin, this traditional view of trade and FDI as substitutes ignores the complexity of the relationship in the contemporary global economy. To begin with, just because FDI causes the displacement of certain home country exports by production in the host country, it does not necessarily follow that the home country's total exports to the host market decline. To see why, consider a firm which is initially prevented from undertaking FDI, and instead serves the foreign market through exports. If the firm is then allowed to invest in the foreign country, the total effect on the home country exports is the result of several forces. First, at given levels of sales in the foreign market, and with the same productive activities taking place within what is now an MNC as prior to the liberalization, there could be a replacement of previous exports of the final product by the new production in the foreign (host) country. This could stimulate exports of intermediate goods or services from the home country, but with the MNC's total production of the final good or service unchanged, that would not be sufficient to prevent an overall decline in exports.

However, the raison d'être of the investment is presumably to improve the firm's competitive position vis-a-vis other firms in the industry at home and abroad. This gain in competitive position may be due to access to cheaper labour or material inputs, but it may also stem from lower transactions costs, closer proximity to local customers, and so forth. Total sales are likely to increase as a result of the

[29] See UNCTAD (1993) and WTO (1995b).

[30] See, for example, Hindley (1990) and Krueger (1995).

[31] See Baldwin (1993) and WTO (1995a).

[32] Mundell (1957).

investment, which would imply increased demand by the affiliate for intermediate inputs. This will increase home country exports, to the extent that the affiliate continues to purchase intermediate goods and services from the parent company, or from other firms in the home country. Depending on the extent to which the affiliate relies on the home country for inputs, and the extent to which the MNC's total sales increase (in the host country's market and/or in third countries) there could be a net increase in total exports from the home country (the composition of exports, of course, is likely to shift toward intermediate goods and services). In addition, if the FDI stimulates economic growth in the host country, as appears to be the case (see below), the result will be an increase in demand for imports, including from the home country.

Now consider the impact of the FDI on home country imports. Some portion (perhaps all) of the inputs that were imported before the FDI for use in the production that is relocated abroad, will not be imported into the home country after the FDI has been undertaken. On the other hand, the foreign affiliate may begin serving the home country market, and in which case imports of the final product would increase. Again, because of these and other possibly offsetting effects, there is no reason per se to expect FDI and home country imports to be either substitutes or complements.

The discussion so far has been concerned with the complexities of the relationship between FDI and home country trade. But it should be clear that, for many of the same reasons, it is no easier to determine a priori the relationship between FDI and host country trade. Again, the question of the relationship between FDI and trade can only be settled by looking at the empirical evidence. This is particularly true because the wider and largely dynamic effects of FDI in the host country – such as the stimulus to competition, innovation, productivity, savings and capital formation – can be important. Since these and other FDI-related dynamic effects are likely to affect the level and product composition of the country's imports and exports – including its trade with the home country – it is evident that the relationship between trade and FDI is considerably more complex than is often suggested.

Before turning to the empirical evidence, four points should be emphasized. First, the theory has provided only limited guidance to the empirical work. This in turn makes it very risky to draw policy conclusions from individual studies. Second, because data problems are particularly acute with regard to service industries, most research on FDI focuses on goods. This lack of empirical research on FDI in the services sector is increasingly troublesome, considering the growing importance of services in production, trade and investment. Third, the theoretical literature is largely focused on analysing the impact of an individual (marginal) investment. At the margin, incremental investment may have a very different set of implications from those related to the entire trade and FDI regime.[33] Finally, empirical work on FDI is generally plagued by the limited availability and quality of the data (see Box IV.1 above). As a result, empirical research on MNCs is largely limited to firms from just a few countries, notably the United States, Sweden and Japan.

4) Home country trade: What the statistics show

The relationship between outflows of FDI from the United States and exports from the United States has been examined in a number of studies. Early work, based on data from the 1970s, found a positive relation between United States exports in a given product category to a country and the level of production in that country by United States MNCs, with the effect being more pronounced for affiliates located in developing countries.[34] Tests of the effect of affiliate production on the total exports of parent firms to all destinations suggested that the displacement of United States exports to third countries, if it existed, was not large enough to offset the positive effects on parents' exports to host countries. In each industry, United States MNCs whose foreign production was above the industry average also had above-average exports from the United States.[35] Another study reported that in about 80 per cent of the industries, production by majority-owned United States affiliates was either unrelated or positively related to exports by United States firms in the same industry.[36]

A more recent examination of the relationship between the stock of United States FDI abroad and United States exports, using data for 1980, 1985 and 1990, concluded that United States exports were positively and significantly related to United States FDI stocks in all three years.[37] In 1990, for example, each 1 per cent rise in the stock of FDI in a host country was associated with 0.25 per cent higher United States exports to that country. Using a different statistical procedure, designed to correct for (among other things) the possibility that United States MNCs have a greater tendency to export to and invest in larger markets than in smaller markets, an even more recent study confirmed a complementary relation between FDI and exports for the

[33] For instance, if firms invest in a region in order to take advantage of low labour costs, wages in the region will eventually be affected, and thereby trade patterns. In order to predict the impact of aggregate FDI for trade patterns, as opposed to the impact of an isolated FDI for an individual firm, it is necessary to take into account the two-way interaction between aggregate FDI and trade in the input markets in which firms operate. While the bulk of FDI seems not primarily to be driven by differences in production costs across countries, it should also be recognized that the lack of pronounced differences in production costs across some of the OECD countries today could partly reflect the accumulation of stocks of FDI across these countries.

[34] Lipsey and Weiss (1981).

[35] Lipsey and Weiss (1984).

[36] Blomström, Lipsey and Kulchycky (1988). The study also provided evidence that minority-owned affiliates' activity seemed to be more clearly complementary to exports from the United States than that of majority-owned affiliates.

[37] Hufbauer et al. (1994).

world, as well as for East Asian and European countries.[38] The apparent opposite or substitute relationship for the Western hemisphere countries could be explained by the Latin American countries' import substitution policies in the 1970s and early 1980s.

The overall conclusion from studies of Swedish MNCs is that sales by foreign affiliates, to the extent that they affect exports from Sweden at all, contribute positively to home country exports.[39] Similar results have been reported for Germany, Austria and Japan.[40]

There has been relatively little empirical testing of the impact of outward FDI on imports by the home country. There is evidence that United States imports are not materially affected by the extent of United States investment abroad. In contrast, a given amount of outward Japanese FDI appears to have promoted about twice as much Japanese imports as exports, while German FDI outflows probably promoted German imports at the beginning of the 1980s, but not necessarily at the end of the decade.[41] A more recent study found that, in the case of United States, there was weak evidence for a positive relationship between FDI stocks and imports in the manufacturing sector, whereas for Japanese FDI the results were inconclusive.[42]

To sum up, empirical research suggests that to the extent there is a systematic relationship between FDI and home country exports, it is positive but not very pronounced. Certainly, there is no serious empirical support for the view that FDI has an important negative effect on the overall level of exports from the home country. There is less evidence on the relationship between FDI and home country imports, but what exists tends to suggest a positive but weak relationship.

5) Host country trade: What the statistics show

Detailed studies of FDI in mining and other natural resource-based industries have confirmed the expected strong positive correlation between FDI and the host country's exports.[43] Several studies covering a broader range of industries have also found a high positive correlation between aggregate inflows of FDI and the host countries' aggregate exports.[44]

Indirect evidence based on sectoral studies indicates that FDI is often undertaken by companies that are already significant exporters.[45] These findings are supported by studies which have found that foreign owned firms tend to export a greater proportion of their output than do their locally owned counterparts. Presumably foreign firms typically have a comparative advantage in their knowledge of international markets, in the size and efficiency of their distribution networks and in their ability to respond quickly to changing patterns of demand in world markets.[46] Foreign affiliates can also have "spillover" effects on the propensity of local firms to export. Empirical evidence from South East Asia strongly suggests that there has been such a learning process by local firms, and there is evidence that Mexican firms located in the vicinity of foreign MNCs tend to export a higher proportion of their output than do other Mexican firms.[47]

There can also be policy-based linkages between FDI and host country exports. Performance requirements that require MNC affiliates to export a part of their production, and FDI incentives that are limited to or favour export-oriented sectors, are examples of policies that can produce (or strengthen) a positive correlation between inflows of FDI and exports.

A conspicuous example of such policies is export processing zones (EPZ). Many foreign firms have established operations in these zones, which have been set up by the host governments with the goal of stimulating exports, employment, skill upgrading and technology transfer. While the evidence about the benefits from export processing zones to host countries remains mixed, particularly as regards the linkages with the rest of the host country's economy, there seems to be a fairly broad agreement that EPZ have played a positive role in stimulating the countries' exports, particularly in the early stages of encouraging the development of labour-intensive exports.[48]

Turning to the interlinkages between FDI and host countries' imports, some studies indicate that the impact of inward FDI on the host country's imports is either nil or that it slightly reduces the level of imports.[49] However, most of the empirical research suggests that inward FDI tends to increase the host country's imports. One reason is that MNCs often have a high propensity to import intermediate inputs, capital goods and services that are not readily available in the host countries.[50] These include imports from the parent company of intermediate goods and services that are highly specific to the firm. Concerns about the quality or reliability of local supplies of inputs can also be a factor.

In summary, the available evidence suggests that FDI and host country exports are complementary, and that a weaker

[38] Graham (1996d).

[39] Swedenborg (1979, 1982) and Blomström et al. (1988).

[40] See Hufbauer et al. (1994), Pfaffermayr (1994) and Graham (1996d).

[41] Hufbauer et al. (1994).

[42] Graham (1996d).

[43] See Hill (1990).

[44] See Brainard (1993b & 1993c), Lipsey and Weiss (1981; 1984), Hummels and Stern (1994), Wells (1993), Lall and Mohammad (1993) for India, and Naujoks and Schmidt (1995) for transition economies. Other studies with similar conclusions include, for example, Nicolaides and Thomsen (1991), Wong (1988), who provides a test for United States data in a general equilibrium setting, and Pfaffermayr (1994) for Austria.

[45] Chen (1994).

[46] See Hill (1990) and Naujoks and Schmidt (1995).

[47] See Hill (1990) and Aitken et al. (1994).

[48] See Hill (1990).

[49] See, for example, Lim (1990).

[50] See Graham and Krugman (1993), Graham and Anzai (1994), Hill (1990) and Naujoks and Schmidt (1995). Zejan (1989) offers similar findings based on Swedish intra-firm data. His results suggest that imports by Swedish subsidiaries from Sweden increase with the level of parent R&D.

but still positive relationship holds between FDI and host country imports. Except for the apparently stronger complementarity between FDI and host country exports (than between FDI and home country exports), these results are very similar to those reported for the relationship between FDI and home country trade.

III. Perceived benefits and costs of foreign direct investment

1) General

The impact of FDI on the trade of the host and home countries was considered in the previous section and found to be generally positive. The main purpose of this section is, first, to explore in more detail two topics that were touched on briefly in that section, namely the "technology transfer" and "employment" aspects of FDI, and then to consider the implications of competition among countries in the use of incentives to attract FDI. Before turning to those topics, however, the "costs" most often stressed by critics of FDI are examined very briefly.

Historically, the significance of the benefits and costs of FDI has been a matter of fierce controversy. On one side, supporters praise it for transferring technology to the host countries, expanding trade, creating jobs and speeding economic development and integration into global markets. On the other side, critics charge it with creating balance-of-payments problems, permitting exploitation of the host country's market, and in general reducing the host country's ability to manage its economy.[51] While the debate has increasingly favoured the pro-FDI view in recent years, as more and more countries have adopted development strategies based on increased integration in the global market, the critics continue to voice concerns.

The essence of the view that an inflow of capital benefits the host country is that the increase in the income of the host country resulting from the investment will be greater than the increase in the income of the investor.[52] In other words, as long as the FDI increases national output, and this increase is not wholly appropriated by the investor, the host country will gain. These benefits can accrue to domestic labour in the form of higher real wages, to consumers by way of lower prices and/or better quality products, and to the government through increased tax revenue. Beyond this, there are other benefits via externalities associated with the FDI, some of which are discussed below in connection with the transfer of technology.

For the critics of FDI, this is a misleading, or at best incomplete, picture because it ignores costs they believe are often associated with inflows of FDI. These include:

Balance-of-payments effects. Critics argue that while the initial impact of an inflow of FDI on the host country's balance of payments may be positive, the medium-term impact is often negative, as the MNC increases imports of intermediate goods and services and begins to repatriate profits. The analysis in the previous section, which pointed to a stronger complementarity between FDI and host country exports than between FDI and host country imports, is relevant here. So is the finding that FDI in countries with high levels of import protection tends to be less export-oriented than FDI in countries with low levels of protection. The repatriation of profits, of course, must also be taken into account.

Suppose that, in a particular situation, the demand for foreign exchange associated with an inflow of FDI ultimately exceeds the supply of foreign exchange generated by that FDI. Is this a sufficient reason to reject the FDI?

The answer obviously depends on a comparison of the "costs" of dealing with the impact on the foreign exchange market and the "benefits" of the FDI, for example from technology transfers and dynamic effects, such as increased domestic savings and investment. The latter are considered in more detail below. As regards the "costs", it is important to remember that the impact of FDI on the balance of payments depends on the exchange rate regime. Under flexible exchange rates, any disturbance to the balance between the supply and demand for foreign exchange is corrected by a movement in the exchange rate, in this case a depreciation.

If the country instead has a fixed exchange rate, a net increase in the demand for foreign exchange by the FDI project will result in a reduced surplus or increased deficit in the balance of payments. It is important however, to keep this in perspective. First, the previously mentioned evidence strongly suggests that, on average, an inflow of FDI has a bigger positive impact on host country exports than on host country imports. Balance-of-payments problems, therefore, if they occur, are likely to be small. Second, FDI is far from unique as a source of fluctuations in the demand and supply of foreign exchange, and governments regularly use monetary, fiscal and exchange rate policies to keep the current account balance at a sustainable level in the face of a variety of disturbances.[53] Finally, the FDI is likely to bring a number of gains whose net benefit to the economy can exceed the cost of any possible balance-of-payments problems.

Domestic market structure. Because they generally have more economic power than domestic competitors, it is argued that MNCs are able to engage in a wide variety of restrictive practices in the host country which lead to higher profits, lower efficiency, barriers to entry, and so forth. If the FDI was

[51] In the home country, the criticism is that outflows of FDI transfer jobs abroad and depress wages. This point is considered below in the section on FDI and employment.

[52] MacDougall (1960).

[53] Speculative inflows and sudden withdrawals, as the recent Mexican experience has shown, have a demonstrated ability to bring instability on the current and capital accounts. For this reason, one might argue that FDI is precisely the type of foreign investment that developing countries should be encouraging. In fact, a number of countries have demonstrated that prudent exchange management programmes can be structured to incorporate the effects of capital flows. See, for example, Calvo, Leiderman and Reinhart (1996).

induced by host country tariffs, this could lead to an influx of foreign firms on the "follow-the leader" model, leading to excessive product differentiation and a proliferation of inefficient small-scale plants (automobile production in Latin America in the 1960s and 1970s comes to mind). Alternatively, of course, the entry of an MNC may have the effect of breaking up a comfortable domestic oligopolistic market structure and stimulating competition and efficiency. And, of course, account must be taken of the host country's domestic anti-trust policies, which are as applicable to MNCs as they are to national firms. In short, the effect of FDI on market structure, conduct and performance in host countries is not easy to predict a priori. The empirical evidence, however, points strongly to pro-competitive effects.[54]

National economic policy and sovereignty. Critics have also raised concerns about the effects of FDI on public policy, vulnerability to foreign government pressure, and host country national interests. They argue that, because of its international connections, the subsidiary of an MNC enjoys alternatives not open to domestically-owned firms, and that this makes possible, among other things, the evasion of compliance with public policies. For instance, confronted with new social or environmental legislation in the host country that raises production costs, the MNC can more easily shift its activities to another country. Its ease of borrowing internationally may frustrate the use of direct macroeconomic controls for internal or external balance.[55] The concern for vulnerability to foreign government pressure and its impact on the host countries' national interests stems from the fact that the subsidiary of an MNC is answerable to two political masters – the host country government and the government of the home country where the parent is incorporated.

These are understandable concerns. But, again, it is important to keep them in perspective. The costs associated with these concerns (admittedly a very subjective calculation) have to be compared with the costs of forgoing the benefits that would come with FDI. Moreover, many of the concerns could be addressed in the course of negotiating a multilateral agreement on FDI. For example, multilateral disciplines are an option for dealing with regime "shopping" by multinationals seeking to avoid national regulations. Similarly, a multilateral agreement would provide a forum for the settlement of disputes over MNC behaviour involving home and host governments. In addition, judging from existing bilateral, regional and plurilateral investment agreements, it is likely that a multilateral agreement would allow signatories to claim exceptions for "sensitive" sectors.

2) Foreign direct investment and technology transfer

Among the reasons which explain the change of attitude towards FDI on the part of many developing and transition countries is the belief that it can be an important channel for technology transfers, with technology being broadly defined to include not only scientific processes, but also organizational, managerial and marketing skills. This section first considers the ways in which FDI can enhance the efficient use of local resources through technology transfers, and then the empirical evidence on such efficiency-enhancing effects of FDI. While the focus is on FDI's impact on the efficiency of locally owned firms, it should be noted that the host country will also benefit from the fact that the subsidiary of an MNC is itself likely to use host country resources more efficiently because of its superior technology.

How FDI improves the efficient use of host country resources

As suggested by the discussion of the motivations behind a decision to engage in FDI, there are good reasons to think that MNCs are important vehicles for the direct and indirect transfer of technology between countries. Superior technology or capacity to innovate figure prominently among the attributes a firm engaging in FDI relies on to compensate for the cost disadvantage, relative to local firms, associated with foreign operations. This technological superiority of many MNCs has led researchers to emphasize the efficiency-enhancing characteristics of their foreign investment.

FDI is very often associated with secondary benefits through the diffusion of technology to firms in the host country. This diffusion may be deliberate, such as when technology is licensed by the affiliate to a domestic firm, or it can be in the form of a technological spillover which occurs when the activities of the multinational firm yield benefits for local economic agents beyond those intended by the multinational.

An example of a deliberate diffusion is the upgrading of the technological capabilities, by the MNC, of local firms doing business with the MNC, for example when such upgrading is required to meet specifications demanded by the MNC. Technological spillovers can be horizontal or vertical. A horizontal technological spillover occurs, for example, when the affiliate has a new technology that is subsequently copied or learned by competing firms. A vertical spillover occurs when the affiliate transfers, free of charge, technology to firms supplying inputs or servicing "downstream" operations (for example, distribution or retailing). The distinguishing feature of technological spillovers, which are an example of what economists term "positive externalities", is that the benefits they bring to the host country are not taken into consideration in the MNC's investment decision. Such benefits will be captured in full by the host country unless they are "competed away" in a bidding process to attract the FDI, in which case a part – perhaps all – of these indirect benefits will be captured by the MNC (more on this below).

Apart from the diffusion of MNC technology through spillovers, FDI may also produce other unintended efficiency-enhancing effects, as when local rivals are forced to upgrade their own technological capabilities as a consequence of competitive pressure from the local affiliate of the MNC. In the United States, for example, the entry of Japanese automobile manufacturers into the local market via FDI caused the major domestic automobile producers (themselves multinational firms) to upgrade their own products and to

[54] See Caves (1996) and Graham (1996a).
[55] Caves and Jones (1985).

increase the efficiency of their domestic production facilities. This has benefited all consumers in the United States, whether they purchased Japanese or United States brand automobiles. There is considerable evidence that similar benefits occur in developing countries. Korean FDI, for example, contributed to the development of a locally-owned garment exporting industry in Bangladesh.[56]

In many circumstances, FDI may result in a greater diffusion of know-how than other ways of serving the market. While imports of high-technology products, as well as the purchase or licensing of foreign technology, are important channels for the international diffusion of technology, FDI provides more scope for spillovers. For example, the technology and productivity of local firms may improve as foreign firms enter the market and demonstrate new technologies and new modes of organization and distribution, provide technical assistance to their local suppliers and customers, and train workers and managers who may later be employed by local firms. Foreign subsidiaries may themselves conduct research and development activities aimed at adapting the parent firm's innovation to local conditions.[57] Clearly FDI leads to more extensive personal interaction with foreigners and exposure to new ways of doing things than does trade.[58]

What the empirical evidence shows

Empirical studies of FDI's role in the process of transfer and diffusion of technology approach the issue in various ways. Most of them provide evidence that FDI exerts an efficiency-enhancing effect on locally owned firms without, however, allowing the authors to disentangle the particular channels through which it has its impact.

During the first five years after their commercialization, evidence suggests that new technologies are introduced abroad primarily through foreign MNC subsidiaries rather than exports.[59] Moreover, it appears that in most instances the average age of technologies transferred to affiliates was lower than the average age of technologies sold to outsiders through licensing or joint ventures.[60] This is consistent with the results of a study that found that flows of technology to MNC affiliates dominate all other types of formal technology transactions between countries.[61] Another study considered the effects on economic growth of two variables related to technology transfer: imports of machinery and transport equipment did not seem to have any impact, whereas the inflow of foreign direct investment had a significant positive influence on income growth rates, at least for the higher-income developing countries.[62]

Studies of manufacturing in several host countries provide evidence that FDI exerts a positive effect on the productivity of local firms. In the Mexican case, for example, it has been shown that the larger the presence of foreign MNCs in an industry, the higher the level of labour productivity and the faster the rate of productivity convergence toward the level in the corresponding industry in the United Sates.[63] These results are consistent with earlier studies of Mexico, Australia and Canada.[64] However, other empirical studies have found much weaker and sometimes even negative correlations between the presence of MNCs and the productivity of domestically-owned manufacturing plants.[65] A possible reason for these apparently contradictory findings could be that various host industry and host country characteristics may influence the impact of FDI.[66] For example, there is evidence that a higher educational level of the labour force, a higher level of fixed investment, a higher level of local competition and fewer requirements affecting local affiliates of foreign firms increase affiliate imports of parent company technology.[67]

Other evidence on the effects of FDI in developing countries confirms that FDI had a positive overall effect on economic growth, that the magnitude of this effect depended on the stock of human capital (skills) in the host country, and that FDI also exerted a positive effect on domestic investment.[68] An important role for human capital is consistent with the idea that in order for spillovers to occur, the host economy must

[56] Aitken, et al (1994).

[57] Lipsey, Blomström and Kravis (1990).

[58] See Findlay (1978).

[59] Mansfield et al. (1982). Thus the "export stage" of the product cycle has often been truncated and sometimes eliminated. Vernon's (1966) product cycle theory which was used during the 1960s and 1970s to model the process of international technology transfer hypothesizes a fairly definite sequence in the relationship between technology and trade. The United States tends to pioneer in the development of new products. After an innovation occurs, the innovating firm services foreign markets through exports, gradually shifting production abroad as the technology matures and foreign markets develop. Mansfield (1987) offers two reasons why the product life cycle is less valid than in the past. First, many United States-based firms have come to take a worldwide view of their operations. Many of them have substantial R&D activities located abroad and technologies developed in one place might well find their initial application in another of the firm's affiliates. Second, technology has become increasingly internationalized, which means that innovations are not carried out in a single country.

[60] Mansfield and Romeo (1980).

[61] Blomström, Kokko and Zejan (1992).

[62] Blomström, Lipsey and Zejan (1992).

[63] Blomström (1986), and Blomström and Wolff (1994).

[64] Blomström and Persson (1983), Caves (1974) and Globerman (1979).

[65] Cantwell (1989) for various European countries, Haddad and Harrison (1993) for Moroccan manufacturing industries, Aitken and Harrison (1991) for Venezuelan manufacturing, and more recently Aitken, Harrison and Lipsey (1995) for Venezuela and Mexico. The Aitken and Harrison (1991) and Haddad and Harrison (1993) studies differ from other studies on two counts: first, they use plant level data for several years, and second, they examine the determinants of total factor productivity growth and deviations from "best practice" technology.

[66] Kokko (1994).

[67] Blomström, Kokko and Zejan (1992), and Kokko and Blomström (1995).

[68] Borensztein, De Gregorio and Lee (1995), and Blomström, Lipsey and Zejan (1996).

have trained people able to learn from multinational firms and to apply their knowledge in local firms. These results, while not conclusively demonstrating the existence of technological spillovers, nevertheless provide strong circumstantial evidence of their presence. The evident complementarity between FDI and local investment is consistent with the idea that even if affiliates of multinational firms displace domestic rivals, this effect is more than compensated for by the investment activity of other local firms whose operations expand along with those of the multinational enterprise.

Research on urban areas in China has shown, first, that foreign-owned firms grew faster than other firms, and that even after controlling for other influences, FDI appeared to be a factor behind growth differences between regions; and second, that the amount of FDI in an area explained differences in locally owned enterprises' growth rates.[69] Other studies tend to confirm that MNCs in developing countries generally extend their vertical linkages over time, which could be a consequence of technological transfer.[70] Two related studies of the consumer electronics industry in South-East Asia showed that while vertical linkages between multinational firms and local suppliers in this very export-oriented industry were not significant at the time of the first study, they had grown substantially five years later.[71] The fact that multinationals turned increasingly to local suppliers suggests that these suppliers became more competitive, at least in part as a result of technological spillovers from the multinationals.

Conclusions

Despite the difficulties associated with the measurement of the efficiency-enhancing effects induced by FDI, let alone with the assessment of the specific channels by which a transfer of technology affects local productivity, the empirical literature offers some important conclusions. First, there appears to be a wide consensus that FDI is an important, perhaps even the most important, channel through which advanced technology is transferred to developing countries. Second, there also seems to be a consensus that FDI leads to higher productivity in locally owned firms, particularly in the manufacturing sector. Third, there is evidence that the amount of technology transferred through FDI is influenced by various host industry and host country characteristics. More competitive conditions, higher levels of local investment in fixed capital and education, and less restrictive conditions imposed on affiliates appear to increase the extent of technology transfers.

3) Foreign direct investment and employment

FDI and employment in the home country

In home countries – which means principally the OECD countries – the public debate over FDI has focused in large part on the impact of FDI on wages and employment.[72] During the negotiation and final approval process for the North American Free Trade Agreement (NAFTA), concerns were expressed in the Congressional debate about the potential for this agreement, through increased investment (and trade) links with Mexico, to put downward pressure on United States wage levels, especially for unskilled labour. Similar concerns have been voiced in Western Europe over investment and trade linkages with Eastern Europe and Asia. Given projected demographic trends, the relationship between foreign investment, trade and employment is likely to remain a source of debate in the evolution of the global trading system.

Empirical research on home country employment effects has taken an indirect approach, focusing on linkages between FDI and trade, on the assumption that a net expansion in exports will translate into a net increase in employment, and vice versa for a net increase in imports. The basic presumption is that exports create employment, while imports destroy employment, and that production in foreign affiliates replaces home country production for export and domestic consumption. The latter assumption is largely contradicted by the empirical evidence. With regard to the former, it should be emphasized that the meaning of job creation and destruction is not so simple. The relevant question is not whether a particular FDI project creates or destroys employment, but whether FDI in the aggregate increases or decreases domestic employment.

There are studies for the United States that estimate a net loss of jobs due to the relocation of production from the United States, even after allowing for employment gains

[69] Wei (1996) controlled not only for traditional factors like growth of population, of the capital stock, and of human capital but also for certain urban areas being either "special economic zones", "open costal cities", or "comprehensive reform experimenting cities". While the latter finding could result from additional competition created by the presence of foreign controlled firms, Wei suggests that the more likely explanation was the presence of technological spillovers.
Unfortunately, evidence based on time series that productivity growth in a country accelerated following the increase of inward FDI is very limited, in particular for developing countries. See the study of the automotive industry in India, Peru, and Morocco by Lall (1980), of the automotive industry in Nigeria by Landi (1986), and of six manufacturing industries in several developing countries by Halbach (1989).

[70] See Graham (1996a).

[71] Lim and Pang (1977, 1982). See also Halbach (1989).

[72] The debate often focuses jointly on FDI and trade with developing countries. Recent historical evidence linking trade to OECD employment patterns is open to varying interpretations, and as a result, the empirical debate on trade, foreign investment, and home country employment is contentious. Several recent empirical studies on wage and employment patterns in the United States point to technological innovation, rather than trade and implicit low-wage competition, as a possible culprit in the erosion of real wages for unskilled labour in the United States since 1970. They include Krugman and Lawrence (1993) and Lawrence and Slaughter (1993). However, an opposing view has been argued by Wood (1994), Leamer (1993, 1994), and Batra (1994). Evidence for a weak link between trade and wage divergence is provided by McDougall and Tyers (1996) and Sachs and Schatz (1994).

linked to home exports of intermediate goods to affiliates.[73] However, other economists have been highly critical of the methodology and resulting estimates (which in any case represent one-tenth of 1 per cent or less of total employment in the United States).[74] A recent survey of the linkages between outward FDI and employment concludes that no firm conclusion can be drawn regarding FDI/employment linkages in the home country.[75]

An assessment of trade-related linkages between outflows of FDI and employment in France found that outward FDI by French firms for the period from 1989 to 1992 was mainly carried out by industries in which increased exports brought about job gains rather than losses.[76] Other studies of foreign investment, focusing on the motivations for FDI, conclude that most such investment is motivated by a desire to serve regional markets, rather than by a desire to shift production between regions.[77]

On a net basis, therefore, the effect of FDI on home country employment appears to be slight at most.

FDI and employment in the host country

What about the employment effects of FDI in host countries? Historically, perceptions regarding the potential employment effects of FDI flows to host developing countries have ranged from very negative to very positive. On the negative side, it has been argued that "the management, entrepreneurial skills, technology, and overseas contracts provided by MNCs may have little impact on developing local sources of these scarce skills and resources and may in fact inhibit their development ... as a result of the MNC's dominance of local markets."[78] This view, however, is overwhelmingly rejected by the empirical evidence. An alternative view, supported by the recent evidence discussed above, is that MNCs can fill critical management gaps, facilitating employment of local labour and transferring skills to local managers and entrepreneurs. Clearly, effects in individual cases will depend on the practices of the MNCs themselves, on the regulatory environment in which they operate, and on the initial skill level of local employees. This calls attention to the fact that many labour market effects of FDI are closely related to the technology transfer aspects of FDI, particularly as regards the upgrading of skills.

Inflows of FDI also increase the amount of capital in the host country. Even with skill levels and technology constant, this will either raise labour productivity and wages, allow more people to be employed at the same level of wages, or result in some combination of the two (of course, if the inflows are negligible relative to the size of the labour force, the productivity and wage effects for the average worker will also be negligible). For a few developing countries, the ratio of inflows of FDI to gross fixed capital formation has been substantial in recent years (for example, 37 1/2 per cent for Singapore, 24 1/2 per cent for Malaysia and 10 1/2 per cent for China).[79] In Mauritius, it was FDI that fuelled the past decade of export-led growth and employment gains.[80]

4) Competition for foreign direct investment

An appreciation of the benefits that FDI can bring, together with the widespread adoption of development strategies based on increased integration in the world economy, have resulted in most countries actively seeking FDI, often with the use of incentives. As competition for FDI intensifies, potential host governments find it increasingly difficult to offer less favourable conditions for foreign investment than those offered by competing nations.

Investment incentives can be classified into:[81]

- Financial incentives, involving the provision of funds directly to the foreign investor by the host government, for example, in the form of investment grants and subsidized credits.

- Fiscal incentives, designed to reduce the overall tax burden for a foreign investor. To this category belong such items as tax holidays and exemptions from import duties on raw materials, intermediate inputs and capital goods.

- Indirect incentives, designed to enhance the profitability for the investor in various indirect ways. For example, the government may provide land and designated infrastructure at less-than-commercial prices. Or it may grant the foreign firm a privileged market position, in the form of preferential access to government contracts, a monopoly position, a closing of the market for further entry, protection from import competition or special regulatory treatment.

A number of governments have voiced concern with the proliferation of investment incentives perceived to distort investment patterns in favour of countries with "deep pockets".[82] At the same time, the bilateral and regional

[73] Frank and Freeman (1978) and Glickman and Woodward (1989).

[74] Rousslang (1978) and Baldwin (1995).

[75] Baldwin (1995).

[76] Messerlin (1995).

[77] Wells (1992) and Oman (1994). This does not mean the FDI cannot, in certain cases, lead to adjustment problems. See, for example, Schreibner (1970), Dunning (1986) and Dunning (1993a & 1993b).

[78] Todaro (1994), page 533.

[79] UNCTAD (1996c) page 122; the figures are an average for 1991-93. Note that FDI does not necessarily correspond to fixed capital formatin by MNCs since they can borrow investment funds in the host economy, and FDI is only one of many channels for raising the resources needed for investment. Historically, the actual contribution of MNCs to gross fixed capital formation has been much greater than that accounted for by FDI (Graham 1996a).

[80] (WTO, 1996).

[81] UNCTAD (1996a).

[82] Low and Subramanian (1995), referring back to Dunning (1993a & 1993b), argue that "as with subsidies in trade, investment incentives tend to distort the allocation of FDI, without necessarily augmenting the total supply of investment. The possibility of controlling this kind of destructive competition among countries' Finance Ministries is perhaps one of the strongest arguments for international investment rules. Moreover, poorer countries will always be at a disadvantage if the relative attractiveness of fiscal incentives packages in different countries determines investment locations."

investment agreements discussed below in Section IV reveal a reluctance on the part of governments to extend policy disciplines to investment incentives. The closest governments have come to a collective effort to limit the use of investment incentives is the inclusion of certain provisions in the WTO Agreement on Subsidies and Countervailing Measures (see Section V below).

In a very simplified model of the world economy, where information is costless, there are no special interest groups and policy decisions are guided only by a desire to use resources more efficiently, a case could be made for using investment incentives. This follows from the fact that the positive effects of FDI on host countries, such as the technological spillovers and other positive externalities outlined above, are not fully captured by the investing firms. In the absence of investment incentives, there is no reason why an MNC would take such spillovers into account in deciding where to locate the FDI. In such a world, incentives would be a policy mechanism for allocating FDI efficiently by "internalizing" at least a portion of the spillover benefits accruing to host countries.

However, the situation in the real world, where competition for FDI actually takes place is very different – so different, in fact, that the case for using investment incentives must be heavily qualified, if not totally rejected. The arguments can be broadly grouped into four categories:

Distributional considerations. Investment incentives transfer part of the value of FDI-related spillovers from the host countries to MNCs. The more intense the competition among potential hosts, the greater is the proportion of potential gains which is transferred to the MNCs. If the total stock of FDI available for investment in a region is largely insensitive to the amount of incentives being offered, host countries may find themselves providing incentives that simply neutralize other countries' incentives, without actually increasing the amount of FDI they obtain.[83] Such incentives are nothing more than a transfer of income from these countries to the investing firms.[84]

Knowledge considerations. Arguments in favour of incentives rely heavily on the assumption that governments have detailed knowledge of the value/size of the positive externalities associated with each FDI project. In practice, it would be an almost impossible task to calculate these effects with any accuracy, even with the aid of well-trained specialists. In reality, getting drawn into competitive bidding for an FDI project is like sending government officials to an auction to bid on an item whose actual value to the country is largely a mystery. As the winning host country generally is the one with the most (over-) optimistic assessment of the project's value to the country, incentive competition can give rise to over-bidding, the so-called "winner's curse". If a country offers $185 million in incentives to obtain an FDI project that brings $135 million in total benefits, the country as a whole is $50 million worse off with the FDI.

Political economy considerations. Lack of knowledge is not the only reason a government might offer an amount of incentives that exceeds the benefits of the FDI. The benefits from a particular FDI project are likely to accrue to certain groups within the economy – for example, to a particular region or to workers fortunate enough to get jobs with the affiliate – while the costs of the investment incentives are likely to be spread more evenly across the society. This different incidence of benefits and costs among groups in the host country opens the door for politically influential special interest groups to lobby the government to provide investment incentives which primarily benefit them, but which are largely paid for by other groups. The previously mentioned knowledge limitations simply open this door even wider.

Introducing new distortions. The discussion has assumed that the cost to a host country of providing a million dollars worth of incentives is just a million dollars. This is overly optimistic. Financial incentives must be financed, and taxes create their own inefficiencies. Fiscal incentives are no better, and non-pecuniary (indirect) incentives can be even worse. For example, granting a monopoly position to a foreign firm allows the host government to escape direct budgetary outlays by shifting the cost on to consumers in the form of higher than necessary prices. Developing countries, in particular, may for budgetary or balance-of-payment reasons feel compelled to utilize highly distorting incentives, such as monopoly rights and guarantees against import competition to foreign investment projects.[85] In contrast, developed countries with "deeper pockets" may offer straightforward financial grants with less distorting effects. This asymmetry puts developing countries at an extra disadvantage when competing for FDI, beyond a simple lack of deep pockets.[86]

[83] Host countries face what economists refer to as a "prisoners' dilemma" situation, in which they would mutually gain from refraining from the use of incentives, but where each individual country gains from offering incentives regardless of what the other countries do. Hence, host country pursuit of the perceived first best solution – attracting investment from other countries – destroys the possibility of achieving a second-best situation in which no country offers incentives, and countries therefore end up in a third-best situation with incentives being paid out, but with few, if any, effects on investment allocation. A multilateral agreement with appropriate disciplines could allow countries to break out of a prisoners' dilemma situation.

[84] Whether such a redistribution of income from host countries to MNCs is objectionable is largely a value judgement.

[85] For example, UNCTAD (1996a) reports that Poland, in late 1991, raised its tariffs on imported cars from 15 to 35 per cent, allegedly a condition of GM for participation in a joint project; and that, in 1991 in the Czech Republic, Volkswagen made maintenance of high tariffs on imports of passenger cars for four years a condition for its ownership engagement in the local car producer Skoda.

[86] Yet another consideration is the effect of FDI incentives on the behaviour of domestic firms. As observed by Ariff (1989, p.354), "... in many developing countries, it is the local investors who feel that they are being discriminated against while foreign investors are being pampered....[I]t is often not a question of extending to foreigners the same treatment as is accorded to nationals, but rather the other way around. To circumvent such discriminations, it is not unusual for local investors to register themselves as companies in a foreign country, then invest in their own countries under the banner of foreign investment."

In summary, once the realities of using investment incentives to compete for FDI are taken into account, it is very difficult not to conclude that the world economy – and the vast majority of individual countries – would be better off with a multilateral agreement that included limitations on the use of investment incentives. Such incentives are no different from any other kind of subsidy programme and, as with most other kinds of subsidies, developed countries (and in this case the largest developing countries) can out-spend the vast majority of other countries. Under very stringent conditions, investment incentives can correct for market imperfections.[87] But the reality is that the necessary knowledge is missing, the programmes are very vulnerable to political capture by special interest groups, and there is considerable scope not only for introducing new distortions, but also for redistributing income in a regressive way. The latter effect is a particular concern since developing countries as a group are net recipients of FDI.

IV. Legal and institutional arrangements governing foreign investment

Existing intergovernmental arrangements on foreign investment include a wide diversity of bilateral, regional, plurilateral and multilateral instruments that differ in their legal character, scope and subject-matter.[88] Binding agreements exist mainly at the bilateral, regional and plurilateral levels, while instruments at the multilateral level are mostly of a non-binding nature. Some arrangements are devoted exclusively to foreign investment. Others treat foreign investment as part of a wider set of issues relating to economic cooperation and integration. The subject-matter of existing arrangements covers a broad spectrum of issues, including admission and treatment of foreign investment, promotion of foreign investment, investment insurance, aspects of corporate conduct, taxation, competition and jurisdictional matters, and dispute settlement procedures.

The recent evolution of international rule-making in the field of foreign investment is marked by the growing prominence of bilateral, regional and plurilateral arrangements which aim at encouraging foreign investment by providing substantive standards relating to the admission and treatment of foreign investment by host States. This is in contrast to the greater emphasis in the past on host country rights to control foreign investment and on norms for corporate conduct. Many recent arrangements are legally binding, but as illustrated by the APEC Non-Binding Investment Principles, other approaches are also being followed.

As regards the norms and concepts in the more recent instruments, there is a general tendency to accept the view that the protection of foreign investment should encompass certain general standards of treatment, coupled with norms on specific matters such as expropriation, compensation and the transfer of funds, and a mechanism for international settlement of disputes. In contrast, significant differences continue to exist regarding the admission of foreign investment and legally-binding commitments on admission are found only in some agreements.

Developments at the intergovernmental level are influenced by developments at the national level. It is helpful, therefore, to begin with a very brief look at recent developments in national regulations governing foreign investment.

1) National regulations

The period since the early 1980s has witnessed a widespread tendency towards liberalization of national laws and regulations relating to foreign investment, especially in developing and transition countries. In many cases, this liberalization of foreign investment policies and regulations has been part of broader, market-oriented reforms of economic policy and has proceeded in parallel with trade liberalization, deregulation and privatization.

The recent trend to more open investment policies has been particularly evident in the removal or relaxation of regulatory barriers to the entry of FDI. Screening procedures involving prior authorization have been eliminated or reduced in scope. Closely related is the liberalization of sectoral restrictions on the entry of foreign investment and of limitations regarding foreign shareholding in local companies. There has also been a shift away from the imposition of performance requirements and a liberalization of regulations concerning the transfer of funds. In addition, there has been increasing acceptance of standards of non-discriminatory treatment of foreign investors and of international standards on matters such as compensation in case of expropriation. Finally, international arbitration mechanisms for the settlement of disputes between foreign investors and host States have gained widespread acceptance.[89]

At the same time, there are several qualifications to this liberalization trend. First, the trend has not been homogeneous and significant differences between foreign

[87] For example, in situations in which a country is trying to deal with structural problems in a particular region, it could be argued that there is a case for investment incentives, but there would be no basis for limiting the incentives to foreign investors or to investment in particular sectors. Such a programme would also face all of the problems outlined above (knowledge limitations, risk of political capture and so forth).

[88] See Kline (1993), Fatouros (1994 and 1996), Sornarajah (1994) and Muchlinski (1995). For a compilation of relevant instruments, see UNCTAD (forthcoming). The definition of "investment" varies, depending on the purpose of the arrangement in question. A broad definition, not limited to FDI, has generally been used in bilateral agreements for the promotion and protection of investment, while arrangements aimed at the liberalization of investment restrictions have sometimes been confined to FDI.

[89] For an extensive analysis of the recent evolution of national laws and regulations pertaining to foreign direct investment, see UNCTAD (1994), Chapter VII.

investment regimes persist. Second, virtually all countries maintain some restrictions, often of a sectoral nature, on the entry of foreign investment. In this connection, an issue that has attracted attention is the existence of reciprocity requirements with regard to the entry and treatment of foreign investment.

The liberalization of national laws and regulations has been accompanied by a rapid proliferation of intergovernmental arrangements dealing with foreign investment issues at the bilateral, regional and plurilateral levels. Unilateral liberalization of national legal frameworks has not been found sufficient, and states around the world have increasingly recognized the crucial importance of international commitments to securing a stable and predictable legal environment for FDI.

2) Bilateral treaties

Because postwar attempts to establish a binding multilateral agreement containing comprehensive rules on foreign investment have not been successful (more on this below), bilateral treaties for the promotion and protection of foreign investment have emerged as the predominant source of rules for the treatment of foreign investment. An exclusive focus of such bilateral investment treaties (BITs) on the regulation of foreign investment is their major distinguishing feature in comparison with earlier Treaties of Friendship, Commerce and Navigation which were common in the immediate postwar years.

The growth in the number of BITs has been especially significant since the late 1980s. UNCTAD reports that some two thirds of the nearly 1,160 BITs concluded up to June 1996 were concluded during the 1990s.[90] This evolution reflects three broad trends. First, until the late 1970s, the conclusion of BITs by OECD countries was confined to a relatively small number of mainly European countries. Then during the 1980s the negotiation of such treaties by OECD countries became more generalized and by 1994 there were 18 OECD countries which had concluded at least 10 BITs.[91] Second, the geographical orientation of the BITs concluded by OECD countries, initially characterized by a heavy emphasis on developing countries in Asia and Africa, changed markedly after the mid-1970s as treaties were concluded with countries in Central and Eastern Europe, China, Latin America, and the Soviet Union and its successor republics. Third, beginning in the 1980s a considerable number of BITs were concluded between non-OECD countries.

The importance of BITs stems not only from the sharp increase in their use, but also from the fact that many recent regional and plurilateral investment arrangements incorporate concepts and standards derived from these treaties. BITs tend to be relatively brief and broadly comparable in structure.[92] Virtually all contain provisions on scope of application, admission of investments, general treatment standards, standards of treatment on specific matters, and dispute settlement. Despite this similarity in structure and areas of substantial convergence, there are also areas characterized by wide variation in the substantive provisions.[93] BITs are usually reciprocal in nature, setting forth rules applicable to investments made by investors of either party in the territory of the other party. While designed to promote and protect foreign investment, BITs seldom contain positive obligations for home countries to take measures to foster investments by their nationals in the territory of the other party. The promotion of foreign investment is sought, instead, through reductions in various types of uncertainty peculiar to such investments.

Bilateral investment treaties typically contain a broad, flexible concept of "investment". It is viewed as a form of property and is usually defined through an open-ended (illustrative) list of assets, including movable and immovable property, ownership rights in companies, claims to money and intellectual property rights. The scope of the investments covered by the BIT in some cases has been expressly limited to investments made in accordance with the domestic law of the host State or to investments approved or duly registered by the host State. Another important aspect concerns the definition of the persons and companies which will be treated as investors of one of the parties. In this respect, BIT practice is marked by relatively important discrepancies, especially in regard to the definition of corporate nationality.[94]

There are two main approaches to the admission of foreign investment. Most BITs require that, subject to their domestic laws, parties shall encourage and admit in their territories investments by nationals and companies of the other party. The reference to domestic laws means that the commitment to encourage foreign investment is subject to any existing or future restrictions on the entry of foreign investment contained in domestic legislation. The priority accorded in these BITs to domestic laws reflects the fact that historically these treaties have been designed primarily to regulate the treatment of foreign investment after admission. A fundamentally different approach to the

[90] UNCTAD (1996a), page 6.

[91] Germany and Switzerland concluded BITs in 1959-62, followed by the Netherlands and France in 1963, Belgium and Italy in 1964, Denmark and Sweden in 1965 and Norway in 1966. The United Kingdom entered into a BIT for the first time in 1975 and Japan concluded its first BIT in 1977. During the first half of the 1980s, BITs began to be concluded by Austria (1981), the United States (1982) and Finland (1984), followed at the end of the decade by Australia (1988), Portugal (1988), Spain (1989) and Canada (1990).

[92] The texts of BITs are compiled by ICSID and published in a loose-leaf collection, Investment Promotion and Protection Treaties.

[93] For comparative studies of the contents of BITs see, for example, Laviec (1985), Ocran (1987), Khalil (1992), Kishoiyian (1994), Sornarajah (1994), Muchlinski (1995) and Dolzer and Stevens (1995).

[94] The criteria most frequently used are the place of incorporation, the location of the registered office or seat of a company, and the nationality of the ownership or controlling interest. Some BITs rely on one of these as the sole criterion, while in other cases corporate nationality is defined on the basis of a combination of these criteria.

admission of foreign investment is found in most BITs concluded by the United States. They require application of MFN and national treatment with respect to both admission and to subsequent treatment of investments, subject, however, to the right of each party to make or maintain exceptions in sectors or matters specified in an annex to the BIT.

General standards of treatment commonly found in BITs require that covered investments be accorded fair and equitable treatment, full protection and security, and that the parties refrain from impairing by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of covered investments.[95] In addition, many treaties contain a requirement for each party to observe any obligations it may have undertaken in respect of investments by investors of the other party. Most BITs also contain MFN and national treatment requirements, although there is a significant number which specify only MFN treatment. Practice regarding the precise formulation of MFN and national treatment clauses tends to vary considerably. In addition to exceptions for specified sectors or measures, BITs normally provide for exceptions to MFN/national treatment in respect of benefits accorded to investors of a third state by virtue of membership in a regional integration agreement and benefits accorded to investors of third States under bilateral agreements to avoid double taxation.[96] Virtually all BITs contain requirements related to the transfer of funds related to investments, expropriation and compensation, and protection from losses due to war and other extraordinary circumstances. Most also address certain matters arising from the operation of national insurance schemes. Other, less common, provisions, found mainly in treaties concluded by the United States, deal with performance requirements, temporary entry of certain personnel in connection with the establishment or management of an investment, and the right of foreign investors to hire top managerial personnel without regard to nationality.

Dispute settlement mechanisms contained in BITs provide for binding arbitration of disputes regarding the application and interpretation of the treaty which the parties have not been able to resolve through diplomatic efforts. Arbitration of intergovernmental disputes is regulated by specific rules laid down in each BIT concerning such matters as the method of appointing the arbitrators, rules of procedure, the time-limits for the completion of the arbitration proceedings, liability for costs and applicable law. In addition, there often are provisions for binding international arbitration of disputes between one of the parties and a national of another party. Such provisions normally refer to pre-existing arbitration rules, notably those under the International Centre for Settlement of Investment Disputes (ICSID) Convention.[97] Although the recent trend towards widespread acceptance of this type of clause marks a significant shift in attitude, there is great diversity of treatment in these clauses of such issues as the unconditional nature of the right of a foreign investor to have recourse to international arbitration and the application of the principle of exhaustion of local remedies.[98] Experience with these BIT dispute settlement mechanisms is rather limited, and no intergovernmental arbitration has yet been instituted pursuant to a BIT. The first case taken to an ICSID arbitration tribunal, on the basis of an investor-State arbitration clause in a BIT, occurred only in 1987.[99]

There are other bilateral agreements that can have indirect effects on FDI. One example is the Bilateral Investment Incentives Agreements between the United States and a number of developing countries, which deal with the provision of investment insurance by the United States Overseas Private Investment Corporation (OPIC). Such agreements provide that host States shall recognize OPIC's rights of subrogation in case of payment of a claim, and establish a mechanism for the settlement of disputes through binding international arbitration. Another example is the large number of bilateral treaties dealing with double taxation.[100]

3) Regional and plurilateral instruments

At the regional and plurilateral level, a distinction can be made between, on the one hand, arrangements that cover only foreign investment and, on the other, arrangements that integrate rules on foreign investment into a broader framework of rules aimed at economic cooperation and integration (Tables IV.2 and IV.3). Examples of the latter include the Treaty establishing the European Community, the North American Free Trade Agreement and the European Energy Charter Treaty. The former type of agreement has been used in the case of OECD Codes of

[95] Some BITs combine the protection and security standards with a reference to treatment in accordance with international law.

