This document was previously issued on 22 October 2001 as WT/MIN(01)2.

WORLD TRADE ORGANIZATION

WT/TPR/OV/7
10 December 2001

(01-6221)

Trade Policy Review Body

OVERVIEW OF DEVELOPMENTS IN THE INTERNATIONAL TRADING ENVIRONMENT

Annual Report by the Director-General

This Annual Report for the period from October 2000 to September 2001 is submitted to the Trade Policy Review Body (TPRB) in accordance with Section G of the Decision on the Trade Policy Review Mechanism (TPRM), Annex 3 of the Marrakesh Agreement Establishing the WTO, which states:

> *An annual overview of developments in the international trading environment which are having an impact on the multilateral trading system shall also be undertaken by the TPRB. The overview is to be 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.*

Note: This report is subject to a press embargo until 9 November 2001, 8.00 GMT.

TABLE OF CONTENTS

CHARTS

TABLES

APPENDIX TABLES

INTRODUCTION

1. The World Trade Organization provides an agreed set of rules for the orderly conduct of trade between its Members. These rules serve well. The recent financial crisis that originated in South-East Asia is a stark, telling example. Sixty years ago a financial crisis led inexorably to a great depression; there were many causes for this, not the least that in a knee-jerk reaction of economic nationalism countries moved to close their markets to protect domestic producers from "cheap" imports. Trade became part of the problem. In mid-1997 the difficulties of a South-East Asian bank sparked a severe regional downturn in output, and world markets trembled as confidence in the financial order was drawn into question. The good sense of governments and WTO rules kept markets open; excess production in the crisis economies, where hard decisions were taken, found a ready market in healthy economies. Trade became part of the solution and was integral to a return of confidence and to recovery. Seldom have the gains from trade been so evident.

2. Trade enhances consumer choice, raises national incomes, and gives signals for an appropriate allocation of resources, thus promoting employment, development, and growth. The multilateral trading system embodied in the WTO safeguards these gains. ***Chapter I*** *of this Report shows clearly the turn to a global economic slowdown. Trade has slowed and confidence is weak. A continuation of the process of reform and liberalization of trade policies, particularly by initiating a broad agenda of negotiations at the Fourth Ministerial Conference, would do much to build confidence and to ensure that the system plays its full part in promoting recovery and growth.*

3. The raison d'être of the WTO is to allow its Members to enhance and efficiently reap the gains from trade. It fulfils its role by Members' adherence to the fundamental principles, grounded in economic sense, of non-discrimination, stability and predictability, and transparency. These building blocks of the WTO serve to reduce costs and to promote certainty, thus enormously facilitating trade, allowing a freer flow of goods and services. ***Chapter II*** *reports on the recent activities of Members in their ongoing work to maintain and strengthen the WTO. Part A of the Chapter reports in particular on the continuing mandated negotiations on agriculture and services, which have now successfully entered their second phase; on issues and concerns related to the implementation of WTO Agreements, an area of considerable weight to the Membership; on the preparations for the Fourth Ministerial Conference, for which the political momentum on the adoption of a broader negotiating agenda has been building throughout the year; and on other matters of vital concern to the system, including accessions to the WTO, trade-related capacity building, technical assistance, and the dispute settlement mechanism, which ensures that trade conflicts are settled in accordance with the rule of law, not power, and on a timely basis.*

4. Part B of Chapter II provides information on trade policy trends in WTO Members. Importantly, it notes that fears that the failure of the Third Ministerial Conference in Seattle to agree on an agenda for a new round of multilateral trade negotiations could lead to a resurgence of protectionism have not, by and large, materialized; the trend towards more liberal trade policies has been maintained. Nevertheless, significant barriers to trade remain; there continues to be ample scope for a lowering of tariff protection, subsidies are still an issue – especially in agriculture – and the elimination of restrictions in textiles and clothing has been modest. The rising trend in the use of trade defence instruments, particularly anti-dumping, slowed in 2000 but the number of measures in force is still considerably higher than in 1997 and more Members are using them. The section also notes that there has been an acceleration in the pace of autonomous liberalization in services, a sector with an important bearing on economic performance and development; that, in view of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights

(TRIPS), many developing and transition economies have taken steps to adopt new intellectual property legislation, but that a number of Members face difficulties on implementation; and that the trend towards regional trade agreements continues apace.