[96] In addition to exceptions to specific obligations, BITs sometimes contain general exceptions relating to measures for the maintenance of public order, the fulfilment of a party's obligations with respect to the maintenance or restoration of international peace or security, or the protection of a party's essential security interests.

[97] Reference is also often made to ICC and UNCITRAL arbitration rules.

[98] Thus, for example, where (as in many BITs) it is provided that any dispute between a party and a national of another party that is not resolved amicably shall at the request of either party be referred to arbitration under the ICSID procedures, the treaty itself represents the consent on the part of the parties to the treaty to accept ICSID jurisdiction. This is not the case when weaker formulations are used, such as when the treaty merely stipulates that the parties shall give sympathetic consideration to a request to submit the dispute to arbitration in accordance with the ICSID procedures. For a comparative analysis of dispute settlement provisions in BITs, see Peters (1991).

[99] See Asian Agricultural Products LTD. (AAPL) v. Republic of Sri Lanka, 30 I.L.M. 577 (1991).

[100] Multilateral consideration of taxation issues takes place in the United Nations Ad Hoc Group of Experts on International Cooperation in Tax Matters.

Table IV.2
Regional instruments

I. Separate Instrument

Instrument	Date	Instrument	Date
Common Convention on Investments in the States of the Customs and Economic Union of Central Africa	1965	Agreement for the Establishment of a Regime for CARICOM Enterprises	1987
Agreement on Investment and Free Movement of Arab Capital among Arab Countries	1970	Revised Basic Agreement on ASEAN Industrial Joint Enterprises	1987
Convention Establishing the Inter-Arab Investment Guarantee Corporation	1971	Agreement Among the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion and Protection of Investments	1987
Joint Convention on the Freedom of Movement of Persons and the Right of Establishment in Central African Customs and Econ. Union	1972	Charter on a Regime of Multinational Industrial Enterprises (MIEs) in the Preferential Trade Area for Eastern and Southern African States	1990
Agreement on the Harmonization of Fiscal Incentives to Industry	1973	Decision No. 24 of the Commission of the Cartagena Agreement: Common Regulations Governing Foreign Capital Movement, Trademarks, Patents, Licenses and Royalties and Decision No.291 of the Commission of the Cartagena Agreement: Common Code for the Treatment of Foreign Capital and on Trademarks, Patents and Royalties	1970 1991
The Multinational Companies Code in the Custom and Economic Union of Central Africa	1975	Decision No. 292 of the Commission of the Cartagena Agreement: Uniform Code on Andean Multinational Enterprises	1991
Unified Agreement for the Investment of Arab Capital in the Arab States	1980	Colonia Protocol on Promotion and Reciprocal Protection of Investment within MERCOSUR	1994
Community Investment Code of the Economic Community of the Great Lakes Countries (CEPGL)	1987	Protocol on Promotion and Protection of Investments Coming from States non-Parties to MERCOSUR	1994

II. Embedded in Broader Framework

Instrument	Date	Instrument	Date
Treaty Establishing the European Community	1957	Treaty Establishing the Latin American Integration Association	1980
Agreement on Arab Economic Unity	1957	Treaty for the Establishment of the Economic Community of Central African States	1983
Agreement on Andean Subregional Integration	1969	North American Free Trade Agreement	1992
Treaty Establishing the Caribbean Community	1973	Treaty Establishing the Common Market for Eastern and Southern Africa	1993

Liberalization of Capital Movements and of Current Invisible Operations, the Colonia Protocol on the Promotion and Reciprocal Protection of Investments within MERCOSUR and the APEC Non-Binding Investment Principles. In regard to their objectives and coverage, these arrangements show greater diversity than BITs. For example, some aim primarily at the removal of investment barriers between the parties, while others are more inspired by the promotion and protection approach typical of BITs. Also, while most regional and plurilateral arrangements focus on questions relating to the admission and treatment of investment, the OECD Declaration on International Investment and Multinational Enterprises addresses certain subjects not typically dealt with in investment agreements, such as

Table IV.3
Plurilateral instruments

Instrument	Date	Instrument	Date
Code of Liberalization of Capital Movements (OECD)	1961	Fourth ACP-EEC Convention of Lomé	1989
Code of Liberalization of Current Invisible Operations (OECD)	1961	APEC Non-binding Investment Principles	1994
Declaration on Investment and Multinational Enterprise (OECD)	1976	Final Act of the European Energy Charter Conference, the Energy Charter Treaty, Decisions with Respect to the Energy and Annexes to the Energy Charter Treaty	1994
Agreement on Promotion, Protection and Guarantee of Investment among the Member States of the Organization of the Islamic Conference	1981		

norms for corporate conduct and procedures for the resolution of jurisdictional conflicts.

Among the agreements dealing with foreign investment as one part of a comprehensive framework for regional cooperation, the most far-reaching approach is contained in the EC Treaty. It envisages the removal of restrictions on the right of establishment and movement of capital as one of the means of establishing a common market, something which distinguishes it from all other arrangements in the field of foreign investment.[101] Articles 52-58 of the EC Treaty provide for the progressive elimination of restrictions on the freedom of establishment of natural and legal persons having the nationality of one member State in the territory of another member State, and Articles 67-73 address the progressive elimination of restrictions on the free movement of capital.[102] These matters are also addressed in agreements concluded by the EC with third countries, including the recent association agreements with countries in Central and Eastern Europe. Other examples in which investment liberalization is an aspect of regional economic integration are the Treaty Establishing the Caribbean Community (1973) and the Treaty for the Establishment of the Economic Community of Central African States (1983).

In contrast, the investment provisions in Chapter XI of the North American Free Trade Agreement are more comparable to BITs.[103] In common with BITs, the provisions of Chapter XI include a wide definition of the term "investment", general standards of treatment (including national treatment, MFN treatment, and treatment in accordance with international law), specific standards for compensation in the case of expropriation and in the case of losses suffered as a result of armed conflict or civil strife, transfers, and a mechanism for arbitration of disputes between an investor and a Party to the NAFTA. In important respects, however, the NAFTA investment disciplines go far beyond those contained in a typical BIT. For example, the requirements to accord national treatment and MFN apply both to the admission of investments and the treatment of investments and investors after admission,[104] and the scope of the prohibition of performance requirements is unprecedented in international investment or trade agreements. Examples of other unique features of the NAFTA rules on investment are the inclusion of rules on environmental matters and the provision for consolidation of State-investor arbitration proceedings in case of multiple claims involving common questions of law or fact.

The European Energy Charter Treaty establishes a legal framework for the promotion of long-term cooperation in the energy sector and encompasses trade, competition, technology, access to capital, investment promotion and protection, and environmental matters. Although limited in its sectoral coverage, the large number of countries involved makes the Treaty unique among binding international arrangements containing substantive standards for the

[10] Even where, as in the case of the investment provisions of the NAFTA and the bilateral investment agreements concluded by the United States with third countries, the entry of foreign investment is subject to binding national treatment and MFN treatment requirements, the scope of such obligations is less far-reaching than the requirements of the EC Treaty regarding the right of establishment and free movement of capital.

[102] Article 58 provides that "Companies or firms formed in accordance with the law of a member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of member States". As a consequence, the Treaty does not permit discrimination against companies having a legally recognized form of presence in the Community on the grounds that such companies are owned or controlled by natural or legal persons of third countries.

[10] Provisions relevant to investment are also contained in NAFTA Chapters 14-16, dealing respectively with financial services, competition, monopolies and state enterprises, and temporary entry for business persons. See Parra (1994) for a comparison of the NAFTA with other international investment instruments, including bilateral investment treaties.

[10] Subject, however, to certain general exceptions and to country-specific reservations for non-conforming measures listed in annexes to the treaty.

treatment of investment.[105] As with the investment provisions of the NAFTA, the Treaty is comparable to BITs in regard to the substantive rules on the treatment of foreign investment (Articles 10-17) and the procedure contained in Article 26 for international arbitration of disputes between an investor and a Contracting Party. On the other hand, a notable difference between the Treaty and NAFTA is that, while in regard to the treatment of investments after admission the Treaty requires Contracting Parties to accord the better of national treatment and MFN treatment to investors from other Contracting Parties, in respect of the admission of investment it only requires Contracting Parties to "endeavour" to accord such treatment (the Treaty envisages the conclusion of a supplementary treaty by 1 January 1998 that would extend the national treatment/MFN obligation to the entry of foreign investment). The Treaty is also less far-reaching than NAFTA in respect of performance requirements, which it addresses by incorporating the provisions of the WTO Agreement on Trade-Related Investment Measures.

In addition to the rules on promotion and protection foreign investment, and on trade-related investment measures, the Treaty also deals with the question of access to capital. In this connection, Article 9 requires that Contracting Parties endeavour to promote access to their capital markets for the purpose of financing trade in energy and for the purpose of investment in the energy sector, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals, or to companies and nationals of any other Contracting Parties or any third State, whichever is the most favourable.

Several regional and plurilateral instruments deal with foreign investment matters by providing a framework for the conclusion of bilateral investment agreements between the parties to the instrument. An important example of this approach is the Fourth ACP (Lomé) Convention. Chapter 3 of the Convention, which is part of Title III on development finance cooperation, contains provisions on investment promotion, investment protection, investment financing, investment support, current payments and capital movements, and qualifications and treatment of business entities. The Chapter sets forth general principles regarding the treatment of foreign investment, such as the requirement to accord fair and equitable treatment, and envisages that more specific regulation of policies on foreign investment will be dealt with through the negotiation of bilateral agreements between the contracting parties. Article 260 affirms the importance of concluding bilateral investment promotion and protection agreements, and Article 261 provides inter alia that the negotiation and implementation of such agreements shall proceed on a non-discriminatory basis. With a view to facilitating the negotiation of such agreements, a Joint Declaration in Annex LIII of the ACP Convention provides that the Contracting Parties will undertake a study of the main clauses of a model bilateral investment agreement.[106]

Among the regional and plurilateral arrangements devoted exclusively to foreign investment, mention should be made of the legally binding OECD Codes of Liberalization of Capital Movements and of Current Invisible Operations. Adopted in 1961, they aim at the progressive non-discriminatory liberalization of restrictions on inward and outward capital and current payments, subject to the possibility of country-specific reservations, general exceptions and temporary derogations. The Capital Movements Code was amended in 1984 to include right of establishment.[107] The implementation of these Codes is being reviewed by the OECD Committee on Capital Movements and Invisible Transactions. The treatment of investment after admission is subject to a separate OECD instrument, the National Treatment Instrument, which is part of the Declaration on International Investment and Multinational Enterprises.[108] This Declaration and its annexes, originally adopted in 1976 and most recently revised in 1991, also contain guidelines for the conduct of multinational enterprises, procedures for cooperation to avoid or minimize the imposition of conflicting requirements on multinational enterprises, and procedures for cooperation in regard to investment incentives and disincentives.[109] Although the Declaration itself is not legally

[105] The Treaty was signed in December 1994 by 41 States and the European Community. It has been characterized by one author as "the first major multilateral treaty imposing extensive obligations on governments with respect to the protection and treatment of foreign investment which is directly enforceable by private companies" (Waelde, 1995, pages 5-6).

[106] Particular attention is to be given in this study to legal guarantees to ensure fair and equitable treatment and protection of foreign investors; the most-favoured-investor clause; protection in the event of expropriation and nationalization; the transfer of capital and profits, and international arbitration in the event of disputes between an investor and a host State.

[107] The amendment provides that "The authorities of members shall not maintain or introduce: regulations or practices applying to the granting of licences, concessions, or similar authorizations, including conditions or requirements attaching to such authorizations and affecting the operations of enterprises, that raise special barriers or limitations with respect to non-resident (as compared to resident) investors, and that have the intent or the effect of preventing or significantly impeding inward direct investment by non-residents".

[108] Section II.1 of the Declaration states that: "... Member Countries should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled directly or indirectly by nationals of another member country (hereinafter referred to as "Foreign-Controlled Enterprises") treatment under their laws, regulations and administrative practices, consistent with international law and no less favourable than that accorded in like situations to domestic enterprises (hereinafter referred to as "National treatment")."

[109] The guidelines address general policies; disclosure of information; competition; financing; taxation; employment and industrial relations; environmental protection and science and technology.

binding, its implementation is reviewed in accordance with binding procedural decisions in the Committee on International Investment and Multinational Enterprises.[110]

In May 1995, following several years of preparatory work, OECD members launched negotiations with the aim of concluding a Multilateral Agreement on Investment (MAI). The main features of the proposed agreement are as follows: the centrepiece is a "top down" approach to liberalization of investment regimes through the application of national treatment and MFN treatment standards to both the establishment and the subsequent treatment of investment; a broad, asset-based definition of investment; provisions on country-specific reservations; standstill and roll-back obligations; provisions on transparency of domestic laws, regulations and policies; a limited set of general exceptions; standards for the protection of investments (general treatment standards and specific standards on expropriation and compensation, transfer of funds, protection from civil strife, and so forth); and dispute settlement procedures through State-State arbitration and investor-State arbitration. In addition, consideration is being given to the possible inclusion of disciplines on investment incentives, performance requirements, movement and employment of key personnel, corporate practices, privatization and monopolies and state enterprises.

It has yet to be decided whether the MAI should provide for substantial liberalization commitments immediately upon entry into force, or should be more in the nature of a standstill agreement, coupled with a mechanism for progressive liberalization over time. The agreement is expected to be a free-standing international treaty, open to OECD members and the European Community and to accession by non-OECD countries. The aim is to conclude the negotiations by the time of the 1997 OECD Ministerial Meeting (they are traditionally held in May).

The Agreement among the ASEAN members for the Promotion and Protection of Investments (1987), and the Colonia Protocol on Promotion and Reciprocal Protection of Investments within MERCOSUR (1994), are examples of regional arrangements devoted exclusively to foreign investment that are similar in approach to the majority of BITs. The former adopts the approach to admitting foreign investment found in the vast majority of BITs, in that it provides that the parties shall encourage foreign investment from other parties, but subject to their domestic laws and objectives. Moreover, national treatment after admission is not a general obligation but a matter for negotiation between the parties to the agreement. By contrast, the Colonia Protocol requires parties to accord the better of national treatment and MFN treatment in regard to both the admission of foreign investment from other parties and the treatment of such investment after admission. This obligation is qualified by the right of each party to maintain during a transition period exceptions in sectors listed in the annex to the Protocol.

The APEC Non-Binding Investment Principles, adopted in November 1994, deal with transparency, non-discrimination between source economies, national treatment, investment incentives, performance requirements, expropriation and compensation, repatriation and convertibility, settlement of disputes, entry and sojourn of personnel, avoidance of double taxation, investor behaviour and removal of barriers to capital exports. Apart from the fact that the principles are not legally binding, in most instances their formulation is considerably less specific and less stringent than in comparable recent investment arrangements.

4) Multilateral instruments

Although several efforts were made in the decades following World War II to agree on a binding multilateral instrument containing comprehensive substantive rules on foreign investment, none were successful.[111] Existing multilateral instruments of a legally binding nature tend to be narrow in scope and do not establish substantive norms, while multilateral instruments that set forth substantive norms are non-binding.

Within the World Bank Group, two multilateral instruments of a legally binding nature have been concluded specifically relating to foreign investment (Table IV.4). One is the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, which was concluded in 1965 and entered into force in October 1966. It establishes facilities for the resolution of disputes between investors and States through conciliation and arbitration in the International Centre for Settlement of Investment Disputes (ICSID). The number of Contracting States to the Convention has grown significantly in recent years and many bilateral and regional investment agreements refer to the ICSID Convention as the framework for the settlement of disputes between investors and states.[112]

The other agreement concluded under the auspices of the World Bank Group is the Convention Establishing the Multilateral Investment Guarantee Agency, which was concluded in 1985 and entered into force in April 1988.[113]

[110] Other OECD instruments not specifically relating to foreign investment but highly relevant to international business transactions are the Recommendation of the Council on Bribery in International Business Transactions (1994) and the Revised Recommendation of the Council Concerning Co-operation Between member countries on Anti-Competitive Practices Affecting International Trade (1995).

[111] In the immediate post-World War II period, binding global rules on foreign investment were envisaged as part of the multilateral trading system. Thus the Havana Charter for an International Trade Organization contained in its chapter on economic development some general principles regarding the entry and treatment of foreign investment, and envisaged the conclusion of bilateral or multilateral agreements among its members in regard to the promotion and protection of foreign investment.

[112] As of August 1996, there were 126 Contracting States and 13 States that had signed but not yet ratified the Convention. References to ICSID appear in approximately 350 bilateral investment treaties and in such regional agreements as NAFTA, the European Energy Charter Treaty and the Colonia Investment Protocol of MERCOSUR; see ICSID (1995), page 4. As of August 1996, a total of 35 arbitration cases had been brought under the Convention.

[113] As of 31 May 1995, the Convention had been signed by 152 States.

Table IV.4
Multilateral instruments

I. Binding Instruments

Instrument	Date	Instrument	Date
Convention on the Settlement of Investment Disputes between States and Nationals of Other States (IBRD)	1965	Guidelines on the Treatment of Foreign Direct Investment (The World Bank Group)	1992
Convention Establishing the Multilateral Investment Guarantee Agency (IBRD)	1985		

II. Non-binding Instruments

Instrument	Date	Instrument	Date
UN General Assembly Resolution 1803 (XVII): Permanent Sovereignty over Natural Resources	1962	Draft International Agreement on Illicit Payments (not adopted by the UN General Assembly)	1979
UN General Assembly Resolution 3201 (S- VI): Declaration on the Establishment of a New International Economic Order and UN General Assembly Resolution 3202 (S- VI): Programme of Action on the Establishment of a New International Economic Order	1974	The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (adopted as UN General Assembly Resolution 35/63) and Resolution Adopted by the Conference Strengthening the Implementation of the Set	1980 1990
UN General Assembly Resolution 3281 (XXIX): Charter of Economic Rights and Duties of States	1974	Draft United Nations Code of Conduct on Transnational Corporations (not adopted by the UN General Assembly)	1983
ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and Procedure for the Examination of Disputes Concerning the Application of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy by Means of Interpretation of its Provisions	1977 1986	UN General Assembly Resolution 39/248: Guidelines for Consumer Protection Draft International Code of Conduct on the Transfer of Technology (not adopted by the UN General Assembly)	1985 1985

Note: See Chapter Five for the multilateral instruments in the WTO framework.

Based on a belief that the flow of foreign investment to developing countries can be facilitated and promoted by alleviating concerns related to non-commercial risks, the principal aim of the Multilateral Investment Guarantee Agency is to provide a multilateral investment insurance mechanism as a complement to national, regional and private investment insurance schemes.[114] The Convention also contemplates a role for the Agency with regard to substantive standards for the treatment of investment. Under Article 12(d) of the Convention the Agency must, in guaranteeing an investment, satisfy itself inter alia as to "the investment conditions in the host country, including the availability of fair and equitable treatment and legal protection for the investment". Article 23 of the Convention deals with investment promotion and stipulates that, in addition to research and technical assistance activities, the Agency is to facilitate the conclusion of agreements among members to the Convention on the promotion and protection of foreign investment.

Substantive multilateral norms for the treatment of foreign investment are contained in the non-binding Guidelines on the Treatment of Foreign Direct Investment, developed in the World Bank Group following an April 1991 request by the IMF-World Bank Development Committee for the preparation of a report on "an overall legal framework which would embody the essential legal principles so as to promote foreign direct investment". The Guidelines were "called to the attention" of the members of the World Bank Group by the Development Committee in September 1992 "as useful parameters in the admission and treatment of private foreign investment in their territories, without prejudice to the

[114] Article 11 of the Convention defines the non-commercial risks covered by the Agency's mandate as restrictions on currency transfer; expropriation and similar measures; breach of contract; and war and civil disturbance.

binding rules of international law".[115] They differ in two main respects from the work initiated in 1977 in the United Nations on a Code of Conduct for Transnational Corporations. First, they only cover general principles to guide governmental behaviour toward foreign investors; rules of good conduct on the part of foreign investors are not included. Second, they do not purport to represent a codification of customary international law in regard to the treatment of foreign investment, but rather to formulate generally acceptable international standards which support the objective of promoting foreign investment. The five sections of the Guidelines address respectively, the scope of application, the admission of foreign investment, standards of treatment of foreign investment, expropriation and unilateral alterations or termination of contracts, and settlement of disputes.

Mention should also be made of other multilateral instruments that are somewhat different in scope but are nevertheless relevant in this context. Several United Nations General Assembly Resolutions adopted in the 1960s and 1970s include provisions on foreign investment mainly with a view to affirming certain rights of host states.[116] Matters relating to social policy have been dealt with in the (non-binding) ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy which was adopted in 1977 and took effect in 1978. The Declaration contains principles commended to governments, employers' and workers' organizations of home and host countries and to multinational enterprises. These principles pertain to general policies, employment, training, conditions of work and life and industrial relations.[117] Restrictive business practices are addressed in the United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. The Set, adopted in 1980 in the form of a non-binding Resolution of the General Assembly of the United Nations, contains principles addressed both to States and to enterprises for the control of restrictive business practices as well as provisions for consultations, cooperation and technical assistance in the framework of UNCTAD. Health and safety issues are dealt with in the United Nations General Assembly Resolution 39/248 on Guidelines for Consumer Protection.

Negotiations began in 1977 in the United Nations towards the formulation of a Code of Conduct on Transnational Corporations aimed at the establishment of a comprehensive framework of norms for corporate conduct and norms for the treatment of transnational corporations by host States.[118] A principal objective of the envisaged Code was "to maximize the contribution of transnational corporations to economic development and growth and to minimize the negative effects of the activities of these corporations". In regard to the activities of transnational corporations, the draft Code contained certain general norms as well as more specific standards of conduct in respect of economic, financial and social matters and disclosure of information. The treatment of transnational corporations by host States was the subject of general principles and provisions on nationalization and compensation, jurisdiction and dispute settlement. Negotiations on the Code were terminated in 1992 and no one has suggested their revival.[119]

V. Investment-related WTO rules and disciplines

The multilateral trading rules originally contained very little that was directly relevant to the treatment of foreign investment. But, as the GATT progressively developed through successive rounds of trade negotiations and, in particular, through its transformation into the WTO, investment-related issues have increasingly been addressed. This reflects the greater intertwining of investment and trade in the operations of firms, and the increasing difficulty of separating those aspects of the conditions of international competition related to the transborder movement of goods and services from those related to foreign investment.

At the outset, it should be recalled that the creation of the GATT stemmed from the failure to establish the International Trade Organization. The ITO would have covered, in addition to those matters covered by the GATT, restrictive business practices, commodity agreements and, in its Articles 11 and 12, foreign investment.

The question of investment was revisited in the context of the 1955 GATT review conference, undertaken when it became clear that the ITO Charter would not enter into force. This resulted in a Resolution on International Investment for Economic Development, which recognized that an increased flow of capital into countries in need of investment from abroad and, in particular, into developing countries would facilitate the objectives of the General Agreement.[120] It recommended that contracting parties in a position to provide capital for international investment, and contracting parties who desire to obtain such capital, use their best endeavours to create conditions calculated to stimulate the international flow of capital. These included, in particular, the importance

[115] The Guidelines state explicitly that they "are not ultimate standards but an important step in the evolution of generally acceptable international standards which complement, but do not substitute for, bilateral investment treaties".

[116] These include notably Resolution 1803 (XVII): Permanent Sovereignty over Natural Resources (1962); Resolution 3201 (S- VI): Declaration on the Establishment of a New International Economic Order (1974); Resolution 3202 (S- VI): Programme of Action on the Establishment of a New International Economic Order (1974); and Resolution 3281 (XXIX): Charter of Economic Rights and Duties of States (1974).

[117] In 1986 the ILO adopted a procedure for the examination of disputes concerning the application of the Tripartite Declaration.

[118] See Asante (1989) for a review of the issues involved in the negotiation of the Code.

[119] Other initiatives in the United Nations framework which were not successfully concluded include the draft International Agreement on Illicit Payments and the draft International Code of Conduct on the Transfer of Technology.

[120] GATT (1955), page 49.

of providing security for existing and future investment, the avoidance of double taxation and facilities for the transfer of earnings of foreign investments. It urged GATT contracting parties, upon the request of any contracting party, to enter into consultation or participate in negotiations directed to the conclusion of bilateral and multilateral agreements relating to these matters.

In the years that followed, the GATT came to deal increasingly with internal policy instruments that can distort the conditions of international trade. Prior to the Uruguay Round, this development was most marked in the Tokyo Round negotiations in the 1970s, when rules on such matters as subsidies, technical standards and government procurement were negotiated. Although, for the most part, these policy instruments were looked at in terms of their impact on the cross-border movement of goods, the rules developed are also, in many cases, relevant to the competitive conditions which foreign investors face. For example, as is explained in more detail below, GATT and now WTO rules on subsidies are relevant to investment incentives.

A second and, for investment, more directly relevant development in the GATT/WTO has involved establishing international rules governing the treatment of foreign companies. Originally, the GATT rules only put obligations on governments in respect of the treatment of foreign goods. They were not concerned with the treatment of foreign persons, legal or natural, operating in their territories, the issue at the heart of investment policy. However, as a result of the Uruguay Round negotiations, the WTO puts important obligations on governments in regard to the treatment of foreign nationals or companies within their territories – in the GATS and the TRIPS Agreement, as well as in the plurilateral Government Procurement Agreement.

1) General Agreement on Trade in Services (GATS)

The integration of investment and cross-border trade in the WTO is most evident in the General Agreement on Trade in Services (GATS). As has been noted, the supply of many services to a market is difficult or impossible without the physical presence of the service supplier. Article I:2 of the Agreement defines "trade in services" as encompassing four modes of supply, including the supply "by a service supplier of one member, through commercial presence in the territory of any other member". The term "commercial presence" is defined in Article XXVIII(d) as "any type of business or professional establishment, including through (i) the constitution, acquisition or maintenance of a juridical person, or (ii) the creation or maintenance of a branch or a representative office, within the territory of a member for the purpose of supplying a service". As a consequence, the GATS covers forms of establishment which correspond to the notion of FDI. Another investment-related mode of supply covered by Article I:2 is the supply "by a service supplier of one member, through presence of natural persons of a member in the territory of any other member". This mode of supply is closely related to the commercial presence mode of supply in that it includes temporary entry of business visitors and intra-company transferees of managerial and other key personnel.

All WTO members have established specific commitments under GATS in relation to the four modes of supply. These commitments bind governments to guaranteed conditions of market access in respect of the modes and sectors indicated in schedules of specific commitments. In the absence of specifications to the contrary, members guarantee both the right of market entry (Article XVI) and the right to national treatment (Article XVII) in scheduled sectors.[121] A list of six conditions that may be imposed on market access is contained in Article XVI. Four of these relate to different kinds of quantitative limitations that may apply to foreign services or service suppliers. The other two conditions are relevant only to commercial presence. They involve measures which "restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service" and "limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment." Limitations on national treatment are not similarly defined, and may encompass any form of discrimination, as indicated in a member's schedule.

The GATS embodies a framework of rules establishing the context in which the schedules of specific commitments must be read, including those relating to investment. Some of these rules are of general application, while others apply only in the situation where a member has assumed a specific sectoral commitment. The most important rule of general application is most-favoured-nation treatment. Thus, GATS requires that members extend MFN treatment in all service sectors.[122] Certain transparency obligations are also of a general nature. But many other provisions, covering such matters as domestic regulation, monopolies and exclusive service suppliers, payments and transfers, and balance-of-payments measures, are only relevant in the context of specific commitments.

When considering GATS as a framework for international rules on investment, two points in particular are noteworthy regarding the content and structure of the Agreement. These are relevant to any consideration of how a broad-based

[121] In more precise terms, a schedule must indicate under each mode of supply whether a member intends to grant full market access and/or national treatment, no market access and/or national treatment, or conditioned market access and/or national treatment. Some measure of market access or national treatment must be granted in at least one mode of supply in order for a member to include a particular services sector in its schedule of specific commitments.

[122] Under Article II of GATS, members are entitled to stipulate measures in respect of which MFN treatment does not apply. However, this option was only available at the time of entry into force of the Agreement, and exemptions are in principle temporary and subject to multilateral review. Some 68 countries have taken MFN exemptions, many of which are designed to protect pre-existing sectoral preferences that could not otherwise be defended under the Agreement.

international investment agreement might be structured. First, the GATS is not an investment agreement as such. It addresses investment as one of several different ways of gaining access to a market. The GATS does not contain the kind of investment protection provisions commonly found in many of the bilateral and regional investment arrangements discussed previously. Nor does it embody such features as a mechanism allowing private investors direct access to an international dispute settlement mechanism. On the other hand, by treating investment as one element of trade in services, the GATS addresses not only the terms and conditions upon which a foreign investor may enter the market, but also deals with "establishment trade" – or in other words, the conditions of operation in the post-investment phase. The latter is also a feature of many of the bilateral and regional investment agreements referred to above.

Second, in defining national treatment as an obligation that relates only to scheduled commitments, the GATS departs from a number of other intergovernmental investment agreements in which national treatment has the same status as MFN, namely a principle of general application (but subject, in many cases, to reservations). Moreover, the GATS sets up a structure in which it is possible for governments, in agreement with trading partners, to condition national treatment, or grant it partially. Similarly, the market access concept contained in Article XVI of GATS permits governments to condition the extent to which entry by foreign suppliers will be permitted. This capacity to open domestic markets to competition from foreign suppliers by degree is achieved in other agreements through exceptions and reservations.

A distinction can be made between a "negative" list and a "positive" list approach to defining the scope of an agreement. Under the negative list approach, governments must specify the sectors or measures to which obligations do not apply. Under the positive list approach, by contrast, the requirement is to list those sectors or measures in respect of which obligations are to be assumed. In discussions of the best approach to identifying the extent of commitments, it has been argued that the negative list approach provides more transparency and encourages governments to be more forthcoming in negotiations in respect of their commitments. It has also been pointed out that under a negative list approach, new activities arising from technological advances will automatically be covered, whereas explicit provision would have to be made for such activities to be covered under the positive list approach. A number of the international agreements discussed previously rely on a negative list approach. In fact, the GATS is a hybrid of the two approaches, containing a positive listing of sectors and a negative listing of limitations on market access and national treatment.

Finally, two more general points regarding the GATS are worth noting. First, it is a new agreement, having entered into force in 1995, and governments were well aware when they were negotiating the GATS that much remained to be done. Like the GATT before it, the GATS is a framework designed to permit the progressive liberalization of trade in services through further negotiations. Indeed, the GATS contains a built-in commitment in Article XIX to continue to negotiate liberalization through successive rounds of negotiations, with the first such negotiation scheduled to begin before the year 2000. Second, the GATS is one of the few agreements covering foreign investment which is both multilateral and binding. Because of the multilateral nature of GATS, both existing and future bilateral and regional investment agreements will need to take its provisions fully into account, including in particular the strong MFN commitment.

2) Agreement on Trade-Related Aspects of Intellectual Property Rights

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is another important example of the evolution of the multilateral trading system from a set of rules primarily aimed at regulating policies affecting cross-border trade in goods to a set of rules also covering host country treatment of foreign companies. Although the TRIPS Agreement does not directly address foreign investment, its provisions on minimum standards for the protection of intellectual property, domestic enforcement procedures and international dispute settlement are directly relevant to the legal environment affecting foreign investment (the definition of "investment" in many intergovernmental investment agreements expressly includes intellectual property).

Under the TRIPS Agreement, each WTO Member is required to accord in its territory the protection required by the TRIPS Agreement to the intellectual property of the nationals of other WTO members. The Agreement covers all the main areas of intellectual property rights – copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout-designs of integrated circuits and undisclosed information or trade secrets. In respect of these areas the Agreement contains two main sets of substantive obligations.

First, it lays down minimum standards of substantive protection for each category of rights that must be available in the national law of each Member, at a level which approximates that found in the main industrial countries today. It does this by requiring that the substantive obligations of the main WIPO Conventions, the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works, be complied with and by adding a substantial number of additional obligations on matters where these Conventions are silent or seen as being inadequate. For each area of intellectual property, it sets out what subject-matter must be protectable, what are the minimum rights that must flow from such protection and the permissible exceptions to those rights, and what is the minimum duration of protection.

The second major characteristic of the Agreement is that, for the first time in international law, it specifies in some detail the procedures and remedies that each Member must provide within its national law so that the nationals of other members can effectively enforce their intellectual property rights – whether through the normal civil judicial process, through customs action against imports of counterfeit and pirated goods or through criminal procedures in respect of wilful counterfeiting and piracy on a commercial scale.

3) Agreement on Trade-Related Investment Measures

The Agreement on Trade-Related Investment Measures (TRIMs) has, as stated in its preamble, the aims not only of promoting the expansion and progressive liberalization of world trade but also of facilitating of investment across international frontiers. The Agreement has three main features. First, it clarifies that certain types of investment measures applied to enterprises, which appear on the Illustrative List, are inconsistent with the GATT. These essentially concern local content and trade-balancing requirements, and include not only mandatory measures but also those measures which are not mandatory but create advantages if observed. While such measures frequently arise in the context of FDI, the TRIMs rules apply equally to measures imposed on domestic enterprises. The rules also apply both to measures affecting existing investments and to those covering new investments.

Second, the Agreement requires that all TRIMs inconsistent with GATT Articles III and XI, and which cannot be justified under an exceptions provision under the GATT, be notified within 90days of entry into force of the WTO. Such measures are to be eliminated within a certain period of time – namely two years in the case of developed countries, five years for developing countries and seven years for least-developed countries. To avoid distortions of the conditions of competition between new investments and established enterprises already subject to a TRIM, Members may apply the same TRIM to new investments during the transition period, subject to certain conditions.

The third important feature of the TRIMs Agreement is that it provides for a review within five years, in the context of which consideration will be given to whether the Agreement should be complemented with provisions on investment policy and competition policy.

4) Agreement on Subsidies and Countervailing Measures

The Agreement on Subsidies and Countervailing Measures (ASCM) defines the concept of "subsidy" and establishes disciplines on the provision of subsidies. In the taxonomy of investment incentives set forth in Section III above, at least some types of measures in each of the three categories (fiscal incentives, financial incentives and indirect incentives) are subsidies as defined in the ASCM.[123] That is, they can involve a financial contribution by a government or public body, and would confer a benefit.[124] Fiscal incentives, for example, would generally fall within the ASCM definition of "government revenue ... otherwise due [that] is foregone or not collected (e.g., fiscal incentives such as tax credits)". Financial incentives, such as the direct provision of funds through grants and subsidized credits, would generally meet the ASCM definition of "a government practice [that] involves a direct transfer of funds (e.g., grants, loans and equity infusion...)". Finally, at least some kinds of indirect incentives would appear to be subsidies as defined by the ASCM. In particular, the provision of such items as land and infrastructure at less than market prices would appear to fall within the definition of "a government provid[ing] goods or services other than general infrastructure, or purchas[ing] goods".

A range of multilateral disciplines would apply under the ASCM to investment incentives meeting these definitions. Investment incentives meeting the definition of a subsidy, and granted contingent upon exportation of goods produced (or to be produced) by an investor, or contingent upon use of domestic over imported goods, are prohibited under the ASCM.[125] As well, investment incentives other than those meeting the definition of prohibited subsidies are likewise subject to the disciplines of the ASCM. That is, even if not prohibited, incentives that cause "adverse effects" as defined by the ASCM potentially are subject to compensatory action, either multilaterally or under WTO Members' national legislation. In the multilateral context, the ASCM's provisions pertaining to serious prejudice refer directly to investment incentives. In particular, Annex IV, which provides guidance for calculating whether the total ad valorem rate of subsidization of a product is sufficient to give rise to a presumption of serious prejudice, includes subsidies to firms in "start-up situations", that is, where financial commitments have been made for product development or construction of facilities, but where production has not yet begun.

This being said, the underlying concepts of the ASCM are oriented toward trade in goods, and as such may not in all cases be easily applied to investment incentives. This issue would become relevant in the context of a multilateral investment code, to the extent that such a code aimed in part at disciplining the uses of incentives. As discussed above, competition among different countries' investment incentives, which can be a key determinant of the ultimate location of an investment, can easily give rise to economic distortions. Because they are concerned with goods flows, which by definition occur only after the investment has been made, the ASCM's disciplines on subsidies by themselves do not appear capable of fully addressing such distortions.[126]

[123] There were no dispute settlement cases involving investment incentives under the GATT (1947) or the Tokyo Round Subsidies Code, perhaps in part because the extent of any bindings on domestic subsidies was unclear.

[124] This paragraph is based on ASCM Art. 1.1.

[125] The latter type of incentive also is prohibited under Paragraph 1 of the Annex to the TRIMs Agreement.

[126] Two areas, "adverse effects" and remedies, illustrate this point. Under the ASCM, adverse effects of subsidization are defined in terms of distortions of trade flows of subsidized goods; that is, the extent to which subsidies increase the level of exports from, or reduce the level of imports into, the subsidizing country, and thereby harm

5) Plurilateral Agreement on Government Procurement

The first important evolution of the GATT/WTO system into the area of the treatment of foreign companies by host countries was the 1979Agreement on Government Procurement. In respect of the covered procurement operations, this Agreement required not only that there be no discrimination against foreign products, but also that there be no discrimination against foreign suppliers and, in particular, no discrimination against locally established suppliers on the basis of their degree of foreign affiliation or ownership. A new Agreement on Government Procurement, the negotiation of which was concluded along with the Uruguay Round, has now entered into force. This retains the basic non-discrimination rule referred to above and expands procurement covered by some 10-fold, including now services as well as goods, and procurement at the sub-central and public utility levels as well as the central government level. The new Agreement also contains a number of important new rules, for example the right of suppliers to challenge through national tribunals the conformity of procurement decisions with the international rules themselves – the so-called "challenge procedures".

6) Dispute settlement

Future disputes involving FDI-related WTO rules and disciplines will be resolved in the context of the integrated dispute settlement mechanism of the WTO, contained in the Understanding on Rules and Procedures for the Settlement of Disputes. It is a reinforced and unified mechanism for the settlement of disputes between member governments that will apply to disputes brought under all aspects of the Agreements annexed to the Agreement Establishing the World Trade Organization, including those in the areas of TRIMs, GATS, TRIPS, subsidies and countervailing measures, and government procurement referred to above. The dispute settlement system has been substantially reinforced compared to the earlier GATT dispute settlement system, notably by the elimination of the means by which it had been possible for individual members to delay or block the dispute settlement process. There are now stricter time limits for completing the different stages of the dispute settlement process, and panel reports will be considered adopted unless there is a consensus against adoption. Another change compared to the old GATT system is the addition of an appeal stage, in the light of the more binding and automatic nature of the system.

VI. Summary and conclusions

There can be no question that foreign direct investment and international trade generally are mutually supportive, and that together they are playing the central role in the ongoing integration of the world economy. Through investment and trade, firms in each country are able to specialize in producing what they can produce most efficiently. Trade facilitates this process by allowing an economy to specialize in production, and then to exchange part of that output abroad in order to achieve the particular mix of goods and services its citizens want to consume. FDI facilitates this process by increasing the international mobility of – and thus the efficient use of – the world's supplies of capital and technology, including organizational, managerial and marketing skills. This joint process is central to development strategies and, more generally, to worldwide efforts to increase wealth and raise living standards.

This final section begins with a summary of the main findings, first in the form of selected highlights, and then with an overview of the principal economic, institutional and legal interlinkages between FDI and trade. It concludes with a review of the key policy issues facing WTO Members with respect to foreign direct investment.

1) Selected highlights

The preceding analysis touched on a large number of issues and points related to FDI and, especially, to the interlinkages between FDI and trade. Among the more important findings were the following:

The growing importance of FDI

- During 1986-89, and again in 1995, outflows of FDI grew much more rapidly than world trade. Over the period 1973-95, the estimated value of annual FDI outflows multiplied 12 times (from $25 billion to $315 billion), while the value of merchandise exports multiplied eight-and-a-half times (from $575 billion to $4,900 billion).
- Sales of foreign affiliates of multinational corporations (MNCs) are estimated to exceed the value of world trade in goods and services (the latter was $6,100 billion in 1995).
- Intra-firm trade among MNCs is estimated to account for about one third of world trade, and MNC exports to all other firms for another third, with the remaining one third accounted for by trade among national (non-MNC) firms.

Geographical distribution

- Developed countries account for most of the worldwide FDI outflows and inflows, but developing countries are becoming more important as host and home countries.
- The share of the non-OECD countries in worldwide FDI inflows, which decreased in the 1980s, increased from nearly 20 to about 35 per cent between 1990 and 1995. However, these flows were highly concentrated, with 10 countries

producers of like goods in another country. In the context of investment, because the granting of an incentive generally predates production, often by a considerable period, such an after-the-fact measurement of adverse effects is unlikely to exercise discipline over the provision of investment incentives. A similar issue arises in the context of remedies. By the time production and exportation have commenced, incentives aimed at attracting the investment often will have ended. In this situation, neither a recommendation to withdraw or modify a subsidy, nor a countervailing duty applied to the exported goods, will be able to "undo" or to change an investment that already has been made.

receiving nearly 70 per cent of the total ($78 billion out of $112 billion).

- Nearly one third of the 20 leading host economies for FDI during 1985-95 are developing economies. China is in fourth place, with Mexico, Singapore, Malaysia, Argentina, Brazil and Hong Kong also on the list.
- Non-OECD countries accounted for 15 per cent of worldwide outflows of FDI in 1995, compared with only 5 per cent in the period 1983-87.

A wide range of interlinkages

- Trade polices can affect FDI in many ways. A low level of import protection-especially if it is bound – can be a strong magnet for export-oriented FDI. High tariffs, in contrast, may induce tariff-jumping FDI to serve the local market, and so-called quid pro quo FDI may be undertaken for the purpose of defusing a protectionist threat.
- The single market programme of the European Union stimulated substantial investment activity, both within the Union and into the Union from third countries, and similar effects on FDI flows have been observed for other regional trade agreements.
- There is no serious empirical support for the view that FDI has an important negative effect on the overall level of exports from the home country. Rather, the empirical evidence points to a modestly positive relationship between FDI and home country exports and imports. Similarly, the evidence indicates that FDI and host country exports are complementary, but that FDI and host country imports may be either substitutes or complements, depending on the details of the situation, including the policies pursued by the host country (FDI attracted by low costs of production and liberal trade regimes is likely to be complementary with imports, and vice versa for tariff-jumping FDI).
- FDI can be a source not just of capital, but also of new technology and other intangibles such as organizational and managerial skills, and marketing networks. It can also boost trade, economic growth and employment in host countries by providing a stimulus to the production of locally produced inputs, as well as to competition, innovation, savings and capital formation. Furthermore, FDI gives the investor a stake in the future economic development of the host country. In short, it is a key element for promoting growth and progress in developing countries.

The reality of FDI incentives

- Incentives to attract FDI are very high in some of the most industrialized countries. Such incentives not only bias FDI towards countries with "deep pockets", but the reality of their operation – they are no different from any other kind of subsidy programme – is a source of considerable concern. Very often there is little or no knowledge of a project's true value to the host country (necessary for using incentives efficiently). Moreover, incentives are vulnerable to political capture by special interest groups; there is considerable scope for introducing new distortions; and competition among potential host countries in the granting of incentives can drive up the cost of attracting FDI, thereby reducing or even eliminating any net gain for the successful bidder.

A multitude of rules

- Since the early 1980s, there has been a widespread trend towards liberalization of national laws and regulations relating to foreign investment, especially in developing and transition countries. However, unilateral action has not been found sufficient as regards either the locking-in of reforms and their credibility in the eyes of investors or the compatibility with other FDI regimes. In the absence of a multilateral regime, the liberalization of national FDI regimes has been accompanied by a rapid proliferation of intergovernmental arrangements dealing with foreign investment issues at the bilateral, regional (for example, NAFTA and MERCOSUR) and plurilateral levels. Some two thirds of the nearly 1,160 bilateral investment treaties concluded up to June 1996 were signed during the 1990s.
- In addition, OECD members – which currently account for about 85 per cent of world outflows of FDI – have been negotiating since May 1995, with the aim of concluding a Multilateral Agreement on Investment (MAI) in 1997. The objective is an independent international treaty, open to OECD members and the European Community and to accession by non-OECD countries.

The WTO also has FDI-related rules

- While the original GATT rules put obligations on governments only in respect of the treatment of foreign goods, the WTO – through the GATS and the TRIPS Agreement, as well as the plurilateral Government Procurement Agreement – places important obligations on governments with respect to the treatment of foreign nationals or companies within their territories. Through the inclusion of rules on "commercial presence" (defined as any type of business or professional establishment), the GATS recognizes that FDI is a prerequisite for exporting many services.
- The TRIMs Agreement provides for a review within five years, in the context of which consideration will be given to whether the Agreement should be complemented with provisions on investment policy and competition policy.
- The Agreement on Subsidies and Countervailing Measures defines as subsidies some types of measures in each of the three main categories of FDI incentives (fiscal incentives, financial incentives and indirect incentives).
- WTO Members are considering, in the context of preparations for the WTO Ministerial Meeting to be held in Singapore in December 1996, a proposal for the establishment of a work programme on trade and investment aimed at clarifying the issues in this area.

Policy considerations

- The WTO's investment-related rules are binding, as are the rules in nearly all the bilateral, regional and plurilateral agreements. In contrast, the various multilateral FDI instruments, none of which is comprehensive, are by and large non-binding. More generally, one of the striking characteristics of the present pattern of multi-layered investment rules is the diversity of approaches and legal architectures.
- A key consideration at the present juncture, therefore, is that of current and future policy coherence. Governments

face a choice between continuing to deal with FDI issues bilaterally or in small groups, supplemented by a patchwork of rules in the WTO, and exploring options for a comprehensive framework designed to ensure that investment and trade rules are compatible and mutually supportive. There is little doubt that investors have a strong preference for the second option.

2) The economic interlinkages

FDI and trade

The most obvious economic interlinkage between FDI and trade is the one examined in Section II, namely the impact of FDI on the trade of the host and home countries, and thus on the level and pattern of world trade. For many services, the producer must have production facilities (bank branches, hotels, accounting offices) in foreign countries in order to export the service. Although not necessarily to the same extent, the same is increasingly true for firms producing goods. In a progressively more competitive global economy, an export-oriented firm might well have to acquire facilities in other countries in order to remain competitive – that is, in order to survive. This can include distribution networks that handle marketing, inventories and after-sales service. The result is likely to be not simply the maintenance of current trade levels, but expanded trade.

FDI and trade are also integral parts of firms' efforts to organize their production processes efficiently. By subdividing a production process into different stages, locating each stage in a country where that particular part of the process can be done efficiently, and then linking all the various stages through trade, firms can supply efficiently produced goods and services to buyers worldwide. Recalling that intra-firm trade among MNCs accounts for roughly one third of world trade, and that MNC exports to non-affiliates account for roughly another one third, it is clear that FDI can improve host country access to foreign markets. FDI also affects trade flows through the transfer of technology, as well as through its role as a stimulus to competition, innovation, productivity, savings and capital formation in host countries.

Interlinkages at the policy level

The reality of FDI thus is much more complex than is suggested by the traditional view that FDI and trade are alternative means of servicing a foreign market, and hence substitutes. **FDI and the trade of home and host countries are, as has been noted, generally complementary. In this connection, liberal trade and investment policies boost FDI and strengthen the positive relationship between FDI and trade.** In contrast, high tariffs, threats of contingent protection and financial or tax-based subsidies can create strong incentives to substitute investment for trade, including – in the case of countries with large domestic markets relative to their neighbours – for the diversion of investment by neighbouring firms into the protecting country.[127] As is true of all tariff-jumping FDI, such beggar-thy-neighbour investment diversion not only harms other countries, but also adds to the stock of internationally uncompetitive firms in the new host country.

True, a country's trade policy is only one of a number of factors that determine FDI inflows. However, a critically important dimension of any investment decision is the degree of uncertainty and risk over the (frequently long) time horizon of the proposed investment. It follows that the structure and stability of current and possible future trade policies, both of potential host countries and of potential foreign markets, will be important influences on the willingness of firms to seek customers in foreign markets, locate production processes in host countries, or separate the production processes into stages located in different host countries. This "trade policy dimension" of programmes to attract FDI is important not only for the vast majority of countries that lack a large domestic market, but increasingly also for all markets as more and more firms "think globally" and often see even large markets as potential export bases.

Investment policy, in turn, is an important factor determining the extent to which a country can benefit from the international distribution systems of MNCs, intra-corporate international trade and transfers of technology. It is also a factor determining the extent to which trading partners will enjoy effective access to that country's market, not only for services but also increasingly for many types of goods. Thus it is important not only that FDI is now keenly sought by a large number of countries at all levels of development, but that many countries have liberalized their investment regimes in parallel with their trade regimes. During 1991-94, virtually all of the changes (368 out of 373) in national investment regimes were in a liberalizing direction.[128] This process of liberalization has been particularly marked in those developing and transition economies which have also undertaken very considerable and, to a large extent, autonomous liberalization of their trade regimes. The reversal of earlier scepticism or hostility to FDI by developing and transition countries, together with the liberalization and introduction of greater predictability in their trade and investment policies, has been a major element in the increasing share of global FDI going to these economies.

A potential FDI boost for least-developed countries

The complementary relationship between FDI and trade is also a key aspect of one of the most pressing problems currently confronting the international community, namely how to reverse the growing gap between many of the world's poorest economies and the rest of the global economy. In 1994, there were 35 developing countries (many of them least-developed countries) whose merchandise exports were below the 1985 level. Since the value of world

[127] That is, there appear to be cases in which investments shift from a small, liberal-trading country to a large neighbouring country with relatively high trade barriers, with the goal of servicing the large country's market from the inside and servicing current customers in the smaller neighbouring market(s) with exports. For this to work without the aid of export incentives, production costs in the large but highly protected economy must be "sufficiently" low, which will often not be the case.