5. Chapters III to VI deal with selected topics. ***Chapter III****, on developing countries' participation in world trade and WTO activities, notes that the WTO has got a key role to play in promoting development prospects. But further action is needed to enhance the benefits developing countries can derive from the WTO. This will certainly require tackling persistent trade distortions, including the tariff peaks and escalation, in both developed and developing countries, that affect a number of the products of main export interest to developing countries. It is also important that emphasis continues to be placed on building capacity in developing countries and on supporting reform to mainstream trade policies into their overall development objectives.*

6. Accessions to the WTO is the subject of ***Chapter IV****. The Fourth Ministerial Conference will complete the accession procedures for China and Chinese Taipei, and 28 other governments are in the process of accession, a vivid reminder of the value countries attach to a rules-based multilateral trading system. Each accession to the WTO has a "win-win" quality for the system. The acceding Government operates a more predictable and transparent trade regime, opens its markets to its trading partners, and often locks in reforms aimed at fostering growth and development. The new Member gains similar rights and terms of access, and commitments are enforced – on both sides – by dispute settlement. Domestic reform and integration into the world economy thus go hand-in-hand to promote the growth prospects of the acceding Government and of the existing Members.*

7. Two issues singled out by critics of the WTO are considered in ***Chapter V****: access to essential drugs in low-income countries and the TRIPS Agreement; and the potential impact of the General Agreement on Trade in Services (GATS) on the quality and availability of health and education services. On the first issue, of prime importance to the health of people and to achieving sustained development, the Chapter is clear that the TRIPS Agreement provides – and Members have used – flexibility that can mitigate the exclusive rights of patent holders. The precise nature and extent of the flexibility provisions of the Agreement are under discussion and may lead to action by Members to ensure that the Agreement is implemented in a way that contributes to access to drugs, especially for the poorest. On the second issue, critics charge that GATS constrains the ability of governments to protect public health and education services and/or to apply necessary quality standards. It is also said that the ongoing services negotiations have got free trade in health and education services as their objective. This objective has not been endorsed by Members. Further, under GATS, governments have complete discretion to make commitments in covered services, including health and education. In fact, some developing countries have taken such commitments, in the hope of attracting investment into these sectors and with a view to improving the quality and availability of these vital services. The Chapter is clear that negotiations will not affect Members' rights to pursue the regulatory objectives they deem appropriate within their jurisdiction.*

8. Non-discrimination is the cornerstone of the WTO. It is a principle embodied in the most-favoured-nation (MFN) provisions of the GATT, GATS, the TRIPS Agreement, and is fundamental to all WTO Agreements. At the same time, the WTO allows Members to conclude customs unions and free-trade areas, which by definition establish an element of preference in the trade between parties to the agreement vis-à-vis the rest of the world. Such regional trade agreements (RTAs) have become the most important exception to the MFN principle. The Secretariat has identified some 170 RTAs and estimates that their number could grow to 250 by 2005; about 43% of world trade is intra-RTA trade, and this could rise to over 50% by 2005.

***Chapter VI** examines some of the issues that arise for the WTO as a result of RTAs.*

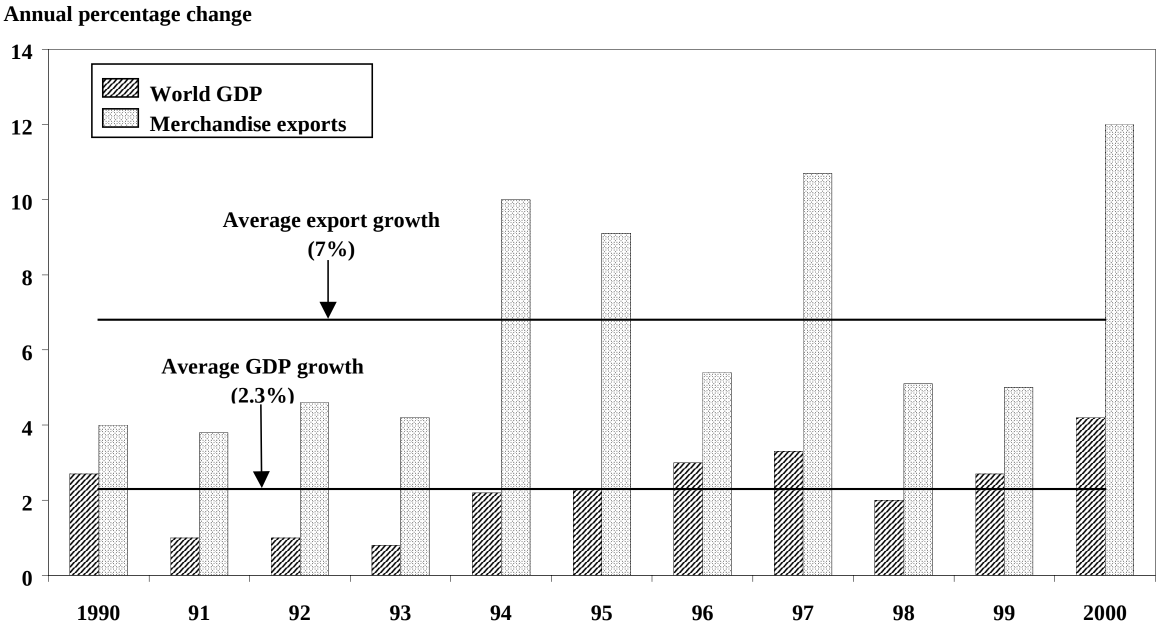
9. The Chapter notes that the proliferation of RTAs poses systemic risk. This lies less in the potential for trade diversion in each RTA than in the collective impact of a large number of RTAs, each with its own mini-trade regime, on the smooth functioning of the rules-based multilateral trading system. This risk is smaller, and RTAs and the WTO are more likely to be mutually supportive, when the WTO is functioning well and is responding to the needs of the Membership. Options for the WTO to respond effectively include continued multilateral trade liberalization and a strengthening of relevant WTO rules and procedures. The Chapter warns that, given the recent and prospective growth in the number of RTAs, time may be short. This adds urgency to the importance of adopting a broad agenda of negotiations at the Fourth Ministerial Conference.