[128] UNCTAD (1995).

merchandise trade more than doubled over that 10 year period, even an unchanged level of exports would have signalled a significant falling behind in the ongoing integration of the global economy. And, despite a more than doubling of the share of developing countries in world FDI inflows between 1990 and 1994, the least-developed countries still receive virtually no FDI. For the period 1988-94, flows of official development assistance represented 98 per cent of the net financial flows to the least-developed countries.[129]

Low levels of trade and of inflows of FDI are more symptoms than causes of the plight of many of the poorest countries. At the same time, unless the corrective actions by the countries themselves, and by other countries concerned with their situation, lead to – among other improvements – increased inflows of FDI and increased trade, it is difficult to imagine how a major improvement in their economic prospects can be achieved. As has been stressed above, FDI brings with it resources that are in critically short supply in poor countries, including capital, technology and such intangible resources as organizational, managerial and marketing skills. These resources, in turn, can play a vital role in efforts to restructure and diversify the economy and make it more competitive.

3) The institutional and legal interlinkages

As in the trade area, countries have perceived that purely unilateral action in the investment area is not sufficient – in this case, not sufficient to give the desired stimulus to FDI flows. The result has been a widely felt need for international agreements that provide a framework for the protection and promotion of investment. One manifestation of this has been the previously noted big increase in bilateral investment treaties since 1990, including a growing number among developing countries. There has also been a proliferation of regional and other initiatives to address a perceived need for international rules relating to foreign investment. Most of these deal with investment questions as part of broader economic integration arrangements centering on trade. Some are long-standing, such as the European Community, whose rules in this area have now been extended to the whole of Western Europe. Another example is the North American Free Trade Area (NAFTA) which integrates issues of investment into a single trade agreement. Among developing countries, efforts are also being made in the context of a number of regional trading arrangements, for example in ASEAN and MERCOSUR. More broadly, there is work under way in the APEC and the Free Trade Area of the Americas (FTAA) contexts. At the plurilateral level, there is the European Energy Charter Treaty, adopted by 41 countries and the European Community in December 1994, which contains detailed commitments on investment in the energy sector, as well as the previously mentioned ongoing MAI negotiations in the OECD. Finally, at the multilateral level, there are two conventions and one set of guidelines that were negotiated in the World Bank between 1965 and 1992, plus one ILO and seven United Nations non-binding instruments.

As is described in Section V above, the trend toward greater integration of investment and trade in the world economy has also increasingly been evident in the work of the GATT and now the WTO. In particular, the WTO Agreements on services and intellectual property, as well as the plurilateral Agreement on Government Procurement, establish international rules on the treatment of foreign companies operating within a country's territory, the issue at the heart of investment policy. The integration of trade and investment is most evident in the General Agreement on Trade in Services (GATS), which treats the supply of the market by foreign companies through a local "commercial presence" as a form of trade in services. Certain incentives which governments might consider offering as part of their efforts to attract FDI are covered by the Agreement on Subsidies and Countervailing Measures. Looking to the future, the GATS and the TRIMs Agreement provide for important in-built work programmes on investment-related matters in the areas of services and goods. More immediately, as part of the preparations for December's Ministerial Meeting in Singapore, WTO Members are considering proposals for WTO's future work on investment-related matters.

There is a broad institutional interlinkage – not just between FDI and trade, but between investment in general and trade – that derives from the fact that the primary function of the WTO rules and procedures is to reduce the uncertainty surrounding economic transactions across national frontiers. In this way, the rules and procedures, together with reductions in trade barriers, promote trade-related investment at home and abroad and bring the gains that come from increased international specialization. Part of the gains from trade liberalization, it is true, come via lower prices to consumers. But the more efficient use of a country's resources requires that some portion of existing labour, capital and land move from less productive to more productive employment, and that future increments to these resources go into those more productive uses. **This requires new investment.**

It is not enough that trade barriers are reduced. Domestic and foreign investors for whom international competitiveness is a concern – certainly an expanding majority as globalization progresses – value security of future market access, such as that provided by WTO rules and disciplines. **Because the benefits which the WTO brings to the world economy come primarily via the impact of the WTO on investment decisions, it is no exaggeration to say that investment is at the heart of the WTO.**

4) International policy issues

One of the striking characteristics of the present evolution of investment rules is the diversity of approaches and legal architectures. In many cases, countries are simultaneously parties to bilateral, regional, plurilateral and multilateral agreements. These agreements can be binding and non-binding, with and without commitments on admission, with and without provisions on corporate behaviour, use "top-down" and "bottom-up" architectures, and be part of or outside the context of broader trade agreements. While this

[129] UNCTAD (1996a).

diversity of approaches does raise important issues of policy coherence as indicated below, it also reflects the variety of ways in which participating countries have managed to find a balance of advantage and mutual benefits in rule-making in this area.

In essence, the analysis in this chapter has shown that both at the level of business decisions of individual firms and at the government policy level, whether national, regional or multilateral, it is increasingly difficult to separate issues of investment from traditional trade issues. Against this background, the proliferation of treaties and initiatives aimed at international rules on investment raises a number of issues.

The situation in the investment area is reminiscent of that which existed in the trade area. In the second half of the nineteenth century, trade was liberalized in Europe on the basis of a large number of bilateral treaties (close to 80 by 1865 and well over 100 by 1908) containing most-favoured-nation clauses modelled on the one in the Cobden-Chevalier Treaty of 1860 between England and France.[130] This system broke down, and in the latter half of the 1930s there was a largely unsuccessful attempt to resurrect it. In the mid-1940s, when plans were being laid for the postwar international economic order, the drafters of the Havana Charter (and subsequently the GATT) saw clearly that a stable, non-discriminatory and liberal international trading system could be achieved much better through a single set of legally binding multilateral rules and disciplines than through the negotiation of thousands of bilateral trade agreements.[131]

It is seldom easy for a government to relinquish some of the discretion it has in a particular policy area. But governments have been persuaded of the benefits of doing just that in the area of trade policies. What they have given up in policy discretion by accepting WTO rules and disciplines is more than compensated by the increased predictability and stability of trade policies. Every country gains from the stimulus which this, along with trade liberalization, gives to trade and trade-related investment.

Much the same considerations are behind efforts at international rule-making on the treatment of FDI. Just as trade liberalization that is not bound has much less value than bound reductions in import barriers, an opportunity to bind liberalized FDI rules would greatly enhance their credibility and value in the eyes of foreign investors.[132] It would also make the FDI policies of other countries much more predictable, for example as regards the use of incentives in competing to attract FDI. Enhanced credibility of one's own FDI regime would be especially beneficial to non-OECD countries competing against the wealthy countries for FDI.

Given the increasing inseparability of economic developments, as well as of policy formulation, in these two areas, it is not surprising that many of the current issues arising out of the interlinkages between trade and FDI have to do with policy coherence. There is, first of all, the problem of "rule coherence" among agreements and instruments dealing with investment at various levels ranging from the national to the multilateral. The existence of a large number of overlapping legal instruments and initiatives in the investment area creates risks of confusion, uncertainties and legal conflicts, especially where the agreements in question follow different architectures. A particular aspect of this is the problem of coherence between the investment rules and the trade rules – especially the interaction of the multitude of agreements and initiatives described above in Section IV with the existing WTO multilateral rules and dispute settlement system.

There is also the issue of coherence in efforts to further develop international cooperation in the areas of trade and investment. Clearly, the interrelation between these policy areas should be handled in a way that does not compartmentalize policy areas that are, in reality, becoming increasingly intertwined. **A lack of rule and policy coherence poses a danger to security and predictability, which are basic goals of trade and investment agreements.** Foreign direct investment, like trade, is particularly sensitive to uncertainty and instability. Indeed, the long-term commitment that an investing company makes, through the transfer of resources and establishment of commercial operations in another country, makes it particularly sensitive to risk, not only to the investment itself but also to the trade flows on which the viability of the investment depends.

Linked to the issue of coherence are those of discrimination and marginalization. Except to the extent provided by the GATS MFN clause, the present network of international agreements in the investment area provides little protection against discrimination vis-à-vis non-participating countries. Genuinely multilateral rules would enable bilateral and regional initiatives to be drafted and function within a framework which protects the interests of third parties. A related concern is that current work on investment-related issues tends to focus more on those countries which are already receiving significant inflows of foreign investment, to the neglect of those whose needs may be greater. Nor does it always provide for the effective participation, in the formulation of new rules, of all those who may be affected by them.

In the face of these growing economic, institutional and legal interlinkages between trade and FDI, WTO Members are confronted with a basic policy choice: do they continue to approach the FDI issue as they have until now, that is bilaterally, regionally and plurilaterally, and on an ad hoc basis in sectoral and other specific WTO agreements; or do they seek to integrate such arrangements into a comprehensive and global framework that recognizes the close linkages between trade and investment, assures the

[130] Calculations based on Curzon (1965, p.15) suggest that there were approximately 78 bilateral trade treaties in force by 1865. Irwin (1993, p.14) adds that "At the start of 1908, Britain had MFN agreements with 46 countries, Germany with 30 countries and France with over 20 countries." This suggests that by 1908 the total number of bilateral trade treaties was well 100.

[131] If the 123 current Members of the WTO were instead linked together by bilateral treaties, 7,503 trade treaties would be needed.

[132] It is important to keep in mind that a variety of architectures would be available in deciding on the nature of a multilateral agreement on FDI, and that any agreement would include qualifications and allowances for exceptions to its coverage.

compatibility of investment and trade rules and, most of all, takes into account in a balanced way the interests of all the Members of the WTO – developed, developing and least-developed alike. Only a multilateral negotiation in the WTO, when appropriate, can provide such a global and balanced framework. Their decision will have an important impact on the efficiency with which scarce supplies of capital and technology will be employed in the next decade and beyond. It will also have an impact on the strength, coherence and relevance of efforts to integrate all developing countries into the multilateral trading system.

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Chapter Five

WTO Activities

WTO activities

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).

At the end of July 1996, 123 countries and territories were Members of the WTO. Another 30 governments were engaged in negotiating their terms of entry with other WTO Members. Not only does the WTO have a potentially larger membership than GATT (128 by the end of 1994), it also has a much broader scope in terms of the commercial activity and trade policies to which it applies. The GATT covered trade in goods; the WTO covers trade in goods, trade in services and "trade in ideas" or intellectual property.

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 its establishment on 1 January 1995 until 31 July 1996.

I. Progress in implementing the Uruguay Round results

A top priority since the entry into force of the WTO has been the implementation by Members of the results of the Uruguay Round negotiations. In November 1995, Director-General Renato Ruggiero made a first assessment of the overall implementation of the WTO Agreements by WTO Members. He divided the implementation of Uruguay Round commitments into three (partly overlapping) categories. The first concerned the fulfilment of notification requirements and the second the implementation of substantive commitments to bring domestic legislation into conformity with WTO obligations. This included the implementation of scheduled increases in market access and, additionally in the area of agriculture, reductions in export subsidies and domestic support. The third category concerned the fulfilment of various tasks (such as annual reviews) as stipulated in the WTO Agreements.

In his report, Mr. Ruggiero noted that negotiators of the WTO Agreements recognized that a system of rules was only as good as its implementation, and that the best way to ensure that the rules and other commitments are being respected was to provide the transparency necessary for collective surveillance. The primary instrument for ensuring such transparency is notifications made by each Member and reviewed by the relevant bodies of the WTO. Responses to such notification requirements, mainly those concerning non-tariff measures – subsidies, countervailing and anti-dumping measures – are summarized in Table V.6. In all, WTO Members have about 175 notification requirements to fulfil in the area of trade in goods and another 40 notification requirements in areas covered by the General Agreement on Trade in Services (GATS) and by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

At the end of 1995, the percentage of WTO Members which had met their notification requirements varied from less than 25 per cent to almost 90 per cent, depending on the agreement. Concerns were raised not only about non-notification by Members or incomplete notifications but differences in interpretation and the potential need for strengthened verification mechanisms. It was also evident that smaller developing countries were facing problems with the expanded notification obligations (which raises the question whether there should be more support for appropriate technical assistance measures). During the first seven months of 1996, Members continued to notify their domestic measures as required by the various agreements. These issues are developed more fully in the Reports of the Committees' main activities provided below.

II. 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 123 Members of the WTO (as of 31 July 1996) 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.

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 governments for which a WTO Working Party had been established by 31 July 1996 to review their application:

[1]The WTO's General Council approved Mongolia's protocol of accession on 18 July 1996.

Albania, Algeria, Armenia, Belarus, Bulgaria, Cambodia, China, Croatia, Estonia, Georgia, Jordan, Kazakhstan, Republic of Kyrgyz, Latvia, Lithuania, Former Yugoslav Republic of Macedonia, Moldova, Mongolia,[1] Nepal, Oman, Panama, Russian Federation, Saudi Arabia, Seychelles, Sudan, Chinese Taipei, Tonga, Ukraine, Uzbekistan, Vanuatu, Vietnam.

III. Work of the General Council

Main areas of the General Council's work

The General Council is the WTO body entrusted to oversee the operation of the multilateral trading system between sessions of the Ministerial Conference.

After the entry into force of the WTO, the first priority area of work of the General Council was to adopt the decisions on institutional, organizational and procedural matters to ensure that the new institutional mechanism was put in place and could begin its work. The General Council adopted its Rules of Procedure and those for the Ministerial Conference, established core WTO bodies, including a new Committee on Regional Trade Agreements, and approved their rules of procedure and their terms of reference.

The General Council also approved the WTO Headquarters Agreement with the Swiss authorities and adopted a number of decisions pertaining to governments which were not WTO Members but wished to participate in the work of the Organization. The General Council also agreed on procedures to facilitate decision-making under Articles IX and XII of the WTO Agreement.

An important decision taken by the General Council early in 1995 was the appointment of Mr. Renato Ruggiero as successor to Mr. Peter Sutherland to the post of Director-General.

Throughout 1995 and the first half of 1996, it was not possible for the General Council to take action on a number of issues. Despite the broadly recognized importance of these issues and the continuing efforts by Members to resolve them, full agreement could not be reached establishing guidelines for observer status for international intergovernmental organizations and for procedures for the circulation and derestriction of WTO documents.

Main Decisions taken by the General Council

Finalization of negotiations on schedules on goods and services

At its first meeting in January 1995, the General Council decided to grant more time to a number of countries to finalize their negotiations on schedules of commitments for trade in goods and services. In the course of 1995, a number of countries covered by that decision subsequently became WTO Members: Grenada, Papua New Guinea, St. Kitts and Nevis, Qatar and the United Arab Emirates.

Schedules of least-developed countries

Under the Marrakesh Ministerial Decision in Favour of Least-Developed Countries, these countries were given another year from 15 April 1994 to submit their schedules as required under Article XI of the WTO Agreement. In 1995 the General Council approved the schedules of 21 least-developed countries.

Headquarters Agreement

On 31 May 1995 the General Council approved the Headquarters Agreement with the Swiss authorities. The Agreement was signed in Bern on 2 June 1995.

Procedures for the circulation and derestriction of WTO documents

On 18 July 1996, the General Council adopted procedures for the circulation and derestriction of WTO documents which, as part of Members' concerns to ensure greater transparency of WTO activities, provide that all documents will be circulated as unrestricted subject to certain exceptions.

Arrangements with other international intergovernmental organizations

During the period under review the General Council made or approved arrangements for effective cooperation in pursuance of Article V:1 of the WTO Agreement with a number of international intergovernmental organizations including the United Nations and WIPO. The General Council also agreed that the International Trade Centre be operated jointly by the WTO and UNCTAD, the latter acting on behalf of the United Nations.

Guidelines for observer status for international intergovernmental organizations

On 18 July 1996, the General Council approved the guidelines for observer status for international intergovernmental organizations in the WTO bodies which were incorporated in the Rules and Procedure for Sessions of the Ministerial Conference of the General Council (Annex 3 of document WT/L/161).

Guidelines for relations with non-governmental organizations pursuant to Article V:2 of the WTO Agreement

On 18 July 1996, the General Council approved the guidelines for arrangements on relations with non-governmental organizations concerned with matters related to those of the WTO. In deciding on these guidelines, Members recognized the role non-governmental organizations could play to increase the awareness of the public in respect to WTO activities and agreed in this regard to improve transparency and to develop communications with NGOs.

Review of WTO activities

The General Council adopted procedures for annual overviews of WTO activities and for reporting under the WTO Agreement in order to ensure the efficient operation of the system and to ensure that the WTO Agreement functions as a single undertaking. The first such overview was undertaken in December 1995, when Members started to look forward to the next milestone in the Organization’s history – its first Ministerial Conference, to be held in Singapore in December 1996.

In regard to its regular business, the General Council approved in principle the creation of a new Committee on Regional Trading Arrangements, a cooperation agreement with the World Intellectual Property Organization (WIPO), and the establishment of the Independent Entity to deal with disputes falling under the Agreement on Preshipment Inspection. It also carried out its first overview of WTO activities and of developments in international trade and the trading system.

“No one can accuse the WTO Members of sitting back and taking it easy once the arduous negotiations under the Uruguay Round were completed,” said Director-General Renato Ruggiero in presenting his first annual report. He described WTO’s first year as an “encouraging start” in terms of implementation and the administering of the various Uruguay Round agreements.

The chairpersons of major standing bodies of the WTO also presented their respective reports on the first year of operation. The Chairman, Ambassador K. Kesavapany (Singapore), said the General Council’s first year was a “particularly busy one”. Priority was accorded to a number of decisions on institutional, organizational and procedural matters. These decisions included the appointment of the new WTO Director-General, the approval of the WTO Headquarters Agreement with the Swiss authorities, and the approval of schedules on goods and services for 21 least-developed countries. Procedures were agreed to facilitate decision-making on waivers and accessions. Guidelines were established for scheduling of WTO meetings to ensure the efficient work of WTO bodies. Ambassador Kesavapany hoped that outstanding issues would be settled as soon as possible in 1996, including guidelines for observership of international intergovernmental organizations[2], derestriction of WTO documents[3], as well as the question of salaries and pensions of WTO staff. “Avoidance of excessive bureaucracy had been a permanent concern in the GATT,” he said, “I believe it is important that this tradition be continued in the WTO, whose machinery is more complex and whose scope is much broader than GATT”.

[2]For decisions taken subsequently on this matter see above regarding main decisions by the General Council.

[3]Idem.

The Dispute Settlement Body (DSB), according to its Chairman, Ambassador Donald Kenyon (Australia), focused on ensuring that the new dispute settlement system became "rapidly operational given its outstanding importance for the proper functioning of the WTO". The total framework for the WTO dispute settlement system was now in place with the establishment of the standing Appellate Body. Twenty-two requests for consultations were notified to the DSB during 1995. Of these, three cases had been settled before reaching the panel stage. Three panels, involving multiple complaints, were currently considering disputes. The DSB Chairman said there were encouraging signs that more disputes were being brought into the WTO for resolution rather than being handled unilaterally or bilaterally. There were also signs that the greater automaticity and predictability of the system were encouraging parties to disputes to seek solutions consistent with the rules without necessarily needing to pursue all stages of the dispute settlement process.

The Trade Policy Review Body (TPRB), reported Chairman Ambassador Nestor Osorio Londoño (Colombia), had so far conducted seven reviews: the third review of the European Union and six initial reviews of developing countries or countries in transition (Costa Rica, Côte d'Ivoire, Uganda, Mauritius, Slovak Republic and Sri Lanka). The WTO review, he said, served as a valuable "external audit" of Members' trade policies and performance. He said the process was substantial, but sometimes a burdensome one. In this regard, he had been holding consultations aimed at refining and enhancing the role of the trade policy review mechanism in the WTO.

The fact that the bulk of obligations under the Agreement on Trade-Related Intellectual Property Rights (TRIPS) would start applying from 1 January 1996 and only to some Members meant that the TRIPS Council had had a breathing space within which to prepare for its future work, according to Mr. Stuart Harbinson (Hong Kong). Much of these preparations had been devoted to establishing arrangements for monitoring the operation of the Agreement. Another important feature of the Council's work was aimed at the establishment of appropriate arrangements for cooperation with the WIPO.

Ambassador Minoru Endo (Japan), Chairman of the Council for Trade in Goods, noted that the process started in the Uruguay Round of verification and approval of schedules of concessions on goods had now been finally concluded with the approval of the schedule of the United Arab Emirates by the General Council. He drew attention to less than full compliance by Members with notification requirements under various WTO Agreements, in particular in the area of subsidies and state-trading enterprises. He called on all Members to make maximum efforts to fulfil their notification obligations promptly.

The Committee on Trade and Development, according to its Chairman, Ambassador Haron Siraj (Malaysia), continued to review trade issues of importance to developing countries, including the impact of the Uruguay Round. In 1995, it established a Sub-Committee on Least-Developed Countries.

Many delegations applauded WTO's success in making operational the institutional underpinnings of the multilateral trading system during its first year of existence. There were also calls for further improvements in the functioning of certain WTO bodies. For the coming year, in particular for the Singapore Ministerial Conference, a number of Members suggested what they considered to be priority issues. The ASEAN countries were among those which urged particular attention on the implementation of Uruguay Round commitments. Poland stressed the need for full implementation of market-access commitments and negotiated legal obligations. Tanzania called on WTO Members to take measures to bring Africa into the mainstream of global economic processes. It urged the international donor community, including multilateral financial institutions and agencies, to provide additional resources, preferably on grant terms, to assist Africa in overcoming development bottlenecks in such areas as boosting production and productivity of various commodity sectors, including horizontal and vertical integration.

Among those which supported discussions on multilateral rules on investment was the Czech Republic, which stressed that a possible WTO role should be sufficiently ambitious and well-defined. In regard to Members working out global investment rules under the WTO, Japan suggested that progress in the OECD's negotiations on the same subject should be taken into account. It added that on competition policy all aspects of the question must be addressed, including the exclusion of arbitrary use of trade measures such as anti-dumping duties.

The United States said that while a lot had been accomplished in 1995, it should have been possible to place the WTO on a more equal footing with other international institutions having responsibilities in related areas. For Singapore, it called for consideration of how the WTO could contribute to reducing corruption in trade, which it said might be “the single greatest non-tariff barrier to trade today”. It also called for a discussion on the interaction of trade and labour standards.

The European Community underlined the importance of Members’ fulfilling their notification obligations. The EC said a major concern was the need for developing countries, especially the least-developed among them, to take full advantage of the multilateral trading system. The EC also emphasized that ongoing negotiations on basic telecommunications and maritime services should be completed successfully. As for the Singapore Conference, the EC suggested that an ambitious agenda was required to deal with the needs of the world economy.

India urged restraint in putting more new subjects on the WTO agenda. It expressed apprehension that new issues like those on environment and labour standards were being brought into the WTO possibly with a view to depriving developing countries of their comparative advantage and to reduce market access for their exports.

At the end of the discussions, the Chairman made the following broad observations: the discussions, based on the annual reports of the Director-General and WTO Chairpersons, had pronounced that at the end of its first year, “the WTO is alive, well and kicking”. Much had been achieved during the past 12 months: the various Councils, Committees and other subsidiary bodies had been set up, office-bearers appointed and terms of reference drawn up. Most importantly, members of the Appellate Body had been appointed and had begun work. Several delegations expressed regret that not all the work had been completed, in particular the question of WTO’s relations with other international organizations, the non-governmental organizations (NGO) issue and discussions on the derestriction of documents. Comments were also made that some of the WTO bodies established during the course of the year were not functioning as they were meant to be.

Referring to the future work of the WTO, many of the speakers pointed to the issue of the implementation of the Uruguay Round agreement as the single most important task in the year ahead.

Several delegations spoke of the need for increased technical assistance, particularly training, to developing countries, especially the least-developed among them. In this regard, the Director-General’s Africa Initiative was noted.

Decision-making procedures under Articles IX and XII of the WTO Agreement

At its November 1995 meeting the General Council agreed to the following statement by the Chairman clarifying procedures on decision-making with respect to waivers and accessions:

“On occasions when the General Council deals with matters related to requests for waivers or accessions to the WTO under Articles IX and XII of the WTO Agreement respectively, the General Council will seek a decision in accordance with Article IX:1. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting under the relevant provisions of Articles IX or XII. The above procedure does not preclude a Member from requesting a vote at the time the decision is taken. Consequently, if any Member has a particular problem with a proposed decision regarding a request for a waiver or an accession to the WTO, it should ensure its presence at the meeting in which this matter will be considered. The absence of a Member will be assumed to imply that it has no comments on or objections to the proposed decision on the matter.”

Waivers under Article IX of the WTO Agreement

During the period under review the General Council granted 33 waivers from obligations under the WTO Agreement.

Table V.1
Waivers under Article IX of the WTO Agreement

Country	Type	Decision of	Expiry	Document
Bangladesh	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/80 WT/L/114 WT/L/164
Bolivia	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	13 December 1995 18 July 1996	30 June 1996 30 April 1997	WT/L/115 WT/L/165
Guatemala	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/81 WT/L/116 WT/L/172
Israel	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	31 August 1995	31 December 1995	WT/L/82
Jamaica	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/83 WT/L/117 WT/L/166
Morocco	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/84 WT/L/118 WT/L/167
Nicaragua	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	13 December 1995 18 July 1996	30 June 1996 30 April 1997	WT/L/119 WT/L/168
Pakistan	Implementation of the Harmonized Commodity Description and Coding System – Extension of Time-Limit	15 November 1995	31 December 1995	WT/L/102
Sri Lanka	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/86 WT/L/120 WT/L/170
Trinidad and Tobago	Implementation of the Harmonized Commodity Description and Coding System – Extensions of Time-Limit	31 August 1995 13 December 1995	31 December 1995 30 June 1996	WT/L/87 WT/L/121
Malawi	Renegotiation of Schedule – Extensions of Time-Limit	15 November 1995 6 February 1996	31 December 1995 30 June 1996	WT/L/103 WT/L/131
Senegal	Renegotiation of Schedule – Extensions of Time-Limit	31 August 1995 13 December 1995 18 July 1996	31 December 1995 30 June 1996 30 April 1997	WT/L/85 WT/L/122 WT/L/169
Zambia	Renegotiation of Schedule – Extensions of Time-Limit	13 December 1995 18 July 1996	30 June 1996 30 April 1997	WT/L/123 WT/L/171

Table V.1
Waivers under Article IX of the WTO Agreement (continued)

Country	Type	Decision of	Expiry	Document
Argentina, Brazil, Brunei Darussalam, Canada, Colombia, Cuba, Cyprus, Czech Republic, European Community, Hungary, Iceland, India, Indonesia, Israel, Malaysia, Mexico, Norway, Paraguay, Philippines, Poland, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey, United States, Uruguay, Venezuela, Zimbabwe	Introduction of Harmonized System changes into WTO Schedules of Tariff Concessions on 1 January 1996	13 December 1995	30 June 1996	WT/L/124
Argentina, Brazil, Brunei Darussalam, Canada, Colombia, Cuba, Czech Republic, European Community, Hungary, Iceland, India, Indonesia, Israel, Malaysia, Mexico, Norway, Paraguay, Philippines, Poland, Singapore, Slovak Republic, Slovenia, South Africa, Switzerland, Thailand, Tunisia, Turkey, United States, Uruguay, Venezuela, Zimbabwe	Introduction of Harmonized System changes into WTO Schedules of Tariff Concessions on 1 January 1996 – Extension of Time-Limit	18 July 1996	30 April 1997	WT/L/173
Australia, Costa Rica, El Salvador, Egypt, Honduras, Korea	Introduction of Harmonized System changes into WTO Schedules of Tariff Concessions on 1 January 1996	18 July 1996	30 April 1997	WT/L/173
United States	Caribbean Basin Economic Recovery Act – Renewal of waiver	15 November 1995	31 December 2005	WT/L/104

Offices of the Director-General and Deputy Directors-General

At its meeting on 24 March 1995, the General Council agreed to appoint Mr. Renato Ruggiero as successor to Mr. Peter Sutherland to the post of Director-General of the WTO for one four-year term, beginning on 1 May 1995. At its meeting on 16 April 1996, the General Council agreed that the contracts of three Deputy Directors-General, namely Messrs. A. Hoda, W. Lavorel and J. Seade which were due to expire on 31 July 1996, be extended for a period of one year. The fourth Deputy Director-General, Dr. Chulsu Kim, took office on 3 July 1995.

Preparations for the first Ministerial Conference

The General Council agreed on 16 April 1996 that the first Ministerial Conference be held in Singapore from 9 to 13 December 1996. The General Council also agreed that the Agenda for the Conference be divided between general discussion and specific business items, and that a decision on the specific agenda items and the exact time to be allotted to the general discussion and the specific items be taken at a later date. It also decided that preparations for the Singapore Ministerial Conference be undertaken in the following manner:

"The General Council, meeting informally today, will invite the Director-General, Mr. Renato Ruggiero, in his personal capacity, to chair informal meetings open to participation of all Members, in principle at the Head of Delegation level. The purpose of these meetings will be to enable Members to exchange views on the preparation of the Singapore Ministerial Conference, with regard to both substantive and organizational matters. In so doing, the Director-General will act in close cooperation and coordination with the Chairman of the General Council. In all matters relating to the organization of the Ministerial Conference, the Director-General will work closely with the Head of the Delegation of the host country of the Ministerial Conference. The Director-General will submit progress reports on this work at the meetings of the General Council. The General Council will act upon these reports of the Director-General as necessary. In particular, it will consider any proposals addressed to it and take any decisions it deems appropriate for the further preparation of the Singapore Ministerial Conference. It is understood that the different WTO bodies will carry out the tasks assigned to them under the texts agreed in the Uruguay Round for the purposes of the first Ministerial Conference."

The Director-General presented progress reports on preparations undertaken in the Head of Delegation process at the General Council's meetings on 16 April, 26 June and 18 July. At the meeting on 18 July the Director-General said that the above-mentioned process had focused mainly on what might constitute the work programme of the WTO through an examination of the specific issues which had been raised by several delegations in a series of non-papers. He informed the General Council that until the latter part of September he would intensify informal consultations at all levels in order to pursue the discussion of the draft conclusions of the Conference, and to seek further views on the business agenda and the specific outstanding issues. A Head-of-Delegation meeting will be held in mid-September to take stock of the delegations' reflections during the summer pause, both in general and on specific issues.

At the meeting on 18 July, the General Council also heard oral reports from Chairpersons of main WTO bodies on the preparations for the Singapore Ministerial Conference in their respective bodies. The Chairman of the General Council noted that the twin-track procedure concerning the preparatory process carried out under the WTO bodies and under informal meetings held by the Director-General with Heads of Delegations had proved to be a most effective means for advancing preparations in a convergent manner with a view to ensuring the successful outcome for the Singapore Conference. He also emphasized the need to carry out the preparatory process in accordance with the established programme and deadlines and the responsibility of all Members to ensure the full success of the first Ministerial Conference through which a first assessment of the effectiveness of the WTO would be made.

Other trade policy issues raised in the General Council

Brazil – import restrictive measures on automobiles

At the July 1995 meeting of the General Council the representative of the United States expressed concern at a notification by Brazil of its intention to invoke Article XVIII:B of GATT 1994 with respect to quantitative restrictions on imports of automobiles imposed on 13 June. Several other Members, including Korea, Japan, the European Community and Canada expressed similar concerns.

At the November 1995 meeting of the General Council, it was noted that the Committee on Balance-of-Payments Restrictions had had lengthy consultations with Brazil between 5 and 9 October and had requested Brazil to withdraw the import quota. The representative of Brazil informed the General Council that, following the Committee's recommendation, Brazil had eliminated the quantitative restriction mechanism as of 27 October 1995. Brazil believed that the systemic implications of some of the issues it had raised during the consultations would need to be further examined in the WTO. If the WTO wanted to ensure the sustainability of trade liberalization, increased consideration would have to be given to the relationship between trade and monetary matters. In the case of balance-of-payments matters, attention should be focused not only on the question of the level of international reserves but also on their composition, and in particular on the question of capital volatility, which could have a dramatic impact on the level of reserves of many developing countries.

Japan – United States auto and auto parts issues

At its meeting on 31 May 1995 the General Council took note of the statements made on these issues at the meetings of the Council for Trade in Goods and the Dispute Settlement Body on 29 May. The General Council reverted to these issues on 11 July 1995 and noted the mutually agreed solution reached in this dispute (see Section on Settlement of Disputes and the Articles of the DSB).

United States – Recent actions under Section 301 of the Omnibus Trade and Competitiveness Act of 1988

At the January 1995 meeting of the General Council the representative of Colombia expressed concern at an investigation recently initiated by the United States under Section 301 of its Omnibus Trade and Competitiveness Act of 1988 concerning the export regime for bananas from Colombia to the European Community. The representatives of Costa Rica, Guatemala, Hong Kong and Mexico also expressed concerns over this matter.

United States – Helms-Burton Act of 1996

At the April 1996 meeting of the General Council the representative of Cuba expressed concern over the United States' Helms-Burton Act of 1996 which he said was a violation of international trade rules and international law, as well as of undertakings entered into by the United States when signing the Final Act Embodying the Results of the Uruguay Round. Cuba reserved its right to bring to the WTO a case of nullification and impairment of its rights and benefits under the multilateral trading system. Bolivia said the US Act undermined the credibility of the WTO and read out a recent declaration of the Rio Group (other Members of which are Argentina, Brazil, Colombia, Chile, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela) condemning the US action.

Canada said that while it condemned the shooting down of civilian aircraft by Cuba, it believed that the Helms-Burton Act was not the appropriate response. It expressed concern that Canadian investors in Cuba were now the target of punitive action and said it had requested consultations with the United States on this matter. Mexico said it, too, had requested consultations with the United States on the matter, particularly with respect to US obligations under the WTO and NAFTA. The European Community said that at the heart of its concern was the issue of extraterritoriality. It could not accept that one Member could curtail the development of investment and trade relations of others and was examining all possible options to defend its rights. Japan also expressed concern about the extraterritorial aspect of the Act, and warned that it might be in conflict with the US-Japan bilateral treaty on investment. India, Nicaragua, Madagascar, Jamaica, the ASEAN countries, Australia, Switzerland, Norway, Colombia, Trinidad and Tobago, Sri Lanka and Iceland also expressed concern.

The United States said that the downing of civilian aircraft over international waters required a forceful response. It said WTO Members should not condone the trafficking of confiscated property, adding that it was working on the guidelines for the implementation of the Act, and would be consulting with its trading partners in this regard.

Cuba said the planes had violated its territory, and were engaged in anti-government activities. It added that in 1960 it had established a mechanism for compensation of expropriated or nationalized properties.

IV. Trade in goods

The work of the Council for Trade in Goods (CTG) is, to a large extent, linked to the activities of its subsidiary bodies. As overseer of the multilateral trade agreements and ministerial decisions covering the goods sector, the Council takes action, where necessary, on issues raised by the various Committees which report to it. Activities of the Council during the period under review included the establishment of a Working Group on Notification Obligations and Procedures and a Working Party on State Trading Enterprises (see pages 110 and 105). Rules of procedure, based on those of the General Council, have also been elaborated. Many of the Council's subsidiary bodies adopted its rules of procedure.

In 1995, the Council set up working parties to examine a number of free trade agreements and customs unions which were notified to the WTO. Following the creation by the General Council on 6 February 1996 of the Committee on Regional Trade Agreements, all regional agreements will now be notified to the new Committee.

Apart from these more administrative functions, the Council served as a forum for Members to voice concerns regarding trade practices of other Members. Notable issues raised during 1995 and the first half of 1996 included the Japan-United States talks on trade in automobiles and auto parts, the United States' "Cuban Liberty and Democratic Solidarity Act of 1996" and Brazil's measures concerning its automotive sector. These issues were also raised in the WTO's General Council (see page 93). At the end of July 1996 the CTG held a general discussion of textiles issues.

Market access

In January 1995, the Committee on Market Access took over the activities of the Committee on Tariff Concessions. The Committee held four meetings in 1995 and two in the first half of 1996.

Its activities cover market 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.

Tariffs – The Committee examined and approved several proposals related to the establishment of consolidated loose-leaf schedules which will contain tariff concessions granted by Members since the creation of the GATT (or since 1947). The latter will be the subject of a formal Decision to be adopted by the General Council. The Committee oversaw the introduction of the Harmonized System changes (HS96), implemented by Members on 1 January 1996, and examined the consequences of those changes to Members' schedules of tariff concessions. A waiver on a collective basis was granted to a large number of Members which requested to be covered by a waiver, thereby allowing them to introduce changes and, if necessary, to renegotiate affected bound items under Article XXVIII. The waiver, for those Members that requested it, has been extended until 30 April 1997 (see Work of the General Council). The Committee also continued its examination of the transposition of pre-Uruguay Round tariff schedules of certain developing and less-developed countries into the Harmonized System.

Non-Tariff Measures – A Decision on Notification Procedures for Quantitative Restrictions was adopted by the Council for Trade in Goods in December 1995. In accordance with this Decision, Members were to submit to the Secretariat by

31 January 1996 complete notifications on the quantitative restrictions they maintained. The total number of notifications submitted under this Decision amounts only to 15. At its meeting in December 1995, the CTG also adopted a Decision related to the reverse notification of non-tariff measures.

Integrated Data Base – In October 1995, the Committee examined several issues concerning the future of the Integrated Data Base and agreed that Members should make every effort to provide the necessary trade and tariff data in order to establish a reliable data base. However, to date very few countries have submitted the required information. The Committee also agreed that (1) the Secretariat prepare a simplified format for the IDB data submissions and develop PC applications for the preparation of data in capitals; (2) the Secretariat undertake a study on the "downsizing" of the IDB from a mainframe to a PC environment; (3) the IDB be made operational with basic information on tariffs and imports before broadening its scope by including non-tariff measures and other types of restrictions; and (4) access to the IDB could be given to international organizations. Since then, the Secretariat has prepared and circulated simplified formats for the submission and a PC software for the preparation of data in capitals. A study on the "downsizing" of the IDB from a mainframe to a PC environment will be initiated in September 1996.

Textiles and clothing – the Textiles Monitoring Body

The Agreement on Textiles and Clothing (ATC) is an integral part of the WTO Agreement and thus applicable to all WTO Members. The ATC is a 10-year transitional agreement with a four-stage integration programme. It replaces the Multifibre Arrangement (MFA), which began in 1974 and provided the basis on which many industrial countries, through bilateral agreements or unilateral actions, established quotas on imports of textiles and clothing from more competitive developing countries. The MFA expired when the new ATC, which will gradually integrate clothing and textile products and place them under world trade rules by 2005, entered into force on 1 January 1995.

The new Agreement on Textiles and Clothing is built on sixmain pillars:

(i) the product coverage, which comprises an extensive list of yarns, fabrics, made up textile products and clothing;

(ii) procedures for the four-stage integration of these products into GATT1994 rules, i.e. on 1January of 1995, 1998, 2001 and 2005; (when products are integrated on certain dates, they are removed from the Agreement and are freed of any quotas to which they may have been subjected. Any new protection must be based on the relevant provisions of the GATT 1994);

(iii) a liberalization process which automatically increases the existing quota levels 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;

(v) other provisions, which include, among other things, clauses on circumvention of restrictions, on quota administration, on quantitative restrictions other than those inherited from the MFA, and on actions as may be necessary to abide by GATT1994 rules and disciplines; and

(vi) the Textiles Monitoring Body (TMB).

The TMB is the primary forum, within the WTO structure, entrusted with the task of supervising the implementation of the ATC. It consists of a Chairman and 10 other members who act in a personal capacity to ensure that measures taken by WTO Members conform to the ATC, which states that the TMB shall be considered as a standing body and shall meet as necessary to carry out its functions. The TMB relies essentially on notifications and information supplied by Members under the relevant provisions of the ATC.

The TMB spent more than 70 days in formal sessions from January 1995 to end July 1996.

Although the TMB was established by the ATC, a decision regarding its composition was required before it could be formed. On 31January1995, the General Council decided on the composition for the first three years, including the naming of the Chairman, Ambassador András Szepesi of Hungary. The decision also included the allocation of the 10 seats to governments or to groupings of member governments, i.e. constituencies. These each select a WTO Member which, in turn, appoints a TMB member who acts on an ad personam basis in the TMB, as required by the ATC.

The TMB Members appoint their own alternates. Most of the constituencies operate on a basis of rotation. In 1996 the following constituencies were in place: the ASEAN; Canada and Norway; Pakistan and Macau; the European Community; HongKong and Korea; India and Egypt/Morocco/Tunisia; Japan; Latin American and Caribbean Members; Turkey, Switzerland and Czech Republic/Hungary/Poland/Romania/Slovak Republic; and the United States.

The TMB takes all of its decisions by consensus. 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 ATC requires the TMB to develop its own working procedures. The latter were adopted in mid-July1995 and include more precise terms on how members discharge their functions on an ad personam basis and the procedures that should be followed in case of problems.

Immediately after the TMB adopted its working procedures, it was confronted with a number of disputes brought under the transitional safeguard clause (Article 6) of the ATC. This Article was invoked on 24 occasions in the first half of 1995, in all instances by the United States. In six of these cases, the request for restraint was subsequently withdrawn following bilateral consultations. In one case, the measure, which involves cotton and man-made fibre underwear from Thailand, was rescinded during the TMB's review in July 1995. Measures were rescinded in three cases, following the TMB's recommendations. These cases involved cotton and man-made fibre nightwear from Honduras, men's and boys' wool coats from India, and woven wool shirts and blouses from Hong Kong. In two instances, where the TMB had found that there was no serious damage to US industry but had not reached consensus on whether there was actual threat thereof, the US kept the unilateral restraints from June/July1995 in place. One of these concerned women's and girls' wool coats from India. In March1996, India requested the Dispute Settlement Body to establish a panel. However, in April1996, India agreed that the panel stop its work after the US removed this safeguard action. The other case, involving cotton and man-made fibre underwear from CostaRica, was also brought to the DSB which established a Panel in March1996. In one case, involving woven wool shirts and blouses from India, where the TMB found that the US action was justified, India decided to bring the issue to the DSB, which established a Panel in April1996.

In 11 cases restraints were agreed: between the United States and Colombia (two product categories), Dominican Republic, El Salvador (two product categories), Guatemala, Honduras (two product categories), Jamaica, Sri Lanka and Turkey. The restraint agreed with Sri Lanka was lifted in May1996 and the restraints agreed with Jamaica and El Salvador (for one of the two product categories) were lifted in July 1996. In reviewing agreed restraints, the TMB considers the justification as well as the details of the agreed measures (the level of the restraint compared to the respective roll-back level, growth rate, etc.), and, whenever the necessity arises, expresses its own understanding regarding the implementation of particular aspects of the agreements in question.

The TMB also undertook a review of all other notifications. Regarding the programmes notified for the first stage of integration by those Members which had maintained restrictions under the defunct MFA (Canada, the EuropeanCommunity, Norway and the United States) the TMB noted that, in accordance with the ATC, the volume of products integrated amounted to at least 16 per cent of the total volume of imports in 1990 into the markets of each of these four Members. The TMB observed that, notwithstanding the relevant provisions of the ATC, it was aware that – with the exception of Canada with respect to one product – the products thus integrated were not, prior to their integration into GATT 1994, subject to quantitative restrictions.

Integration programmes from Members other than the four mentioned above were required only if they retained their right to use the transitional safeguard clause of the

ATC. Seven Members (Australia, Chile, Cuba, Hong Kong, Macau, New Zealand and Singapore) decided to integrate the whole sector as from the beginning. Fifty-one other Members reserved their right to use the safeguard, and the TMB examined the integration programmes for compliance.

Canada, the EC, Norway and the United States notified all quantitative restrictions within bilateral agreements under the relevant provisions of the MFA. These restrictions were in force on the day before the entry into force of the WTOAgreement. A few Members brought observations regarding these notifications to the attention of the TMB which noted, with one exception, that all points raised had already been corrected or would be taken into account in subsequent notifications of administrative arrangements (see below). The exception was a disagreement (not a formal dispute) between two Members (Macau and the United States), relating to a matter which pre-dated the new Agreement. The TMB concluded its review in June1996. The TMB commended Norway for the decision to eliminate some of its restrictions maintained under the ATC, with respect to some WTO Members, with effect from 1January1996.

With regard to restrictions other than those maintained under the previous MFA, nine Members reported that they had no quantitative restrictions in place. Nineteen Members set out the details of those they maintained. These were also reviewed, as were also the phase-out programmes which four Members (Cyprus, Hungary, Japan and Slovenia) have put in place for restrictions not justified under a GATT1994 provision.

In the course of the first half of 1996 the TMB received and took note of a number of notifications concerning bilaterally agreed arrangements relating to administrative aspects of the respective export control systems (export licenses, monitoring of exports, quota flexibility provisions, exchange of statistics, re-exports, consultations).

The TMB also took note of the information from Canada, the EC and the U.S. on which WTO Members corresponded to the criterion of small suppliers, entitled to advanced quota growth, and how such improvement was effected.

In February 1996 the TMB began the examination of a case brought by Pakistan under the circumvention provisions of the ATC concerning debits made by the United States to Pakistan's quotas on bedsheets on account of alleged circumvention by Pakistani companies. In March1996, the two parties informed the TMB that, following consultations, they had reached a mutually satisfactory understanding between them, and that this understanding would be notified to the TMB.

The TMB also received notifications on changes in existing ECrestrictions under ArticleXXIV of the GATT. The TMB was informed by HongKong and India about their requests for bilateral consultations with Turkey under GATT Articles XXII:1 and XXIII:1, respectively (see page 138).

In July 1996, in response to a request from the Chairman of the Committee on Trade and Development, the TMB adopted a report on the implementation of the special provisions in the ATC in favour of developing country Members, and in particular the least-developed country Members.

Committee on Agriculture

The WTO Agreement on Agriculture was negotiated during the Uruguay Round and is made up of several elements which seek to reform trade in this sector. Although the original GATT applied to trade in agricultural products, various exceptions to the disciplines on the use of non-tariff measures and subsidies meant that it did so ineffectively, particularly as regards export subsidies. One of the main aims of the Agreement is to improve predictability and security for importing and exporting countries alike. Implementation of the commitments related to agriculture involves action by WTO Members in two closely related areas of obligation. The first concerns the implementation of generally applicable rule-based commitments, such as the new rules prohibiting the use of border measures other than ordinary customs duties and export subsidies on products not subject to reduction commitments. These rule-based commitments entered into effect on 1 January 1995. The second area of obligations concerns the implementation of the specific market access, domestic support and export subsidy commitments that are indicated in each WTO Member's Schedule of concessions and commitments.

The implementation process of these commitments is subject to regular multilateral review in the WTO Committee on Agriculture. According to the mandate assigned to it by the WTO General Council, "The Committee shall oversee the implementation of the Agreement on Agriculture. The Committee shall afford Members the opportunity of consulting on any matter relating to the implementation of the provisions of the Agreement". To date, the Committee on Agriculture has held five meetings as well as numerous informal consultations. Three further meetings are planned before the Singapore Ministerial Conference in December 1996.

Early in 1995, the Committee adopted procedures for the conduct of its work and notification requirements under Article 18:2 and other relevant provisions of the Agreement on Agriculture. At each of its meetings, the Committee reviewed progress in the implementation of the Uruguay Round commitments. This review process was undertaken on the basis of notifications submitted by WTO Members in the areas of market access, domestic support and export subsidies and under the provisions of the Agreement relating to export prohibitions and restrictions. By July 1996, a total of 140 notifications had been received by the Committee on Agriculture.

The first wave of notifications received by the Committee on Agriculture was largely in response to the requirement that WTO Members notify in 1995 how they administer the market access opportunities under their respective tariff and other quota commitments. In total, 34 WTO Members have commitments in this area. WTO Members are required to provide information on any allocation of quotas to supplying countries (e.g. global quota or allocation to country x and y); the allocation of licences or of importers' access to quotas; and any other details relevant to the implementation of commitments. Members are also required to notify any subsequent changes to the existing administrative arrangements of tariff and other quota commitments. Given the substantial value of these concessions, the examination of these notifications was conducted rigorously and in considerable technical detail.

The Committee also addressed a range of more general matters concerning tariff quota administration. Some of the principal items included the various methods of allocating tariff and other quota licences, such as the auctioning of tariff quota licences, the treatment of preferential imports under MFN market access commitments, the use of state trading, or allocation to processor or producer organizations. In addition, the Committee reviewed market access notifications in the context of the special agricultural safeguard.

The Committee dealt with a number of matters relevant to the implementation of commitments that were raised under the provisions of Article 18:6 of the Agreement on Agriculture which states, "The review process shall provide an opportunity for Members to raise any matter relevant to the implementation of commitments under the reform programme...". Several implementation issues concerning domestic support and export subsidy commitments were clarified as a result of these Article 18:6 procedures. In some instances, the matters raised were subsequently pursued under the formal WTO dispute settlement procedures.

In 1995 and early in 1996, the Committee on Agriculture focused on notification and implementation of market access opportunities. This activity will broaden to include a review of the implementation of Members' commitments in the areas of domestic support and export subsidies in the course of 1996. A large number of WTO Members will thus see the implementation of their commitments in these areas systematically examined in the Committee. Market access notifications will also continue to receive lively attention, particularly as regards notifications on the volume of imports under tariff quotas or the tariff quota fill.

When Ministers signed the Final Act in Marrakesh in April 1994, they adopted a Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Ministers 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. However, they 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. In the context of this Decision, the Committee on Agriculture established notification requirements under which donor Members are to provide data on food aid donations (quantity and concessionality) as well as information on technical and financial assistance and other relevant information on actions taken within the framework of the Decision. As part of a series of steps taken to make the Decision operational, the Committee established a WTO list of net food-importing developing countries[4] and adopted a preparatory work programme. Under the preparatory work programme detailed proposals can be submitted with regard to the review of food aid levels and on guidelines relating to the concessionality of food aid. The first Ministerial review of the provisions of this Decision will be held at the Singapore Ministerial Conference in December 1996.

Committee on 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. Such measures should not create undue obstacles to international trade. The Agreement concerns measures not previously addressed in detail under the GATT or Tokyo Round Agreements, although some sanitary (human or animal health) and phytosanitary (plant health) regulations were previously covered by the Tokyo Round Agreement on Technical Barriers to Trade. Governments must ensure that their food safety and animal or plant health requirements are necessary for health protection, based on scientific evidence, and are transparent. The use of internationally-developed standards is encouraged, and exceptions must be justifiable through an assessment of the health risks involved. Advance notice must be given of proposed new regulations or modifications to requirements whenever these differ from the relevant international standards.

The Committee on Sanitary and Phytosanitary Measures is to oversee the implementation of the SPS Agreement. It held three regular meetings in 1995 and another three again in 1996. In 1995 it developed and recommended procedures and formats for the notification of proposed measures and of emergency actions. In addition, the Committee established lists of National Enquiry Points, offices designated to respond to all requests for information on sanitary and phytosanitary measures, as well as of National Notification Authorities. These lists are regularly updated. Modifications were agreed to the notification procedures in 1996, and notifications as well as the list of Enquiry Points were derestricted to allow public access to this information.

As of mid-1996, over 300 notifications had been received with regard to the provisions of the SPS Agreement. These have been submitted by 30 different Members. Eighty-one Members have established and identified National Enquiry Points to respond to requests for information regarding sanitary and phytosanitary measures, whereas 63 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. Developing country Members were required to implement the transparency provisions of the SPS Agreement as of 1 January 1995, but may delay implementation of its other provisions until 1997.

During 1995 and 1996, the Committee began to develop guidelines to help Members achieve consistency in their decisions regarding acceptable levels of health protection. The Committee began to develop a procedure to monitor the use of international standards, guidelines and recommendations.

A number of other issues regarding the implementation of the Agreement were considered by the Committee. Some of these relate to specific measures, which have either been proposed or taken by certain Members, and which other Members allege violate the provisions of the Agreement. Others concerned measures taken by Members to implement the Agreement. Trade concerns of a more generic nature, relating to sanitary and phytosanitary measures, have also been discussed.

[4]This list includes the least-developed countries and 15 developing country Members of the WTO (Barbados, Côte d'Ivoire, Dominican Republic, Egypt, Honduras, Jamaica, Kenya, Mauritius, Morocco, Peru, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela).

A number of trade disputes alleging violations of the SPS Agreement were 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; and complaints by the United States and Canada against the European Community's ban on imports of hormone-treated meats.

The effective implementation of this Agreement requires cooperation from several international standard-setting organizations, and in particular the Office International des epizooties (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.

The Committee has regularly considered the need for technical assistance and 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. These seminars were conducted with the OIE, Codex Alimentarius and the IPPC secretariats. National seminars and assistance in response to specific requests were also provided by the WTO Secretariat.

Safeguards

WTO Members may take "safeguard" actions with respect to a product if increased imports of that product are causing, or threatening to cause, serious injury to the domestic industry that produces like or directly competitive products. Safeguard measures were available under the GATT, but were infrequently used, because some governments preferred to secure protection for their domestic industries by using "grey area" measures. These usually took the form of 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, and in setting a "sunset clause" on all safeguard actions. The Agreement stipulates that members shall not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures. Such measures have to conform with the Agreement, or be phased out by the end of 1998.

During the period under review, the Committee established under the Agreement began reviewing national safeguards legislation. Sixty Members have notified the Committee of their domestic safeguard legislations or made communications in this respect. Forty-seven Members have not, as yet, made notifications as required by Article 12.6 of the Agreement.[5]

Article 12.7 of the Agreement requires Members maintaining "grey area" measures to notify such measures to the Committee. Notifications in this regard were received from Cyprus, the European Community, the Republic of Korea, Slovenia, South Africa, and Thailand. The Article also requires notification of any pre-existing measures imposed under Article XIX of GATT 1947. Notifications of such measures were received from the European Community and the Republic of Korea. Members are also required to notify to the Committee immediately upon the initiation of an investigation regarding serious injury or threat thereof and the reason for it. Notifications in this regard have been received from Brazil, the Republic of Korea and the United States. Brazil also notified a provisional safeguard measure.

Subsidies and countervailing measures

The Agreement on Subsidies and Countervailing Measures ("the Agreement"), which entered into force on 1 January 1995, builds on the Tokyo Round Agreement on Interpretation and Application of Articles VI, XVI and XXIII of GATT 1947 ("Tokyo Round Agreement"). 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

[5]The total of 107 Members used here reflects the fact that for this obligation, the EC submits a single notification that covers all 15 member States. The 122 WTO Members include the EC Commission and the 15 individual member States.

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 by Members of countervailing duty investigations. Part VIII of the Agreement provides special and differential treatment for developing country Members and Members in transformation into a market economy.

Transition decision. The Tokyo Round Agreement was terminated at the end of 1995. Pursuant to a decision of the Tokyo Round Committee on Subsidies and Countervailing Measures, however, the Tokyo Round Agreement shall continue to apply to countervailing duty investigations and reviews not subject to the new Agreement until 31 December 1996. No request for establishment of a panel under the Tokyo Round Agreement has been made since the date of entry into force of the Marrakesh Agreements.[6]

Notification and review of subsidies. Article 25 of the Agreement requires that Members notify all specific subsidies, and that these notifications be reviewed every third year at special sessions of the Committee on Subsidies and Countervailing Measures ("the Committee"). The Committee has adopted a format for these notifications, and the first new and full notifications of specific subsidies were due on 30 June 1995. As of 31 July 1995, 55 Members had submitted a notification regarding specific subsidies, of which 16 notified they provided no specific subsidies. Sixty-eight Members had submitted no notification. The status of notifications pursuant to Article 25 may be found in Table V.6. Because of the low number and late receipt of subsidies notifications, the Committee could not hold its first special session to review 1995 subsidy notifications until late July 1996. At that session, concern was expressed regarding the number of Members that had not yet submitted notifications as well as the quality and completeness of those notifications that had been submitted. As a result of the review session, certain Members indicated that they would supplement their notifications or include additional programmes in their updating notifications. A second special session to review subsidy notifications is scheduled for late October 1996.

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 1996, 64 Members (counting the EC as a single Member) had submitted such a notification. Of these, 11 Members notified new legislation designed to implement the Marrakesh Agreements, 36 Members notified pre-existing legislation and 17 Members notified that they had no countervailing duty legislation. Forty-four Members had not submitted a notification. The status of notifications pursuant to Article 32.6 may be found in Table V.6. During 1995 and the first half of 1996, the Committee held four special joint sessions with the Committee on Anti-Dumping Practices to review notifications of countervailing duty legislation. Thirty-seven Members indicated during the review sessions that they were either preparing or considering the preparation of a new anti-dumping/countervailing duty legislation.

Non-actionable subsidies. Article 8 of the Agreement provides that subsidy programmes for which non-actionable status are 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 been met. Thereafter, upon request of a Member, the determination of the Committee, or lack thereof, shall be submitted to binding arbitration. The Committee in 1995 approved a format for the notification of non-actionable subsidies. Further, an informal group on procedures for binding arbitration pursuant to Article 8 began work before the entry into force of the Marrakesh Agreements. However, the Committee has not yet been able to adopt arbitration procedures. Nor has the Committee yet adopted a format for non-actionable subsidies updating notifications. To date, no notifications of non-actionable subsidies pursuant to Article8 have been made.

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

[6]Five unadopted panel reports remain before the Tokyo Round Committee: (i) European Economic Communities – Subsidies on Export of Wheat Flour (SCM/42), (ii) European Economic Community – Subsidies on Export of Pasta Products (SCM/43), (iii) Canada – Imposition of Countervailing Duties on Imports of Boneless Manufacturing Beef from the EC (SCM/85), (iv) German Exchange Rate Scheme for Deutsche Airbus (SCM/141), and (v) United States – Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in France, Germany and the United Kingdom (SCM/185).

Table V.2
Summary of Countervailing Duty Actions, 1995[a]

	Initiation	Provisional measures	Definitive duties	Price undertakings	Measures in force on 31 Dec. 1995[b]
Argentina	1	0	0	0	n.a.[c]
Australia	0	0	0	0	13
Brazil	0	7	5	0	6
Canada	3	1	1	0	6
Chile	0	0	0	0	0
EC	0	0	0	0	2
Israel	2	0	0	0	n.a.[c]
Mexico	0	1	7	3	n.a.[c]
New Zealand	1	0	0	0	1
Peru	0	1	1	0	1
United States	2	3	5	0	71
Venezuela	0	0	0	0	3
Total	9	13	19	3	103

n.a. Not available.

[a] The reporting period covers 1 January-31 December 1995. 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.

[b] Includes definitive duties and price undertakings.

[c] Did not submit a separate list of measures in force during this period.

Table V.3
Exporters subject to initiations of countervailing investigations, 1995[a]

	Total		Total
European Community[b]	6	Turkey	1
Thailand	1	United States	1
		Total	9

[a] The reporting period covers 1 January-31 December 1995. 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.

[b] Initiations concerning exporters of the European Community and its member States.

well as the provision of advisory opinions at the request of the Committee on Subsidies and Countervailing Measures or a Member. On 6 March 1996, the Committee elected the initial Members of the PGE[7]. The PGE has drafted Rules of Procedure and submitted them to the Committee for its approval. The draft Rules currently are under consideration by the Committee.

Countervailing actions. Countervailing actions taken during the period 1 January-31 December 1995 are summarized in Tables V.2 and V.3. 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 the information required by the format adopted by the Committee. The data available indicate that nine new countervailing duty investigations were initiated in 1995. Two thirds of these new investigations related to EC exporters of agricultural products. As of 31 December 1995, Members reported 103 countervailing measures (including undertakings) in force.

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 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 new Agreement provides for greater clarity and more detailed rules in relation

[7]Mr. Seung-Wha Chang, lecturer in international trade law at Seoul National University; Mr. Gary Horlick, private attorney in the trade law area; Mr. Friederich Klein, former Director in the EC Commission's Directorate for External Relations (Commercial Policy); Mr. Akiro Kotera, Professor of International Relations at Tokyo University; and Mr. Robert Martin, former Secretary of the Canadian International Trade Tribunal and former Canadian GATT negotiator.

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 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.

Transition decision. The Tokyo Round Agreement was terminated at the end of 1995. However, pursuant to a decision of the Tokyo Round Committee on Anti-Dumping Practices ("the Tokyo Round Committee"), the Tokyo Round Agreement shall continue to apply to anti-dumping investigations and reviews not subject to the new Agreement until 31 December 1996. No request for establishment of a panel under the Tokyo Round Agreement has been made since the date of entry into force of the WTO Agreement.[8] The Government of Canada requested conciliation under the Tokyo Round Agreement in a dispute involving Mexico's imposition of anti-dumping duties on imports of steel from Canada. That request was discussed at a special meeting of the Tokyo Round Committee on 29 April 1996.

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. As of 31 July 1996, 68 Members (counting the EC as a single Member) had submitted such a notification. Of these, 12 Members notified new legislation designed to implement the Agreement, 37 Members notified pre-existing legislation, and 19 Members notified that they had no anti-dumping legislation or regulations. Forty Members had not submitted a notification. The status of notifications pursuant to Article 18.5 may be found in Table V.6. During 1995 and the first half of 1996, the Committee held four special joint sessions with the Committee on Subsidies and Countervailing Measures to review notifications of legislation. Thirty-seven Members (including both Members with pre-existing legislation in effect and Members notifying no legislation) indicated during the review sessions that they were either preparing or considering the preparation of a new anti-dumping legislation.

Other actions. The Committee agreed, at its April 1996 regular meeting, to form an Ad Hoc Group on Implementation, to prepare recommendations on issues where agreement seems possible and consider other issues regarding implementation on which Members believe discussion would be helpful. The Committee will consider Members' suggestions of items to be referred to the Ad Hoc Group, which may consider those items and forward recommendations to the Committee for action. In addition, the Committee has undertaken informal consultations on the issue of anti-circumvention (referred to the Committee by the Ministerial Decision on Anti-Circumvention).

Anti-dumping actions. Anti-dumping actions taken during the period 1 January-31 December 1995 are summarized in Tables V.4 and V.5. 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 123 new investigations were initiated in 1995. The most active Members during the year, in terms of initiations of anti-dumping investigations, were the EC (33), South Africa (18), the United States (13), New Zealand (11) and Canada (9). As of 31 December 1995, Members reported 781 anti-dumping measures (including undertakings) in force. Of these, 39 per cent were maintained by the United States, 20 per cent by the European Community, and 12 per cent by Canada. Products exported from the EC were the subject of the most anti-dumping investigations initiated during the year (21), followed by products exported from China (16), and the Republic of Korea (14).

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 barriers to trade. Harmonization is

[8]Four unadopted panel reports remain before the Tokyo Round Committee: (i) European Community – Anti-dumping duties on audio tapes and cassettes originating in Japan; (ii) United States – Anti-dumping duties on imports of stainless steel plate from Sweden; (iii) United States – Anti-dumping duties on imports of Grey Portland cement and cement clinker from Mexico; and (iv) United States – Imposition of anti-dumping duties on imports of seamless stainless steel hollow products from Sweden.

Table V.4
Summary of Anti-Dumping Actions, 1995[a]

	Initiation	Provisional measures	Definitive duties	Price undertakings	Measures in force on 31 Dec. 1995[b]
Argentina	0	4	2	1	n.a.[c]
Australia	4	2	1	0	88
Brazil	5	4	3	0	21
Canada	9	7	27	0	94
Chile	4	1	2	0	2
Colombia	4	0	1	0	6
EC	33	25	19	3	159
India	5	2	7	0	13
Israel	4	1	1	0	n.a.[c]
Japan	0	0	1	0	3
Korea	4	3	0	0	8
Malaysia	3	2	0	0	n.a.[c]
Mexico	1	18	3	3	n.a.[c]
New Zealand	11	1	4	0	25
Peru	2	1	2	0	2
Philippines	0	6	0	0	n.a.[c]
Singapore	0	2	2	0	2
South Africa	18	9	2	0	15
Thailand	0	0	0	0	1
Turkey	0	0	11	0	38
United States	13	20	33	0	304
Venezuela	3	1	2	0	n.a.[c]
Total	123	109	123	7	781

n.a. Not available.

[a] The reporting period covers 1 January 1995-31 December 1995. 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.

[b] Includes definitive price undertakings

[c] Did not submit a separate list of measures in force.

encouraged through the use of international standards and guides, the principle of equivalence and mutual recognition. For the purpose of transparency, WTO Members are required to establish national enquiry points and fulfil notification obligations.

At its five meetings during the period from 1 January 1995 to 31 July 1996, the Committee heard statements on the implementation and administration of the Agreement. At its first meeting, in April 1995, the Committee adopted rules of procedures for its meetings which were later approved by the Council for Trade in Goods. The Committee endorsed a number of recommendations and decisions aimed at ensuring a uniform and efficient operation of procedures for notifications and national enquiry points. The Committee also adopted decisions regarding technical assistance and regional standards-related activities. At its March 1996 meeting, the Committee conducted its first review of the implementation and operation of the Agreement. The Committee examined the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement under the Ministerial Decision on the Review of the ISO/IEC Information Centre Publication. This contains information regarding standardizing bodies which have accepted the Code of Good Practice.

At several meetings, the Committee held discussions on eco-labelling and on the ISO 9000 and 14000 standard series. Representatives of international standardizing bodies and conformity assessment systems briefed the Committee on the latest developments in their work. Discussions on eco-labelling were also held in joint meetings with the Committee on Trade and Environment. In November 1995, a special joint meeting on procedures for information exchange was held with the Committee on

Table V.5
Exporters subject to two* or more initiations of anti-dumping investigations, 1995[a]

	Total		Total
European Community or its member States[b]	21	Kazakhstan	3
China	16	Mexico	3
Korea, Rep.	14	Malaysia	2
Indonesia	7	Russian Fed.	2
Japan	6	Philippines	2
Thailand	6	Poland	2
United States	6	Singapore	2
Brazil	3	Turkey	2
Chinese Taipei	3	Ukraine	2
India	3	Uzbekistan	2
		Total	107[c]

* Countries subject to only one initiation of an anti-dumping investigation are Argentina, Bosnia-Herzegovina, Canada, Croatia, Czech Republic, Egypt, Hungary, Macau, Macedonia (Former Yugoslav Republic of), New Zealand, Peru, Romania, Slovenia, South Africa, Yugoslavia and Zimbabwe.

[a] The reporting period covers 1 January 1995-31 December 1995. 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.

[b] Initiations concerning the European Community and its member States.

[c] Does not include exporters subject to only one initiation. The total number of initiations including the 16 single initiations.

Sanitary and Phytosanitary Measures to facilitate the implementation by Members of procedures for information exchange. At its June 1996 meeting, the Committee began preparations on its report to the Ministerial Conference in Singapore.

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. The Working Party held its first meeting in April 1995 and met again in November 1995 and in February 1996. The Working Party is to review the notifications and counter-notifications submitted by Members and to examine, with a view to revising, the questionnaire on state trading adopted in November 1960 and in use since then. The Working Party began reviewing the coverage of state trading enterprises notified under paragraph1 of the Understanding and initiated discussions on the third leg of its mandate – an illustrative list of relationships between governments and state trading enterprises and of activities engaged in by these enterprises.

In February 1995, the Council for Trade in Goods established a deadline of 30June1995 for new and full notifications on state trading enterprises by Members. The notifications are required of all Members, even if they do not maintain any state trading enterprises. Notifications are also required even if a country's state trading enterprises were not involved in international trade during the period under review. Members agreed at their April 1995 meeting that all new and full notifications should be submitted not later than 30 June in every third year after 1995, with updates for each of the two intervening years due on 30 June of those years. They also agreed on guidelines for the preparation of the Secretariat background paper mandated by the 1994 Understanding.

At its meeting in November 1995, the Working Party began an examination of the 26 notifications it had received. The notifications of the following countries were discussed: Australia, Canada, Cyprus, the Czech Republic, the European Community, Indonesia, Korea, Malaysia, Romania, Thailand, Turkey, and the United States. There was no discussion of the remaining 14 notifications.

At its meeting in February 1996, the Working Party had before it a further nine notifications, with the EC counting as one. During the meeting, notifications from the following countries were examined for the first time or reviewed again: Chile, Colombia, European Community, India, Norway, Switzerland and Hungary.

The Working Party agreed to continue its examination of the 1960 questionnaire on state trading enterprises in an informal setting under the guidance of the Chairman. Elements of this questionnaire include questions about the existence of state trading enterprises, reasons why they were established or are being maintained, a description of their functions and recent statistics on their operations. It was also decided that these formal consultations would include work on the development of an illustrative list showing the kinds of relationships between governments and enterprises and the kinds of activities engaged in by these enterprises.

At its meeting on 27 June 1996 the Working Party had before it six new notifications, of which three (Morocco, Israel, Pakistan) were discussed. In addition, it reverted to 12 previously reviewed notifications.

Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures entered into force on 1 January 1995. It recognizes that import licensing procedures can have acceptable uses, but also that their inappropriate use may impede the flow of international trade. The Agreement 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. The Agreement 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 restrictions) do not act as additional restrictions on imports over and above those which the licensing system administers. Nor should they be more administratively burdensome than absolutely necessary to administer the relevant measures. By becoming Members of the WTO, and therefore automatically also of the Agreement on Import Licensing Procedures, 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 publication of information concerning licensing procedures, notification to the Committee and processing of licence applications. 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 up to two years from the date of WTO Membership.

During the period under review, 20 Members (the European Community and its member States counting as one) have notified laws and regulations pursuant to Articles 1.4(a) and 8.2(b); 20 have submitted replies to the Questionnaire on Import Licensing Procedures pursuant to Article 7.3; 24 developing country Members have invoked the provisions for delayed application under Article 2.2.

The Committee on Import Licensing, established under Article 4, held three meetings during the period concerned. It adopted procedures for notification and review; reviewed the notifications of domestic legislation and replies to the Questionnaire; and took note of a statement by the United States that they, together with Guatemala, Honduras and Mexico, had requested consultations in September 1995 with the European Community under, inter alia, the Agreement on Import Licensing Procedures, concerning the EC regime for the importation, sale and distribution of bananas (see the section below on Dispute settlement).

Rules of origin

The aim of the Agreement on Rules of Origin, which entered into force on 1 January 1995, 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 work programme for the harmonization of rules of origin in conjunction with the World Customs Organization's Technical Committee on Rules of Origin. The Harmonization Work Programme is divided into four 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); and
(iv) Final fine-tuning of the results of the work in terms of their overall coherence.

Until the completion of the Harmonization Work Programme (for which a period of a maximum of three years is foreseen), Members are expected to ensure that their 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.

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, with the basic exclusion of the obligation of applying harmonized rules of origin. These requirements include notification procedures.

During 1995 and the first half of 1996, the Committee on Rules of Origin held six meetings, and the Technical Committee on Rules of Origin held four meetings. In July 1995 the Committee decided to launch the Harmonization Work Programme, which is to be completed by July1998.

In October 1995 the Technical Committee submitted its First Report on the Results of the First Phase of the Harmonization Work Programme. The Committee started its review of the First Report at its meeting in November1995 and continued its review at following meetings. The First Phase of the Harmonization Work Programme has in principle been completed. Two issues relating to goods wholly obtained in one country, i.e. the problems of parts and raw materials recovered from articles which can no longer perform their original purpose nor are capable of being restored or repaired, and of products obtained by use of vessels, installations and structures, have not yet been solved. They are the subject of continuing discussions. The definitions of minimal operations or processes will be subject to further refinement or elaboration throughout the Second and Third Phases of the Work Programme.

In January and April 1996, the Technical Committee submitted two reports on the status of work in respect of Phase II of the Harmonization Work Programme. The report on the results of the Second Phase of the work was to be submitted by October 1996.

The Harmonization Work Programme has been enhanced and supported by the creation of two devices: (i) an overall architectural design for the harmonized rules of origin; and (ii) an Integrated Negotiating Text. A general format of overall architectural design of the harmonized rules of origin has been established in order to ensure that the results of the Harmonization Work Programme have overall coherence as provided for in Article 9.3(b) of the Agreement. At this stage the general format is still considered as provisional and will be further refined throughout Phases III and IV. The Integrated Negotiating Text has been used as a common working document and reference point for the Committee and the Technical Committee.

Customs valuation

The Agreement on Implementation of Article VII of the GATT 1994, known as the Customs Valuation Agreement, entered into force on 1 January 1995. The Customs Valuation Agreement was a result of 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 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.

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. Developing country Members are allowed to delay the application of the provisions of the Agreement for a period not exceeding five years.

During 1995, the Committee held two meetings. In May, the Committee adopted two decisions which were referred to it by Ministers at Marrakesh. The decisions concern: (i) cases where customs administrations have reasons to doubt the truth or accuracy of the declared value; and (ii) decisions on texts relating to minimum values and imports by sole agents, sole distributors and sole concessionaires. The Committee also adopted decisions relating to the interpretation and administration of the Agreement. These decisions were originally adopted by the Tokyo Round Committee on Customs Valuation. The Committee further agreed the procedures for the notification of national legislation and responses.

In October, the Committee examined notifications made by Australia, Hungary, Korea, NewZealand, Romania, Switzerland and Zimbabwe. The Committee took note of the information on "Treatment of Interest Charges" and "Carrier Media Bearing Software". It conducted its first review of the implementation and operation of the Agreement.

The Tokyo Round Committee on Customs Valuation held two meetings in 1995. The Committee concluded its examination of the national legislations of Argentina and Turkey and continued its examination of Mexican legislation. In November, the Committee adopted the decision to terminate the Tokyo Round Customs Valuation Agreement on 1 January 1996.

At its meeting in April 1996, the Committee concluded its examination of the modifications to national legislations of Canada and the European Community. The Committee continued its examination of the national legislations of Mexico, India and Slovenia and also examined notifications made by Hong Kong, Japan, Norway, the Slovak Republic and the United States.

Article 18 of the Agreement established a Technical Committee, under the auspices of the World Customs Organization (WCO), to promote at the technical level uniformity in interpretation and application of the Agreement. The Tokyo Round Technical Committee presented a report on its Twenty-Ninth Session (13-17 March 1995). The WTO Technical Committee presented reports on its First (2-10 October 1995) and Second Sessions (4-8 March 1996).

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. Used primarily by governments of developing countries, preshipment inspection (PSI) can help to safeguard national interests such as prevention of capital flight and commercial fraud, as well as of customs duty evasion, and to bolster national administrative infrastructures.

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 30 governments employ PSI companies, which are contracted to examine and report on the quantity, quality and unit prices of export goods prior to shipment. Generally the inspection activity is 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. During 1995 through June 1996, six Members notified their current laws and or regulations, and 15 governments reported that they had no laws and/or regulations relating to PSI.

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.

The rules of procedure call for resolution of disputes within eight working days of the request for the review. Once the request is received, either a single independent trade expert or a three-member panel is appointed by the IE to decide the case. The panel decision is binding upon the PSI entities and the exporters. According to Article 4, "the object of the review shall be to establish, whether, in the course of the inspection in dispute, the parties to the dispute have complied with the provisions of this Agreement. The procedures shall be expeditious and provide the opportunity for both parties to present their views in person or writing."

The procedures and the establishment of the IE are unprecedented in WTO terms because both parties to the dispute are private entities. Thus, governments are only obliged under Article 4 of the Agreement to take "such reasonable measures as may be available to them" to ensure fulfilment of the provisions and objectives. As of June 1996, no requests for review under the IE were received.

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 internal taxation and regulation) or Article XI (general elimination of quantitative restrictions) of GATT 1994. An annex to the Agreement lists examples of 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.

During the period under review most of the activities of the Committee involved the implementation of the notification and transition procedure provided for in Article 5 with regard to existing TRIMs that are inconsistent with the Agreement. Article 5.1 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 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).

The Committee developed a standard format for notifications under Article 5.1 which was subsequently adopted by the General Council. It also prepared a recommendation, again subsequently adopted by the General Council, on the timing of notifications from governments that joined the WTO after 1January1995. 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.[9]

The Committee received notifications of measures under Article 5.1 from Argentina, Barbados, Chile, Colombia, Costa Rica, Cuba, Cyprus, the Dominican Republic, Ecuador, Egypt, Indonesia, India, Mexico, Malaysia, Pakistan, Peru, Philippines, Poland, Romania, Thailand, Uruguay, Venezuela and South Africa. In regard to a number of these notifications, questions were raised and comments made in the meetings of the Committee, including with respect to the timing of some notifications. Some Members

[9]See document WT/L/64.

informed the Committee that they did not apply any TRIM inconsistent with the Agreement. At the most recent meetings of the Committee, there has been discussion on the compatibility with the Agreement of certain measures applied in the automotive sector.

In addition to addressing matters arising from the implementation of Article 5.1, the Committee adopted a standard format for notifications under Article 5.5, which 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. The Committee also discussed a proposal for a standard format under Article 6.2, which requires notifications of publications in which TRIMs may be found.

Working Group on Notification Obligations and Procedures

Under the Ministerial Decision on Notification Procedures, which was adopted by the General Council on 31 January 1995, the Council for Trade in Goods established a Working Group on Notification Obligations and Procedures on 20 February 1995 to arrive at recommendations to the CTG on means to simplify and standardize these notifications and to improve compliance and transparency. Possible needs for assistance for some developing countries are also to be identified.

Through the examination of the notification processes, the Group was able to identify six potential problem areas: (i) duplication/overlapping of notification obligations in Annex1A Agreements; (ii) assistance to some developing countries in meeting their notification obligations; (iii) the question of compliance with notification obligations; (iv) the status of notification obligations pursuant to Decisions of GATT 1947 CONTRACTING PARTIES; (v) simplification of data requirements and standardization of formats; and (vi) improvement in the timing of the reporting process.

Under the topic of duplication of notification obligations the Group examined four pairs of agreements and in the case of three of them, that is, TRIMs/Import Licensing, Agriculture/Import Licensing, and the Agreements on SPS/TBT, discussions indicated that little or no duplication exists or that adjustments do not appear to be warranted. In the case of the Agriculture and Subsidies Agreements, the Group is discussing a proposal for a single, combined notification format.

To assist developing countries in meeting their notification obligations, the Group developed a practical handbook providing detailed guidance on the requirements and preparation of notifications. This handbook would be assembled in a loose-leaf format, bringing together: (i) general information on the notification provisions of each of the Agreements involved; (ii) a list of all notification requirements in the Agreement; (iii) all questionnaires/formats/guidelines which had been developed by the relevant WTO Committees; (iv) samples of notifications and (v) the texts of the agreements. Individual handbooks would be assembled for each agreement. Work on the preparation of this handbook was proceeding in the Technical Cooperation and Training Division with a view to providing it to Members as promptly as possible.

Concerning the question of compliance with notification obligations, a number of ideas were brought forward and discussed. The Group also noted that some obligations resulting from Decisions of the GATT1947 CONTRACTING PARTIES (CPs) might be redundant or obsolete in the current context. Consideration was given to notification obligations on quantitative restrictions, non-tariff measures and import licensing procedures which appeared to have been superseded by measures adopted by WTO Committees. Also, certain CP Decisions appeared to have been dormant for many years and their continued need was examined.

Relevant Committees have also been asked to examine their requirements in regard to data and format standards. The Group is continuing its work and submitted its report and recommendations to the Council for Trade in Goods in early October1996.

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement

	Agriculture								Textiles and Clothing			
	18.2	18.2	5.7/18.2	18.2	18.2	10/18.2	10/18.2	16.2	2.1	2.6/2.7	3.1	6.1
	Table MA:1	Table MA:2	Table MA:5	Table DS:1+	Table ES:1+	Table ES:2	Table ES:3	Table NF:1	QRs (MFA)	First Integration	QRs (other)	Safeguard Decision
Antigua and Barbuda	NA	NA	NA			NA	0	0	NA	NA	0	
Argentina	NA	NA	NA	X	X	X	0	0	NA	X	0	X
Australia	X	X	X		X	X	0	0	NA	NA	0	X
Bahrain	NA	NA	NA			NA	0	0	NA	NA	0	
Bangladesh	NA	NA	NA	(NA)		NA	0	0	NA	X	X	X
Barbados						NA	0	0	NA	NA	0	
Belize	NA	NA	NA			NA	0	0	NA	NA	0	
Benin	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Bolivia	NA	NA	NA			NA	0	0	NA	X	0	X
Botswana	NA	NA	X			NA	0	0	NA	NA	0	
Brazil	X	X	NA	X	X	X	X	X	NA	X	0	X
Brunei Darussalam	NA	NA	NA			NA	0	0	NA	NA	0	
Burkina Faso	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Burundi	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Cameroon	NA	NA	NA			NA	0	0	NA	NA	0	
Canada	X	X	X				0	0	X	X	X	NA
Central African Rep.	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Chile	NA	NA	NA	X	X	X	0	0	NA	NA	X	X
Colombia	X	X					0	0	NA	X	0	X
Costa Rica	X						0	0	NA	X	0	X
Côte d'Ivoire	NA	NA	NA			NA	0	0	NA		0	X
Cuba	NA	NA	NA			X	0	0	NA	NA	0	X
Cyprus	NA	NA	NA	X			0	0	NA	X	X	X
Czech Republic	X	X	X		X	X	X	0	NA	X	0	X
Djibouti	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Dominica	NA	NA	NA			NA	0	0	NA	NA	0	
Dominican Republic	NA	NA	NA		X	NA	0	0	NA	X	0	X
EC	X						0	0	X	X	X	NA
Ecuador		NA	NA	NA	NA	NA	NA	NA	NA		0	X
Egypt	NA	NA	NA			NA	0	0	NA		X	X
El Salvador						NA	0	0	NA	X	0	X
Fiji	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Gabon	NA	NA	NA			NA	0	0	NA	NA	0	
Ghana	NA	NA	NA			NA	0	0	NA	NA	0	
Grenada	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Guatemala	X					NA	0	0	NA	X	0	X
Guinea Bissau	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Guinea, Republic of	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Guyana	NA	NA	NA			NA	0	0	NA	NA	0	
Haiti	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Honduras	NA	NA	NA				0	0	NA	X	0	X
Hong Kong	NA	NA	NA	X	X	NA	0	0	NA	NA	0	X
Hungary	X	X	X				0	0	NA	X	X	X
Iceland	X						0	0	NA	NA	0	
India	NA	NA	NA			NA	0	0	NA	X	X	X
Indonesia	X				X		0	0	NA	X	X	X
Israel							0	0	NA	X	X	X
Jamaica	NA	NA	NA			NA	0	0	NA		0	X

Table V.6
Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Agriculture								Textiles and Clothing			
	18.2	18.2	5.7/18.2	18.2	18.2	10/18.2	10/18.2	16.2	2.1	2.6/2.7	3.1	6.1
	Table MA:1	Table MA:2	Table MA:5	Table DS:1+	Table ES:1+	Table ES:2	Table ES:3	Table NF:1	QRs (MFA)	First Integration	QRs (other)	Safeguard Decision
Japan	X	X	X		X	NA	0	0	NA	X	X	X
Kenya	NA	NA	NA			NA	0	0	NA		X	X
Korea	X	X	X			NA	0	0	NA	X	X	X
Kuwait	NA	NA	NA			NA	0	0	NA	NA	0	
Lesotho	NA	NA	NA	(NA)		NA	0	0	NA		0	X
Liechtenstein	X	X	X	X	X		0	0	NA	NA	0	
Macau	NA	NA	NA	X	X	NA	0	0	NA	NA	X	X
Madagascar	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Malawi	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Malaysia	X	X	X		X	X	0	0	NA	X	X	X
Maldives	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Mali	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Malta	NA	NA	NA			NA	0	0	NA	X	X	X
Mauritania	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Mauritius	NA	NA	NA			NA	0	0	NA	X	X	X
Mexico							0	0	NA	X	X	X
Morocco	X	X	X	X	X	NA	0	0	NA	X	X	X
Mozambique	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Myanmar	NA	NA	NA	(NA)		NA	0	0	NA	X	0	X
Namibia	NA	NA				NA	0	0	NA	NA	0	
New Zealand	X	X	X	X	X	X	X	X	NA	NA	X	X
Nicaragua	X		X	X	X	NA	0	0	NA	X	0	X
Nigeria	NA	NA	NA			NA	0	0	NA		0	
Norway	X	X	X		X		0	0	X	X	0	NA
Pakistan	NA	NA	NA		X	X	0	0	NA	X	X	X
Papua New Guinea	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Paraguay	NA	NA	NA			NA	0	0	NA	X	0	X
Peru	NA	NA	NA		X	NA	0	0	NA	X	X	X
Philippines	X				X		0	0	NA	X	X	X
Poland	X	X	X		X		0	0	NA	X	0	X
Qatar	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Romania	X	X	X		X		0	0	NA	X	0	X
Rwanda	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
Saint Kitts and Nevis	NA	NA	NA	NA	NA	NA	NA	NA	NA	X	X	X
Saint Lucia	NA	NA	NA			NA	0	0	NA	NA	0	
Saint Vincent & Grenadines	NA	NA	NA			NA	0	0	NA	NA	0	
Senegal	NA	NA	NA			NA	0	0	NA		0	X
Sierra Leone	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Singapore	NA	NA	NA			NA	0	0	NA	NA	X	X
Slovak Republic	X	X	X	X	X	X	X	0	NA	X	0	X
Slovenia	X	X	NA	X	X	NA	0	0	NA	X	X	X
Solomon Islands	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
South Africa	X			X			0	0	NA		0	X
Sri Lanka	NA	NA	NA			NA	0	0	NA	X	X	X
Suriname	NA	NA	NA			NA	0	0	NA	NA	0	
Swaziland	NA	NA				NA	0	0	NA	NA	0	
Switzerland	X	X	X	X	X		0	0	NA	X	0	X
Tanzania	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Agriculture								Textiles and Clothing			
	18.2	18.2	5.7/18.2	18.2	18.2	10/18.2	10/18.2	16.2	2.1	2.6/2.7	3.1	6.1
	Table MA:1	Table MA:2	Table MA:5	Table DS:1+	Table ES:1+	Table ES:2	Table ES:3	Table NF:1	QRs (MFA)	First Integration	QRs (other)	Safeguard Decision
Thailand	X	X	X	X	X	X	0	0	NA	X	X	X
Togo	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
Trinidad and Tobago	NA	NA	NA		X	NA	0	0	NA		0	X
Tunisia	X					NA	0	0	NA	X	0	X
Turkey	NA	NA	NA		X	X	0	0	NA	X	0	X
Uganda	NA	NA	NA	(NA)		NA	0	0	NA	NA	0	
United Arab Emirates	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0	
United States	X	X	X				0	0	X	X	X	NA
Uruguay	NA	NA	X	X	X	X	0	0	NA	X	0	X
Venezuela	X						0	0	NA	X	X	X
Zambia	NA	NA	NA	(NA)		NA	0	0	NA	X	0	X
Zimbabwe	NA	NA	NA				0	0	NA	NA	0	

	TRIMs	Anti-dumping			Customs Valuation						Decisions		
	5.1	16.4	16.4	18.5	20.1	20.2	Annex III (2)	Annex III (3)	Annex III (4)	22.1			
	Investment Measures	Semi-annual Jan-June 95	Semi-annual July-Dec 95	Laws/ Regs	Deferred appli-cation	Deferred appli-cation	Minimum values	Reser-vations Art. 4	Reser-vations Art.5.2	Laws/ Regs	Check-list	Interest charges	Carrier Media
Antigua and Barbuda	0												
Argentina	X	X		X	NA	NA	NA	X	X			X	X
Australia	0	X	X	X	NA	NA	NA	NA	NA	X	X	X	X
Bahrain	0												
Bangladesh	0				X	X	X	X	X	NA	NA		
Barbados	X	X	X	X									
Belize	0												
Benin	0	NA											
Bolivia	0	X	X	X	X	X				NA	NA		
Botswana	0			X	NA	NA	NA	NA	NA				
Brazil	0	X	X	X	NA	NA	NA	X	X				
Brunei Darussalam	0				X	X			NA	NA			
Burkina Faso	0				X	X	X	X	X	NA	NA		
Burundi	0				X	X				NA	NA		
Cameroon	0				X	X		X	X	NA	NA		
Canada	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Central African Rep.	0				X					NA	NA		
Chile	X	X	X	X	X	X	X	X	X	NA	NA		
Colombia	X	X	X	X	X	X	X	X	X	NA	NA		
Costa Rica	X	X	X	X	X	X		X	X	NA	NA		
Côte d'Ivoire	0			X	X	X	X	X	X	NA	NA		
Cuba	X	X	X	X	X					NA	NA		
Cyprus	X	X	X	X	NA	NA	NA	NA	NA		NA	X	X

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	TRIMs	Anti-dumping			Customs Valuation						Decisions		
	5.1	16.4	16.4	18.5	20.1	20.2	Annex III (2)	Annex III (3)	Annex III (4)	22.1			
	Investment Measures	Semi-annual Jan-June 95	Semi-annual July-Dec 95	Laws/ Regs	Deferred appli-cation	Deferred appli-cation	Minimum values	Reser-vations Art. 4	Reser-vations Art.5.2	Laws/ Regs	Check-list	Interest charges	Carrier Media
Czech Republic	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Djibouti	0				X	X	X	X	X	NA	NA		
Dominica	0												
Dominican Republic	X	X	X	X	X	X	X	X	X	NA	NA		
EC	X	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Ecuador	X			X	X	X		X	X	NA	NA		
Egypt	X	X	X	X	X	X		X	X	NA	NA		
El Salvador	0			X	X	X		X	X	NA	NA		
Fiji	0	NA											
Gabon	0				X	X	X	X	X	NA	NA		
Ghana	0				X					NA	NA		
Grenada	0	NA											
Guatemala	0	X		X	X	X	X	X	X	NA	NA		
Guinea Bissau	0												
Guinea, Republic of	0			X									
Guyana	0												
Haiti	0	NA											
Honduras	X	X	X	X	X	X		X	X	NA	NA		
Hong Kong	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Hungary	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Iceland	0	X	X	X	NA	NA	NA	NA	NA				
India	X	X	X	X	NA	NA	NA	X	X	X	NA		
Indonesia	X	X		X	X	X	X	X	X	NA	NA		
Israel	0	X	X	X	X			X	X	NA	NA		
Jamaica	0	X	X	X	X	X	X	X	X	NA	NA		
Japan	X	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Kenya	0			X	X	X	X	X	X	NA	NA		
Korea	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Kuwait	0	X			X	X				NA	NA		
Lesotho	0				NA	NA	NA	NA	NA			X	X
Liechtenstein	0				NA	NA	NA	NA	NA				
Macau	0			X	NA	NA	NA	NA	NA	X	NA		
Madagascar	0				X	X				NA	NA		
Malawi	0			X	NA	NA	NA	X	NA				
Malaysia	X	X	X	X	X	X	X	X	X	NA	NA		
Maldives	0			X									
Mali	0				X	X				NA	NA		
Malta	0	X	X	X	X	X	X	X	X	NA	NA		
Mauritania	0				X	X	X	X	X	NA	NA		
Mauritius	X		X	X	X					NA	NA		
Mexico	X	X	X	X	NA	NA	NA	X	X	X	X	X	X
Morocco	0	X	X	X	X	X	NA	X	X	NA	NA		
Mozambique	0												
Myanmar	0				X	X	X	X	X	NA	NA		
Namibia	0												

Table V.6
Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	TRIMs	Anti-dumping			Customs Valuation						Decisions		
	5.1	16.4	16.4	18.5	20.1	20.2	Annex III (2)	Annex III (3)	Annex III (4)	22.1			
	Investment Measures	Semi-annual Jan-June 95	Semi-annual July-Dec 95	Laws/ Regs	Deferred appli-cation	Deferred appli-cation	Minimum values	Reser-vations Art. 4	Reser-vations Art.5.2	Laws/ Regs	Check-list	Interest charges	Carrier Media
New Zealand	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Nicaragua	X			X	X	X		X	X	NA	NA		
Nigeria	X				X	X			X	NA	NA		
Norway	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Pakistan	X	X		X	X	X	X	X	X	NA	NA		
Papua New Guinea		NA											
Paraguay	0		X	X	X		X			NA	NA		
Peru	X	X	X	X	X	X	X	X	X	NA	NA		
Philippines	X	X	X	X	X	X	X	X	X	NA	NA		
Poland	X	X	X	X	NA	NA	NA	NA	NA				
Qatar		NA											
Romania	X	X	X	X						X	NA	X	X
Rwanda		NA											
Saint Kitts and Nevis	0	NA											
Saint Lucia	X	X	X	X									
Saint Vincent & Grenadines	0												
Senegal	0			X	X	X				NA	NA		
Sierra Leone	0												
Singapore	0	X	X	X	X	X	X	X	X	NA	NA		
Slovak Republic	0	X	X	X	NA	NA	NA	NA	NA	X	X		
Slovenia	X	X	X	X	NA	NA	NA	NA	NA`	X			
Solomon Islands		NA	NA										
South Africa	X	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Sri Lanka		X	X	X	X	X	X	X	X	NA	NA		
Suriname	0			X									
Swaziland	0		X	X									
Switzerland	X	X	X	X	NA	NA	NA	NA	NA	X	NA		
Tanzania	0	X											
Thailand	X	X	X	X	X	X	X	X	X	NA	NA		
Togo	0				X	X	X	X	X	NA	NA		
Trinidad and Tobago	X		X										
Tunisia	0	X	X	X	X	X	X	X	X	NA	NA		
Turkey	0	X	X	X	NA	X	NA	X	X	X			
Uganda	0												
United Arab Emirates	0	NA			X	X		X	X	NA	NA	NA	
United States	0	X	X	X	NA	NA	NA	NA	NA	X	NA	X	X
Uruguay	X	X	X	X	X	X	X	X	X	NA	NA		
Venezuela	X	X	X	X	X	X	X	X	X	NA	NA		
Zambia	X	X	X	X	X	X	X	X	X	NA	NA		
Zimbabwe	0		X	X				X	X	X	X	X	X

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Import Licensing			Rules of Origin		Subsidies and Countervailing Measures					Technical Barriers to Trade	
	2.2	7.3	1.4(a)/ 8.2(b)	5.1	AnnexII (4)	25.1	25.1	25.11	25.11	32.6	15.2	Annex 3 (C)
	Deferred appli-cation	Replies to question-naire	Publi-cations/ laws/regs	Non-pref. rules	Pref. rules	Annual Report (new and full, due 30/6/95)	Annual Report (update, due 30/6/96)	Semi-annual Jan-June 95	Semi-annual July-Dec 95	Laws/ Regs	Laws/ Regs	Accept-ance of code
Antigua and Barbuda												0
Argentina		X	X	X	X	X		X	X	X	X	0
Australia	NA	X	X	X	X	X	X	X	X	X	X	X
Bahrain											X	0
Bangladesh	X											0
Barbados		X	X						X	X		0
Belize												0
Benin								NA				0
Bolivia	X			X	X	X		X	X	X		0
Botswana						X			X			0
Brazil	X				X	X	X	X	X	X		X
Brunei Darussalam				X	X							0
Burkina Faso	X											0
Burundi												0
Cameroon	X											0
Canada	NA	X	X	X	X	X		X	X	X	X	0
Central African Rep.												0
Chile	NA	X		X	X			X	X	X	X	X
Colombia	X	X	X	X	X	X		X	X	X	X	X
Costa Rica	X	X	X	X		X		X	X	X		0
Côte d'Ivoire	X				X	X						0
Cuba			X	X	X			X	X	X	X	X
Cyprus		X	X					X	X	X		0
Czech Republic	NA			X	X	X		X	X	X	X	X
Djibouti												0
Dominica												0
Dominican Republic	X			X	X	X		X	X	X		0
EC	NA		X	X	X	X		X	X	X	X	X
Ecuador		X						NA		X		0
Egypt	NA							X	X	X		X
El Salvador	X			X	X					X		0
Fiji								NA				0
Gabon	X											0
Ghana												0
Grenada								NA				0
Guatemala	X							X	X	X		0
Guinea Bissau												0
Guinea, Republic of										X		0
Guyana												0
Haiti								NA				0
Honduras	X			X	X	X		X	X	X		0
Hong Kong	NA	X		X	X	X	X	X	X	X	X	0
Hungary	NA			X	X	X		X	X	X		X

Table V.6
Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Import Licensing			Rules of Origin		Subsidies and Countervailing Measures					Technical Barriers to Trade	
	2.2	7.3	1.4(a)/ 8.2(b)	5.1	AnnexII (4)	25.1	25.1	25.11	25.11	32.6	15.2	Annex 3 (C)
	Deferred appli- cation-	Replies to question- naire	Publi- cations/ laws/regs	Non- pref. rules	Pref. rules	Annual Report (new and full, due 30/6/95)	Annual Report (update, due 30/6/96)	Semi-annual Jan- June 95	Semi-annual July- Dec 95	Laws/ Regs	Laws/ Regs	Accept- ance of code
Iceland	NA			X				X	X	X		0
India	NA	X		X	X	X		X	X	X		X
Indonesia	X				X	X		X	X	X	X	X
Israel									X	X		0
Jamaica			X	X	X					X		X
Japan	NA		X	X	X	X	X	X	X	X	X	X
Kenya	X			X	X					X		X
Korea				X	X	X		X	X	X		0
Kuwait								X				0
Lesotho												0
Liechtenstein	NA					X						0
Macau												0
Madagascar				X	X							0
Malawi										X		0
Malaysia	X			X	X	X		X	X	X	X	X
Maldives										X		0
Mali												0
Malta		X	X	X	X			X	X	X		X
Mauritania												0
Mauritius		X	X	X	X	X			X	X		0
Mexico	NA			X	X			X	X	X	X	0
Morocco		X	X	X	X	X		X	X	X		0
Mozambique												0
Myanmar	X											0
Namibia												0
New Zealand	NA		X	X	X	X	X	X	X	X		X
Nicaragua			X	X	X	X				X		0
Nigeria	NA					X					X	0
Norway	NA	X		X	X	X		X	X	X	X	0
Pakistan	NA		X					X		X		0
Papua New Guinea								NA				
Paraguay					X			X	X	X		0
Peru		X	X	X	X	X		X	X	X		X
Philippines	NA			X	X	X		X	X	X	X	X
Poland	NA			X	X			X	X	X		0
Qatar								NA				0
Romania	NA			X				X	X	X	X	X
Rwanda								NA				
Saint Kitts and Nevis								NA				0
Saint Lucia								X	X	X		0
Saint Vincent & Grenadines												0
Senegal				X	X					X		X
Sierra Leone												0

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Import Licensing			Rules of Origin		Subsidies and Countervailing Measures					Technical Barriers to Trade	
	2.2	7.3	1.4(a)/ 8.2(b)	5.1	AnnexII (4)	25.1	25.1	25.11	25.11	32.6	15.2	Annex 3 (C)
	Deferred appli-cation	Replies to question-naire	Publi-cations/ laws/regs	Non-pref. rules	Pref. rules	Annual Report (new and full, due 30/6/95)	Annual Report (update, due 30/6/96)	Semi-annual Jan-June 95	Semi-annual July-Dec 95	Laws/ Regs	Laws/ Regs	Accept-ance of code
Singapore	NA			X	X	X		X	X	X		X
Slovak Republic	NA			X	X	X		X	X	X	X	X
Slovenia	NA			X	X	NA		X	X	X	X	X
Solomon Islands								NA	NA			
South Africa	NA			X				X	X	X		X
Sri Lanka	X							X	X	X		0
Suriname						X				X		0
Swaziland						X			X			0
Switzerland	NA			X	X	X		X	X	X	X	X
Tanzania								X				0
Thailand	X			X	X	X	X	X	X	X		X
Togo												
Trinidad and Tobago		X		X	X	X		X	X	X		X
Tunisia	X			X	X			X	X	X	X	X
Turkey	X	X	X	X	X	X		X	X	X		X
Uganda												
United Arab Emirates	X							NA				
United States	NA	X		X	X	X		X	X	X	X	
Uruguay	X				X			X	X	X		
Venezuela	X			X	X	X		X	X	X		X
Zambia						X		X	X	X		
Zimbabwe			X						X	X		X

	Safeguards				State Trading		PSI	QRs
	11.2	12.6	12.7	12.7	XVII(4)(a)	XVII(4)(a)	5	G/L/59
	Phase-out timetable	Laws/Regs	Existing 11.1 measures	Pre-existing Art.XIX	Annual state-trading activities (new and full notif, due 30/6/95)	Annual state-trading activities (update notif, due 30/6/96)	Laws/Regs	Biennial report
Antigua and Barbuda	0		0	0				
Argentina	0	X	0	0	X			
Australia	0	X	0	0	X	X		X
Bahrain	0		0	0				
Bangladesh	0		0	0				
Barbados	0		0	0	X			
Belize	0		0	0				
Benin	0		0	0				
Bolivia	0	X	0	0				

Table V.6
Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Safeguards				State Trading		PSI	QRs
	11.2	12.6	12.7	12.7	XVII(4)(a)	XVII(4)(a)	5	G/L/59
	Phase-out timetable	Laws/Regs	Existing 11.1 measures	Pre-existing Art.XIX	Annual state-trading activities (new and full notif, due 30/6/95)	Annual state-trading activities (update notif, due 30/6/96)	Laws/Regs	Biennial report
Botswana	0		0	0				
Brazil	0	X	0	0	X			
Brunei Darussalam	0		0	0				
Burkina Faso	0		0	0				
Burundi	0		0	0				
Cameroon	0		0	0				
Canada	0	X	X	X	X	X	X	
Central African Rep.	0		0	0				
Chili	0	X	0	0	X	X	X	
Colombia	0	X	0	X	X		X	
Costa Rica	0	X	X	X	X		X	
Côte d'Ivoire	0	X	0	0	X		X	
Cuba	0	X	0	0			X	
Cyprus	X		X	0	X			
Czech Republic	0	X	0	0	X		X	
Djibouti	0		0	0				
Dominica	0		0	0				
Dominican Republic	0	X	0	0				X
EC	X	X	X	X	X	X	X	X
Ecuador	0	X	0	0				
Egypt	0	X	0	0				
El Salvador	0	X	0	0				
Fiji	0		0	0				
Gabon	0		0	0				
Ghana	0		0	0				
Grenada	0		0	0				
Guatemala	0	X	0	0				
Guinea Bissau	0		0	0				
Guinea, Republic of	0	X	0	0	X			
Guyana	0		0	0				
Haiti	0		0	0				
Honduras	0	X	0	0	X			
Hong Kong	0	X	X	X	X	X	X	X
Hungary	0	X	0	0	X		X	
Iceland	0	X	0	0			X	X
India	0	X	X	X	X		X	X
Indonesia	0	X	X	X	X		X	
Israel	0	X	0	0	X			
Jamaica	0		0	0	X			
Japan	0	X	0	0	X		X	
Kenya	0	X	0	0				
Korea	X	X	X	X	X			
Kuwait	0		0	0				
Lesotho	0		0	0				
Liechtenstein	0		0	0				
Macau	0	X	0	0	X			X

Table V.6

Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Safeguards				State Trading		PSI	QRs
	11.2	12.6	12.7	12.7	XVII(4)(a)	XVII(4)(a)	5	G/L/59
	Phase-out timetable	Laws/Regs	Existing 11.1 measures	Pre-existing Art.XIX	Annual state-trading activities (new and full notif, due 30/6/95)	Annual state-trading activities (update notif, due 30/6/96)	Laws/Regs	Biennial report
Madagascar	0		0	0			X	
Malawi	0		0	0				
Malaysia	0	X	X	X	X		X	
Maldives	0	X	0	0				
Mali	0		0	0				
Malta	0	X	0	0	X	X		X
Mauritania	0		0	0				
Mauritius	X	X	X	X	X			
Mexico	0	X	0	0				
Morocco	0	X	0	0	X			
Mozambique	0		0	0				
Myanmar	0	X	0	0				
Namibia	0		0	0				
New Zealand	0	X	0	0	X	X		X
Nicaragua	0	X	0	0			X	
Nigeria	0	X	0	0				
Norway	0	X	0	0	X		X	X
Pakistan	0	X	X	X	X		X	
Papua New Guinea								
Paraguay	0	X	0	0				
Peru	0	X	X	X	X		X	X
Philippines	0	X	0	0	X		X	X
Poland	0	X	0	0	X		X	
Qatar	0		0	0				
Romania	0	X	0	0	X			
Rwanda								
Saint Kitts and Nevis	0		0	0				
Saint Lucia	0	X	0	0			X	
Saint Vincent & Grenadines	0		0	0				
Senegal	0		0	0			X	
Sierra Leone	0		0	0				
Singapore	0	X	X	X	X	X	X	
Slovak Republic	0	X	0	0	X			
Slovenia	X	X	X	0	X		X	
Solomon Islands								
South Africa	X	X	X	X	X			X
Sri Lanka	0	X	0	0				
Suriname	0		0	0			X	
Swaziland	0		0	0				
Switzerland	0	X	X	X	X	X	X	
Tanzania	0		0	0				
Thailand	0	X	X	0	X			
Togo	0		0	0				
Trinidad and Tobago	0	X	0	0				
Tunisia	0	X	0	0				
Turkey	0	X	0	0	X			X

Table V.6
Notifications made under the provisions of the Agreements in Annex1A of the WTO Agreement (continued)

	Safeguards				State Trading		PSI	QRs
	11.2	12.6	12.7	12.7	XVII(4)(a)	XVII(4)(a)	5	G/L/59
	Phase-out timetable	Laws/Regs	Existing 11.1 measures	Pre-existing Art.XIX	Annual state-trading activities (new and full notif, due 30/6/95)	Annual state-trading activities (update notif, due 30/6/96)	Laws/Regs	Biennial report
Uganda	0		0	0				
United Arab Emirates	0		0	0				
United States	0	X	X	X	X	X	X	
Uruguay	0	X	0	0	X			
Venezuela	0	X	X	X	X			X
Zambia	0	X	0	0				X
Zimbabwe	0	X	0	0			X	

Explanatory Notes

This table sets out notification obligations of a regular/periodic nature (i.e. semi-annual, annual, biennial or triennial) and notifications required on a "one-time only" basis. It does not include ad hoc notifications, that is, those which must be provided only if a certain action is taken. It also does not include those regular/periodic or "one-time" notification obligations listed in document G/NOP/W/2/Rev.1, relating to Marks of Origin (page 50, item 8), Regional Arrangements (page 52, item13, and page 55, item 7), Balance of Payments (page 54, item 5) and the Integrated Database (page 52, item 15).