I. WORLD TRADE DEVELOPMENTS

1. Overview

1. The year 2000 was outstanding for global output and trade growth. The expansion of merchandise output and trade by 4% and 12%, respectively, was the strongest in more than a decade (Chart I.1). As trade growth continued to exceed output growth, the ratio of world trade in goods and services to world GDP rose to 29%.[1] Since 1990 this ratio has increased 10 percentage points, more than in the two preceeding decades combined. Manufacturing production rose 6% in 2000, but the increase in agricultural production was just 1%. Mining output was up 3.5% boosted by a 4.5% increase in oil and gas output. As in preceding years, exports of manufactures increased in real terms much faster than exports of agricultural or mining products. And once again, the excess of trade growth (14%) over output growth (6%) in manufactures was far higher than in the other two sectors.[2]

Chart I.1
Growth in the volume of world merchandise trade and GDP, 1990-2000



***Source*: WTO Secretariat calculations.**

2. The contrast between the figures for 2000 and the available figures for the first half of 2001 could hardly be greater. By the last quarter of 2000, it was evident that a marked deceleration in output and trade growth was likely in 2001. But the extent to which the slowdown in production, investment and trade – associated in particular with developments in the information technology sector – would exceed earlier predictions became clear only as the first half of 2001 unfolded. The value of world merchandise trade in the first half of 2001 is now tentatively estimated to have been just 2% above the corresponding period last year. And worse, in the second quarter of 2001, the level

[1] Measures at constant 1987 prices and exchange rates.

[2] A further indicator of the strength of global integration last year is the estimated 18% increase in the U.S. dollar value of inflows of foreign direct investment (FDI). Although the most dynamic part of FDI flows was again among the developed countries, both developing and transition economies reported record FDI inflows. However, total private capital flows (net) to the developing countries and the transition economies were close to zero as net FDI inflows were fully offset by other private capital outflows (International Monetary Fund (IMF), *World Economic Outlook*, October 2001).

of world trade was below that of the corresponding quarter in 2000 – the first year-over-year decline in world trade (on a quarterly basis) since 1998, during the Asian financial crisis.

All regions reported faster economic growth in 2000

3. Economic growth accelerated in all major regions in 2000. North America and developing Asia, which had each recorded GDP growth above the global average in 1999, recorded only moderate accelerations. In contrast, economic activity picked up strongly in South America and Russia, after stagnating the previous year. Africa's output growth is estimated to have strengthened in 2000, but – at 3% – remained well below the growth recorded in other developing regions. While Western Europe's economic growth increased to 3.4%, its strongest expansion in the last decade, Japan's recovery remained moderate and very fragile.

4. The forces behind the improved economic activity differed among the regions. High growth in the information technology sector was particularly beneficial for North America and Asia, while the rise in world energy demand and the recovery of oil prices boosted the economies of the oil exporting countries. In both Russia and Brazil a sharply lower real effective exchange rate and the fading of contractionary forces linked to financial crises helped stimulate a strong recovery in production.

In 2000 growth in trade volumes more than doubled

5. The stronger output growth in all regions stimulated – and in turn was stimulated by – the 12% increase in merchandise trade **volumes** in 2000, nearly matching the best growth rates observed over the last five decades. In contrast to the two preceeding years, when world trade expansion depended to a large extent on demand in North America, the pattern of regional import demand was more evenly balanced in 2000, with all regions except Western Europe and Africa recording double-digit import growth (Chart I.2).