The symbols used are as follows:

(a) "X" denotes that a notification has been received in the WTO. Subsequent addenda or corrections to notifications are not counted as additional notifications.

(b) A blank indicates that this is a requirement applicable to the Member concerned, but that no notification has been received up to the cut-off date.

(c) "NA" indicates that the requirement was not applicable for this WTOMember during the period covered by the Note.

(d) "0" indicates that no notification was received from the Member and that this is a requirement which:

(i) is applicable only to those Members maintaining the type of measure or taking the action in question but for which it was not possible to determine whether the Member maintained that type of measure or took the action in question;

or

(ii) permits certain Members to take advantage of special treatment.

The abbreviations for the Agreements and Understandings shown in the column headings and their full titles are as follows:

Column Heading	Agreement/Understanding Title
Agriculture	Agreement on Agriculture
Textiles and Clothing	Agreement on Textiles and Clothing
Technical Barriers to Trade	Agreement on Technical Barriers to Trade
TRIMs	Agreement on Trade-Related Investment Measures
Anti-dumping	Agreement on Implementation of ArticleVI of the GATT1994
Customs Valuation	Agreement on Implementation of Article VII of the GATT 1994
PSI	Agreement on Preshipment Inspection

Column Heading	Agreement/Understanding Title
Rules of Origin	Agreement on Rules of Origin
Import Licensing	Agreement on Import Licensing Procedures
Subsidies and Countervailing Measures	Agreement on Subsidies and Countervailing Measures
Safeguards	Agreement on Safeguards
State Trading	Understanding on the Interpretation of Article XVII of the GATT 1994
Quantitative Restrictions (QRs)	Decision on Notification Procedures for Quantitative Restrictions (G/L/59)

On 31 August 1996, there were 123 WTO Members. The list of WTO Members in the first column, however, comprises 108 names as the European Community and its 15member States provide one notification for each of the respective requirements. In the case of Agriculture, Switzerland's notifications are taken to cover Liechtenstein, as these two Members have a joint Schedule.

The following notes apply to specific agreements:

Agreement on Agriculture

(a) Notifications may be submitted according to various bases (calendar, crop, fiscal years, etc.); the absence of a notification does not necessarily indicate an outstanding obligation, as it may be due only later in 1996. However, the time limit for submission of MA:1 notifications has now passed for all Members.

(b) For Tables MA:1 and MA:2 (Tariff and other quotas – Article 18.2), notifications are required only by Members with tariff and other quota commitments recorded in SectionI-B (or SectionI-A) of Part I of their Schedules for the products concerned.

(c) For Table MA:5 (Special Safeguards – Articles 5.7 and 18.2) notifications are required only by Members having reserved the right to use the Special Safeguard provisions as indicated in SectionI-A of Part I of Schedules.

(d) For Table DS:1 (Domestic Support – Article18.2), while all Members are required to notify, the least-developed country Members may notify every second year (indicated by the symbol (NA)), all others annually.

(e) For Table ES:1 (Export Subsidies – Article18.2), a notification is required by all Members whether or not a base or annual commitment level is shown in Section II of part IV of their Schedule, i.e., a "nil" return is required.

(f) For Table ES:2 (Total exports in the context of Export Subsidies – Articles 10 and 18.2), a notification is required only by Members with export subsidy reduction commitments shown in SectionII of Part IV of their Schedules and by "significant exporters" as set out in G/AG/2/Add.1.

(g) For Table ES:3 (Food Aid in the context of Export Subsidies – Articles 10 and 18.2) notification is required of all food aid donor Members unless this information is provided for under (e) above. No "nil return" is required from Members which do not provide food or other aid.

(h) For Table NF:1 (Food and other aid in the context of the Decision – Article 16.2), notification is required by all donor Members in respect of actions taken within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries. No "nil return" is required from Members which do not provide food aid or other assistance to the countries concerned.

Agreement on Textiles and Clothing

(a) Notifications under Article 2.1 were required only by Canada, the EC, Norway and the United States.

(b) Notifications under Articles 2.6/2.7 were required only by Members which retained their right to use the transitional safeguard mechanism under Article 6.1 plus the four Members in (a)above.

(c) Notifications under Article 3.1 were required only by Members which maintained restrictions on textile and clothing products other than those under the MFA.

(d) Notifications under Article 6.1 indicating whether or not the Member wished to retain the right to use the transitional safeguard mechanism were required of all WTO Members except the four mentioned in (a) above.

Agreement on Trade-Related Investment Measures

(a) Article 5.1 requires the notification of investment measures that Members were applying that were not in conformity with the Agreement on a "one-time" basis within 90days of the date of entry into force of the Agreement.
(b) Article 6.2, also a "one-time" notification, is not yet operational; approval of an agreed standard format is pending.

Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping)

(a) Notifications of anti-dumping actions taken must be supplied semi-annually, pursuant to Article16.4. The report for the January-June1995 period was due on 31 August 1995 and for the July-December1995 period on 26 February 1996.
(b) Full and integrated texts of laws and regulations were required on a "one-time" basis (Article18.5).

Agreement on the Implementation of ArticleVII of the GATT1994 (Customs Valuation)

(a) Members that have made notifications are shown with an "X". "NA" indicates that the requirement is not applicable to this WTOMember.
(b) As special and differential treatment, Article 20.1 permits some developing country Members to delay the application of this Agreement for up to fiveyears. In addition, Article 20.2 permits some developing country Members to delay application of certain provisions for a further threeyears. AnnexIII, in its paragraphs 2, 3 and 4, provides developing countries with the possibility of notifying certain reservations.
(c) The notification of laws and regulations under Article 22.1 (or a communication indicating that the legislation notified under the Tokyo Round Agreement on Customs Valuation remains valid under the WTO Agreement on Customs Valuation) and response to the checklist of issues are "one-time" requirements of all Members.
(d) The Decisions on the treatment of interest charges in the customs value of imported goods and on the valuation of carrier media bearing software for data-processing equipment are "one-time" notification obligations for those Members choosing to apply these Decisions.

Agreement on Import Licensing

(a) Those Members which have notified are shown with an "X". "NA" indicates that the requirement is not applicable to this WTOMember.
(b) Certain developing country Members can defer the application of some provisions for not more than twoyears from the date of WTO Membership (footnote 5 to Article 2.2).
(c) Replies to the questionnaire on import licensing procedures are required of all Members by 30 September each year (Article 7.3).
(d) All Members are required to notify the names of publications in which rules and information concerning import licensing procedures are published and to submit copies of such publications. All Members are required to notify the full text of their relevant laws and regulations (Articles 1.4(a)/8.2(b)).

Agreement on Rules of Origin

(a) There are two "one-time" notification obligations in this Agreement, on existing non-preferential rules of origin (Article 5.1) and on existing preferential rules of origin (Annex II, paragraph 4). "X" denotes that a notification has been received.

Agreement on Subsidies and Countervailing Measures

(a) The annual reports on subsidies are required not later than 30 June each year (Article 25.1), and where a Member considers that there are no measures requiring such notification a "nil" return is necessary (Article 25.6). A new and full report on subsidies was due on 30 June 1995, and an updated report was due on 30 June 1996.

(b) Notifications of countervailing duty actions taken must be supplied semi-annually pursuant to Article 25.11. Those for the January-June period of 1995 were due on 31 August 1995 and for the July-December 1995 period were due on 26 February 1996.

(c) Two "one-time" notification requirements have not been included in the tables due to their limited applications: (i) subsidy programmes which are inconsistent with the Agreement (Article 28.1), which have been notified by Chile, Malaysia, Mauritius and South Africa; and (ii) subsidy programmes falling within the scope of Article 3 of the Agreement maintained by Members in the process of transformation into a market economy (Article 29.3), which have been notified by the Czech Republic, Hungary and Poland.

(d) All Members are required to notify their laws and regulations pursuant to Article 32.6.

Agreement on Safeguards

(a) Programmes to phase out certain actions must be reported on a "one-time" basis by Members concerned (Article 11.2). Those Members that have notified such programmes are shown with an "X", all others with an "0".

(b) All Members must notify their laws, regulations and administrative procedures (Article 12.6).

(c) Members maintaining certain measures (Articles 10 and 11.1) must notify these on a "one-time" basis (Article1 2.7). Members that have made such notifications are shown with an "X", all others with an "0".

GATT 1994 Article XVII:4(a) and the Understanding on the Interpretation of this Article

(a) Members are required to notify state trading enterprises – the 1995 notification obligation was to submit new and full responses to the questionnaire on state trading (BISD 9S/184-185) not later than 30 June1995. Where a Member considers that there are no activities requiring such notification, a "nil" return is necessary. The 1996 notification obligation is to submit updated notifications covering any changes since the new and full notification, and was due on 30 June 1996.

Agreement on Technical Barriers to Trade

(a) All Members are required to notify on a "one-time" basis "measures" in existence or taken to ensure the implementation and administration of this Agreement"(Article 15.2).

(b) The notifications by standardizing bodies in the Member countries that have accepted the Code of Good Practice are indicated with "X"; others with an "0".

Agreement on Preshipment Inspection

(a) Pursuant to Article 5, Members are required to notify the laws and regulations by which they put the Agreement into force, as well as other laws and regulations on this topic.

Decision on Notification Procedures for Quantitative Restrictions

(a) On 1 December 1995, the Council for Trade in Goods agreed that "Members shall make complete notification of the quantitative restrictions which they maintain by 31 January 1996 and at two-yearly intervals thereafter ..." (G/L/59).

V. Trade in services

The General Agreement on Trade in Services (GATS) is the first set of multilaterally-agreed and legally enforceable rules and disciplines applicable to international trade in services. Its inclusion in the WTO Agreements marks a fundamentally important extension of the multilateral trading system, particularly in the light of the rapid and continuing growth in production and trade in services, and of their contribution to employment. The framework agreement, largely modelled on the GATT, contains general rules and disciplines and a commitment to a continuing process of progressive liberalization, together with a number of annexes dealing with the specificities of particular sectors. In addition there are the schedules of specific commitments, forming an integral part of the Agreement, in which each Member of the WTO has recorded the service sectors and activities on which it guarantees access to its market, together with any limitations on market access and national treatment it wishes to maintain.

Work on services trade since January 1995, under the management of the Council for Trade in Services, has essentially taken three forms: further negotiations on the improvement of market access commitments in financial services, basic telecommunications, maritime transport services and movement of natural persons; the completion of the framework agreement through negotiations on safeguard measures, subsidies and government procurement and the elaboration of disciplines on domestic regulations; and the ongoing implementation of the Agreement by the Council itself.

Negotiations on market access

1) Financial services

At the end of the Uruguay Round in December 1993, there was a view among some Members that the commitments in the schedules of a number of Members did not provide an adequate basis for conclusion of the negotiations. In order to avoid a breakdown of the negotiations, Ministers agreed at the Marrakesh meeting of April 1994 that negotiations on commitments in financial services should be continued after the WTO Agreement came into force. The Second Annex on Financial Services and the Ministerial Decision on Financial Services permitted Members to improve, modify, or withdraw all or part of their commitments in the financial services sector at the end of a 15-month-long negotiation, ending on 30 127

June 1995. Members were also required to finalize their position relating to MFN exemptions in this sector at the same time. Negotiations on the basis of the Ministerial Decision began shortly after the Marrakesh meeting.

Participants agreed from the outset that the objective of these negotiations should be to achieve a higher level of commitments on an MFN basis, and not to withdraw or scale down existing commitments. However, the point was made by a number of delegations that the outcome of these negotiations could not be seen in isolation from progress in concurrent negotiations on other subjects, in particular those on the movement of natural persons.

In all 32 Members, counting the European Community as one, revised or supplemented their scheduled commitments or MFN exemptions as a result of these negotiations. However, based on a view that the quality and extent of the total package of commitments offered was not sufficient, the United States announced in the meeting of the Committee on 29 June 1995 that it had decided not to bind open the US market nor guarantee national treatment for new entrants and new activities of foreign financial services suppliers. With the withdrawal of its best offer and the submission of a revised schedule and MFN exemption on 30 June, the United States did not assume an MFN obligation that covered new activities in banking, securities, insurance, fund management, and other financial services. However, its delegation added that the US had a long history of offering full market access to its financial markets, and this would remain its normal practice; and that the United States had no intention of imposing new restrictions on foreign financial services firms already established in the country.

In an attempt to reach an agreement on a multilateral basis despite this situation, the delegation of the European Community proposed that all participants maintain their best offers on an MFN basis until December 1997. This was agreed and the Committee on Financial Services, on 21 July 1995, adopted the text of the "Second Protocol to the GATS" and the "Decision Adopting the Second Protocol to the GATS" and recommended to the Council for Trade in Services to adopt the "Decision on Commitments in Financial Services" and the "Second Decision on Financial Services".

The Council adopted these Decisions in a meeting held on the same day.

The final revised schedules and the MFN exemptions in financial services were adopted by the Committee on 28 July. They revise or supplement the national schedules and MFN exemptions negotiated in the Uruguay Round, and should be read in conjunction with them together with the previous schedules and MFN exemptions.

Of the 32 Members which amended their commitments as a result of the negotiations, 29 accepted the Second Protocol to the GATS. Of these, 20 made improved commitments in insurance, 24 in banking, 17 in securities, and 25 in other financial services. Thirteen Members revised MFN exemptions in financial services, involving deletion, suspension or reduction in the scope of exemptions. The revised commitments and MFN exemptions annexed to the Protocol entered into force on 1 September 1996.

After 1 November 1997, Members will again have a possibility during a period of 60 days to modify or withdraw the commitments in their financial services schedules and/or to take MFN exemptions in the sector. Negotiations on financial services will resume early in 1997, with the objective of achieving more comprehensive commitments on an MFN basis.

At the end of June 1996, 76 schedules, accounting for 90 Members, included commitments in financial services – more than in any other sector save tourism.

2) Basic telecommunications

Ministers at Marrakesh also agreed that negotiations should be pursued after the Uruguay Round on the liberalization of access to markets in basic telecommunications services. It had been generally agreed not to make commitments in this sector during the Round, because it was expected that to provide additional time, given the on-going reform and deregulation of national telecom regimes and rapid advances in technology, would permit more rapid progress in liberalization.

The negotiations began in May 1994 under the auspices of the Negotiating Group on Basic Telecommunications (NGBT) and were scheduled to conclude by 30 April 1996. Participation in the NGBT was voluntary. Fifty-three governments elected to participate: they accounted for most major telecommunications markets and together accounted for over 90 per cent of world telecommunications revenue. Twenty-four governments participated in the Group as observers.

Members of the NGBT took part in a major exchange of information through the responses to a questionnaire sponsored by the Group and covering definitions, market structure and competition and regulatory issues. By April 1996, 37 full participants and two observers had submitted questionnaire responses. The NGBT also examined a range of technical and regulatory issues specific to telecommunications, including licensing, interconnection, competition safeguards, transparency, independent regulatory bodies, frequency and numbering, standards and type approval, tariffs and accounting rates, termination services, rights of way and planning and universal service objectives.

In addition to these multilateral discussions, participants held intensive bilateral negotiations on commitments, during which requests and offers were tabled and discussed. Throughout the year, participants submitted draft conditional offers to the Group. In all, 34 participants, counting the European Community and its member States as one[10], submitted offers during the negotiations.

Of the 34 offers tabled[11], 32 commit to a degree of market access in voice telephony, 28 of these covering local telephone services, 27 domestic long distance, and 25 international service. As regards services other than voice telephony, market access commitments were offered by 31 Members on data transmission services; by 28 on cellular/mobile telephone markets; by 27 on private leased circuit services; by 22 on other types of mobile services; and by 16 on satellite services. It was agreed that in general these commitments should enter into force on 1 January 1998, but in a number of offers access for particular services is to be phased in over time. Thirty of the 34 participants presenting offers scheduled additional commitments relating to regulatory disciplines. Often based on a negotiated "Reference Paper", these commitments relate to such matters as competition safeguards, interconnection, licensing and the independence of regulators. These additional commitments are

[10]All figures include the European Community and its member States, counted as one participant.

[11]Argentina, Australia, Brazil, Canada, Chile, Colombia, Côte d'Ivoire, Czech Republic, Dominican Republic, Ecuador, European Community and its member States, Hong Kong, Hungary, Iceland, India, Israel, Japan, Korea, Mauritius, Mexico, Morocco, New Zealand, Norway, Pakistan, Peru, Philippines, Poland, Singapore, Switzerland, Slovak Republic, Thailand, Turkey, United States and Venezuela.

designed to underpin and safeguard the value of the market access commitments undertaken.

However, it proved impossible to conclude the negotiations by the agreed deadline; the commitments offered were held to be insufficient by some participants and a small number of more general issues remained unresolved. Participants therefore agreed at the final meeting of the NGBT, on 30 April 1996, to maintain the offers made during the negotiations and to attach them as draft schedules and lists of MFN exemptions to the Fourth Protocol to the GATS. Participants undertook, to the fullest extent consistent with their existing legislation and regulations, not to take measures which would be inconsistent with the undertakings resulting from the negotiations. It was also agreed to open a one-month period, from 15 January to 15 February 1997, during which the offers can be supplemented or modified.

A Group on Basic Telecommunications, reporting to the Council for Trade in Services, and consisting of all WTO Members, was created to conduct consultations relating to this process. This Group's first meeting took place on 19 July 1996. Participants then suggested that the issues to be dealt with were the improvement, in number and quality, of offers, the resolution of outstanding questions relating to the provision of international services and the resolution of certain issues relating to the liberalization of satellite services.

The Fourth Protocol will be open for acceptance until 30 November 1997. It is to enter into force, together with the attached commitments, on 1 January 1998. The commitments will then be added to the schedules of services commitments negotiated during the Uruguay Round.

3) Maritime transport services

Ministers agreed at the Marrakesh meeting that negotiations on commitments in maritime transport services should be continued after the WTO Agreement came into force. Although 32 countries made commitments on maritime services in the Uruguay Round (and five additional countries did so later) some major participants did not do so, and it was agreed that further negotiation should aim to improve commitments in international shipping, auxiliary services and access to and use of port facilities, leading to the elimination of restrictions within a fixed time scale. The Ministerial Decision on Negotiations on Maritime Transport Services and the Annex on Negotiations on Maritime Transport Services provided a mandate for these negotiations, with a deadline of 30 June 1996. The Decision established the Negotiating Group on Maritime Transport Services to carry out the negotiations. The Negotiating Group held 16 meetings from its inception in April 1994 and, at the time of suspension of the negotiations, 42 governments (counting the European Community and its member States as one) had elected to participate fully in the negotiations. Another 16 governments were participating in the process as observers.

At the end of June 1995, following an intensive process of information exchange, participants began submitting draft offers of commitments on maritime transport services to serve as the basis for bilateral request/offer negotiations. In all, 24 conditional offers were submitted.[12] However, most of the countries which had submitted offers withdrew them in the light of the absence of an offer by the United States, which had announced that the number and quality of offers submitted was not sufficient to justify an offer on its part. Iceland and Norway nevertheless decided to implement the best offers they had made during the negotiations. The commitments made during the Uruguay Round by Austria and the Dominican Republic were withdrawn at the end of the negotiations.

At its meeting on 28 June 1996, the Negotiating Group agreed to suspend the negotiations, agreeing a Decision on Maritime Transport Services which was later adopted by the Council for Trade in Services. First, it was decided to suspend negotiations and resume them with the next round of comprehensive services negotiations, mandated by Article XIX of the GATS, to begin no later than the year 2000. Second, the current suspension of Article II of the GATS, i.e. the MFN obligation, was maintained until the end of the resumed negotiations, which averted the need for many countries to list MFN exemptions at this stage. Third, it was agreed that negotiations would be resumed on the basis of existing or improved offers. Even though the offers have no legal status, nor has it been undertaken to implement them

[12] Australia, Brazil, Canada, Chile, Colombia, Côte d'Ivoire, Cuba, Dominican Republic, the European Community and its member States, Iceland, India, Indonesia, Japan, Korea, Mexico, Morocco, New Zealand, Nigeria, Norway, Poland, Romania, Slovenia, Switzerland and Turkey.

in any way, it is useful to have the political understanding that new negotiations will begin on the basis of existing or improved offers rather than from scratch. Finally, it was agreed that, until the end of the resumed negotiations, countries would not take any measures affecting maritime trade to improve their negotiating position except in response to measures taken by other countries. This "peace clause" is intended to help prevent the introduction of new restrictions on trade in this sector.

4) Movement of natural persons

In the Uruguay Round commitments scheduled under the fourth mode of supply, the movement of natural persons was largely limited to two categories: first, intra-company transferees regarded as "essential personnel", such as managers and technical staff linked with a commercial presence in the host country; and second, business visitors, who are short-term visitors not in general gainfully employed in the host country. The Negotiating Group on Movement of Natural Persons was established in May 1994, as the result of a further Decision by Ministers at Marrakesh, to negotiate improved commitments allowing independent service suppliers to work abroad without the requirement of an established commercial presence.

Bilateral negotiations on this subject were supervised by the Negotiating Group, which concluded its work on 28July 1995. Six Members – Australia, Canada, the European Community and its member States, India, Norway and Switzerland – made higher level commitments on the movement of natural persons. These are intended to guarantee access to these markets for qualified professionals, computer specialists and other experts of various kinds, allowing them to work abroad in an individual capacity on temporary assignments without being linked to a commercial presence in the host country.

Completion of the Framework Agreement

1) Working Party on GATS Rules

A Working Party on GATS Rules has been established to carry out the negotiations on the three disciplines which were left out of the Services Agreement – safeguard measures, government procurement and subsidies. The safeguards discussions are concerned with whether provision should be made in the Agreement for taking emergency safeguard measures when service suppliers face unexpected difficulties in the market. Pending the outcome of the negotiations on procurement, governments have no obligations with respect to their procurement activities in the field of services. By contrast, in the area of subsidies, Members are constrained to apply subsidies in a non-discriminatory fashion as between domestic and foreign services or service suppliers in those sectors or activities where they have undertaken national treatment commitments. However, the Working Party is charged with the task of examining whether additional subsidy (and perhaps countervailing) disciplines should be established, bearing in mind that while subsidies can distort trade, they may also serve legitimate public policy and development objectives.

These are all important but difficult subjects. While a deadline of December 1997 has been set for the safeguards negotiations, no prescribed time-frame exists for the negotiations on government procurement and subsidies.

2) Working Party on Professional Services

A Working Party on Professional Services (WPPS) was established in 1995 to put into effect the work programme on domestic regulation required by Article VI:4 of the GATS. The Ministerial Decision establishing the Working Party requires it as a matter of priority to make recommendations on the elaboration of multilateral disciplines in the accountancy sector, so as to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements in the area of professional services do not constitute unnecessary trade barriers. In addition, the mandate of the Working Party requires participants to concentrate on the use of international standards and the establishment of guidelines for the recognition of professional qualifications.

The Working Party on Professional Services has devoted a great deal of time and effort to the collection and analysis of data concerning national and international regulations in the accountancy sector. Discussions, based on written submissions by several delegations, have been largely conceptual in nature and difficult questions of methodology have been addressed. More recently, talks have concentrated on how to establish guidelines for the recognition of qualifications and the elements that need to be considered in ensuring that licensing requirements in accountancy do not become more burdensome than necessary.

Implementation of the GATS and other work by the Council for Trade in Services

At its first meeting, on 1 March 1995, the Council adopted four decisions, referred to it by the Marrakesh Ministerial Meeting, on Institutional Arrangements, Certain Dispute Settlement Procedures, Professional Services and Trade in Services and the Environment (SL/1-4, respectively). The Council also adopted Decisions relating to Rules of Procedure, and to the establishment of a Working Party on GATS Rules and of a Committee on Specific Commitments, as well as decisions relating to the conclusion of negotiations on movement of natural persons, commitments in financial services, commitments in basic telecommunications and the negotiations on maritime transport services.

Notifications under Article V of the GATS

At the first meeting of the Council, the European Community notified the accession of Austria, Finland and Sweden to the European Community on 1 January 1995. The notification was in fulfilment of the requirements of Article V of the GATS (Economic Integration). The EC indicated that more detailed information would be provided on all aspects of the enlargement as it relates to services, including a new schedule of commitments of the European Community and its 15 member States. On 30 March 1995 the Council established a Working Party to examine the enlargement of the European Community in terms of its consistency with the provisions of Article V. The EC also notified to the Council the "economic integration agreement" as instituted by the Treaty of Rome, subsequently enlarged and modified most recently by the Treaty on the European Community.

At its first meeting, the Council also received a joint notification from Canada, Mexico and the United States concerning the North American Free Trade Agreement (NAFTA) in fulfilment of the requirements of Article V. The Council established a Working Party on 30 May 1995 to examine NAFTA in terms of its consistency with Article V.

Taxes and subsidies at the sub-federal Level

At the conclusion of the Uruguay Round, the Chairman of the Group of Negotiations on Services issued a statement on 13 December 1993 which provided an additional period of time, until 15 June 1994, to complete the scheduling of measures relating to taxes and subsidies at the sub-federal level which were inconsistent with Article XVII (national treatment). The statement also stipulated that the scheduling of such measures should not result in any alteration in the negotiated balance of rights and obligations, and provided that, if any participant considered that this balance had been altered as a result of the scheduling of such measures, it might consult with the participant or participants concerned with a view to reaching a satisfactory adjustment. On 30 June 1994 the United States submitted a communication containing measures that it proposed to add to its schedule. Upon request from other delegations, multilateral consultations were initiated under the auspices of the Sub-Committee on Services during 1994. They have since continued under the Council. An interim report on the consultations by the Secretariat was submitted to the Council on 30 January 1996.

Procedures for the modification of schedules

Article XXI of the GATS calls upon the Council to elaborate procedures for the implementation of its provisions concerning the modification of schedules of specific commitments. This concerns essentially the withdrawal or modification of a scheduled commitment and the negotiation of compensation with countries affected. Informal consultations under the auspices of the Council, on the basis of a draft text that had been developed during the final stage of the Uruguay Round negotiations, are still in progress with a view to producing a final text for adoption by the Council.

Statistics on trade in services

Members of the WTO noted that problems relating to the availability and comparability of services statistics required urgent attention. Accordingly, the Secretariat was asked to prepare a background note on services statistics as a basis for initiating work in this area and to assist delegations in the consideration of the issues involved. Discussions in the Council focused primarily on issues relating to the creation of a statistical framework to service GATS needs. It was noted that the WTO Secretariat was participating in the work of an Inter-Agency Group on this question. It was felt that further discussions were necessary and that it was premature to take any decision on the establishment of a special body to conduct work in this area.

Committee on Specific Commitments

This Committee was established to perform three functions: the oversight of the implementation of commitments, with particular reference to the mode of movement of natural persons; the examination of technical aspects of schedules of commitments and MFN exemptions; and oversight of the application of the procedures for modification of schedules under Article XXI. It held its first meeting in May1996, when participants indicated that priority should be given to issues relating to the classification and definition of services, in the context of the improvement of the technical accuracy and consistency of schedules. It was felt that the oversight of the implementation of commitments should take place on an ad hoc basis, and be limited to technical issues. The oversight of the use of Article XXI procedures will be taken up when these procedures have been finalized. Members have suggested that work on the technical aspects and consistency of the scheduling of commitments will be of particular value in preparation for the next round of negotiations on services commitments, scheduled to begin not later than the beginning of the year 2000.

VI. 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, the layout-design of integrated circuits and undisclosed information. It also contains provisions aimed at the effective enforcement of such intellectual property rights, provides for multilateral dispute settlement and gives developing countries transition periods to bring their legislation and practices into conformity.

Whereas the TRIPS Agreement came formally into effect on 1 January 1995 together with the rest of the WTO Agreement, its main provisions only became applicable from 1 January 1996, when developed countries came under an obligation to apply them. 1995 therefore provided a period during which the TRIPS Council could make necessary preparations.

One major aspect of the work of the Council for TRIPS in 1995 and early 1996 was making arrangements for the notification and review of national implementing legislation. The drawing up of procedures for the notification of the national laws and regulations involved finding a balance between two considerations: first, the need for legislative texts to be distributed to the members of the Council so as to provide a basis for monitoring compliance with obligations in accordance with the Council's mandate; and second, the need to minimize the administrative burdens on Members and the Secretariat in the light of the sheer volume of the material in question and to avoid unnecessary duplication with the World Intellectual Property Organization (WIPO), which maintains a collection of national legislation. To this end, the procedures make a distinction between the main laws which are dedicated to intellectual property, which have to be submitted in a WTO language and which will be circulated to all Members in that language, and other laws and regulations, in respect of which a brief summary is distributed. In the area of enforcement, where legislative texts may constitute less valuable guides to practice, Members have agreed to respond to a checklist of some 25 questions on how their national laws and practices meet the requirements of the TRIPS Agreement. A schedule and procedures for the review of implementing legislation have been adopted. The review started with a session in July 1996 devoted to copyright, to be followed by trademarks, geographical indications and industrial designs in November 1996, patents, integrated circuits and undisclosed information in the first half of 1997 and enforcement in the second half of 1997. The review will apply to the legislation of developed countries and of any other countries not still availing themselves of a transitional period.

The Council has also made arrangements for various other notifications – notably those to invoke exceptions in respect of phonogram producers and broadcasting organizations; the invocation of exceptions to the most-favoured-nation treatment obligation based on advantages deriving from a pre-existing agreement; and the notification of contact points established in administrations for the purposes of cooperating with each other with a view to eliminating international trade in infringing goods. Discussions are ongoing in the TRIPS Council on the question of whether further guidance on the notifications in respect of the most-favoured-nation clause are called for.

The Council has regularly considered the state of play in the implementation of the so-called "mail-box" provisions of Article 70.8 and the exclusive marketing provision of Article 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. Ten Members of the WTO have notified the way in which they are giving effect to the mail-box obligation. As noted elsewhere in this report, dispute settlement procedures have been initiated by the United States against Pakistan and India in regard to this matter. A number of other specific issues relating to alleged non-compliance have also been discussed in the Council. Dispute settlement proceedings have been initiated, in respect of two of these – the complaints by the United States and the European Community against Japan in respect of retroactive protection of sound recordings and the complaint by the United States against Portugal in respect of the extension of the term of existing patents to 20 years from filing.

The Council has recognized the importance of the provision, both by developed countries and by intergovernmental organizations, of technical cooperation to facilitate the implementation of TRIPS obligations by developing countries. Article 67 of the Agreement obliges each developed country 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 monitoring compliance with this obligation, developed Member countries have agreed to present descriptions of their relevant technical and financial programmes and to update this annually. For the sake of transparency, intergovernmental organizations have also presented information on their activities. 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. Furthermore, the Council has given the go-ahead to the organization of a pilot project for an in-depth discussion of a specific aspect of technical cooperation, to be held in a more informal setting in the margins of a Council meeting. The first such workshop, to be held in September1996, will be devoted to the issue of border enforcement and will be organized in cooperation with WIPO.

Article 68 of the TRIPS Agreement provides that the Council shall, in consultation with WIPO, seek to establish, within one year of its first meeting, appropriate arrangements for cooperation with the bodies of that organization. It is the aim of the WTO, as reflected in the TRIPS Agreement itself, to establish a mutually supportive relationship between the WTO and WIPO. Following consultations held between the two organizations, agreement was reached on a cooperation agreement which was approved by the competent bodies of the two Organizations and which came into effect 1 January 1996. This Agreement provides for cooperation in three areas: first, the notification and translation of, and access to, laws and regulations; second, the implementation of the provisions of Article 6 ter of the Paris Convention (relating to the protection of national emblems) for the purposes of the TRIPS Agreement; and, third, the provision of legal technical assistance and technical cooperation by the two secretariats.

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

Overview

"The dispute settlement system of the WTO is a central element in providing security and clarity in the multilateral trading system", states the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The benefits of liberalization of trade in goods and services cannot be realized unless there is certainty that trade rules and market access commitments are enforced. The new WTO dispute settlement mechanism provides this security. Compared to the system under the GATT 1947, the increased automaticity and the clearly defined time-frames have contributed to the new system's efficiency and effectiveness in settling disputes.

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 authorize suspension of concessions in the event of non-implementation of recommendations.

In its first months of its existence, the DSB had to ensure that the new dispute settlement system became rapidly operational. The DSB established the standing Appellate Body – a newly created organ to hear appeals from panel cases – in November 1995. The Appellate Body is composed of seven persons – broadly representative of WTO Membership – who will serve four-year terms. They are required to be persons of recognized standing in the field of law and international trade, and not affiliated with any government. Members of the Appellate Body are:

Mr. James Bacchus of the United States
Mr. Christopher Beeby of New Zealand
Professor Claus-Dieter Ehlermann of Germany
Dr. Said El-Naggar of Egypt
Justice Florentino Feliciano of the Philippines
Mr. Julio Lacarte Muró of Uruguay
Professor Mitsuo Matsushita of Japan

The DSB also established an indicative list of governmental and non-governmental panellists pursuant to the DSU and a number of working practices to streamline its functioning.

In the first 19 months of its operation, the DSB received 50 formal requests for consultation under the DSU. In 20 of these cases, the DSB was requested to establish a panel. Some of these requests involved the same or similar issues, with the result that ultimately 12 distinct panels were established during this period. In May 1996, the DSB adopted an appellate report in the first completed case, which concerned a complaint by Venezuela and Brazil on a US regulation concerning gasoline composition.

Panel cases

This section briefly describes those cases where panels were established by the DSB during the period from January 1995 to July 1996.

United States – Standards for reformulated and conventional gasoline

In January 1995, Venezuela requested consultations with the United States on the rule issued by the Environmental Protection Agency (EPA) on 15 December 1993 entitled "Regulations of Fuels and Fuel Additives – Standards for Reformulated and Conventional Gasoline" based on the Clean Air Act. Earlier, the GATT 1947 Council had established a panel on the same issue, but Venezuela withdrew its complaint in January 1995.[13] In March 1995, Venezuela requested the establishment of a panel, which the DSB established in April 1995.

In April 1995, Brazil requested consultations with the United States on the same EPA rule. In May 1995, Brazil requested the establishment of a panel. The DSB decided that a

[13] GATT Activities 1994-1995, p.48.

single panel would consider the complaints of both Venezuela and Brazil. The complainants alleged that the EPA rule discriminated against their gasoline in violation of GATT Articles I and III and Article 2 of the Agreement on Technical Barriers to Trade (TBT).

The report of the panel, which was circulated to WTO Members in January 1996, found that the methods for the establishment of "baselines" (the quality of 1990 gasoline, to which reformulated and conventional gasoline would be compared in the future) which were contained in the EPA rule were not consistent with GATT Article III:4 and could not be justified under paragraphs (b), (d) and (g) of GATT Article XX. The panel recommended that the DSB request the United States to bring the measures in question in conformity with its obligations under the GATT. In concluding, the panel underlined that it was not its task to examine generally the desirability or necessity of the environmental objectives of the Clean Air Act or the EPA rule. Its examination was confined to those aspects of the EPA rule that had been raised by the complainants under specific provisions of the GATT. Under the GATT, Members were free to set their own environmental objectives but they were bound to achieve these objectives through measures consistent with its provisions, notably those on the relative treatment of domestic and imported products.

The United States filed a notice of appeal in February 1996, seeking review by the Appellate Body of the panel's legal interpretation of GATT ArticleXX, the relevant provisions to which read as follows:

> Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any [Member] of measures:
>
> ...
>
> (g) relating to conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
>
> ...

In April 1996, the Appellate Body issued its report, modifying the panel report's interpretation of GATT Article XX(g), but leaving the panel result intact. The Appellate Body stated that the panel erred in concluding that the EPA rule did not fall within the terms of GATT Article XX(g). However, it also found that the EPA rule failed to meet the requirements of the chapeau of Article XX and accordingly was not justified under that provision. The appellate report and the panel report as modified by the appellate report were adopted by the DSB in May 1996.

EC – Trade description of scallops

In May 1995, Canada requested consultations with the EC concerning the French Government Order of 22 March 1993 and its amendments relating to the official name and trade description of scallops. The DSB established a panel in July 1995.

In July 1995, Peru and Chile separately requested consultations with the EC on the same French Order. In October 1995, the DSB established a single panel pursuant to the requests of Peru and Chile. The same individuals serving on the panel established at the request of Canada served on this panel.

The French Order allowed only scallops of the genus pecten to be marketed as "coquilles Saint-Jacques". All other genus and species of scallops had to be labelled and marketed under the name "pétoncles". The complainants claimed that this Order would reduce competitiveness of their product (non-pecten scallops) in the French market as they would no longer be able to be sold as "coquilles Saint-Jacques" although there was no difference between their scallops and French scallops in terms of colour, size, texture, appearance and use. In other words, it was claimed that they were "like products". Violations of GATT Articles I and III and TBT Article 2 were alleged.

The two panels concluded their substantive work in March 1996, but they suspended the proceedings pursuant to Article 12.12 of the DSU in May 1996 in view of the consultations held among the disputing parties toward achieving a mutually agreed solution. The parties notified their mutually agreed solution to the DSB on 5 July 1996.

Japan – Taxes on alcoholic beverages

In June 1995, the EC requested consultations with Japan concerning the internal taxes levied on certain alcoholic beverages pursuant to Japan's Liquor Tax Law. The EC had invoked the dispute settlement procedures under the GATT on the same subject in 1986. The panel report on "Japan – Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages", which found Japan's measures to be inconsistent with GATT Article III:2, was adopted by the GATT 1947 Council in November 1987.[14] The relevant paragraphs of GATT Article III read as follows:

1. [Members] recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.
2. The products of the territory of any [Member] imported into the territory of any other [Member] shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no [Member] shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

Japan undertook a reform of its liquor taxation system in 1989 and amended this system again in 1994. Nevertheless, according to the EC, a number of EC beverages continued to be subject to a tax discrimination in the Japanese market.[15]

In July 1995, Canada and the United States separately requested consultations with Japan on the same issue. A joint panel was established at the DSB meeting in September 1995. The complainants claimed that spirits exported to Japan continued to be discriminated against under the Japanese liquor tax system which levied a substantially lower tax on "shochu" than on whisky, cognac and white spirits.

The report of the panel, which was circulated to Members in July 1996, found that shochu and vodka were like products and that Japan violated GATT Article III:2, first sentence, by taxing vodka in excess of shochu; and that shochu and the rest of liquors in dispute were "directly competitive or substitutable products" and Japan violated GATT Article III:2, second sentence, by not taxing them similarly.

EC – Duties on imports of cereals

In July 1995, Canada requested consultations with the EC concerning EC regulations implementing some of the EC's Uruguay Round concessions on agriculture, specifically regulations which imposed a duty on wheat imports based on reference prices rather than transaction values. Canada claimed that as a result Canadian wheat was subject to higher duties than permitted under WTO rules. The DSB established a panel in October 1995. However, after the establishment of the panel, the dispute appears to have been settled bilaterally in the context of GATT Article XXIV:6 negotiations following the enlargement of the European Community. In any event, the panelists were never selected.

EC – Regime for the importation, sale and distribution of bananas

In September 1995, Guatemala, Honduras, Mexico and the United States requested consultations with the EC on the EC regime for the importation, sale and distribution of bananas. The GATT 1947 Council in 1993 established two dispute settlement panels to examine the EC's banana regime, but neither of the panel reports was adopted.[16]

In February 1996, Ecuador (which became a Member in January 1996), Guatemala, Honduras, Mexico and the United States requested consultations with the EC on the same issue. The complainants claimed that the EC's regime for importation, sale and distribution of bananas was inconsistent with GATT Articles I, II, III, X, XI and XIII as well as provisions of the Import Licensing Agreement, the Agreement on Agriculture, the TRIMs Agreement and the GATS. A panel was established in May 1996.

Brazil – Measures affecting desiccated coconut

In November 1995, the Philippines requested consultations with Brazil regarding the imposition of countervailing duties on processed desiccated coconut from the Philippines. As the consultations did not result in a mutually agreed solution, the Philippines in January

[14] GATT Activities 1987, pp.61-63.
[15] GATT Activities 1994-1995, pp.59-60.
[16] GATT Activities 1994-1995, pp.42-44.

1996 requested the DSB to establish a panel. The Philippines claimed that the duties were inconsistent with Brazil's obligations under Article VI of GATT 1994 because, inter alia Brazil had not established the basic prerequisites for imposing such duties and in particular had not correctly calculated the degree of subsidization. Brazil objected to this claim on the ground that the Tokyo Round Subsidies Code was the only legal framework applicable to the dispute. In Brazil's view the WTO Agreements did not apply to countervailing duty investigations initiated prior to the date of entry into force of the WTO Agreement.

A panel was established in March 1996, with special terms of reference mandating that the panel consider the Brazilian objection that the WTO Agreements did not apply to the dispute.

US – Restrictions on imports of cotton and man-made fibre underwear

In December 1995, Costa Rica requested consultations with the United States on the introduction and implementation of quantitative restrictions on cotton and man-made fibre underwear from Costa Rica. Earlier, in accordance with the Agreement on Textiles and Clothing (ATC), the Textile Monitoring Body (TMB) had examined the case. Under the ATC, the United States was required to show "serious damage" or "actual threat of serious damage" to its industry in order to impose such restrictions. The TMB concluded that the United States had not demonstrated that US industry suffered "serious damage", but could not reach consensus on whether an "actual threat of serious damage" to US industry existed. The TMB recommended further consultation, but the consultations did not result in a mutually agreed solution. A panel was established at the DSB meeting in March 1996 to consider the Costa Rican claim that US restrictions were without justification.

EC – Measures concerning meat and meat products (Hormones)

In January 1996, the United States requested consultations with the EC regarding the Council Directive Prohibiting the Use in Livestock Farming of Certain Substances Having Hormonal Action and related measures. In April 1996, the United States requested the establishment of a panel. The United States claimed that these measures restricted or prohibited imports of meat and meat products from the United States, and were inconsistent with GATT Articles III or XI, SPS Agreement, Articles 2, 3 and 5, TBT Agreement, Article 2, and the Agreement on Agriculture, Article 4. A panel was established in May 1996.

During 1987 and 1988, the issue was discussed in the framework of GATT 1947, but the discussion did not lead to the establishment of a panel.[17]

US – Measures affecting imports of women's and girls' wool coats

In March 1996, India requested the establishment of a panel, claiming that the transitional safeguard measures on imports of women's and girls' wool coats from India imposed by the United States were inconsistent with ATC Articles 2, 6 and 8. It exercised its right under ATC Article 8.10, which allows an immediate request for a panel in cases where the TMB review is completed. A panel was established in April 1996. However, later in April 1996, India requested "termination of further action in pursuance of the decision taken by the DSB on 17 April 1996 to establish a panel" in light of the US removal of the safeguard measures on these products, which came into effect on 24 April 1996.

US – Measures affecting imports of woven wool shirts and blouses

In March 1996, India requested the establishment of a panel pursuant to DSU Article 6 and ATC Article 8.10, without going through the consultation procedure under the DSU. The case concerns the transitional safeguard measures imposed by the United States on imports of woven wool shirts and blouses from India in July 1995. Earlier, the TMB had examined the issue and reached a consensus that the United States had demonstrated "actual threat of serious damage"; it found the US measure to be in conformity with the ATC. Nevertheless, India claimed that these safeguard measures were inconsistent with ATC Articles 2, 6 and 8. India further requested the panel to find that the burden of proof for establishing the existence of "serious damage or the actual threat thereof" lay with the importing country and that restraints could not be imposed with retrospective effect under the ATC. A panel was established in April 1996.

[17] GATT Activities 1987, p.80, pp.99-100. GATT Activities 1988, pp.72-73.

Canada – Certain measures concerning periodicals

In March 1996, the United States requested consultations with Canada, claiming that measures prohibiting or restricting the importation into Canada of certain periodicals were in contravention of GATT Article XI. The United States further alleged that the tax treatment of so-called "split-run" periodicals and the application of favourable postage rates to certain Canadian periodicals were inconsistent with GATT Article III. The DSB established a panel in June 1996.

Mutually agreed solutions

The DSU states: "The aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to parties to a dispute and consistent with the covered agreements is clearly to be preferred". In line with this provision, a number of disputes that were formally raised under the DSU were settled through mutually agreed solutions.

United States – Imposition of Import Duties on Automobiles from Japan under Sections 301 and 304 of the Trade Act of 1974 was one of such cases where the parties reached a mutually satisfactory solution. Faced with a stalemate in the bilateral negotiations with Japan over access to the Japanese automobiles and auto parts market, the United States announced on 16 May 1995 its intention to impose a 100 per cent tariff on Japanese luxury cars as of 28 June 1995. Japan requested urgent consultations pursuant to the DSU, alleging that the United States violated, inter alia, GATT Articles I and II. Separately, the United States indicated its intention to request consultations with Japan over the auto and auto parts issue under the DSU. On 28 June 1995, Japan and the United States reached an agreement on the auto and auto parts issue, and the United States withdrew its announcement of the 100 per cent tariff. WTO Director-General Renato Ruggiero remarked "the WTO dispute settlement system has done its job as a deterrent against conflict and a promoter of an agreement. The knowledge that both sides were prepared to use the system played a crucial role in pressing them towards a deal."

The following table shows cases where the disputing parties reached, or appear to have reached, a mutually agreed solution during the period from January 1995 to July 1996.

Table V.7
Mutually agreed solutions, January 1995 – July 1996

	Complainant(s)	Request for consultations	Mutually agreed solution
Malaysia – Prohibition of Imports of Polyethylene and Polypropylene[a]	Singapore	January 1995	July 1995 (withdrawal of the request for a panel)
Korea – Measures Concerning the Shelf-Life of Products	United States	April 1995	July 1995 (notification of mutually agreed solution)
US – Imposition of Import Duties on Automobiles from Japan under Sections 301 and 304 of the Trade Act of 1974	Japan	May 1995	July 1995 (notification of mutually agreed solution)
EC – Trade Description of Scallops[b]	Canada, Peru, Chile	May 1995 July 1995	July 1996 (notification of mutually agreed solution)
EC – Duties on Imports of Cereals[c]	Canada	June 1995	No notification
EC – Duties on Imports of Grains[d]	United States	July 1995	No notification

Table V.7
Mutually agreed solutions, January 1995 – July 1996 (continued)

	Complainant(s)	Request for consultations	Mutually agreed solution
Japan – Measures Affecting the Purchase of Telecommunications Equipment	European Community	August 1995	No notification
Korea – Measures Concerning Bottled Water	Canada	November 1995	April 1996 (notification of mutually agreed solution)
Venezuela – Anti-Dumping Investigation in Respect of Imports of Certain Oil Country Tubular Goods	Mexico	December 1995	December 1995 (communication from Venezuela on the termination of the investigation)
US – Measures Affecting Imports of Women's and Girls' Wool Coats[e]	India	Direct request for the establishment of a panel	April 1996 (request for the termination of the further DSB action)
US – Tariff Increases on Products from the EC	European Community	April 1996	July 1996 (suspension of request for a panel)

[a] Request for the establishment of a panel, March 1995. Panel never established.
[b] Panel established (Canada), July 1995. Panel established (Peru, Chile), October 1995. Details above.
[c] Panel established October 1995. Details above.
[d] Request for establishment of a panel, October 1995. Panel never established.
[e] Panel established, April 1996. Details above.

Other requests for consultations

Table V.8
Requests for consultations, as of 31 July 1996

	Complainant(s)	Request for consultations
Korea – Measures Concerning the Testing and Inspection of Agricultural Products	United States	April 1995
EC – Duties on Imports of Rice	Thailand	October 1995
Australia – Measures Affecting the Importation of Salmon	Canada	October 1995
Poland – Import Regime for Automobiles	India	September 1995
Australia – Measures Affecting the Importation of Salmonids	United States	November 1995
EC – Implementation of the Uruguay Round Commitments Concerning Rice	Uruguay	December 1995
Japan – Measures Concerning Sound Recordings	United States European Community	February 1996 (US), May 1996 (EC)

Table V.8
Requests for consultations, as of 31 July 1996 (continued)

	Complainant(s)	Request for consultations
Turkey – Restrictions on Imports of Textile and Clothing Products	Hong Kong, India, Thailand	February 1996 (Hong Kong), March 1996 (India), June 1996 (Thailand)
Brazil – Countervailing Duties on Imports of Desiccated Coconut and Coconut Milk Powder from Sri Lanka	Sri Lanka	February 1996
Hungary – Export Subsidies in Respect of Agricultural Products	Argentina, Australia, Canada, New Zealand, Thailand, United State	March 1996
Pakistan – Patent Protection for Pharmaceutical and Agricultural Chemical Products	United States	April 1996
Portugal – Patent Protection under the Industrial Property Act	United States	April 1996
US – The Cuban Liberty and Democratic Solidarity Act	European Community	May 1996
Korea – Laws, Regulations and Practices in the Telecommunications Sector	European Community	May 1996
Korea – Measures Concerning Inspection of Agricultural Products	United States	May 1996
Turkey – Taxation of Foreign Film Revenues	United States	June 1996
Japan – Measures Affecting Consumer Photographic Film and Paper	United States	June 1996
Japan – Measures Affecting Distribution Services	United States	June 1996
India – Patent protection for Pharmaceutical and Agricultural Chemical Products	United States	July 1996
Brazil – Certain Automotive Investment Measures.	Japan	July 1996
Brazil – Export Financing Programme for Aircraft	Canada	June 1996

VIII. Trade Policy Review Mechanism

The objectives of the Trade Policy Review Mechanism, established on a provisional basis at the Mid-term review of the Uruguay Round and confirmed in Annex 3 of the Marrakesh Agreement, are to contribute to improved adherence by all members of the WTO to the Organization’s rules, disciplines and commitments, and to the smoother functioning of the multilateral trading system. The 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 by the Members of the full range of an individual Member's trade policies and practices (now covering all areas of the WTO Agreements) and their impact on the functioning of the multilateral trading system. Reviews take place against the background of wider economic development needs, the policies and objectives of the Members concerned, as well as the external trading environment.

Reviews are conducted in the General Council, meeting as the Trade Policy Review Body (TPRB). During 1995 the TPRB was chaired by Ambassador Nestor Osorio (Colombia); the Vice-Chairman was Mr. Abdelkader Lecheheb (Morocco). In 1996, the Chair was taken by Ambassador Anne Anderson (Ireland).

The TPRM lays down a rhythm of reviews, under which the four largest entities in world trade (the European Community, the United States, Japan and Canada – the "Quad") are reviewed every two years; the next 16 every four years; and the remaining Members of the WTO every six years, with a longer interval envisaged for least-developed countries. It has been agreed that these intervals might, if necessary, be applied with a flexibility of six months' extension and that every second review of the "Quad" should be an interim review, while remaining comprehensive in scope.

By mid-1996, a total of 72 reviews had been conducted, covering 55 WTO Members (counting the EC as one), with each of the "Quad" countries having been reviewed three times. Thirty-nine developing countries been reviewed, of which five twice. In 1995, 12 Members were reviewed; Cameroon, Costa Rica, Côte d'Ivoire, European Union (third review), Japan (third review), Mauritius, Morocco, Pakistan, the Slovak Republic, Sri Lanka, Thailand (second review) and Uganda. In January-July 1996, the TPRB carried out reviews of the Czech Republic, the Dominican Republic, Morocco (second review), Norway (second review), Singapore (second review), Switzerland (second review) and Venezuela. The Chairperson's summings-up of these reviews can be found in Annex II. The Chair's concluding remarks on previous reviews can be found in GATT Activities 1990, 1991, 1992, 1993, 1994-95.

In the period September-November 1996, the TPRB was scheduled to carry out reviews of Brazil (second review), Canada (fourth review), Colombia (second review), El Salvador, Republic of Korea (second review), New Zealand (second review), the United States (fourth review) and Zambia.

Consultations held by the Chairpersons during 1995 and 1996 resulted in a number of further improvements in the TPRB's procedures, covering the need for a "user-friendly" approach; the need for flexibility at the preparatory and subsequent stages; the need for a high level of attendance at TPRB meetings, given that the delegations of many Members under review were led by Ministers; the status of discussants; the structure and content of the Chairperson's concluding remarks; follow-up to review meetings; the rhythm of reviews; and better dissemination of TPR publications. There was agreement that the TPRM was generally working well; however, the challenge was to ensure that the mechanism operated to maximum effect, with the best possible return on the investment of human and financial resources by the Secretariat and Members.

IX. 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. 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.

During 1995 and so far in 1996, seven Members have either ceased to apply, or have given undertakings to disinvoke, the balance-of-payments provisions. South Africa, Egypt, Israel and Brazil disinvoked balance-of-payments provisions in 1995; Turkey, Poland and Slovakia will do so by the end of 1996 and the Philippines by the end of 1997. Members still consulting in the Committee include Bangladesh, India, Hungary, Nigeria, Pakistan, Sri Lanka and Tunisia.

Consultations in 1995

In the last two months of 1995, consultations under the WTO and GATT 1947 Committees were held with Sri Lanka, the Philippines and India.

The Committees congratulated **Sri Lanka** on the reforms towards open, liberal and market-oriented economic and trade policies undertaken in recent years, including tariff rationalization and a major reduction in the scope of import licensing. In spite of a negative impact on the balance of payments due to the deterioration in the economic situation since mid-1994, most Members did not perceive a threat of a serious decline in SriLanka's international reserves. Recalling that restrictive measures for balance-of-payments purposes should be temporary, price-based, administered in a transparent manner and applied only to control the general level of imports, members questioned the justification on balance-of-payments grounds of the remaining quantitative restrictions on food items under eight Harmonized System tariff lines and recommended to Sri Lanka not to have recourse to the provisions of ArticleXVIII:B.

In the consultations with the **Philippines**, the Government of the Philippines undertook to disinvoke Article XVIII:B, subject to the implementation of the Uruguay Round Agreement on Agriculture by mid-1996 and the liberalization of remaining restrictions on energy products by the end of 1997. The Philippines notified the elimination of its restrictions on agricultural products in June 1996.

The Committees commended **India** for the wide-scale economic reforms and comprehensive stabilization programme over the past four years, which had resulted in robust economic recovery. The Committees noted that in spite of a gradual increase in import liberalization, almost one third of tariff lines remained subject to quantitative restrictions. They recalled India's stated aim to move, by 1996-97, to a trade regime under which quantitative restrictions were retained only for environmental, social, health and safety reasons, provided sustained improvement was shown in its balanceof payments. India agreed to notify to the WTO all remaining restrictions maintained for balance-of-payments purposes soon after the announcement of the 1996/97 Export-Import Policy and to resume consultations in October 1996. India submitted its notification in July 1996.

Consultations in 1996

During the consultations held in February 1996, the Committee recognized that the macroeconomic situation in **Nigeria** remained precarious. Its external position had weakened further in 1994 mainly because of inadequate monetary and fiscal disciplines, and Members suggested that the import restrictions currently in place were not the appropriate response to the balance-of-payments deficit. Nigeria reconfirmed its commitment to make all restrictive trade measures price-based and to eliminate them by disinvoking Article XVIII:12(b) and agreed to resume the consultations by September 1996.

In June, the Committee welcomed the structural reforms and trade liberalization policies pursued by **Tunisia**, noting especially the continuing elimination or tariffication of quantitative restrictions. Opinions differed as to whether the balance-of-payments situation constituted a threat of a serious decline in Tunisia's monetary reserves and whether the measures applied to selected motor vehicles were justified. The Government of Tunisia promised to notify the coverage of products by tariff line to which the restrictions justified under balance-of-payments provisions applied and agreed to resume the consultations in June 1997. The notification was submitted in July 1996.

Also in June, consultations were held with the **Slovak Republic.** The Government of the Slovak Republic informed the Committee that it was reducing the import surcharge from 10 to 7.5 per cent effective 1 July 1996. The Committee noted that the Slovak Republic's import surcharge had been in force since 1994, and that, despite the improvement in its reserves position, the Slovak Republic had not fulfilled its previous undertakings to the WTO. The Committee concluded that there was no imminent threat of a serious decline in the Slovak Republic's monetary reserves recalling that balance-of-payments measures should be temporary and that they should not be used for fiscal or protective purposes. It considered that the import surcharge could not be justified by the balance-of-payments provisions of the GATT 1994, and therefore that it should be eliminated. The Committee welcomed the decision of the Government of the Slovak Republic, dated 25 June 1996, committing itself to eliminate the surcharge with effect from 1 January 1997, and to disinvoke the provisions of Article XII of GATT 1994 at the same time.

The consultations foreseen for June and July with **Turkey** and **Poland** were cancelled, as these Members had notified the Committee that they would be eliminating the measures justified on balance-of-payments grounds and thus disinvoking the relevant provisions by 1 January 1997.

X. Committee on Regional Trade Arrangements

Introduction

The proliferation of regional trading arrangements has raised concerns generally about their compatibility with the multilateral trading system. A trend which is clearly emerging, and which may have far-reaching implications for the multilateral trading system, is the move to continent-wide free trade agreements. Moreover, the point has been made that, if steps taken at the regional level are not matched at the global level, there will be a real danger that Members which are parties of such regional agreements will no longer have the incentive to comply with the rules of the multilateral trading system.

Two main concerns can be identified: the fragmentation of the multilateral trading system and the shifting of political momentum from multilateralism to regionalism. Therefore, a central issue facing the Members of the WTO is how to ensure the complementarity and mutual strengthening of regionalism and multilateralism. At the Singapore Ministerial Conference, Ministers will have to consider how, and to what extent, this concern, which is shared by all Members, will be translated into commitments.

Given the irreversibility of the trend towards regionalism, there is a general perception that the WTO should strengthen its ability to examine the consistency of all preferential trading agreements with the multilateral rules. The recent establishment of the Committee on Regional Trade Agreements (see below) is a step in the right direction. The Committee has been charged with the responsibility of considering, inter alia, "the systemic implications of such agreements and regional initiatives for the multilateral trading system and the relationship between them...".

Some governments which are members of the Committee have expressed the view that complementarity and mutual strengthening of regionalism and multilateralism would require a higher level of commitment vis-à-vis the multilateral trading system. In particular, it has been suggested that WTO Members should commit themselves to a multilateral trading system responsive to the new challenges and that open regionalism – or regional trade agreements with liberal accession clauses, which extend benefits to non-parties without expecting reciprocity – should be strongly supported by WTO Members.

1995 activities related to regional agreements

During 1995, work in the area of regional agreements revolved around three basic axes: transition of the competence to examine regional agreements from GATT1947 to the WTO; examination of 12 regional agreements notified to the GATT 1947; and, preparing for the examination of 13 regional agreements notified to the WTO.

At its meeting in July 1995, the General Council modified the terms of reference for those working parties established under Article XXIV of the GATT 1947 which had not yet met. This was done so that the agreements could be examined in the light of the relevant provisions of the GATT1994 and to arrange for the submission of the reports of these working parties to the WTO Council for Trade in Goods (CTG).[18] At its meeting in September, the Committee on Trade and Development agreed to modify the terms of reference of the MERCOSUR Working Party in line with this approach, albeit with certain adjustments to take account of the fact that the examination would be done in the light of the relevant provisions of the Enabling Clause and of the GATT 1994. The report and recommendations were forwarded to the Committee on Trade and Development for submission to the General Council. A copy of the report was also given to the CTG.

Committee on Regional Trade Agreements

Responding to a formal Canadian proposal, the General Council authorized its Chairman in November 1995 to carry out consultations with a view to exploring the possibilities of establishing a Committee on regional trading arrangements in the WTO. The Canadian proposal suggested that such a committee would enhance the organization of work in the area of regional trading arrangements. The Canadian suggestion found significant support among Members of the WTO, which led in February 1996 to the establishment of the Committee on Regional Trade Agreements by the General Council. The Committee has the following terms of reference:

(a) to carry out the examination of agreements[19] in accordance with the procedures and terms of reference adopted by the Council for Trade in Goods, the Council for Trade in Services or the Committee on Trade and Development, as the case may be, and thereafter present its report to the relevant body for appropriate action;

(b) to consider how the required reporting on the operation of such agreements should be carried out and make appropriate recommendations to the relevant body;

(c) to develop, as appropriate, procedures to facilitate and improve the examination process;

(d) to consider the systemic implications of such agreements and regional initiatives for the multilateral trading system and the relationship between them, and make appropriate recommendations to the General Council; and

(e) to carry out any additional functions assigned to it by the General Council.

Under (a), the Committee will carry out the examination of new agreements notified to the WTO, complete the outstanding work of the working parties established previously and report to the appropriate bodies. Under (b), the Committee will consider in particular what effect should be given in future to the 1971 Decision requiring parties to preferential agreements to report biennially on their operation (the 1971 Decision was revived in the Uruguay Round Understanding on the Interpretation of Article XXIV of the GATT 1994). The adoption of new procedures as required under (c) is expected to streamline the examination process. Finally, discussions under (d) – which are not intended to result in any legal commitments – are expected to clarify a

[18] These Working Parties were to examine the following agreements: North American Free Trade Agreement; Free Trade Agreements between Switzerland and Estonia, Latvia and Lithuania; Central European Free-Trade Agreement; Free Trade Agreements between EFTA and Bulgaria, Hungary, Israel, Poland and Romania; Free Trade Agreements between Slovenia and the Czech Republic and the Slovak Republic; Interim Agreements between the European Community and the Czech Republic, the Slovak Republic, Hungary and Poland.

[19] The term "agreements" refers to all bilateral, regional, and plurilateral trade agreements of a preferential nature.

number of issues with respect to the relationship between regionalism and multilateralism, against the background of an unprecedented trend worldwide towards regional integration. While items (a) to (c) already formed part of the work of the WTO, item (d) is a new issue for the WTO.

At its first meeting, in May1996, the Committee on Regional Trade Agreements had a first discussion on its rules of procedure and work programme for the remainder of the year. In the light of its considerable workload, the Committee plans to have five additional meetings in the course of 1996. As many as 31 regional agreements are in the pipeline for examination by WTO Members and it is hoped that progress can be made in 1996 on the examination of 23agreements, including the North American Free Trade Agreement (NAFTA), the Southern Common Market Agreement (MERCOSUR) and the enlargement of the European Community.

The Committee, at its meeting in early July, focused on the issue of systemic implications of regional agreements and initiatives for the multilateral trading system, and the relationship between them, and on procedures to facilitate and improve the examination process. The debate on systemic implications focused mainly on the preparation of the Singapore Ministerial Conference: what would be the most desirable outcome in this respect and how best to prepare for it? The Committee also continued its work on establishing procedures to facilitate and improve the examination process, in particular through a standard format to be used for the submission of information on regional trade agreements. The format is expected to take the form of non-binding guidelines from the Chairman.

EC enlargement – Accession of Austria, Finland and Sweden

Following the formal notification in January 1995 by the European Community of its enlargement to include Austria, Finland and Sweden as from 1 January 1995, a working party was established in February 1995. The first round of examination by the Committee on Regional Trade Agreements will take place at the end of July 1996.

In parallel to this process, and in accordance with the requirements of paragraph 6 of Article XXIV of GATT 1994, the EC conducted bilateral negotiations with a number of WTO Members under the provisions of Article XXVIII regarding the modification of its tariff schedules resulting from the enlargement. These negotiations are ongoing.

Other agreements in Europe

Following the notification in December 1994 of the conclusion of the interim agreements between the EC and the Republic of Bulgaria and Romania, working parties were established to examine them. These interim agreements are part of the larger so-called "Europe Agreements", which aim, interalia, to establish free-trade areas between the parties over a maximum period of 10 years.

Free Trade Agreements between the EC and, respectively Estonia, Latvia and Lithuania were notified in June 1995 and working parties were established. While the Agreement between the EC and Estonia establishes a free trade area between the parties as from 1 January 1995, the Agreements between the EC and Latvia and Lithuania respectively provide for a free-trade area to be established gradually, over a maximum period of four years in the case of Latvia and six years in the case of Lithuania.

A Cooperation Agreement between the EC and Slovenia was notified in August 1995 for reasons of transparency. Given that the Agreement would be superseded by a Europe Agreement in the near future, the Council for Trade in Goods agreed that the Cooperation Agreement should not be examined.

The Free Trade Agreement between Hungary and Slovenia was also notified in August 1995 and a working party was established. It provides for the gradual establishment of a free trade area with the transitional period ending on 31 December 2000 at the latest.

The Free Trade Agreement between the EFTA States (Iceland, Liechtenstein, Norway and Switzerland) and Slovenia was notified in October 1995 and a working party established. The Agreement, which is being applied on a provisional basis as from 1 July 1995, aims at abolishing tariffs and other trade restrictions for industrial products, fish and other marine products and processed agricultural products by 31 December

2001. It also contains provisions dealing with public procurement, intellectual property rights, state monopolies, state aid and competition. In the framework of the Agreement, its parties also concluded bilateral arrangements providing for facilitation of trade in agricultural products.

From October 1995 to March 1996, four trade agreements which were concluded by the Government of Denmark and the Home Government of the Faroe Islands were notified to the WTO. These concerned agreements providing for free trade in goods with the EC, Iceland, Switzerland and Norway. They entered into force respectively on 1 January 1992, 1 July 1993, 1 March 1995 and 1 July 1993. All these agreements will be examined in the Committee on Regional Trade Agreements.

In December 1995, Members were notified of the entry into force, as from 1 January 1996, of the final phase of the Customs Union between EC and Turkey, following the decision of the EC-Turkey Association Council of 22 December 1995. The entry into force of the final phase completes the progressive establishment of the Customs Union in accordance with the 1963 Agreement establishing an Association between the EC and Turkey. The parties to the customs union will be conducting negotiations with their trading partners on modifications of the Turkish Schedule of Tariff Concessions following the adoption by Turkey of the EC's Common External Tariff.

In May 1996, Members of the WTO were notified that, following the dissolution of the Czech and Slovak Federal Republic, the Europe Agreement between the European Community and the Czech and Slovak Federal Republic was replaced by Europe agreements with each of the successor States.[20] The Europe Agreements between the EC and the Czech Republic and the EC and the Slovak Republic were both signed on 4 October 1993 and both came into force on 1 February 1995.[21] The objective of the Europe Agreements is to establish a free-trade area between the parties over a maximum period of 10 years, at the end of which duties and other restrictive regulations on trade will have been eliminated on substantially all trade between the signatories. Also in 1996, the EC and, respectively, the Czech Republic, Hungary, Poland, the Republic of Bulgaria, Romania and Slovak Republic notified modifications introduced from 1993 to 1996 to the regime applicable to trade in textile products within the context of the six Europe Agreements concluded between the parties. The totality of the trade provisions of these agreements will be examined in the Committee on Regional Trade Agreements in accordance with their respective terms of reference.

The Free Trade Agreements between the Czech Republic and Romania and between the Slovak Republic and Romania were notified in June 1996. The agreements, applied provisionally as from 1 January 1995, cover products falling within Chapters 1-97 of the Harmonized System and provide for the gradual establishment of a free trade area, with the transitional period ending no later than 1 January 1998. Since the entry into force of both Agreements, it was agreed to accelerate the elimination of customs duties on most industrial products. To this effect, Decisions were signed on respectively 14 August 1995 and 14 December 1995 and entered into effect on 1January1996.

Notifications were submitted in July 1996 on the conclusion of Free Trade Agreements between the EFTA countries and Estonia, Latvia and Lithuania, respectively. The Agreements, signed in December 1995, are being applied on a provisional basis as of 1June 1996 in the cases of EFTA-Estonia and EFTA-Latvia and will be applied as of 1 August 1996 in the case of EFTA-Lithuania. Their content and structure are similar to the Free Trade Agreements which had been concluded earlier between the EFTA countries and the Central and Eastern European countries, with certain adjustments reflecting the more recent developments. They replace the bilateral Free Trade Agreements which were in force between Norway and Switzerland, on the one hand, and Estonia, Latvia and Lithuania, respectively, on the other.

WTO Members were also informed orally of the amendment made to the Central European Free Trade Agreement (CEFTA), to include provisions which allowed for accession to CEFTA by other countries. On that basis, the Republic of Slovenia signed on 25 November 1995 the Agreement on Accession with the CEFTA countries. This Agreement is applied on a provisional basis and will enter into force once ratification procedures, have been completed. In consequence, the bilateral Free Trade Agreements between Slovenia and the Czech Republic and between Hungary, Poland and the Slovak Republic, ceased to apply as of 1 January 1996.

[20] In 1992, the GATT was notified of the signature of the Europe Agreement between the EC and the Czech and Slovak Federal Republic. At that time, the text of the interim agreement – which contained the trade provisions of the Europe Agreement – was distributed to contracting parties, and the procedures for reviewing Article XXIV agreements initiated.

[21] The basic provisions of the Europe Agreements relating to trade in goods are unchanged from the earlier Agreement, although some technical adjustments have been included reflecting the consequences of the dissolution of the Federation.

North American Free Trade Agreement

A working party to examine the North American Free Trade Agreement (NAFTA) between Canada, Mexico and the United States was established under GATT in March 1994. The Working Party s terms of reference, however, were changed in July 1995, just before the Working Party held its first meeting, at which WTO Members asked questions concerning the free trade area and its eventual repercussions for third parties. Information was also sought on national treatment and market access conditions, in particular on rules of origin, quotas for agricultural products, technical barriers to trade, foreign investment, the services sector and regulations for intellectual property rights. Other questions concerned Mexico's customs valuation practices. The second round of NAFTA's examination will take place by the end of July 1996.

Southern Common Market (MERCOSUR)

The Working Party for MERCOSUR – the customs union between Argentina, Brazil, Paraguay and Uruguay – was established in 1993 under the GATT Committee for Trade and Development. Following the adoption of new terms of reference after the creation of the WTO, a meeting was convened in October1995. The meeting focused on issues relating to tariff and non-tariff liberalization within the customs union, measures affecting imports from third countries including the common external tariff, the coordination of macro-economic policies within the region and national treatment. Information was also sought about the relationship between MERCOSUR and the Latin American Integration Association and the former s intention of joining other trade regions in the Western Hemisphere in the future. Furthermore, questions were raised about modalities for resolving trade disputes and how other countries in the region could join the customs union. The second round of MERCOSUR's examination, to be held in the Committee on Regional Trade Agreements, is scheduled for September 1996.

Other agreements in South America

A memorandum of Understanding notified to the Committee on Trade and Development provided for negotiations between Bolivia and MERCOSUR on the establishment of a free trade area within a maximum period of 10 years. The negotiations are due to be completed by the end of 1996.

Agreements in Asia

The communication made by members of the ASEAN Free Trade Area (AFTA) to the Committee on Trade and Development in 1995 under the obligations of the Enabling Clause contained information on numerous aspects of the Agreement, including the Common Effective Preferential Tariffs (CEPT) scheme for the AFTA, the CEPT product profile and institutional arrangements.

COMESA – Eastern and Southern African States

A treaty establishing the Common Market for Eastern and Southern Africa (COMESA) was notified to the Committee on Trade and Development. COMESA has the following signatories: Angola, Burundi, Comoros, Eritrea, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Rwanda, Sudan, Swaziland, Tanzania, Uganda, Zaire, Zambia and Zimbabwe. The COMESA Treaty, which supersedes the Preferential Trade Area for Eastern and Southern African States (PTA), provides for the establishment of a customs union, including a common external tariff, within a transitional period of 10 years and for the free movement of persons and the right of establishment of business by nationals of COMESA in any member State. Its 36 chapters include cooperation in all economic and social sectors of the economies of the member States.

Caribbean Basin Initiative (CBI)

Enacted in 1984, the Caribbean Basin Economic Recovery Act (CBERA) – one of the major trade initiatives by the United States to promote economic growth in the Caribbean Basin subregion – was applied by the United States under a waiver to GATT Article I granted on 15 February 1985. The CBI allows the President of the United

States to provide duty-free treatment for imports of certain goods from designated beneficiary countries and territories in the Caribbean Basin. The huge expansion of non-traditional exports from CBI beneficiary countries since the inauguration of the programme has greatly cushioned the declines in their traditional exports, primarily petroleum. On a region-wide basis, this export diversification has led to a more balanced production and export base and has resulted in a reduction in the region's vulnerability to fluctuations in markets for traditional products. The CBI was intended to be a temporary programme, set to expire in 1995. Due to the success of the programme, it was made permanent in1990.

In a meeting of the Council for Trade in Goods (CTG) held in September 1995, the United States requested a renewal for 10 years of the CBI waiver, due to expire at the end of September 2005. Following a number of comments by Members, the CTG approved the request for the renewal of the waiver on condition that consultations be organized and that drafting changes be agreed upon. The revised text for the waiver was submitted to, and adopted by, the General Council on 15 November 1995.

According to this Decision, the provisions of Article I:1 of the GATT 1994 are waived until 31 December 2005, allowing the United States to provide duty-free treatment to eligible products of the Caribbean Basin countries without being required to extend the same duty-free treatment to like products of any other Member. Annual reports on the implementation of the trade-related provisions of the CBERA will be provided so as to facilitate the annual review provided for in paragraph 4 of Article IX of the WTO Agreement. The Waiver also provides for prompt notification of any trade-related measure taken under the CBERA – in particular, any changes in the beneficiary countries and any proposed modification of the list of eligible products and the duty-free treatment thereof – and for consultations on any modification being considered in the list of eligible products. Besides, consultations shall also take place upon request from a Member with respect to any difficulty or matter that may arise as a result of the implementation of the trade-related provisions of the CBERA.

XI. Committee on Trade and Development

The Committee on Trade and Development is one of the principal standing committees of the WTO and is responsible for reviewing and discussing trade issues of interest to developing countries. Its main functions are: keeping under review the participation of developing country Members in the multilateral trading system; considering measures and initiatives to assist developing country Members, in particular the least-developed country Members, in the expansion of their trade and investment opportunities; conducting periodic reviews of the application of special provisions in favour of developing country Members (including the "Enabling Clause", which is one of the agreements resulting from the Tokyo Round (1973-1979) and which provides for differential and more favourable treatment of developing countries in various areas of trade policy) and defining the guidelines for the technical cooperation activities of the WTO.

Broad international consensus exists on two elements relating to trade and development: (i) in today's world, trade is an engine of growth and the development of a country depends to a large extent on the size and content of its exports; and (ii) priority should be given to improving the situation of the least-developed countries. It has been widely recognized that the WTO, as an organization which is driven by member governments as well as WTO Members individually, has a responsibility to ensure the integration of developing and least-developed countries into the multilateral trading system, both from a quantitative (market shares) and a qualitative (rights and obligations applicable to developing country Members) point of view. The work of the Committee on Trade and Development has evolved during 1995 and 1996 on the basis of a perception of shared responsibility: developed country Members should continue their efforts to open their markets to exports of developing countries, while the latter should endeavour to create a domestic environment conducive to trade expansion.

Activities of the Committee on Trade and Development

During its first year, the Committee on Trade and Development held four sessions; on 5 April, 5 July, 14 September and 17 November 1995. From January to July 1996, it held another four sessions; 16 February, 24 May (continued on 7 June), 18 June and 12 July. The increased frequency of meetings in 1996 shows an increased desire by Members to take a constructive approach to trade and development. Such an approach also reflects the need for concrete recommendations to be made to the first Ministerial Conference in Singapore. In this process, one horizontal issue – the position of the least-developed countries – and three vertical issues have been identified as priorities in the run-up to the Singapore Ministerial: implementation of provisions in favour of developing countries, including the impact of the Uruguay Round on developing countries; participation of developing countries in the multilateral trading system; guidelines for technical cooperation. These priority areas are briefly addressed in the section on the Singapore Ministerial.

1995 highlights

In accordance with established GATT practice, the Committee reviewed notifications of changes made to Members' Generalized System of Preferences (GSP) and of preferential agreements among developing countries. The introduction of new conditions under some GSP schemes, as well as changes regarding beneficiary countries of GSP schemes raised some concern. A suggestion was made to make available information regarding GSP schemes, available through the Internet. The Committee's work relating to preferential arrangements among developing countries was addressed in its Third and Fourth Sessions.

At its third session, the Committee adapted the terms of reference of the Working Party on MERCOSUR – established by the GATT 1947 Committee on Trade and Development – to reflect the relevant changes necessary for its examination under the GATT 1994. At the fourth session, the Committee was informed of the establishment of the Common Market for Eastern and Southern Africa (COMESA), the signature of a Memorandum of Understanding between Bolivia and MERCOSUR and of recent developments concerning the ASEAN Free Trade Area.

The Committee also addressed the issue of credit and recognition for autonomous trade liberalization measures at its second and fourth sessions and reviewed the WTO's technical cooperation activities at its fourth and fifth Sessions, drawing large support from its Members for the technical cooperation services of the Secretariat, including the priority given to least-developed and to African countries.

The Committee welcomed a donation of ECU1.1 million from the European Community for a technical cooperation programme in favour of African, Caribbean and Pacific (ACP) countries to be implemented in 1996. This programme, elaborated jointly by the EC, the WTO Secretariat and the ACP Secretariat, is composed of eight regional seminars. Their objective is to inform both the public and the private sectors of the results of the Uruguay Round and to identify policy measures which could help the ACP countries obtain maximum benefits from the Round.

1996 highlights

As a milestone in the young history of the Committee's existence, the Director-General of the WTO addressed the Committee in May 1996. He hailed the significantly increased participation of developing countries in the multilateral trading system as one of the greatest successes of the Uruguay Round of Trade Negotiations. He also underlined the importance of the mandate given to the WTO to work with other institutions to bring greater coherence to global economic policy-making. With respect to the Singapore Ministerial Conference, the Director-General stressed the need to ensure that the Uruguay Round results favour developing country Members, and in particular least-developed countries. He emphasized the importance of launching multilateral negotiations on investment in the WTO to ensure that the concerns of all WTO Members would be taken into account. He also welcomed the invitation extended to the WTO to participate in the G7 Summit[22] together with the International Monetary Fund, the World Bank and the United Nations. With respect to the activities in the WTO

[22] The G7 Summit took place on 27-29 June 1996 in Lyon, France.

in the area of technical cooperation, he said he would ensure that these activities were not planned in isolation, but were coordinated and even integrated with assistance provided by other organizations.

In the view of many, the Seventh Session of the Committee on Trade and Development, held on 18 June 1996, was an historic event. At that Session, the Secretary-General of UNCTAD, Mr. Rubens Ricupero, the Executive Director of ITC, Mr. Denis Bélisle, the Director-General of WTO and the Chairman of both WTO's General Council and UNCTAD's Trade and Development Board, Ambassador William Rossier (Switzerland), all addressed the Committee. Never before in the history of the GATT or the WTO had the heads of these three institutions addressed one of its bodies.

Activities of the Sub-Committee on Least-Developed Countries

At its second session, in July 1995, the Committee on Trade and Development established the Sub-Committee on Least-Developed Countries. Its main functions include examining the special and specific problems of the least-developed countries, elaborating proposals on specific measures aimed at facilitating their integration into the multilateral trading system and conducting periodic reviews of the operation of the special provisions in favour of least-developed countries in the WTO Agreements.

The Sub-Committee held one meeting in 1995 (17 October) and one early in 1996 (27 February); two more meetings are scheduled for 1996. It adopted its programme of work – designed primarily to facilitate the full integration of least-developed countries into the multilateral trading system – and agreed to follow the Rules of Procedure of the Committee on Trade and Development and to report regularly to that body. Members of the Sub-Committee generally share the view that technical cooperation plays an important role in helping least-developed countries benefit from the opportunities and challenges of the post-Uruguay Round trading environment. In that framework, representatives of UNCTAD, ITC and the WTO's Division on Technical Cooperation and Training informed the Sub-Committee of work in progress in the area of technical assistance, with special relevance to least-developed countries.

The Sub-Committee welcomed the contribution of $2.5 million by the government of Norway to establish a fund within the WTO to assist poorer and least-developed countries, particularly those in Africa, to participate more actively and effectively in the WTO. This will enable them to take better advantage of the trade regime and the new market openings offered by the new Agreements.

At its Second Session, Members of the Sub-Committee concluded that effective contributions by the WTO towards the integration of the least-developed countries into the multilateral trading system should be clearly defined in the Sub-Committee. The absolute priority for integrating least-developed countries into the multilateral trading system was institutional capacity-building and human development. In this regard, the WTO had a key role to play. It was also considered desirable to find ways of ensuring a higher level of representation of officials from least-developed country Members at meetings of the Sub-Committee.[23]

Preparations for the Singapore Ministerial

Implementation of provisions in favour of developing countries

In its preparations for the Singapore Ministerial Conference, the Committee on Trade and Development sought written contributions on progress made in the implementation of provisions in the WTO Agreements in favour of developing countries. This information is to come from Members and from the different WTO bodies which have a responsibility to monitor Agreements, Decisions and Declarations which contain provisions in favour of developing country Members. The first substantive debate on the issue is to take place in September 1996. The Committee also held discussions on ways to implement the Decision on Measures in Favour of Least-Developed Countries.

[23] Out of the 33 LLDCs which are Members of, or Observers in, the WTO, only eight are represented in Geneva.

Participation of developing country Members in the multilateral trading system, including the impact of the Uruguay Round on developing countries

In addressing these items at the Fourth Session of the Committee, Members agreed that there was merit in expanding the focus of the Committee's work beyond merely noting the changes that had taken place throughout the years. In this context, the Committee requested the WTO Secretariat to prepare a study addressing the differentiated performance of developing countries. This study will address both domestic (macroeconomic policies, infrastructure problems, etc.) and external factors (barriers to trade in importing markets, restrictive business practices). The study is intended to be distributed at the end of July, with a view to enabling the Committee to define policy conclusions for consideration and action by the Ministers in Singapore.

Guidelines for WTO technical cooperation activities

During 1995 and 1996, the Committee on Trade and Development focused much of its attention on technical cooperation. The Committee is of the view that, in today's globalized economy, an effective response to the increasing needs of developing countries for technical cooperation in trade-related matters requires greater coordination of the technical cooperation activities provided by the various international organizations. The aim is to remove any overlap in their programmes and to ensure that recipient countries of technical cooperation fully benefit from their complementarity and competence.

In order to assist the Committee in assessing priority areas for WTO's technical cooperation, its Chairman sent a questionnaire to all WTO Members in May 1996 asking them to identify the overall technical cooperation needs of Members. At its July 1996 meeting, the Committee continued its discussions on the basis of an informal note by the Chairman containing a checklist of points concerning guidelines for WTO technical cooperation. According to the Committee, guidelines should be established to ensure that any assistance meets the needs of developing countries; the Committee should be given a greater role in defining and evaluating WTO's technical cooperation; and such cooperation should focus on capacity-building and be granted on a priority basis to least-developed countries.

XII. Committee on Trade and Environment

The interface between trade, environment and sustainable development continued to provide a main focus of activity for WTO Members throughout 1995 and 1996. As directed by the Ministerial Decision on Trade and Environment, the Committee on Trade and Environment (CTE) was established by the General Council at its first meeting, on 31 January 1995. The CTE met regularly throughout 1995 (16 February, 6 April, 21 June, 12 September, 26-27 October, and 14 December) and the first half of 1996 (26-29 February, 25-26 March, 28-29 May, 20-21 June and 24-25 July).

The CTE is open to all Members of the WTO and is chaired by Ambassador Juan Carlos Sánchez Arnau of Argentina. Pending agreement by the General Council on conditions and criteria for observer status for intergovernmental organizations in the WTO, the CTE extended observer status on an ad hoc basis to the following intergovernmental organisations: UN (UNEP, UNCTAD, UNDP, the UN Commission for Sustainable Development) and, UNIDO, FAO, IMF, the World Bank, ITC, OECD, the World Customs Organization and the International Organization for Standardization (ISO).

The CTE's mandate and terms of reference are set out in the Marrakesh Ministerial Decision on Trade and Environment. The CTE is "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". The

CTE is required to report to the Ministerial Conference in Singapore which will be held from 9 to 13 December 1996. At that time, its work and terms of reference will be reviewed, in the light of its recommendations to Ministers.

Provided with a broad-based mandate, covering all areas of the multilateral trading system – goods, services, and intellectual property rights – the CTE's work programme builds on progress already achieved in GATT through the work of the GATT Group on Environmental Measures and International Trade and the work related to the UN Conference on Environment and Development follow-up in that Group.

The CTE held two rounds of general debate on all items of its work programme which clarified and promoted understanding on some issues and also permitted the identification of divergences. Two stocktaking exercises were held in the CTE. The first, in October 1995, identified specific issues for each item and outlined the schedule of meetings to May 1996. Another stocktaking was held in May to assess where discussion stood and to plan work through to the Ministerial Conference in December 1996. The CTE and the Committee on Technical Barriers to Trade held a joint informal meeting on eco-labelling in October 1995.

In preparation for the report to the Ministerial Conference, the CTE focused its attention on specific issues, including issues covered by proposals submitted by Members, keeping in mind the need for a balanced and focused approach to the work programme.

Detailed reports of CTE meetings are contained in the WTO Trade and Environment Bulletin.

XIII. Plurilateral agreements

Government procurement

The WTO Agreement on Government Procurement came into force on 1 January 1996. It currently has the following Members: Canada, the European Community and its 15 member States, Israel, Japan, Korea, Norway, Switzerland and the United States. It has nine observers: Australia, Chinese Taipei, Colombia, Iceland, Liechtenstein, the Kingdom of the Netherlands with respect to Aruba, Latvia, Singapore and Turkey. The Agreement is estimated to open up to international competition several hundred billion dollars of procurement each year. It covers procurement of goods and, for the first time, services, including construction services; procurement at the central and sub-central level of governments (such as regions, states, provinces, departments, prefectures and municipalities); and the procurement by para-statal companies such as public utilities.

An Interim Committee on Government Procurement was established to undertake preparatory work prior to the Agreement's entry into force. It met in 1994 and 1995. Since the beginning of 1996, the Committee on Government Procurement established under the new Agreement has taken over the work on the international aspects of implementation.

One important aspect of the work of these two Committees has been modifications to the Appendices attached to the Agreement on market-opening concessions, to reflect both agreements on further liberalization and changes of a more technical nature. A number of important enlargements of the scope of the concessions have been incorporated into the Agreement, notably the results of the agreement reached between the European Commission and the United States in Marrakesh in April1994. There has also been discussion of the follow-up to undertakings contained in the Appendices to specify offers at the sub-central government level.

The two Committees provided a framework for negotiations on the accession of additional WTO Members to the Agreement. The Committee on Government Procurement adopted a decision on procedures for accession to the Agreement, on the basis of a recommendation from the Interim Committee. Terms of accession for Liechtenstein and the Kingdom of the Netherlands with respect to Aruba have been adopted and good progress has been made in the accession negotiations with Chinese Taipei and Singapore.

The two Committees devoted attention to the question of how to make sure that information about the Agreement and about the market-opening opportunities available under it are readily available to potential suppliers in a convenient form. Consideration has been given as to whether a Practical Guide on the new Agreement should be developed for the private sector. At present, work is focusing on the development of a loose-leaf system for maintaining the status of the Appendices which contain the market-opening concessions entered into by individual governments. It is foreseen that the loose-leaf system, once established, will be made available to the public at large through the Internet.

The Agreement recognizes that important developments are taking place in the area of procurement as a result of the growing use of information technology, both in the form of on-line databases containing information on procurement opportunities and electronic procurement. The Agreement calls for the Committee to consult regularly on such developments and, if necessary, negotiate modifications to it. A considerable amount of work has been done in the two Committees in collecting material on these developments and analysing the possible implications for the Agreement. This work has focused on the need to ensure that access to procurement opportunities through the use of information technology takes place on a non-discriminatory basis. Other discussion focused on what modifications, if any, may be necessary to the Agreement to enable the benefits of information technology to be fully utilized.

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 to improve the Agreement, extend its coverage and eliminate discriminatory measures and practices. Discussion has begun in the Committee as to whether the initiation of such negotiations should be brought forward to 1997.

In addition, the Committee, based on work done in the Interim Committee, has adopted a number of decisions relating to carrying out procedures under the Agreement, notably on the notification of national implementing legislation, and on uniform classifications systems for statistical reporting and on methods to be used for providing statistics on the country of origin for both goods and services.

Agreement on Trade in Civil Aircraft

This Agreement entered into force on 1 January 1980. Twenty-two signatories abide by the Agreement, which eliminates import duties on all civil aircraft, as well as on all other products covered by the Agreement – notably, civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft as well as flight simulators and their parts and components. It contains disciplines on government-directed procurement of civil aircraft and inducements to purchase, as well as on government financial support for the civil aircraft sector.

As no consensus could be reached on a new Agreement by the time of the conclusion of the Uruguay Round, the 1979 Agreement on Trade in Civil Aircraft was included as such in Annex 4 to the WTO Agreement. Attempts to at least adapt its provisions to the new WTO framework in 1994 and 1995 have proven unsuccessful. At the meeting of the Committee on Trade in Civil Aircraft of 17 November 1995 the Chairman was of the opinion that this situation was highly unsatisfactory. The application of the Agreement on Trade in Civil Aircraft in its present form was creating considerable legal uncertainty and, in addition, there was no effective dispute settlement procedure. Several delegations shared the Chairman's views and agreed to work further with him to resolve this matter.

The Chairman reported to the Committee on the work of the Sub-Committee established to conduct negotiations under Article 8.3 of the Agreement on Trade in Civil Aircraft, which also met once in 1995, primarily to consider replies to a questionnaire on government involvement in the civil aircraft sector.

At the Committee's meeting in June 1996, the Chairman said his informal consultations with signatories had not resulted in finding an appropriate solution for adopting a draft protocol which would in effect link the Civil Aircraft Agreement to the WTO. He said the current uncertainties as to the actual applicability of certain provisions of the Agreement, and more generally, as to its enforceability, were at odds with the WTO's objectives of improving international disciplines for trade. Furthermore, a non-operational agreement could set a negative precedent for the WTO in that it could give the impression that certain WTO obligations could be disregarded with indifference. He suggested a proposal composed of two separate decisions. The first would confirm and clarify the legal effects on the Aircraft Agreements of the entry into force of the WTO Agreement and the termination of GATT 1947. It would confirm the existing legal situation and not constitute an amendment to the Agreement. The second proposed decision concerned the application of the WTO's Dispute Settlement Understanding to the Agreement on Trade in Civil Aircraft. Signatories agreed to review the Chairman's proposal to convene rapidly to take a position on the matter. At its meeting in July, the Committee discussed the Chairman's proposal. While some signatories could accept it, one delegation said it was not in a position to agree to it and made a counter-proposal based on an amended version of Article 8.8 of the Agreement. Signatories agreed that the Committee should convene again to discuss the texts currently on the table.

International Dairy Agreement

The International Dairy Agreement (IDA), the successor to the International Dairy Arrangement, is a plurilateral agreement that has been signed by nine parties — Argentina, Bulgaria (WTO observer), the EC (15), Japan, New Zealand, Norway, Romania, Switzerland, and Uruguay. The objective of the Agreement is to liberalize world trade in dairy products and to achieve greater stability in trade in this sector. In the interests of exporters and importers, it seeks to avoid surpluses, shortages and undue fluctuations in prices. The Agreement aims to assist the economic and social advancement of developing countries and to improve international cooperation in the dairy products sector. The Agreement covers all dairy products and lays down minimum export prices for international trade in certain milk powders, milk fat (including butter) and certain cheeses.

Prior to the establishment of the WTO, the former International Dairy Arrangement had 16 Members, including all major dairy traders except for the United States. Some purely formal amendments aside, the text of the IDA is identical with that of the former Arrangement. The objectives of the IDA date back to concerns relevant at the time of its negotiation:

"The objectives of the Agreement shall be, in accordance with the principles and objectives agreed upon in the Tokyo Round Declaration of Ministers dated 14 September 1973,

- to achieve the expansion and ever greater liberalization of world trade in dairy products under market conditions as stable as possible, on the basis of mutual benefit to exporting and importing countries;
- to further the economic and social development of developing countries" (Article 1)

A key element of the IDA is its minimum price provisions. Under the old Arrangement, these provisions were applied to specific pilot products (skimmed milk powder, whole milk powder, butter milk powder, anhydrous milk fat, butter and cheese). The signatories were bound to ensure that export prices for these products would not be less than the minimum prices established in the Arrangement. With the collapse of dairy production in Russia at the beginning of the 1990s and in the face of a prolonged period of excess world supplies of butter and anhydrous milk fat, a derogation from the minimum export price for butter destined to Russia was agreed in June 1993. Less than a year later, the International Dairy Products Council decided to suspend minimum export prices for butter to all destinations. In October 1995, the new Council extended the suspension of minimum prices to all pilot products. This also led to the suspension of the activities of the Committee on Certain Milk Products established under the Council because its main function was the monitoring of the minimum price provisions. This decision was a result of the limited membership in the Agreement and the non-participation of some major dairy-exporting countries, which had made the operation of the minimum price provisions untenable. The suspension will be valid until end-December 1997, before which a decision will have to be taken on whether the IDA will be rolled over for a further three years.

At its meetings in 1995 and 1996, the International Dairy Council focused on assessing trends in, and factors affecting, the world market for dairy products. The Council bases its deliberations on information covering market data, trade and domestic policies submitted by IDA signatories in response to questionnaires (as well as such information submitted voluntarily by observers). The information is compiled by the Secretariat in a summary report with statistics prior to the meetings of the Council. The results of these discussions in the Council are reflected in the annual publication by the WTO Secretariat The World Markets for Dairy Products[24]. In view of the limited membership and thus the weaker base for the status reports, and considering rapid changes in communication technology, there have been some preliminary discussions among Members regarding the need for maintaining the IDC as a forum to disseminate information. The Council agreed to review the functioning of the IDA at its meeting in September 1996.

International Bovine Meat Agreement

While the WTO Agreement and the multilateral trade agreements (e.g. the Agreement on Agriculture) create rights and obligations for all WTO Members, the International Bovine Meat Agreement binds only its signatories. As of July 1996, 16 Parties had joined the Agreement.[25] The Agreement replaces the Arrangement Regarding Bovine Meat which was negotiated in the Tokyo Round and had operated since 1980. Upon entry into force of the International Bovine Meat Agreement on 1 January 1995 the old Agreement was terminated.

The functions of the Agreement are carried out by the International Meat Council which also provides a regular forum for discussion of current developments in the meat markets. The Parties consider the exchange of information to be the primary rationale of the Agreement and have, therefore, agreed to exchange biannually detailed livestock and meat statistics. This information covers the herd structure, slaughter rates, production, stocks, consumption, prices and trade in the beef sector and is supplemented by statistics for pigmeat, poultry meat and sheepmeat. Parties to the Agreement are also required to furnish, periodically, information on domestic policies and trade measures affecting the bovine meat sector. In addition, the WTO Secretariat provides a market report and statistical summary to assist the Council's assessment of market issues and trends.[26]

In parallel, the Council has begun to examine the functions of the Agreement based on the recognition that WTO Members have new priorities as the result of the Uruguay Round negotiations, such as the work of the Committee on Agriculture and the Committee on Sanitary and Phytosanitary Measures. In response, the Council has reduced its regular review of market developments from two annual meetings to one annual meeting. The Council agreed furthermore to engage in informal consultations on matters relating to the future of the Agreement.

[24] The report is available for sale from the WTO Secretariat, as well as the GATT publication Summary of the Results of the Uruguay Round in the Dairy Sector, November 1994, which provides the details of the new market access conditions (bound rates of duty and tariff rate quotas) and export subsidies reduction commitments for dairy products for a broad range of countries.

[25] Argentina, Australia, Brazil, Bulgaria, Canada, Colombia, European Community (15), Japan, New Zealand, Norway, Paraguay, Romania, South Africa, Switzerland, United States and Uruguay.

[26] This information is available for sale as the WTO Annual Report of the International Bovine Meat Agreement, The International Markets for Meat 1995-96. The new market access conditions (bound rates of duty and tariff rate quotas) and export subsidy reduction commitments for bovine meat, pigmeat, poultry meat and sheepmeat for a broad range of countries are presented in the WTO publication Summary of the Results of the Uruguay Round in the Meat Sector, February 1995.

Part II

I. The WTO budget and Secretariat staffing

The WTO's budget for 1996 as approved by the General Council, acting on behalf of WTO Members, amounts to US$93 million (115 million Swiss francs). Overall, the budget covers the costs of holding meetings, maintenance costs for the Secretariat headquarters in Geneva, technical cooperation missions and other official visits overseas. The budget is also used for technical assistance and for trade policy courses as well as for the salaries and related costs of the Secretariat staff of about 500. The WTO also finances, jointly with UNCTAD, the operations of the International Trade Centre.

II. Technical cooperation and training

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 for specific activities and programmes. Japan has made special contributions to finance two regional seminars in Asia; Norway has provided funds for the establishment of a WTO Trust Fund for the Least-Developed Countries to be used over the next three years; the European Community is funding a series of regional seminars on the Uruguay Round for ACP countries; and New Zealand has committed funds to be used for activities with the Forum Island Member Countries over the next two years. Since the creation and entry into force of the World Trade Organization, a total of 126 technical cooperation activities have been organized, of which 79 were held in 1995 and 47 in the first six months of 1996. 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 two specific programmes. First, the Integrated Technical Assistance Programme in Selected Least-Developed and other African Countries was undertaken initially 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.

The second programme is related to regional seminars organized jointly by the WTO, the ACP Secretariat and the European Community, which provides the funding for ACP countries in 1996. They include five subregional seminars in Africa, one in the Caribbean and one in the Asia-Pacific region. Each seminar is attended on average by some 10 countries, with four high-level participants per country, representing both the public and the private sector. Activities in these seminars involve lectures done by officials from the WTO, ITC, the World Bank, regional organizations and two outside consultants, in addition to staff members from the EC Commission and the ACP Secretariat.

Furthermore, the Norwegian Government has made a contribution towards a WTO Technical Assistance Fund for the benefit primarily of least-developed countries, as well as of African countries as a group. The main purpose is to help these countries build the human and institutional resources and expertise necessary to participate fully in the international trading system, and in particular to be in a position to meet their WTO obligations and benefit from the system. These funds cover a three-year implementation period. The WTO and the Norwegian Government expect other countries to contribute to this Fund, thus enlarging its scope.

In 1995 and during the first half of 1996, specific technical assistance activities included:

- two workshops on notification requirements;
- two training courses on dispute settlement procedures and practices;
- 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;
- 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;
- the provision of technical information on individual products (data on trade flows, tariffs and non-tariff measures) and the provision of comprehensive studies on the outcome of the Uruguay Round for requesting individual countries or groups of countries, as well as background notes on specific issues in different areas of the negotiations.

Special trade policy courses

During 1995 and in the first half of 1996, the WTO Secretariat organized three regular and four Special Trade Policy Courses. The three regular courses, in English, French and Spanish, respectively, were intended for government officials from developing countries involved in the formulation and implementation of trade policy.

The Special Courses were devoted to the economies in transition. Two of these Courses, which were financed by Switzerland, were for officials from Eastern and Central European and Central Asian countries; two others were funded by the United States, one for officials from Belarus, the Russian Federation and Ukraine, and the other for officials from Kazakhstan and the Kyrgyz Republic.

The objective of the WTO Trade Policy Courses is to widen the participating officials' understanding of the multilateral trading system and international trade law and of the activities, scope and structure of the WTO. The knowledge acquired by the participants is expected 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 or, in the case of a number of countries, support the process of their accession to the WTO.

Since the establishment of the WTO in January 1995 up to the end of July 1996, 74 officials from 59 developing countries and one regional organization and 101 officials from the economies in transition have benefited from the courses.

III. Cooperation with other international organizations

Since its establishment, the WTO has had extensive contact with other intergovernmental 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 on an ad hoc basis is provided below.

General Council

Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Intellectual Property Organization (WIPO), World Bank

Trade Policy Review Body

European Free Trade Association (EFTA), Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank

Council for Trade in Goods

Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), International Textiles and Clothing Bureau (ITCB), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank, World Customs Organization (WCO)

Committee on Market Access

Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), International Textiles and Clothing Bureau (ITCB), United Nations Conference on Trade and Development (UNCTAD), World Bank, World Customs Organization (WCO)

Committee on Rules of Origin

International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank, World Customs Organization (WCO)

Committee on Safeguards

International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), World Bank

Committee on Agriculture

Food and Agriculture Organization of the United Nations (FAO), International Grains Council (IGC), International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank, World Food Program

Committee on Sanitary and Phytosanitary Measures

Codex Alimentarius Commission, Food and Agriculture Organization of the United Nations (FAO), International Plant Protection Convention (IPPC), International Organization for Standardization (ISO), International Trade Centre (ITC), Office International des Epizooties (OIE), United Nations Conference on Trade and Development (UNCTAD), World Health Organization (WHO)

Committee on Anti-dumping Practices

International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Subsidies and Countervailing Measures

International Monetary Fund (IMF), Organization for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Import Licensing

International Monetary Fund (IMF), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Technical Barriers to Trade

Codex Alimentarius Commission, Food and Agriculture Organization of the United Nations (FAO), International Electrotechnical Commission (IEC), International Monetary Fund (IMF), International Standardization Organization (ISO), International Trade Centre (ITC), Organisation for Economic Cooperation and Development (OECD), Office International des Epizooties (OIE), United Nations Conference on Trade and Development (UNCTAD), Economic Commission for Europe (CE), World Health Organization (WHO)

Committee on Customs Valuation

International Monetary Fund (IMF), United Nations Conference on Trade and Development (UNCTAD), World Customs Organization (WCO)

Committee on Trade-Related Investment Measures (TRIMs)

International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Working Party on Accessions

European Free Trade Association (EFTA)

Committee on Trade and Development

ANDEAN Group Secretariat, Latin American Integration Association (ALADI), Caribbean Community Secretariat (CARICOM), Commonwealth Secretariat Economic Commission for Africa (ECA), Economic Commission for Europe (ECE), Economic Commission for Latin America and the Caribbean (ECLAC), European Free Trade Association (EFTA), Economic and Social Commission for Asia and the Pacific (ESCAP), Food and Agriculture Organization of the United Nations (FAO), Cooperation Council for the Arab States of the Gulf (GCC), Inter-American Development Bank (IDB), International Monetary Fund (IMF), International Wheat Council (IWC), International Trade Centre (ITC), Organization of American States (OAS), Organisation for Economic Cooperation and Development (OECD), Latin American Economic System (SELA), Secretariat of the General Treaty on Central Economic Integration (SIECA), Central African Customs and Economic Union (UDEAC), United Nations Conference on Trade and Development (UNCTAD), United Nations Industrial Development Organization (UNIDO), World Bank, World Food Council (WFC)

Committee on Balance-of-Payments

African, Caribbean and Pacific (ACP) Group of States, European Bank for Reconstruction and Development (EBRD), European Free Trade Association (EFTA), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Trade and Environment

UN Committee on Sustainable Development (CSD), European Free Trade Association (EFTA), Food and Agriculture Organization of the United Nations (FAO), International

Monetary Fund (IMF), International Organization for Standardization (ISO), International Trade Centre (ITC), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Industrial Development Organization (UNIDO), World Bank, World Customs Organization (WCO)

Committee on Regional Trade Agreements
European Free Trade Association (EFTA), Food and Agriculture Organization (FAO), International Monetary Fund (IMF), Organization of American States (OAS), World Bank

International Dairy Council
Economic Commission for Europe (ECE), Food and Agriculture Organization of the United Nations (FAO), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD)

International Meat Council
Economic Commission for Europe (ECE), Food and Agriculture Organization of the United Nations (FAO), International Trade Centre (ITC), Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD)

Council for Trade in Services
International Monetary Fund (IMF), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Trade in Financial Services
International Monetary Fund (IMF), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Negotiating Group on Maritime Transport Services
International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Negotiating Group on Movement of Natural Persons
International Labour Office (ILO), International Monetary Fund (IMF), International Organization for Migrations (IOM), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Negotiating Group on Basic Telecommunications
Asia-Pacific Telecommunity, Caribbean Telecommunication Union (CTU), International Monetary Fund (IMF), International Telecommunication Union (ITU), Organisation for Economic Cooperation and Development (OECD), Regional Technical Commission for Telecommunications, United Nations Conference on Trade and Development (UNCTAD), World Bank

Working Party on Professional Services
International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Working Party on GATS Rules
International Monetary Fund (IMF), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Committee on Specific Commitments
International Monetary Fund (IMF), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), World Bank

Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), Organisation for Economic Cooperation and Development (OECD), United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), International Union for the Protection of New Varieties of Plants (UPOV), World Intellectual Property Organization (WIPO), World Bank, World Customs Organization (WCO)

International Monetary Fund (IMF) and the World Bank

In the days of the GATT, before the establishment of the WTO, the formal relationship between the GATT and the IMF derived primarily from the provisions on balance-of-payments restrictions. In this regard, a close and long-standing institutional relationship existed between the two organizations, whereby the IMF provided information on and an assessment of the situation of the balance of payments of the contracting party engaged in consultations under Articles XII or XVIII:B of the GATT. In accordance with Article XV of the GATT, contracting parties who were not at the same time members of the IMF have, in the past, either signed a special exchange agreement with the CONTRACTING PARTIES or have been granted a waiver of indefinite duration. In addition, Article XV also provided for the IMF and the GATT CONTRACTING PARTIES to seek cooperation with regard to exchange questions within the jurisdiction of the IMF and to questions of quantitative restrictions and other trade measures within the jurisdiction of the CONTRACTING PARTIES, and for the latter to consult fully with the former on problems concerning monetary reserves, balance-of-payments and foreign exchange arrangements. The basis for the cooperation between the GATT and the World Bank was less straight-forward, as the Bank is not mentioned specifically in any of the Articles of GATT 1947. A relationship between GATT and the World Bank is nevertheless implied in Part IV of the General Agreement, in particular in Articles XXXVI and XXXVIII. While the relationship between the CONTRACTING PARTIES and the IMF was based on an arrangement for coordination and consultation, agreed by means of an exchange of letters in 1948, relations between the GATT and the World Bank were mainly maintained on an informal basis.

In contrast to the previous situation, relations between the WTO, the IMF and the World Bank encompass a much larger range of issues than was the case in the past. First, the IMF's role within the WTO system through GATT Article XV is maintained but now enlarged to the corresponding Article of the GATS (Article XI). Similarly, the IMF's balance-of-payments role is maintained but now enlarged to cover services (Article XII of the GATS). Second, Article III:5 of the Agreement Establishing the WTO states that one of WTO's five functions is to achieve greater coherence in global economic policy-making, in furtherance of which it is to cooperate, as appropriate, with the IMF and the World Bank. This mandate is further elaborated in the Ministerial Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policymaking, which requests the Director-General of the WTO to pursue and develop cooperation with the international organizations responsible for monetary and financial matters. Third, relations between the institutions are also implied in the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Fourth, the entry into force of the General Agreement on Trade in Services required an extension of the relations of the WTO with the IMF with respect to balance-of-payments restrictions, so as to include corresponding restrictions on trade in services.

As from the beginning of 1995, the WTO's General Council – acting in accordance with the agreements reached in the GATT's Preparatory Committee for the WTO and with Article V:1 of the WTO Agreement – started work on the preparation of arrangements for effective cooperation with the IMF and the World Bank.[27] The work was to be carried out in three phases: securing agreement from WTO Members on the elements to be included in such arrangements; negotiations on the text of such arrangements to be conducted between the Secretariats of the WTO, the IMF and World Bank, respectively; and seeking an agreement from WTO Members on the arrangements for cooperation resulting from this process.

[27] At the end of 1994 – and pending the establishment of a more formal agreement with the IMF – the Chairman of the GATT 1947 Committee on Balance-of-Payments Restrictions sent a letter to the relevant authority of the IMF aimed at ensuring that the relevant arrangements in place between GATT 1947 and the IMF would continue in 1995, and that these would be extended to balance-of-payments matters in the area of services.

At the General Council Chairman's request, the first phase progressed on the basis of informal consultations with interested parties. These were held by the Chairman of the General Council, Ambassador William Rossier (Switzerland). In July 1995, the General Council approved a set of "conclusions" intended to serve as a basis for agreements on the future relationship between the WTO and the IMF and between the WTO and the World Bank. These conclusions emphasized the importance of the cooperation between the WTO, the IMF and the World Bank in achieving greater coherence in global economic policymaking and stipulated that attention be given to identifying possible means for cooperation in global economic policymaking and to specific policies followed by each international institution within their respective area of competence. In particular, the General Council recalled that the interlinkages between the different aspects of economic policy required that international institutions with responsibilities in each of these areas follow consistent and mutually supportive policies.

Elements which were to be taken into account in the development of closer cooperation with the IMF included the formalization of the current provisional arrangement and of the IMF's contribution to, and participation in, balance-of-payments consultations in goods and services; the possibility of consultations with the IMF on other finance and exchange matters; WTO's observer status in meetings of IMF bodies and vice versa; and access to the respective documentation and databases of the two institutions. Discussions with the World Bank were to proceed on a similar basis, with the exception of the areas, noted above, requiring a specific legal relationship between the WTO and the IMF, not applicable to the World Bank.

The negotiations between the three institutions were conducted between July 1995 and May 1996. In June 1996, draft agreements between the WTO and the IMF and between the WTO and the World Bank respectively, which had been negotiated in accordance with the mandate given to the Director-General by the General Council, were submitted to the WTO Members for their consideration. Work is continuing.

United Nations Conference on Trade and Development

There has always been a significant working relationship between the World Trade Organization (WTO) and the United Nations Conference and Trade and Development (UNCTAD) reflecting a shared interest in advancing the cause of global trade liberalization within the framework of the multilateral system. Nevertheless, the last year witnessed a major broadening and deepening of this relationship and a commitment by Mr. Ruggiero, the Director-General of the WTO, and Mr. Ricupero, the Secretary General of UNCTAD, to develop further and in every appropriate and possible way the considerable potential for complementarity between the two organizations. In addition to biennial meetings of the two executive heads, the working relationship at all levels of both organizations has been improved in areas such as research, trade and investment, trade and competition, trade and environment, trade and development and, in particular, technical cooperation activities.

The overall objective has been to improve coordination across the board and to make better use of collective resources. An important result was the joint preparation, with the assistance of the International Trade Centre (ITC), of the study "Strengthening the Participation of Developing Countries in World Trade and the Multilateral Trading System," presented to the Ninth Session of UNCTAD held in Midrand, South Africa in the Spring of this year (see below). Discussions are now under way to determine how this new collaborative spirit can be extended into other fields of research and analysis.

But within this broader framework of cooperation, the major focus of these 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. With this objective in mind, the WTO and UNCTAD, together with the ITC, established in 1994 a joint programme to identify trade-related technical needs of African countries, and to implement programmes to begin to address those needs. The programme encompasses briefings and training for African trade officials, assistance in implementing the results of the Uruguay Round, and advice to the business community in identifying trade and market opportunities.

The three organizations have also collaborated 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 programme is managed and coordinated by the three organizations and brings together their full ordinary and ad hoc resources. The focus initially has been on eight countries – four least-developed countries (Benin, Burkina Faso, Tanzania, and Uganda) as well as four developing countries (Côte d'Ivoire, Ghana, Kenya, and Tunisia). The countries were visited by the WTO Director-General and the ITC Executive Director, Mr. J. Denis Bélisle, in January 1996. Given the positive response to this initiative, it is envisaged that the programme will be further developed, and extended to other African countries in the coming months.

The drive for greater coordination between WTO and UNCTAD underscores the broader need to integrate the developing world – and especially the least-developed countries – more fully into the global economy. The WTO and UNCTAD will continue to work together towards this goal.

The International Trade Centre

Established by GATT in 1964, the International Trade Centre (ITC) is a joint subsidiary organ of the WTO and the United Nations, the latter acting through the UN Conference on Trade and Development. The WTO General Council and the UNCTAD Trade and Development Board determine the broad policy guidelines of the ITC's programme and the two contribute equally to the ITC's regular budget which, in 1995, totalled slightly more than $23 million. The ITC has also been designated by the UN Economic and Social Council as the focal point for technical cooperation with developing countries in trade promotion.

The ITC and the WTO continued to work closely during 1995 and 1996. The heads of the two organizations, together with the Kenyan Minister of Commerce and Industry, opened a seminar in Nairobi in January 1996 on the opportunities and challenges presented by the new multilateral trading system. Similar seminars are to take place in a number of other countries over the next several years.

The ITC also issued a new publication, Business Guide to the Uruguay Round, which provides company executives and trade officials with practical information on the Uruguay Round Agreements. The Guide is also used for the ITC's programme called, "Uruguay Round Follow-up – Information Dissemination, Needs Identification and Capacity Building".

At the ITC's Joint Advisory Meeting in April 1996, representatives from 83 WTO and UNCTAD member governments and another 15 international organizations strongly endorsed the ITC's recent reform and revitalization measure. They pledged to back the ITC's on-going technical cooperation programme and endorsed the ITC's efforts to reinforce the complementarities and synergies among the three organizations.

Annex I – Publications

Legal Texts and Instruments of the WTO

The Results of the Uruguay Round of Multilateral Trade Negotiations – The Legal Texts

This publication contains the legal texts of the agreements which emerged from the Uruguay Round and which are the legal framework of the World Trade Organization. The texts are the culmination of more than seven years of international negotiations and provide the rules which will govern world trade in the 21st century. The publication contains the complete legal texts of the agreements covering:

- trade in goods, including new rules on anti-dumping, subsidies and countervailing measures, import licensing, rules of origin, standards and preshipment inspection
- trade in services
- trade-related aspects of intellectual property rights

- new dispute settlement system for resolving trade conflicts between nations
- legal framework for the World Trade Organization

These texts define the process for reform in agriculture and the integration of the textiles and clothing sector into the multilateral trading system. This publication also includes the Ministerial Decisions taken in Marrakesh and the Marrakesh Declaration. The text of the original General Agreement on Tariffs and Trade (GATT) signed in 1947 which, in its up-dated version of 1994 still provides the essential directives for trade in goods, is added at the end of the book. Available in English, French and Spanish; in paperback or leather editions.

Legal Instruments of the Uruguay Round

The Legal Instruments embodying the Results of the Uruguay Round of Multilateral Trade Negotiations adopted at Marrakesh on 15 April 1994 have been published in a set of 34 volumes. The complete set covers the Legal Texts, the Ministerial Decisions and the Marrakesh Declaration, the Signatory Countries, as well as the individual agreements, the Schedules of Specific Commitments on Services, the Tariff
Schedules for Trade in Goods and the Plurilateral Agreements. English/French/Spanish edition.

The 34 volumes are also available individually:

Volume	Contents
1	The Legal Texts: Final Act, Ministerial Decisions & Declarations, Marrakesh Agreement establishing the WTO

The following volumes (2-26) contain the tariff schedules for trade in goods for the countries listed:

2	Australia – Brazil – Myanmar
3(a+b)	Canada
4	Sri Lanka – Chile – China
5	Cuba – India – New Zealand
6	Norway – Pakistan
7	South Africa
8(a+b)	United States
9	Indonesia – Dominican Republic – Finland – Nicaragua – Sweden
10	Uruguay – Austria – Peru – Turkey
11	Japan
12	Malaysia – Israel
13	Nigeria – Gabon – Senegal – Madagascar – Côte d'Ivoire – Zimbabwe – Switzerland/Liechtenstein
14	Republic of Korea
15	Iceland – Egypt – Argentina
16	Poland – Jamaica – Trinidad & Tobago – Romania
17	Hungary – Singapore – Suriname – Philippines
18	Colombia – Mexico – Zambia – Thailand
19	European Community and member States
20	Morocco – Hong Kong – Tunisia – Bolivia – Costa Rica – Venezuela – El Salvador – Guatemala – Macau
21	Namibia
22	Paraguay – Czech Republic
23	Slovak Republic – Honduras – Antigua & Barbuda – Bahrain – Barbados – Belize
24	Brunei Darussalam – Cameroon – Cyprus – Dominica – Fiji – Ghana – Guyana – Kenya – Kuwait – Malta – Mauritius – St. Lucia – St. Vincent & the Grenadines
25	Swaziland
26	Benin – Mauritania – Niger – Bangladesh – Congo – Tanzania – Uganda
27	Agreements: Agriculture, Application of Sanitary and Phytosanitary Measures, Textiles and Clothing, Technical Barriers to Trade, Trade-Related Investment Measures, Implementation of Article VI (GATT 1994), Implementation of Article VII (GATT 1994), Preshipment Inspection,

Rules of Origin, Import Licensing Procedures, Subsidies and Countervailing Measures, Safeguards

In addition to the Services Agreement (included in vol. 28), the following volumes (28-30 and 32) contain the services schedules of commitments and/or MFN exemptions:

28 The General Agreement on Trade in Services; schedules for Algeria – Antigua & Barbuda – Australia – Austria – Bahrain – Bangladesh – Barbados – Belize – Benin – Bolivia – Brazil – Brunei Darussalam – Burkina Faso – Cameroon – Canada – Chile – China – Colombia – Congo – Costa Rica – Côte d'Ivoire – Cuba – Cyprus – Czech Republic – Dominica – Dominican Republic – Egypt – El Salvador – European Community & member States – Fiji

29 Finland – France for New Caledonia – Gabon – Ghana – Grenada – Guatemala – Guyana – Honduras – Hong Kong – Hungary – Iceland – India – Indonesia – Israel – Jamaica – Japan – Kenya – Korea (Rep. of) – Kuwait – Liechtenstein – Macau – Madagascar – Malaysia – Malta – Morocco – Mauritius – Mexico – Mozambique – Myanmar – Namibia – Netherlands for Aruba – Netherlands for Netherlands Antilles

30 New Zealand – Nicaragua – Niger – Nigeria – Norway – Pakistan – Paraguay – Peru – Philippines – Poland – Romania – St. Lucia – St. Vincent & the Grenadines – Senegal – Singapore – Slovak Republic – South Africa – Sri Lanka – Suriname – Swaziland – Sweden – Switzerland – Tanzania – Thailand – Trinidad & Tobago – Tunisia – Turkey – Uganda – United States – Uruguay – Venezuela – Zambia – Zimbabwe

31 Agreements: Intellectual Property, Dispute Settlement, Trade Policy Review Mechanism; the Plurilateral Trade Agreements: Government Procurement (including schedules of commitments), Meat, and Dairy (The Civil Aircraft Agreement is not included in this treaty copy, but can be purchased separately.)

32 (Schedules on services submitted after 15 April 1994) Angola – Botswana – Burundi – Central African Republic – Chad – Djibouti – The Gambia – Guinea – Guinea-Bissau – Haiti – Lesotho – Malawi – Maldives – Mali – Mauritania – Rwanda – Sierra Leone – Solomon Islands – Togo – Zaire

33 (Tariff schedules on goods submitted after 15 April 1994) Angola – Botswana – Burkina Faso – Burundi – Central African Republic – Chad – The Gambia – Guinea – Guinea-Bissau – Haiti – Lesotho – Malawi – Maldives – Mali – Mozambique – Rwanda – Sierra Leone – Solomon Islands – Togo – Zaire

34 (Schedules on goods and on services) Slovenia

Now on CD-ROM... The Results of the Uruguay Round

Representing more than 26,000 pages of printed text, this CD-ROM provides all the time-saving features available to electronic publishing (full text search, hyperlinks, etc.) that will allow you to quickly access and manipulate all the texts, tariff schedules and schedules of commitments in the complete set of Uruguay Round documents. Country-by-country, product-by-product cross-comparisons; printing and export to other applications are all easy to manage and perform. Multilingual (English/French/Spanish) edition. PC requirements: MS-Windows 3.1 or higher, Intel 80386 processor, 2MB RAM and a hard disk with 1 MB free disk space, a graphics adapter, and a CD-ROM drive.

The WTO Dispute Settlement Procedures – Collection of the Legal Texts

The rules governing the settlement of disputes in the WTO have been considerably strengthened over those of the GATT. This publication contains a collection of all legal texts related to the settlement of disputes under the GATT 1947 and the World Trade

Organization. To facilitate their use, the texts have been grouped by subject-matter and supplemented by brief notes at the margin, cross-references and a subject-index. Available in English, French and Spanish.

Also to be released this year...

There has been considerable demand for individual publication of the legal texts of each of the various agreements resulting from the Uruguay Round – i.e., Intellectual Property, Government Procurement, Services, Textiles and Clothing, etc. In response, the WTO will release over 1996-97 a number of these agreements, in individual booklet format. Please contact the WTO Publications Services or your distributor for release dates and prices.

The Second Protocol to the General Agreement on Trade in Services (Revised Schedules of Commitments on Financial Services)

This new publication presents about 30 countries' (the European Community and its member States counting as one) improvements or changes to their original commitments for opening up markets to trade in financial services. (The original offers – by 76 countries – are included in volumes 28, 29 and 30 of the published results of the Uruguay Round negotiations released in 1994. See above for more information.) These schedules will be of vital interest to organizations and companies in the international financial services sector. The schedules are published in the language in which they were submitted (English, French or Spanish).

Guide to GATT Law and Practice 1947-1994

The GATT's own article-by-article handbook on the General Agreement. It provides an account of the drafting history, interpretation and application of GATT rules, based on the documentary records of GATT. The new edition of the Guide to GATT Law and Practice 1947-1994 gives the most complete and up-to-date presentation of GATT law from 1945 to 31 December 1994, when the World Trade Organization was established. It incorporates decisions by GATT bodies, the many interpretations of GATT law made by dispute settlement panels and a new chapter on institutional and procedural matters. Each researched chapter analyses precedents and practice, and presents the relevant material in the original text, with full documentary references. Available in English, French and Spanish.

Annual Reports

International Trade 1995 – Trends and Statistics

This annual report is presented in two parts. Part I takes a close look at trade performance over the past year (1994) and the prospects for 1995 and 1996. The analytical section (about 25 pages) provides an overview, followed by a series of brief surveys of: global developments, merchandise trade by product, trade recovery by region, and leading traders in merchandise goods and services. The report also features a special focus on "Globalization" and whether or not the process is likely to continue. Part II provides more than 150 pages of data that present world trade in merchandise goods and services in a number of permutations: by product, by country and by region; by value and by volume. This report is the most authoritative source of world trade data available. English, French and Spanish editions.

GATT Activities 1994-1995

This is the last of the GATT series of publications that provides a record of every aspect of the GATT's work during the previous year or, as in this case, two years. (This one will be of special interest because it covers the transition from the GATT to the WTO.) Written for the broader public, it provides a useful summary of the many disputes brought to GATT for settlement, the reviews of national trade policies, work on new accessions, regional economic integration and activities related specifically to developing countries. Available in English, French and Spanish versions. Earlier editions available.

Basic Instruments and Selected Documents (BISD) – Supplement 41

This latest edition records the principal decisions, resolutions, recommendation and reports adopted by the GATT Contracting Parties during 1993-94 and includes the record of their Fiftieth Session. It records the decisions relating to the transitional co-existence between GATT 1947 and the WTO Agreement; reports on accession and succession of new members; reports and decisions from the Committees on Anti-dumping Practices, Subsidies and Countervailing Measures, Government Procurement and others; plus complete Dispute Settlement Panel Reports. This and previous annual supplements of the BISD offer an important record of the key decisions and reports that have shaped the GATT since its inception. Previous supplements are available.

The International Markets for Meat 1994/95

This annual report examines trends in the production, consumption and trade of bovine animals and meat and describes major trade policy developments in this area.The report provides a comprehensive statistical analysis and contains detailed tables and charts by product category. (Summary reports are also provided on the developments in the international markets for pig, poultry and sheepmeat.) Available in English, French and Spanish. Earlier editions also available.

Summary of the Results of the Uruguay Round in the Meat Sector

This special annex to the annual report 1994/95 is a summary of commitments on market access and subsidized exports for meat products of 41 countries selected on the basis of their importance as markets and/or exporters of meat. Available in English, French and Spanish.

The World Market for Dairy Products 1995

The most important developments in global production, consumption, trade and prices of milk products are provided in this annual report. The report provides an up-to-date analysis of the dairy situation and recent developments in the dairy policies of major producing countries. It contains a comprehensive statistical annex with tables and charts. Available in English, French and Spanish. Earlier editions available.

Summary of the Results of the Uruguay Round in the Dairy Sector

This special annex to the 1994 annual report reflects the tariff schedules of concessions regarding the market access and export subsidies for dairy products of 43 countries selected on the basis of their importance in international trade, size of population and incidence of consolidated tariff quotas and export subsidy reduction commitments. Available in English, French and Spanish.

Special series

Trade Policy Reviews of Member Countries

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 Secretariat report examines the country’s trade-related policies and measures, covering tariffs and a wide range of non-tariff barriers, from an economic perspective. The report reviews the impact of these policies and measures on the country’s recent overall economic performance, and on the development of major sectors, including both primary and manufacturing activities. The government report describes the country’s trade-related policies and the basic institutional and legal structure affecting the trade policy decision-making process. It examines these policies against the background of the wider economic and development needs of the country concerned. The series also provides a great deal of basic economic data on each country, both in tabular and graphic form. 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.

Please contact the WTO for the list of available reviews.

Occasional publications

Reshaping the World Trading System – a history of the Uruguay Round by John Croome

Take 120 government 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 – 4 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 surpassed the goals put forth at the outset.

Video introducing the WTO

This "publication" fills a long-felt need to provide the broader public with a brief, interesting and useful introduction to the World Trade Organization and its vital role in international trade and commerce. Film clips, interviews and graphics illustrate the narrative for this 18-minute presentation. Available in English, French and Spanish, in PAL, SECAM or NTSC. A copy of the brochure, The WTO-Trading into the Future, is included with the video.

Regionalism and the World Trading System

During the latter stages of the Uruguay Round, there was a surge in the number of new regional integration agreements, as well as a deepening of existing agreements, particularly in Western Europe. The possible implications for world trade and the multilateral trading system have been the subject of much discussion and debate. Two key aspects of this issue are addressed in this report. First, whether postwar free trade area agreements and customs unions have complemented or undermined the Multilateral Trading System. Second, whether current GATT/WTO rules and procedures are up to the task of ensuring that regional and multilateral approaches to integration are mutually supportive. Available in English, French and Spanish language editions.

Regional Integration and the Global Trading System
Edited by Kym Anderson and Richard Blackhurst, Economic Research Division, GATT Secretariat

A good companion volume to the report on Regionalism and the World Trading System (above), this is a collection of papers by leading international economists presented at a workshop sponsored by the GATT Secretariat in 1992.

The Greening of World Trade Issues
Edited by Kym Anderson and Richard Blackhurst, Economic Research Division, GATT Secretariat

This volume arose out of papers prepared by leading international economists for a workshop on trade and the environment held in Geneva in 1991. The collection provides a broad view of the key issues in this area and addresses such questions as the role of trade in environmental concerns, the spillover effects of environmental policies, whether regional integration helps or hinders environmental problems, the risks of protectionists co-opting environmentalists' rhetoric and support to achieve their own ends, and what are the main obstacles to international cooperation on global environmental issues and what can be done about them. The English edition has been published by Harvester Wheatsheaf (UK) and can be ordered from the WTO. French and Spanish editions are also available.

The Tokyo Round of Multilateral Trade Negotiations

The report by the Director-General of GATT on the Tokyo Round. Available in English, French and Spanish.

VOLUME I presents the developments in the negotiations, the issues that arose and some achievements.

VOLUME II contains the conclusion of the negotiations and provides an analysis of the effects of the Round on world trade.

Legal texts and instruments of GATT

The Text of the General Agreement on Tariffs and Trade 1947

The complete text of the General Agreement (GATT) signed in 1947 has been included in the publication: The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts (see above). However, the 1947 text can be obtained separately. Available in English, French and Spanish editions.

The Texts of the Tokyo Round Agreements

This volume provides the texts of the agreements and arrangements resulting from the Round negotiations (The Tokyo Round Codes). Available in English, French and Spanish editions.

Arrangement regarding International Trade in Textiles

This agreement is known as the Multifibre Arrangement (MFA) and entered into force on 1 January 1974. This edition contains the complete text of the MFA and the extensions which were in force under GATT. Under the World Trade Organization, the MFA will be progressively dismantled over a period of 10 years. Available in English, French and Spanish.

Publications free of charge

To receive the following free publications, please contact the Information and Media Relations Division directly: Tel.: (+41 22) 739 5019 or Fax: (+41 22) 739 5458.

FOCUS

The official newsletter of the WTO covering negotiations, dispute settlements and other activities. It also reports on general trade-related matters, including features on economic developments and major trade policy issues. A good way to keep up-to-date on what is going on in the WTO in particular and world trade in general. Published 10 times a year in English, French and Spanish. Free subscription upon request.

The World Trade Organization...Trading into the Future

A short course in the WTO – why it is, what it is, how it works, and what it does. Useful for anyone who wants to have a better understanding of this organization and the rules and principles that guide it. In English, French and Spanish. Available on request. (See also the video presentation described above.)

Understanding the WTO Agreement on Sanitary and Phytosanitary Measures

A special booklet to assist the public understanding on the implementation of sanitary and phytosanitary measures regarding food safety and animal and plant health regulations as laid down in the "SPS Agreement" resulting from the Uruguay Round. The booklet provides answers to some of the questions most frequently asked and gives a summary of the Agreement. Available on request.

How to order

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Annex II – Trade Policy Review Body – Concluding remarks by the Chair of the Trade Policy Review Body

Czech Republic – 6 and 7 March 1996

This meeting of the Trade Policy Review Body has now completed the first review of the CzechRepublic's trade policies and practices. These remarks, which are made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of the CzechRepublic's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

The discussion developed under three broad themes: the economic transition; international trade policies; and specific issues.

The economic transition

Participants praised the CzechRepublic for its rapid progress toward a market economy and current strong economic performance. Growth in 1995 had accelerated to some 5 per cent, with industrial output and labour productivity growing strongly; inflation declining; and unemployment low. Large inflows of direct investment and other capital, in a friendly climate, had meant real appreciation of the currency, rapid growth in imports, particularly of investment goods, and a slowing in export growth.

Privatization was recognized as a key component of the economic transformation. Some 80 per cent of productive assets were now under private control. More information was sought on the completion of privatization, particularly in "strategic" sectors. Some participants expressed concern over the concentration of industrial ownership in the hands of Investment Privatization Funds and other financial institutions, apparent reluctance to permit bankruptcies and the substantial value of non-performing loans held by banks.

The representative of the Czech Republic said that macro-economic stability was a key part of transformation and the best guarantee of a favourable investment climate. A tight monetary policy was in force and fiscal policy aimed at a balanced budget, stable medium-term growth and reductions in the tax burden. While competitiveness had been affected by the real appreciation of the crown, measures, including the widening of the exchange rate band, were being taken to discourage short-term capital inflows and stabilize inflationary pressures. Some part of the "grey" economy might be seen in figures for stock building.

The Czech representative gave details of the operation of Investment Privatization funds; links of these funds with the banks were not seen as negative. He made clear that privatization was not aimed at reducing concentration of business control but at ensuring effective management. New owners were responsible for restructuring, without government support. However, "strategic" companies in metallurgy, coal, gas, electricity and petrochemicals – where the State still held a stake – would be restructured before privatization or the reduction of state holdings case by case. Bankruptcy proceedings were slow, because of court overloads, the preference for restructuring of industry, and the need for complex negotiations with creditors. However, many non-viable enterprises had been wound up. Substantial support could be given for environmental rehabilitation, subject to a strict audit.

The trade policy environment

Members noted that regional agreements had made a central contribution to the reorientation of Czech trade policies and flows. Such agreements were in force with all major trading partners except Russia, and covered some 80 per cent of Czech trade. Of special importance was the Association Agreement with, and the prospect of membership in, the European Union. Some participants questioned the concentration on such regional arrangements and emphasized the need to diversify outside Europe. Others asked whether the process of entry into the EU would lead to an increase in Czech tariffs, and sought assurances that multilateral rules would be followed in this regard. It was noted that some regional agreements did not cover substantially all trade, particularly in agricultural products. Czech exports to the EU continued to face restraints, which were not limited to agriculture. It was asserted that the Czech-Slovak Customs Union deviated in some ways from the principle of a customs union, and information was sought on the future of the arrangement. Concern was also expressed about complex rules of origin in preferential agreements.

Members welcomed the Czech Republic's reliance on ad valorem tariffs as the primary means of import protection, with moderate rates which would decline under Uruguay Round commitments. However, it was noted that tariff escalation on processed products provided effective protection of manufacturing activities, particularly in sectors such as food, beverages, and textiles and clothing.

Members welcomed the information given by the Czech Republic on notifications under WTO procedures, but asked when the services aspects of the EU Association Agreement would be notified to the Council on Trade in Services. It was recognized that the CzechRepublic had made a relatively large number of commitments under the GATS, with few MFN exemptions; some members asked whether there were plans to phase out these exemptions in the near future. Clarification was sought on Czech policy toward service industries, with particular questions addressing areas such as insurance, banking, and health, auditing and legal services.

The representative of the Czech Republic said that its accession to the EU would depend largely on the outcome of the Intergovernmental Conference; in the process, the Czech Republic would honour all its WTO commitments. No substantial changes to the existing Europe Agreement in agriculture were expected. Quotas on steel exports to the EU had been abolished from 1 January 1996 and restrictions on textiles would end on 1January1998; sheepmeat quotas, he felt, were not an effective obstacle to trade. The representative also outlined conditions of the CEFTA and other agreements; he believed that the FTAs in force would have no adverse effects on trade with third countries. All such agreements would be notified. All free trade agreements, apart from that with EFTA, covered trade in agricultural products; his view was that ArticleXXIV was fulfilled. The special circumstances of the Czech-Slovak customs union had been recognized by GATT; the suspension of tariffs on cars by Slovakia was seen as a necessary temporary measure. Rules of origin were necessary within the Customs Union because free movement of goods was not a part of the agreement.

The representative made clear that, through the Uruguay Round, the Czech Republic had sought to develop and diversify its export and import trade with all WTO Members. This process was strongly supported by the business community. No further reductions were currently envisaged in the common external tariff, except under multilateral negotiations. He noted that agricultural tariffs, reflecting tariffication under the Uruguay Round, were generally significantly lower than in many WTO member countries and would be reduced by 40 per cent over the period of implementation. The escalation of tariffs, given the low average level, was not seen by the Czech Republic as a major barrier to trade.

The representative of the Czech Republic gave details of possible future liberalization of financial services. He emphasised that licensing requirements for foreign and domestic insurance companies were identical. Access for foreign banks was judged according to financial, technical, professional criteria and economic expediency. He gave details of conditions for access to health, professional, auditing, legal, engineering and retail services sectors and confirmed that the services aspect of the Europe Agreement with the EU would be notified under ArticleV of the GATS. MFN exemptions would be dealt with under future negotiations.

Selected trade policy and related issues

The importance of including the private sector in trade policy formulation was noted;

more information was sought as to how this was done in the CzechRepublic.

Participants noted that substantial state intervention remained in agriculture. Questions were raised regarding export subsidization for particular products; the use of MFN and preferential tariff quotas; the extent to which quota administration restricted market access for non-preferential suppliers; internal support measures; and the restrictive levels of some sanitary and phytosanitary restrictions.

Concern was expressed about the remaining use of non-automatic import licensing and participants also sought information on legal requirements for obtaining automatic import licensing. The Czech Republic was also asked to assess the restrictiveness of export licensing under its export restraint agreements.

Members noted that legislation on anti-dumping and countervailing measures was in preparation and welcomed the Czech Republic's involvement in Uruguay Round efforts to reduce the scope for protectionist abuse of such measures. Some stressed that these rules should be designed to minimize such risk, introduce competition considerations in anti-dumping law and thus safeguard economic competition in import-competing industries.

It was noted that the Czech Republic had not taken the option available to transition economies to delay the implementation of parts of the TRIPS Agreement. Questions were raised on whether the Czech Republic was enforcing the Agreement effectively, in particular against software and video piracy. Clarification or further information was sought on compulsory licensing and criteria for cancelling a trademark registration for failure of use. Details of forthcoming changes in the trademark law were requested, including the relationship of such changes to the TRIPS Agreement and the European Patents Convention.

The simplicity and transparency of the Czech Republic's liberal GSP regime were appreciated by participants. It was noted, however, that few preferences were offered on agriculture, food and beverages.

In reply, the representative of the Czech Republic stressed that export subsidies in agriculture were marginal and declining, applied only to dairy products in 1995. Tariff quota allocations reflected commitments undertaken under FTAs signed before the Uruguay Round; all increases in MFN tariff quotas would be available to all countries. Preferential imports were counted against quota limits under agreed minimum access commitment criteria. MFM tariff quotas were administered on a first-come, first-served basis. In-quota tariffs would remain unchanged during the implementation period, while out-of-quota rates would fall. Strict SPS requirements for chicken were seen as necessary to avoid the spread of salmonella, given the concentration of domestic poultry production. No goods were now subject to state trading monopolies; the State Fund for Market Regulation intervened to guarantee certain prices but imports were liberalized.

On import licensing, the representative noted that since January 1996, coal was the only product under quantitative restriction, justified under Article XX of GATT 1994. Automatic licensing for monitoring reasons had no effect on trade. Export licensing was applied to textile and clothing items covered by bilateral agreements. The Czech representative made clear that the private sector was consulted regularly on the preparation of trade policy, through business associations.

New anti-dumping, countervailing and safeguard laws were expected to be promulgated in 1996, or at latest 1997. The authorities were seriously concerned that such legislation should not be used as protective measures. No actions had been taken to date. FTAs involving the Czech Republic referred specifically to GATT legal instruments in these areas.

The representative indicated that a new Trademark Law had entered into force in October 1995; amendments to the Copyright Act should come into force in the second half of 1996. These acts, made in light of the TRIPS Agreement, should fulfil all relevant requirements, including enforcement in areas such as software and recorded media. National treatment was provided and no compulsory licences had been granted to date. Under the Trademark Law, trademarks could be cancelled when no use had been made for five years without justifiable reason by the owner or a licensed third person. Public interest could be enforced, subject to appeal, when articles offended against morality, religion or other similar concerns.

The representative also made clear that the GSP system had been substantially extended from 1995. Margins of preference related to sensitivity of the goods; however, no quotas or ceilings were applied. Imports from least-developed countries and tropical products entered duty-free, and concessions were also extended on many agricultural and some textile and clothing products.

Overall, I would single out two issues for final comment. **Firstly**, the transformation of the Czech economy over the past five years or so. The scale and pace of change have been remarkable by any standards. The challenge now is to ensure the long-term sustainability of what has been achieved. In particular, the follow-through on the privatization process will require careful monitoring; as was repeatedly pointed out by delegates here, enterprise restructuring is the logical corollary of privatization and must take place under the new ownership.

Secondly, while the trade picture was felt to be generally healthy, there is no room for complacency. It is indeed true that significant import demand tends to be associated with the early stages of modernization and transformation; however, trade deficits over any sustained period would be bound to give rise to concern. The huge inflows of capital – while presently financing the trade deficit – will also continue to require close attention; such inflows are undoubtedly a sign of confidence in the Czech economy, but vigilance will have to continue to be exercised in relation to any potentially destabilizing effects. Also, while it is quite natural that the trade of the Czech Republic should be oriented towards European neighbours, a wider spread of markets – including those outside the shelter of preferential agreements – will be important to the longer-term development of a fully competitive and resilient economy.

Finally, I would say that all WTO Members recognize that the Czech Republic has come a very long way in a very short time. If we may give advice, this would be to stay the course, to guard against the emergence of protectionist or inflationary pressures and to ensure that the existing strong commitment to WTO and multilateralism remains intact.

Dominican Republic – 14 and 15 February 1996

At its meeting on 14-15 February 1996, the Trade Policy Review Body held its first review of the trade policies and practices of the Dominican Republic. These remarks, made on my own responsibility, summarize the salient points of the discussion and are not intended to substitute for the collective evaluation and appreciation of the Dominican Republic's trade policies and practices, which will be reflected in the Minutes.

The discussion developed under three main themes: (i) the general economic situation and reform programme; (ii) the existence of a "dual economy" and consequences for domestic industry and (iii) a number of specific questions.

General economic situation and reform programme

Economic reform: The Dominican Republic was widely commended by members for the rapid progress of economic and trade reform since 1990. It was recognized that the reforms had had positive effects both on macroeconomic variables and on the external accounts.

Trade liberalization: Members appreciated that the Dominican Republic had made great strides towards a more outward-oriented trade regime. However, note was taken of the high reliance of fiscal revenue on trade taxes, and concern was expressed that this could impede further reforms unless a way was found to broaden the tax base.

Role of the State in the economy: Participants noted the crucial role of the State in key sectors of the Dominican Republic's economy, and requested further information on the privatization programme and on remaining price controls. Some Members emphasized the importance of privatization in sectors such as electricity to enhance productivity by improving the capital stock. One Member asked if the Dominican Republic had notified its state trading monopolies in conformity with the requirements of Article XVII of the GATT.

Concentration of exports: Members expressed their concern about the vulnerability of the Dominican economy due to its heavy reliance on a limited number of export products and markets. Members attributed this concentration to preferential arrangements such as the CBI and the Lomé Convention, and raised questions concerning the effects of such concentration on the long-term competitiveness of the economy and the development of other sectors. The need for active stimulation of the diversification process was emphasized.

In response, the representative of the Dominican Republic said the stabilization measures and structural reforms were aimed at creating market conditions in support of the reforms, and at attracting foreign investment which would allow the transfer of technology necessary to reduce the vulnerability of the economic and export structure in both goods and services. The authorities recognized that, in small economies, only such openness could guarantee permanent flows of capital and technology. He recognised that the process of market opening must be deepened further, to preserve the gains that had been made and to find new niches in international markets.

The representative stressed that the authorities were conscious of the need for further market diversification, although it had to be recognized that the proximity of the huge North American market and preferential schemes had influenced developments and provided important benefits in the past. The reduction of preferences in textiles might have initial negative effects, but there was still time to make the necessary adjustments.

He stated that, while the privatization process had been slow, most public enterprises were not very attractive to private investors; however, there were no barriers to entry in these sectors. There were no longer any state import monopolies in the Dominican Republic. Complete privatization would depend on congressional approval; he emphasized the difficulties for a minority government to have bills accepted, particularly in an election period. Fuels were the only products now subject to price controls.

"Dual Economy" and consequences for domestic industry

Free zones: The important role of free zones in promoting the export sector as an engine of growth in the Dominican economy was noted. However, Members stressed the importance of reaching a better balance between the free zone sector and the rest of the economy, through the development of appropriate linkages.

Tariff escalation: Members welcomed the considerable rationalization and reduction of tariff rates, but expressed some concern about the continued tariff escalation, which affected resource allocation by providing high effective protection for some industrial sectors. Some members recommended a more uniform tariff regime, with fewer rates.

Tax neutrality-ITBIS: Members commended the tax reform implemented by the DominicanRepublic, but expressed their concern about the lack of tax neutrality in the ITBIS tax which, they considered, targeted imports more than domestically produced goods. It was suggested that the ITBIS was not compatible with the Article III:2 requirement for national treatment in respect of internal taxation.

In response, the representative of the Dominican Republic said that the free zones were seen as an intermediate step in the integration of the Dominican economy into world markets. They had already contributed to technology transfer and labour training. The rapid development of the services sector, especially tourism, had allowed further market development.

Referring to questions on the ITBIS, the representative was aware that legislation needed to be updated. He emphasized that the tax was collected only at one stage. Exemptions had been progressively eliminated, showing the commitment to eliminate any discriminatory elements. The base had also been extended to other goods, previously exempt. Details on the operation of the tax were provided. The Selective Consumption Tax had varying rates, mainly applying to automobiles and domestic electrical goods not produced in the country. Rates for tobacco and alcoholic beverages had been unified, so that this was no longer discriminatory.

Tax reforms had reduced the dependency on trade taxes to 4.1 per cent of GDP, compared with 5.7 per cent in 1992. There had also been a reduction in tariff escalation; average effective protection had fallen by 6 per cent from the situation in 1990 to 14 per cent in 1994. The new Tariff Code was fully consistent with the authorities' Uruguay Round commitments.

Specific issues

Agriculture: While members praised the active role of the Dominican Republic in the

Uruguay Round, widely shared concerns were expressed over the modifications now being sought to its bindings in agriculture. One member felt that seeking to modify the commitments so soon after conclusion of the Round raised questions about the transparency and security of access to the Dominican market.

Import licences: Members commended the Dominican Republic for having largely eliminated prohibitions and import licensing. However, Members were concerned about the legal status of remaining import licences and scope for discretion in their allocation. Clarification was sought in this area.

In response, the representative of the DominicanRepublic said that his Government was currently conducting negotiations to rectify its Uruguay Round Schedules in respect of some agricultural items, and hoped to complete these soon. As officially published, from 1 January 1996, there were no licensing restrictions on any agricultural items; however, legal adoption of these administrative measures would require congressional approval. Only items tariffied under the proposed rectification of schedules would be subject to special safeguards. Details were provided on other measures to move progressively to a market economy in the agricultural sector, including new land reform initiatives. Some Dominican products faced restrictions on access to developed country markets. The authorities noted that Spain had been declared free of African swine fever and this would be resolved in the context of harmonization with the WTO rules.

Customs reform: Members recognized the efforts of the Dominican Republic in this area. Nevertheless, some still considered customs procedures to be cumbersome. They also enquired about intentions to reform the present valuation system, based on minimum values, to conform to the WTO Customs Valuation Agreement. Several members also considered consular invoice fees as an extra tax on imports.

Foreign investment: The passage of the new foreign direct investment law was welcomed. Details of the legislation were requested. One Member stressed that, to derive full benefits, including from technology transfers, the new law should go hand-in-hand with a revised Intellectual Property Law.

Services: While Members generally welcomed the commitments made by the Dominican Republic in the GATS, some called attention to apparent discrepancies between these commitments and some national legislation. One Member stressed the need for rapid approval of the New Monetary and Financial Code.

Rules of origin and preferential agreements: Questions were asked about the rules of origin applied by the Dominican Republic. The authorities were requested to notify the free-trade agreement with CostaRica.

Questions were also asked on the implementation of Uruguay Round commitments in the areas of competition law and anti-dumping and countervailing measures.

In response to these questions, the representative of the Dominican Republic responded that, to some extent, the pace of developments had overtaken the pre-existing legal and institutional framework. A large body of laws, decrees and special contracts had already been eliminated. The new Foreign Investment Law would accord national treatment to foreign investment and remove most restrictions except for environmental and security requirements; free repatriation of capital was permitted and foreign and domestic firms could participate equally in privatization bids.

The Dominican authorities recognized the importance of the link between protection of intellectual property and foreign investment, and a draft law had been prepared to bring Dominican legislation into line with the TRIPS agreement. The representative also gave details of enforcement of intellectual property laws.

Competition rules would be completed with specific rules to safeguard competition in the areas of telecommunications, transport and energy, and a new regulatory framework was being created.

Details were given on the modernization of customs procedures and the advances which had been made. The list of customs values had reduced the discretion of customs officers. The authorities expected to conform to WTO requirements within the allowed 5-year period. Consular fees were applied on a sliding scale. Rules of origin were linked only to trade with CostaRica under the FTA with that country and used the "substantial transformation" criterion.

Most laws relating to services had been brought into line with the commitments given by the Dominican Republic. In the area of transport, the Dominican offer was perhaps the widest of any country, including in maritime services, and was linked to the desire of the country to introduce a multi-modal transport system. Since negotiations on maritime services were still ongoing, the offer could not yet be regarded as final; existing laws could thus not be in conflict with the WTO. Restrictions on tourist guide services would be resolved with the promulgation of a new law on professional services being drafted in anticipation of the completion of these negotiations in the WTO.

In general, the TPRB has welcomed the thoroughgoing reforms that the Dominican Republic has undertaken, especially since 1990. We are, however, concerned about aspects such as the dualism of the economy and, as yet, an apparent lack of coherence in the legal framework for trade policy making. In this context, we recognize that the authorities are taking serious steps to modernize and unify this framework and we wish them well in these efforts, which should create a more stable and predictable trading environment for economic development. We are also conscious of the potential vulnerability of the economy because of the limited number of export products and markets, and would strongly encourage active Government leadership in the diversification process.

Morocco – 17 and 18 January 1996

Over the past two days, the Trade Policy Review Body has conducted the second review of Morocco's trade policies and practices. These remarks, intended to summarize the salient points, are made on my own responsibility and do not substitute for the Body's collective evaluation and appreciation. The full discussion will be reflected in the minutes of the meeting.

The discussion developed under four main themes: (i) macroeconomic environment and general policy trends; (ii) Uruguay Round implementation process; (iii) regional agreements and the multilateral system; and (iv) individual policy issues.

Macroeconomic environment and general policy trends

Members commended Morocco on the breadth of the economic reform that it had implemented autonomously since the early 1980s. In this process, many previously protected manufacturing and services sectors had been exposed to competition. In turn, liberalization of the trade and investment regimes – including significant tariff cuts, reduction of quantitative restrictions and a major programme of privatization – had helped to underpin a period of strong growth and low inflation, with a positive impact on external debt.

Some Members saw signs that the pace of reform had slowed recently and that the emphasis had shifted from external liberalization towards fiscal stabilization. In this context, questions were raised concerning the economic impact of severe droughts in recent years and their effect on the liberalization agenda. Members also expressed concern about delays in the legislative process, with a large number of draft laws awaiting adoption or promulgation. Morocco was asked to notify new laws as these were implemented.

Several comments focused on the Government's continuing involvement in the economy. Questions were asked regarding the rationale for existing duty exemption schemes, seeking to shield export industries from inefficiencies in domestic sectors. It was felt that a broader approach to liberalization might both reduce the need for such compensatory intervention, and promote economic diversification and backward integration of export sectors. Members also enquired about any specific policy initiatives to broaden Morocco's export base and diversify export destinations.

In reply, the representative of Morocco stressed his Government's continued strong commitment to an open, rule-based trading system and to domestic deregulation and privatization. Morocco had embarked on an irreversible process of economic reform with the final objective of full external and internal liberalization. This would lead to the deregulation of the transport sector and the privatization of a number of public enterprises, including two refineries and a development bank. Important changes were being prepared in the telecommunications area, and the electricity market had been opened to a major private project. No areas were closed to privatization and a second list was in preparation containing all remaining firms. Experience with privatization was positive, including in the creation of employment. There had been a strong response by the private sector to new privatization bonds recently issued. A precise timetable for further liberalization was to be announced.

Fundamental economic legislation was currently being changed. A new investment code had entered into force on 1 January 1996; and a new commercial code, company legislation, a competition law, and intellectual property legislation were currently in the parliamentary or governmental process. To accelerate administrative procedures, the setting up of commercial courts was scheduled for 1996.

Morocco had made considerable progress in diversifying the regional structure of its exports. This process was supported by export promotion initiatives and, more generally, by the implementation of the WTO Agreements. Morocco attached considerable importance to developing its commercial relations with North and South America, Asia, the Middle East and Africa.

Uruguay Round implementation process

While expressing full appreciation for Morocco's role in, and contribution to, the Uruguay Round and the significance of the commitments made, Members sought clarification on the domestic implementation process. Particular reference was made to areas such as safeguards, anti-dumping, subsidies and countervailing measures. Delays in the implementation of agricultural tariffication were observed. Questions were also raised on the current scope of import licensing and prior declaration requirements and the use of sanitary and phyto-sanitary controls.

Noting that tariffication had increased the number of rates, Members asked about any further initiatives to simplify the tariff structure, attenuate tariff escalation and align all official rates with GATT bindings. Several comments focused on the restrictive effects and administrative costs resulting from the cumulation of high tariffs, in particular in agriculture, with other import-related charges and levies, including the Prélèvement Fiscal à l'Importation (PFI). Members also raised questions about the fiscal policy constraints that might arise from tariff cuts.

Members recognized that Morocco had assumed a commendable level of commitments in services sectors. They encouraged Morocco to participate actively in the ongoing negotiations on maritime transport and basic telecommunications. Some participants expressed concern about arrangements affecting the movement of personnel, including visa requirements.

The representative of Morocco responded that a new External Trade Law had been adopted by the ministries involved and was to be submitted soon to the Government Council. New safeguard legislation was currently being developed in accordance with the relevant WTO Agreement. For the time being, the administration was authorized to introduce, on a temporary basis, a prior import declaration to monitor imports of products causing, or threatening to cause, injury to domestic producers. While Morocco's existing External Trade Law provided for anti-dumping and countervailing measures, these had not been used to date. The Prior Import Declaration (DPI) could serve to monitor imports threatening prejudice to domestic production.

Agricultural liberalization was an irreversible part of the structural adjustment programme. Since 1994, importation of farm products had been liberalized, with the exception of certain basic food products on which consumption subsidies were being granted. Import licensing requirements for sugar, vegetable oils, cereals and their derivatives were being phased out in the first half of 1996, terminating by 1June. Accompanying measures included the establishment of tariff equivalents, which were generally below the GATT bound levels; reforms in the marketing system; creation of security stocks; the de-monopolization of sugar imports; and the liberalization of oilseed processing industries. Agricultural tariff equivalents had been calculated in accordance with the relevant WTO provisions; these were currently applied on meat and dairy products. Due to the 1995 drought and a change in the fiscal year, implementation of the reduction commitments for 1995 had been postponed to July 1996. From that date, import licensing requirements would be confined to products deemed sensitive for health and security reasons, including explosives, used tyres, and second-hand vehicles.

From 1 January 1996, the structure of the Moroccan tariff had been changed, abandoning the previous distinction between official and applied rates. The new tariff schedule contained three columns; the import tariff, the Prélèvement Fiscal à l'Importation (PFI) and their aggregate. The new tariff would be notified to the WTO. The transitional fiscal law for 1996 entailed a general reform of the system; it was aimed at simplifying, harmonizing and improving the transparency of border taxation. The resulting improvement in the fiscal and economic environment would help to reduce contraband trade. Rates on some sensitive products had been lowered; for example, machinery and equipment carried tariffs of no more than 2.5 per cent, while tools, spare parts and electronic products were subject to a 10 per cent tariff. The PFI was not levied on such products. At the same time, the number of different tariff rates had been brought down from 13 to 6. The fiscal effects of these tariff cuts could be partially offset by a small increase and broadening of scope for VAT. The para-fiscal levy of 0.25 per cent was intended to compensate the private sector for its technical controls on exports, consistently with Article VIII of GATT.

Morocco had assumed very substantial commitments, both in terms of sectoral coverage and level of liberalization, under the GATS. These included sectors such as telecommunications, transport, financial and professional services, construction, tourism and environmental services. In most cases, national treatment was granted. Morocco continued to participate actively in the ongoing negotiations on maritime transport, basic telecommunications and professional services. Visa requirements for business people were not generally restrictive; a solution would be sought to problems raised in this connection.

Regional agreements and the multilateral system

Morocco's multilateral trade policies coincided with efforts to intensify preferential ties with the European Union and North African countries; participants stressed the need to notify the resulting agreements under WTO provisions, particularly under Article XXIV of GATT. Details were sought on the recent Association Agreement with the EU, Morocco's dominant trading partner, and the implementation agenda. Attention was called to the gradual liberalization of EU markets in the wake of the Uruguay Round, implying fiercer competition from third countries for Moroccan preferential supplies to the EU of fruit, vegetables and clothing.

The representative of Morocco noted that the new Association Agreement initialled with the EU, a natural extension of the previous Cooperation Agreement, would lead to a free trade area. It was in conformity with Article XXIV of the GATT and would be notified on ratification. Agriculture was included in the Agreement and progressive liberalization was foreseen. A commercial and tariff agreement with the Union du Maghreb Arabe (UMA) had not yet entered into force, pending the completion of implementing measures by member States.

It emphasized strongly that Morocco did not ignore the development of relations with other trading partners: the direction of reforms undertaken on an MFN. basis was clear. Trade was developing well with non-European countries.

He felt that Morocco was well placed to compete effectively on the EU's textile and clothing market, even after full liberalization under the Uruguay Round Agreement. The implementation period would be used for positive adjustments and further diversification of the sector. Geographic proximity and the flexibility of the industry would help support the necessary adjustments. He was also confident that Morocco's fruit and vegetable sector would further benefit from recent export diversification policies. The Association Agreement with the EU was expected to improve trade flows in this field significantly from the year 2000 onwards.

Individual policy issues

Members took the opportunity to seek clarification on a wide range of policy programmes and measures. These included Morocco's new Investment Code; the future orientation of competition policy, including price deregulation; local content requirements in the motor vehicle sector; a tax on imported wood products; prior import declaration requirements on bananas; and initiatives against fraudulent trade practices.

In response, the representative of Morocco explained the main elements of the 1996 Investment Code. Enterprises meeting specified criteria, for example in terms of employment, could apply for benefits such as reductions in infrastructure-related charges and professional training. Morocco's new competition law provided for general price liberalization; price controls could be introduced only in exceptional circumstances for a limited period. The law, to be implemented in the course of 1996, would be phased in over three years. A National Competition Council would be set up as an independent judicial body.

Imports of motor vehicles were unrestricted, currently carrying a 17.5 per cent tariff and a PFI of 15 per cent which was considerably below the bound levels. As in many other developing countries, Morocco's initial industrialization efforts had relied strongly on the automobile industry, and a national content requirement of 60 per cent was introduced in 1981. However, due to uncompetitive pricing, the Moroccan market had been inundated by imports of old second-hand cars which, in turn, had a negative impact on road safety and the environment. To improve this situation, the concept of an "economic car" was developed, and the world's leading producers were invited to tender in mid-1994. Incentives were offered to ensure a local content of 50 per cent and a reasonable sales price. In June 1995, the Government signed an eight-year contract with the winning competitor, Fiat. In parallel, import tariffs were reduced to their current level which, in turn, would promote competition. The project met the relevant provisions for developing countries and would as soon as possible be notified under the WTO Agreement on Trade-Related Investment Measures.

To fight deforestation and preserve natural forests, a 6 per cent import tax on wood had been introduced in 1986. The tax was not discriminatory, being paralleled by an internal tax of 40 per cent.

After the banana market was liberalized in July 1994, a glut of imports, largely exceeding minimum access requirements, caused severe market disturbances in May, June and September 1995. In response, the Government had taken emergency surveillance measures and introduced a prior import declaration requirement for six months; this had now been terminated.

In addition to the tariff changes referred to, Morocco had taken several administrative measures to fight contraband trade. These included the restructuring and better funding of the competent customs services, and the simplification of customs procedures.

During these two sessions, we have had an extremely useful, informative and stimulating discussion. A very clear thrust and sense of direction – towards liberalization, modernization and opening up – has emerged. WTO Members congratulated Morocco on the direction of reforms and the steps taken. We have greatly appreciated the fact that, reflective of Morocco's serious attitude to WTO, the Minister has come here personally with such a strong delegation. Finally, I would like to express my appreciation for Members' participation in the meeting, and thank the discussants for their impressive contributions as well as the Secretariat for its preparatory work.

Norway – 11 and 12 June 1996

The Trade Policy Review Body has now completed the second review of Norway's trade policies and practices. These remarks, made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of Norway's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

The discussion developed under four main themes: (i) Norway's economic structure and its multilateral and regional relations; (ii) trade practices by measure; (iii) agriculture and fisheries; and (iv) other sectoral issues.

Norway's economic structure and its multilateral and regional relations

Members noted the improved performance of the Norwegian economy since the previous Trade Policy Review in 1991, with strong economic growth and low inflation. Unemployment was falling, although not to the level of the early 1980s. Oil was a key feature of the Norwegian economy and a question was raised about progress in implementing the Petroleum Fund. In commenting on the generally open nature of the Norwegian economy, Members also asked about the process of domestic adjustment in response to liberalization.

Members welcomed Norway's active participation in the Uruguay Round and in the WTO, and the level of its commitments. They also noted the high and increasing level of trade with regional preferential trading partners in Europe under the EEA, EFTA and agreements with Central and Eastern Europe. Questions were asked about the consistency of such arrangements with the GATT and the GATS, and differing views were expressed on possible trade diversion effects. Appreciation was expressed by many developing country Members for the favourable access afforded by Norway's GSP scheme, although some further improvements were urged in extending the scope of the scheme, in particular to textiles and clothing.

While terms of access for foreign direct investment in Norway had become even more open than at the previous TPR, partly as a result of application of EEA rules on an erga omnes basis, questions were asked about further opening, including whether this would also be on a non-discriminatory basis. Norway's views were sought on the possible inclusion of rules on foreign investment within a multilateral framework.

In response, the representative of Norway explained that, while the oil sector contributed positively to the overall economic performance, economic policies had also been geared actively to achieving increased employment, reduced inflation and competitiveness. Unemployment had not fallen as rapidly as hoped, interalia, because of a rapid growth of the labour force. Details were provided on the Petroleum Fund as a budgetary measure with a view to the future; allocation for the current year was estimated at 2.5 per cent of GDP.

The representative of Norway explained that liberalization of capital movements under the EEA was made on an ergaomnes basis and that investment screening was non-discriminatory. OECD rules on export credits and guarantees were followed; assistance was provided for Norwegian investment in developing countries through a special credit arrangement.

The representative said that Norway saw no contradiction between further regional integration and efforts to liberalize at the global level. Norway hoped to contribute to the debate on regionalism in the new Committee on Regional Integration. The progressive inclusion of agriculture in the EEA was to be reviewed every two years. The provisions under which the EEA Agreement had been notified did not, in the Norwegian view, require review in a working party.

Norway appreciated the comments on its GSP scheme and took note of the suggestions made on how this might be improved, particularly in the areas of textiles and agriculture and by the possible inclusion of footwear. He mentioned the fund that Norway had established in the WTO to help provide technical assistance to developing countries. Appreciation of this fund was expressed by a number of developing Members.

Trade practices by measure

Members commented on the generally low level of Norwegian industrial tariffs, which had been further reduced as a result of the Uruguay Round, autonomous tariff cuts of low, "nuisance" tariffs and more substantive reductions. Nevertheless, there were some areas of tariff escalation. In the areas of forestry, pulp and paper, which were major export items, Members wondered whether such tariff escalation was necessary.

It was noted that quotas for textiles and clothing continue to be applied by import licensing, which also affected some products from non-WTO Members. A question was raised about the need for high VAT levels, given the fiscal surplus.

A number of Members commented on the various subsidy schemes used by Norway, including for regional development, R&D, environmental improvement, export promotion and in support of agriculture and shipbuilding; it was felt that these could have disruptive trade effects. Members asked about future plans in this area. A number of questions were asked about state trading operations, including for alcohol, grains and animal feedstuffs, as well as, more generally, on plans for privatization of state enterprises. There were several questions about government procurement policies, in particular whether these favoured firms with local presence and which used a higher degree of local content.

Members expressed considerable interest in Norway's environmental policies, including the White Swan labelling programme and the electric vehicle programme. There were also specific questions on the application of technical standards and SPS regulations.

In response, the representative of Norway said that Government support for strong environmental policies could be positive, provided there were no trade distorting or discriminatory effects. Norway was aware of the need to strike the right balance in this area. Further details were provided on the voluntary eco-labelling scheme, which had been discussed informally in the WTO; the authorities, he said, were considering a notification under the TBT Code of Good Practice. He emphasized that support measures for the forestry sector were designed to prevent deforestation and ensure regeneration. Details were provided on the electric vehicles project.

The representative noted that, in the Uruguay Round, higher tariffs had been cut to a greater extent; full implementation of the results would further reduce tariff escalation. Agricultural tariffication had increased overnment revenues, although he emphasized that the contribution of tariffs to the budget was minimal. The elimination of further "nuisance tariffs" was being considered in relation to the 1997 budget.

The representative confirmed that Norway had not used anti-dumping, countervailing or safeguard actions for 10 years, nor had the EEA during its existence. The new Trade Act was designed to bring legislation into line with present practice. Current VAT rates would help maintain budget surpluses against the future run-down in oil revenues that was anticipated.

The delegate provided details on the Norwegian Government holdings in industry, and stressed that the authorities were not involved in day-to-day management. In banking, State participation, which had increased during the banking crisis, would be further reduced. The alcohol monopoly for imports, exports and wholesale trade had been abolished on 1 January 1996, but there were no plans to eliminate the retail monopoly.

The representative said that technical regulations and SPS measures were consistent with WTO obligations. He provided further details on assistance to developing countries and the labelling of genetically-modified foods or ingredients. EEA rules would generally prevail over non-binding international standards.

The representative provided specific responses to a series of questions on Norway's competition legislation and experience with its application. He noted that the EEA Agreement on competition rules had made anti-dumping measures redundant within the EEA. He provided a list of the notifications still to be made to the WTO in the areas of TBT, import licensing and agriculture.

The representative informed Members that amendments to the regulation on government procurement were expected to be adopted within one month, for immediate entry into force. However, he noted that current practice was not discriminatory. Environmental aspects could be one criterion in determining the "economically most advantageous tender". Further details were provided in response to specific questions.

Agriculture and fisheries

While welcoming the opening of the agricultural sector as a result of the Uruguay Round and the intention to bring prices closer into line with those in neighbouring countries, some Members noted that these were still high and asked what further action the Norwegian Government intended to reduce the high levels of protection and assistance. There was additional unpredictability stemming from the use of seasonal tariffs which could be varied at short notice. Questions were also asked about the auctioning system being considered for the allocation of tariff quotas, some Members expressing the preference that quotas be allocated on the basis of historical market share. It was noted that the EEA and EFTA agreements effectively excluded agriculture, and Norway was asked how this sat with the requirement of Article XXIV of the GATT that substantially all trade be covered under such arrangements.

In response, the representative of Norway said that administrative adjustments to tariffs were within international obligations, and carried out under guidelines to ensure transparency. The Import Council advised the Government on the import regime. There was no intention of increase applied rates. In Norway's view auctioning of quotas was compatible with the WTO Agreement on Agriculture, allowing new entrants and increasing quota utilization. Auctions had been introduced for minimum access quotas and for some items under the GSP.

Details on the operation of the Norwegian Grain Corporation had been notified to the WTOCommittee on State Trading Enterprises. Information was provided on the import quota for deer meat.

The delegate concluded by giving an overview of the conditions affecting Norwegian agriculture and the rationale of its agricultural policy, including geographic, climatic and food security reasons.

A number of questions were asked about fisheries, including several questions about access to the Norwegian market for fish and to Norway's fishing grounds. A question was asked about the consistency of minimum prices for determining dutiable value for imported fish with the WTO Agreement on Customs Valuation. In response, the representative of Norway said that the Royal Decree providing for the possibility of minimum prices for fish and fish products was a safeguard measure against market disruption from import surges, not for customs valuation purposes. Minimum prices were determined in negotiation between fishermen and sales organizations.

Other sectoral issues

Members welcomed Norway's liberal offer in the maritime services negotiations, its commitments in financial services and the opening of its telecommunications market. A number of specific questions were asked about conditions of access to the Norwegian financial services market. While the State was divesting itself of its acquisitions during the 1992 banking crisis, it was noted that two trading banks would remain under state control. Some questions were asked about the Norwegian fleet and explanations were sought on the shipping registers. A question was also asked about the proposed revision of the mining law, in particular whether access afforded to EEA countries would be extended to other WTO Members.

In response, the representative of Norway said that Norwegian mining law did not restrict exploration rights to EEA nationals; however, non-EEA nationals required a specific concession. Revision of the law would be proposed in 1997.

The representative said that there was no intention to replace the current restrictions on the cross-border supply of banking services, which had been duly tabled under the GATS. EEA conditions were different because of the "single licence" and other provisions in the agreement. The requirement that insurance broker activity be organized as a joint stock company would be abolished.

The representative indicated that he could make available a summary of the White Paper on maritime services to interested delegates. He gave details on the two Norwegian shipping registers, noting that the Norwegian International Shipping Register (NIS) was a national quality register, not a flag-of-convenience register.

Tendering procedures for the supply of telecommunications equipment were open; type approval was no longer a time-consuming exercise and foreigners should have equal opportunities to compete with nationals.

Overall, Members were favourably impressed by the strength and openness of the Norwegian economy. Such qualifications as were expressed related largely to Norway's agricultural regime, as well as to the heavy concentration of trade in countries with which Norway has preferential trading arrangements. There was encouragement for further opening up of the agricultural sector and for increased geographical diversification of trade; the commitment of the Norwegian Government to further liberalization was noted and the hope was expressed that there would be a continuation of current positive trends.

Singapore – 3 and 4 June 1996

The Trade Policy Review Body has now completed the second review of Singapore's trade policies and practices. These remarks, made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of Singapore's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

The discussion developed under three main themes: (i) Singapore's open trade policy and its contribution to development; (ii) Singapore's role in multilateral and regional trade; and (iii) specific questions.

Open trade policy and development

Members noted that Singapore's economic environment since 1992 was one of rapid economic growth, low unemployment and high competitiveness due to its open, liberal and market-oriented regime. Note was taken of Singapore's stable macro-economic management, with low inflation and high savings and investment rates. Questions were asked regarding the relationship between the appreciation of the exchange rate and the maintenance of Singapore's competitive position in the world economy.

Members questioned the relationship between Singapore's free trade goals and its active industrial policy, including "industrial clusters" for investment in strategic projects. They asked about the investment incentives and export subsidies administered by the Economic Development Board, in the light of WTO rules regarding TRIMs and subsidy practices. Noting the rapid development of intra-Asian trade, some Members encouraged Singapore to seek closer links with other geographic areas, including Latin American partners and countries in transition.

In response, the representative of Singapore said that the Government played a critical role in helping the economy realise its potential by responding vigorously and creatively to the changing environment. While Singapore fully subscribed to the free market mechanism, the Government had never hesitated to exercise its responsibility especially in areas beyond the scope of the private sector. The Government worked closely with the private sector to promote economic development, although finding the right balance had evolved over time. Now that the economy was more mature, the Government was progressively privatizing a number of companies.

He said that exchange rate policy was not targeted at maintaining the current account or trade balance; rather, monetary policy was designed to offset imported inflation. However, Singapore's low inflation and strong currency were also a consequence of financial prudence. Statutory boards and government-linked companies followed a strict discipline of commercial viability.

Diversification of trade and investment towards Latin America and economies in transition was now beginning with the establishment of investment guarantee and double taxation agreements laying the foundation for economic cooperation.

The representative gave details of Singapore's notifications to the Committee on Subsidies, and noted the Government was progressively phasing out export subsidies. Investment incentives were generally available. No fiscal incentives applied in the free zones.

Singapore's role in multilateral and regional trade

Members commended Singapore's participation in the Uruguay Round. In view of its active role and its commitment to the multilateral trading system, it was fitting that the first WTO Ministerial Conference be held in Singapore. Participants noted Singapore's role as among the most prosperous of the developing countries and pointed to the implications of this as well as the responsibilities it confers.

While acknowledging that most imported items enter duty-free, many Members asserted that the scope of Singapore's Uruguay Round tariff bindings (some 70 per cent of tariff lines) could be further improved. Singapore was asked to clarify its intentions regarding adoption of the WTO Customs Valuation Agreement and to describe the main points of legislation now being elaborated on anti-dumping and countervailing measures. Members also asked what measures had been taken to ensure the compliance with the TRIPS Agreement of the new Patents Act.

Members sought information on the roles of the Ministry of Trade and Industry and other agencies in regulating trade in services, and questioned the openness of financial and telecommunication services, noting restrictions on access of foreign banks to the domestic financial services market and foreign ownership restrictions on basic telecommunication services.

Noting plans to reduce all tariffs on intra-ASEAN trade to 0-5 per cent by the year 2003, Members encouraged ASEAN members, including Singapore, to ensure that AFTA remained outwardly focused and continued the trend towards trade liberalization in the region. They noted that regional trade liberalization could complement multilateral trade liberalization and asked Singapore to indicate the aims and objectives of AFTA concerning "open regionalism". Members also asked Singapore to indicate the main characteristics of its preferential rules of origin. Relating to Singapore's "regionalization" policy for trade and investment, Members asked Singapore to indicate the impact of such policy on its trade activity.

The representative of Singapore said that Singapore would implement the Uruguay Round Agreements in accordance with its commitments. Specifically:

- The revised Patents Law, which was consistent with the TRIPS agreement, entered into force from 1January 1996, and other intellectual property areas were under examination. A new Trade Marks Act and ASEAN co-operation on intellectual property would cover other concerns.
- Singapore was studying the changes needed to the Customs Act to fulfil the Customs Valuation Agreement.
- Singapore was ready to negotiate further increases in tariff bindings in future multilateral negotiations.
- Details were given of new anti-dumping legislation to be submitted to Parliament shortly.

Regarding services, the representative of Singapore noted provisions for intra-corporate transferees and for professional services; foreign law firms could practice offshore law. Remaining restrictions should be addressed in the further liberalization envisaged under GATS. In financial services, foreign content was probably higher than in most countries; however, for monetary policy reasons, the Singapore authorities considered it would be imprudent to allow foreign institutions to monopolize the sector. Domestic banking and insurance were already saturated; however, Singapore was open to foreign companies to operate as offshore banks, merchant banks and reinsurance companies, as bound under GATS. On telecommunications, he underlined that Singapore had brought forward the expiry of the basic telecommunications monopoly from 2002, as offered in GATS negotiations, to 2000; the 49 per cent foreign shareholding was more liberal than in most countries.

On regional trade, the representative noted that the AFTA common external preferential tariff had been notified to the WTO under the Enabling Clause. 40 per cent ASEAN content was the basic rule of origin.

Specific questions

Members noted the comparatively high share of Government revenue from customs and excise duties, despite the fact that most goods are imported duty-free. Noting the high level of excise duties on alcohol, some Members questioned their effects on tourism.

Members questioned the role of the import permit system and asked for details on the criteria used for granting import licences for certain products and on import licensing fees.

Members asked whether any standards had been established or were being considered for the Green Labelling Scheme, and sought information on non-product related processes and production methods used as labelling criteria. They also asked to what extent foreign producers could be involved in setting marking, labelling and packaging requirements under the Scheme and sought clarification of "internationally approved testing procedures".

Members also sought clarification on TRIMs applied by Singapore. In addition, they asked how the authorities coped with anti-competitive practices in the absence of competition laws in Singapore.

In reply to the specific questions, the representative of Singapore noted that high duties on vehicles, alcohol and tobacco sought to discourage their use: revenue generation was not the aim. The import permit system was for registration and was not a protective measure. Import licensing was imposed under international agreements or for public health, safety or morality, environmental and security reasons; fees were levied on the basis of costs of services provided. The representative gave details of standards, testing and certification provisions, including the voluntary green labelling scheme. He noted that no TRIMs were maintained in Singapore and stated that all required notifications to the WTO will be made in accordance with the respective Agreements.

Overall, Members were very favourably impressed by the openness and dynamism of the Singapore economy; recent growth rates in the manufacturing and services sectors were particularly noted. Innovatory policy and administrative approaches developed by Singapore in a number of key sectors were commented on.

Some Members were interested in the general approach that conditions policymaking in Singapore as well as in Singapore's sense of economic identity, given the combination of high GDP per capita and its status as a developing country. Areas where there was felt to be room for further progress included the scope of tariff bindings and reducing remaining restrictions in the financial services sector.

Finally, Members expressed their appreciation of the leading role which Singapore continues to play in the WTO, and were confident that as host country Singapore would make an important contribution to the success of the first WTO Ministerial Conference in December 1996.

Switzerland – 28 and 29 May 1996

The Trade Policy Review Body has now completed the second review of Switzerland's trade policies and practices. These remarks, made on my own responsibility, summarize the main points of the discussion. They are not intended to substitute for the collective evaluation and appreciation of Switzerland's trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

The discussion developed under five main themes: (i) the economic environment and structural reforms underway; (ii) agriculture; (iii) competition policy; (iv) regional and preferential arrangements; and (v) other sectoral issues, including services.

The economic environment and structural reforms underway

Members noted that Switzerland's economic environment since 1991 was one of slow growth, rising unemployment and losses in competitiveness. Despite these unfavourable trends, Switzerland had played a leading role in the Uruguay Round and had embarked on a process of internal and external trade liberalization and deregulation. Implementation of the WTO Agreements implied important legislative reforms, mainly in agriculture and government procurement. The "revitalization programme", undertaken since 1993, aimed at opening internal product and factor markets, strengthening competition and harmonizing technical regulations with international requirements, in particular those maintained by the European Union. Several Members noted that not all parts of the programme had yet entered into force and that others would require time to show tangible results.

While currency appreciation tended to undermine export competitiveness, in particular in sectors such as tourism, declining import prices had not translated into significant domestic price cuts, possibly reflecting internal rigidities in the Swiss economy. In this connection, Members called attention to restrictions in government procurement, effects of cartel practices, and continuing access problems resulting from rigid standards and regulations in many areas of goods and services.

Switzerland's liberal trade regime for manufactures contrasted sharply with the high level of protection extended to agriculture and food processing. There were no quantitative restrictions on industrial goods; nor had Switzerland taken anti-dumping, countervailing, or safeguard actions. Although tariffs were low on average, several participants expressed concern about the persistence of tariff escalation, particularly on products of interest to developing countries, and the bias against low-priced imports inherent in Switzerland's continued reliance on specific duties. Certain Members recommended the widening of Swiss GSP coverage to include more agricultural, textile and clothing items.

The representative of Switzerland agreed that the economic situation of the 1990s was very different from the expansion of the 1980s. Both open and protected sectors were subject to strong adjustment pressures. The reforms of the revitalization programme covered not only agriculture, but also health, transport and public administration. Swiss businesses, large and small, were highly involved in the international economy. The strength of the Swiss franc was partly a reflection of the weakness of other currencies, but also of Switzerland's earlier emergence from recession than some other European countries. Private consumption had been slowed by the recession, stagnation of salaries and the introduction of VAT. By contrast, the strength of domestic investment showed the attraction of Switzerland as a production centre.

The representative of Switzerland underlined that imports had grown more rapidly than exports in real terms in 1994 and 1995, partly as a result of currency appreciation. Import prices of many goods had fallen; however, high rents and salaries had their effect on the final price levels. The effects of cartels and other restrictions should not be overstated. The structural reforms under way should lead to greater competition and greater flexibility of prices.

The representative noted that 80 per cent of Swiss technical regulations were now compatible with those of the EU. Switzerland's system of specific duties was accepted and bound in the Marrakesh Protocol; the advalorem incidence had also been bound, guaranteeing transparency. Low rates applied to industrial goods ensured that tariffs generally played no crucial role in protection and that escalation was minimal; further reductions would be made under Uruguay Round commitments. Proposals to improve the GSP scheme would soon be presented to Parliament.

Agriculture

Members acknowledged Switzerland's commitments under the WTO Agreement on Agriculture, and welcomed plans for reform for the period to 2002. The latter were all the more necessary as Switzerland had the highest level of farm support in the OECD area. Participants welcomed the move away from price support towards direct payments. Tariffication, while increasing transparency, was unlikely to improve access markedly in the short run, given the high average duties on agriculture and food products. Members also noted that certain import charges, including those on rice, coffee, cocoa and poultry, had not been included in the tariffication exercise.

Members questioned the mechanism used to allocate Swiss tariff quotas, and particularly the compatibility with the TRIMs Agreement of the "prise en charge" system, under which tariff quota access is contingent on the purchase of domestic products. Noting that Switzerland was the world's fourth largest exporter of cheese, assisted by significant export subsidies, Members asked why the Swiss Cheese Union had not been notified to the WTO as a state-trading enterprise. They also asked why Switzerland considered it necessary to continue promoting the production of cereals, oilseeds, potatoes and sugar.

The representative of Switzerland recalled the small share of agriculture in the Swiss economy and its low rate of self-sufficiency. Reforms proposed in "Agricultural Policy 2002" foresaw reduction of State intervention in many sectors, cuts in consumer prices, and decoupling of farm prices and incomes with an increase in direct payments. Switzerland's Uruguay Round commitments on agriculture were far from modest. Many tariff quotas had been more than filled; domestic support had already fallen by some 20 per cent and export subsidies had not been fully utilized. The "prise en charge" system was legally acceptable under the WTO, did not involve any extra restrictions on imports and was not administered by producer interests; Switzerland intended to maintain it.

In response to various specific questions raised, the Swiss representative said that the Swiss Cheese Union was responsible for the administration of export subsidies, and only of certain cheeses, and was not, therefore, a state-trading enterprise in GATT terms; its abolition was envisaged for 1997. Compulsory stock-holding was financed through private import organizations. Since such charges were levied for national security reasons on goods not produced domestically, they were not subject to ceilings under GATT 1994. The introduction of a single-rate tax on alcoholic beverages was under study; this would remove potential discrimination between domestic production and imports. The abolition of State monopolies on bread flour and butter was envisaged in "Agricultural Policy 2002" and that for strong alcohols was under study. Details were also given on sanitary and phyto-sanitary restrictions and on VAT rates on agricultural imports. Clarifications were supplied on the administration of tariff quotas and import permits for poultry, meat, fruit and vegetables, cut flowers, dairy products, animal feeds and white wine, as well as on tariffs on butter and agricultural support for sugar, cereals and potatoes.

Competition policy

Members remarked on the persistence of cartel arrangements in the Swiss economy, frequently in the form of vertically integrated concerns, often with exclusive links to suppliers abroad. Such practices reduced imports from the level that could be expected under competitive conditions, and had detrimental effects on prices.

The new Competition Law was welcomed, although it was noted that the legislation still did not prohibit cartels and other restrictive practices. Questions were asked regarding the instruments available to the Swiss authorities for enforcing the new legislation.

The representative of Switzerland noted that not all price differences could be ascribed to cartel behaviour; in a high income country like Switzerland, quality played a major role in sales. However, the Cartel Commission was well aware of the problems of collusive behaviour and exclusive distribution agreements. The new Competition Law, expected to come into force on 1 July 1996, would strengthen the legal framework. The principle of abuse, contained in the new law, could achieve the same results as a prohibition of cartels (which would imply amendment of the Swiss Constitution). The staff of the new Competition Commission had been expanded and its legal powers extended to take decisions, contrasting with the existing situation where the Cartel Commission could only make recommendations. Substantial fines could be levied in case of non-compliance. Merger control would be based on effective competition and abusive behaviour criteria, similar to the Treaty of Rome; exceptions were envisaged only in the case of highest-priority public interests.

Regional and preferential arrangements

Several participants noted the focus of Swiss trade policies on bilateral negotiations with the European Union, following the rejection of the EEA Agreement in December 1992. Observing that Switzerland had concluded a large number of other preferential trading agreements, mostly with central European and Mediterranean countries, Members stressed that trade policies should not be too heavily concentrated on Europe at the expense of other regions.

The representative of Switzerland recalled that in 1991 the Federal Council had defined two objectives of trade policy as success in the GATT negotiations and in negotiating the European Economic Area; membership of the EU had been established as a strategic objective in 1992. Following the rejection, by referendum, of the EEA Agreement, bilateral negotiations with the EU were begun in December1994 on research, technical requirements, agriculture, public procurement, movement of persons, air and road traffic. For the EU, all these areas were inter-linked. In conducting these negotiations, the Swiss authorities saw compatibility with WTO provisions as a priority and expected that conformity with Article XXIV could be assured.

Regarding the network of free trade and cooperation agreements with other partners, the representative emphasized that although Switzerland's position in central Europe implied a strong regional interest, there was no deliberate concentration on relations within Europe. Trade would grow on the basis of market development and Switzerland saw WTO commitments as central to this aim.

Other sectoral issues, including services

While recognizing that many Swiss service industries were highly competitive, Members observed a variety of interlinked obstacles to market entry, including work permit regulations, nationality requirements for board members, and restrictions on real estate acquisition and share transfers. Participants urged the authorities to allow cross-border supply in insurance, where foreign participation was still very modest. Although liberalization of ground handling services was appreciated, participants observed that

Switzerland's non-participation in the general deregulation of European air transport entailed high costs. Several Members sought more information on the announced liberalization of basic telecommunications services.

Clarification was sought on how revenue fees for widespread copying would be allocated to foreign copyright holders; on local content requirements in the audio-visual sector; and on changes to the excise tax regime for motor vehicles.

In reply, the Swiss representative recalled Switzerland's comprehensive schedule of specific commitments under the GATS. Horizontal exceptions were of limited importance. Thus, acquisition of real estate was permitted, except for real estate business as such. Domicile and nationality requirements for board members had not been a practical obstacle to foreign investment or control. Regulations on movement of natural persons had been loosened in 1993 to facilitate access for business people and specialists. Exclusivity arrangements were the exception; reforms were underway.

The abolition of cantonal insurance monopolies, a constitutional issue, was delicate, although it was a long-term aim. Certain insurance services could already be provided on a cross-border basis; some other areas were possible on the basis of mutual recognition agreements covering insurance supervision. Liberalization of air transport services would take place in appropriate bilateral or multilateral frameworks.

Concerning telecommunications, a new law was to be sent to Parliament in June 1996, with a view to entry in force on 1 January 1998. The representative underlined that market mechanisms were at the base of the new legislation.

Overall, one of the main themes which emerged most strongly from the discussion was the difficulty in achieving access to the Swiss market. This was felt to apply in different ways across different sectors. Domestic agriculture is sheltered behind a high level of protection; in the non-agricultural sector, the level of price adjustment that would normally be associated with significant currency appreciation has not occurred. In the services sector, a variety of restrictions were seen as combining to discourage foreign competition.

At the same time, Members appreciated that important steps are being taken – either autonomously or under WTO commitments – to ensure more genuine openness in the Swiss economy. Time will be needed to evaluate the impact of the various reforms of economic legislation that are under way. However, given the degree of existing market distortions perceived by many Members, some doubts were expressed as to the adequacy of the scale and pace of reforms contemplated.

Members acknowledged the underlying strengths of the Swiss economy and the dynamic role which Switzerland has played in the WTO. Many felt that an economy with such strengths could afford to be more open, and that indeed the benefits of increased openness would be felt domestically as well as by Switzerland's trading partners. Members looked forward to being able to assess tangible progress in this direction as soon as the current legislative reform bears fruit.

Venezuela – 12 and 13 February 1996

At its meeting on 12-13 February 1996, the Trade Policy Review Body held its first review of the trade policies and practices of Venezuela. These remarks, made on my own responsibility, summarize the salient points of the discussion and are not intended to substitute the for collective evaluation and appreciation of Venezuela's trade policies and practices, which will be reflected in the minutes of the meeting.

We appreciate very much that Venezuela has made a text of their replies, which includes details on the operation of the Andean Price Band system, available to all interested delegations and proposed additional written information in the days to come.

The discussion developed under six main themes: (i) the general economic situation and reform programme; (ii) exchange controls; (iii) the role of the State in the economy; (iv) Venezuela in regional agreements; (v) sectoral questions; and (vi) Venezuela in the WTO.

General economic situation and reform programme

Venezuela was widely commended by Members for the rapid progress of economic and trade reform between 1989 and 1992. Since then, despite difficult economic and social problems, the process had not, in the main, been eroded. Venezuela was encouraged to carry forward its reforms and bring greater transparency to its policies. Further liberalization would also bring to fruition the improvements in competitiveness initially expected from Venezuela's trade liberalization and accession to the GATT. A question was posed regarding the acceptance of the reforms by the population.

Note was taken of Venezuela's ongoing negotiations with the IMF and details were sought on whether such negotiations included closing the gap between domestic and world prices for fuels. Venezuela was encouraged to pursue appropriate monetary and fiscal policies to address its domestic and external imbalances in the least trade distorting manner.

The paramount role of petroleum in Venezuela's economy was noted. Members stressed the importance, while recognizing the difficulties involved, of reaching an appropriate balance between the oil sector and the rest of the economy. Given the vulnerability of the economy to highly variable oil revenues, questions were asked on efforts being made to diversify the economy, particularly exports.

In response, the representative of Venezuela said that the reforms initiated in 1989 had been consolidated and deepened since 1994, following a weakening of efforts in 1992-93. This included liberalization in a regional context as well as the entry into force of the WTO agreements. Tax reforms had been approved in 1994 and further reforms were now before Congress. He emphasized the need for social acceptability of any reform programme; and underlined that the present reforms were being undertaken after full consultations. He gave details of Venezuela's industrial policies and their relation to trade commitments.

The Government was concentrating on reducing the fiscal deficit, aiming at balance in 1997, and was hoping to reduce inflation to 50 per cent in 1996. Success in achieving macro-economic stability depended on a number of measures, including the eventual ending of exchange controls and financial support, one of the reasons the Government was seeking an agreement with the IMF.

The representative also explained that general price controls had already been reduced to 12 categories of mass-consumption products under price management, with adjustments every 2-3 months. The Government also recognized the need for adjustments in domestic prices of petroleum. This was to be undertaken in the context of changes to public transport services. A number of changes were already being made in the internal market for non-regulated petroleum products.

Details were also provided on the regularization of the servicing of bilateral debt as well as a programme to resolve the problems of the financial sector. He emphasized that new supervisory mechanisms had been established and a new framework law passed by Congress.

Exchange controls

Widely shared concerns were expressed over the effects of the foreign exchange controls introduced in June 1994 against a background of serious reserve losses. Details on the operation of these controls were requested, particularly concerning the type of priority imports and non-discriminatory treatment among suppliers or applicants. Venezuela was encouraged to remove such controls as early as possible. Some participants believed that Venezuela's exchange controls lacked transparency and had detrimental effects on foreign investment, capital inflows and trade. The regime had not been notified to the WTO until November 1995; according to one Member, it seemed to have both balance-of-payments and TRIMs implications. Some Members raised specific concerns regarding access for particular products accorded low priority under the system. Additional questions were asked on the consistency of the foreign exchange restrictions with Venezuela's IMFcommitments and a possible deadline for their removal.

In reply, the representative of Venezuela said that the exchange controls were intended to arrest serious capital flight in the light of the lack of confidence that had developed after the political crisis of 1992. He emphasized that the crisis did not result from a "balance-of-payments problem" in the sense of trade in goods and services. The controls were temporary and exceptional and, consistent with this approach, they had been progressively liberalized. Venezuela was committed to reaching understanding with the IMF in the short term, and to dismantling both exchange and price controls as part of the Government's macro-economic programme. Details of various steps in the liberalization were provided. The Venezuelan Government had focused on maintaining reserves, not on limiting trade flows or payments related to foreign investments; imports had not fallen, but had continued to grow. Certain changes in the direction of trade could not be related to exchange controls, but rather to developments in regional integration. As reserves had also fallen sharply in late 1995, the Government had been obliged to introduce certain product priorities; however, no applications had been refused and the priority list had since been expanded to include new sectors. There was no discrimination between domestic and foreign applicants.

Role of the State in the economy

Participants noted the crucial role of the State in key sectors of Venezuela's economy. Members stressed the importance of completing Venezuela's notification of enterprises subject to Article XVII of the GATT and sought a complete list of products covered by state trading enterprises.

Information was requested on developments in the privatization programme. The partial opening to foreign investment of the oil and financial sectors was welcomed and Venezuela was encouraged to continue the process; questions were posed on conditions for privatization of aluminium and steel, including the scope for foreign participation. Further details of the legislation on foreign direct investment were also requested. A number of Members sought information on Venezuela's policies and practices on government procurement.

In response, the representative of Venezuela said the privatization programme had been weakened in 1992/93, following initial successes in 1991, but at the end of 1994, in its new Stabilization and Recovery Programme, the present Government had announced its new concept for the reduced role of the state and relaunched the liberalization programme, including petroleum and the financial sector. Details were provided on the specific privatization programmes for petroleum, aluminium and steel. Proposals for further reforms would be presented to the next two sessions of the Congress. The creation of the Ministry of Industry and Trade in November 1995 was intended to play a major part in the new concept of public-private sector relations.

Venezuela in regional agreements

Members recognized the importance attached by Venezuela to participation in regional agreements. The Andean Group had become the major destination of Venezuela's non-oilexports. Members emphasized the need to ensure that all such trade agreements remained outward-looking and the importance of full notification to the WTO. Information was sought on Venezuela's interests in NAFTA and MERCOSUR as well as the initiative to establish a Free Trade Area of the Americas.

The representative of Venezuela responded that his country's participation in regional agreements was in the form of open regionalism and was not at the expense of the multilateral system. The Andean Group was consolidating free trade and moving towards a full customs union, in which the establishment of a common external tariff in 1995 was the first step. The four-tier structure of the CET, decided after extensive negotiations, was intended to foster increased value-added. The eventual integration of the Andean Group and MERCOSUR was also being promoted actively, and member States were actively renegotiating their existing bilateral preferences. Such strengthened ties would lead to greater balance in relations in the negotiation of a Free Trade Area for the Americas, in which Venezuela was participating actively. Negotiation of an FTAA would be very complex and needed to take account of different stages of development. Subregional agreements could be consolidated and progressively converge towards an FTAA.

The representative also said that Venezuela's regional agreements all fell within the context of the LAIA, and an updated report on Venezuela framework of regional agreements would be provided to the WTO.

Sectoral questions

The use of tariff escalation as Venezuela's main instrument of industrial policy was noted. Information was sought on patterns of escalation in specific industries as well as their effects in an environment of regional duty-free trade. Details were in particular sought on objectives and effects of the automotive regime in force.

Members pointed out that liberalization of agriculture had been relatively limited. Concerns were widely expressed about the potential trade-distorting effects of the Andean Price Band System, and its compatibility with WTO commitments; in this connections, details were requested on steps taken by Venezuela to ensure that its application did not violate tariff bindings.

Members welcomed the opening of Venezuela's banking and insurance sectors and expressed the hope that Venezuela would also make binding commitments within the GATS negotiations on basic telecommunications.

In response, the representative of Venezuela outlined the broad framework of agricultural policy objectives and how these had evolved. The intention was to modernize the sector, increasing specialization, productivity and competitiveness while preserving the environment. In this regard, the Programme for Agricultural Investment was being negotiated with the IDB and the World Bank. The overall programme of modernization had many elements, of which tariff protection was only one minor element. There had been major trade liberalization in the sector since 1990, including tariff reductions and rationalization, elimination of minimum and maximum prices, elimination of import licences, elimination of fertilizer subsidies, elimination of state monopolies in coffee and cocoa, the implementation of price stabilization plans for a number of products, harmonization with Andean policies,including reduction of export subsidies, liberalization of trade in seeds, and finally the adoption of the Andean Price Band System, on which operational details were tabled. Import surcharges on cereals had been eliminated in 1994 and others would be abolished on the forthcoming publication of the new customs tariff. Information was also provided on the operation of sanitary and phytosanitary controls.

Venezuela in the WTO

Members commended Venezuela for the increased transparency in its trade regime following its accession to the GATT. Tariffs had been reduced and rationalized and the scope of tariff bindings had improved in the Uruguay Round. Prohibitions and import licences had been largely eliminated.

An overall assessment was requested on the benefits or difficulties arising from Venezuela's membership in the WTO, as well as progress in meeting WTO obligations, including notification requirements in a number of areassuch as state trading and import licensing. Members were interested in the legislative changes required for implementation of the WTOAgreements. Venezuela was asked whether it was considering adherence to the Plurilateral Agreement on Government Procurement. Information was requested with respect to the elimination of the 1 per cent customs service charge, the coverage of the import licensing regime, the elimination of import surcharges, the implementation of internal taxes on imported alcoholic beverages and the operation of the standards and SPSregimes.

The representative of Venezuela recognized that certain notification obligations had not been fully met but action was to be taken to remedy the situation promptly. He also recalled the difficulties in reforming the legal and administrative framework at times of financial and economic crisis. A new Customs Tariff would shortly be published. The one percent customs change was intended to approximate the cost of services provided; however, Venezuela was actively looking at alternatives.

In conclusion, the TPRB appreciates Venezuela's efforts to maintain a liberal trade policy, under very difficult circumstances and its active participation in the GATT/WTO system since its accession in 1990. We took note of the efforts to re-establish macro-economic stability as a basis for future growth. We are sure that the Venezuelan authorities will give serious consideration to all the concerns raised during the review, and look forward to receiving the notifications and written replies promised by Venezuela in the course of the meeting. We also look forward to the consolidation of the economic reforms and to further advances in the process of economic liberalization and integration in the world trading system.