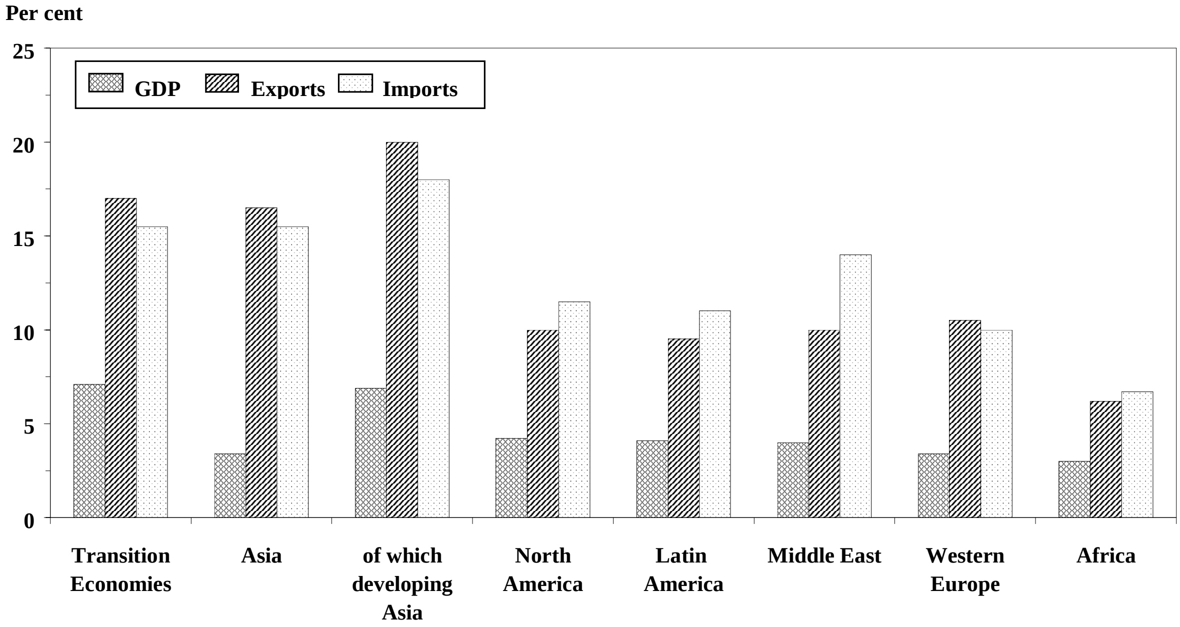
6. Asia and the transition economies recorded both the highest export growth among the major regions and the largest increases in imports, highlighting once again that dynamic exporters are dynamic importers. A noteworthy feature in Asia is Japan's strong merchandise import growth over the last two years at a time when its economy was nearly stagnating, a development often linked to decisions by Japanese manufacturing firms to relocate part of their production to other Asian economies. In Western Europe, exports and imports grew by nearly 10% – more than twice the rate in the preceding year but less than the growth of world trade. The growth of imports into North America again exceeded that of exports from North America, for the fourth consecutive year.

7. Data for Latin America (including Mexico) indicate a strong recovery of imports in 2000, following the contraction in 1999. While the region's export growth accelerated to 9.5%, the expansion was less strong than the world average for the first time since 1995. It should be kept in mind that regional totals for Latin America conceal the fact that in Mexico, the region's largest trader, trade growth was three to four times faster than in the rest of the region.

2. Trade growth in 2000

8. The **value** of world merchandise exports was up 12.5% in 2000, triple that of 1999, to US$6.2 trillion, due to the strong rise in export volumes and a small increase in export prices measured in U.S. dollars (Table I.1). World exports of commercial services rose by 6.0% in 2000 – close to the average for the past decade – reaching US$1.4 trillion. The faster growth of merchandise trade relative to trade in commercial services continued a trend that has been evident since the mid-1990s, driven in part by the 60% increase in oil prices since 1995.

Chart I.2
Merchandise trade and GDP growth by region in 2000



***Source*: WTO Secretariat calculations.**

Table I.1
World exports of merchandise and commercial services, 1990-2001
(US$ billion and percentage)

	Value	Annual percentage change			
	2000	1990-2000	1999	2000	2001 First half
Merchandise	6,185	6.0	4.0	12.5	1.0
Commercial services	1,435	6.0	2.0	6.0	..

.. Not available.

Source: WTO Secretariat.

9. The estimated small increase in U.S. dollar prices of merchandise exports last year arrested the downward trend evident since 1995. The overall figure, however, masks highly divergent price trends across products, countries and regions – trends that contributed to the large variations in trade growth of countries and regions in 2000 (Table I.2). Crude oil prices were up to US$28 per barrel, their highest level since 1985. Both agricultural prices and those of internationally traded manufactured goods continued the declines that began in the second half of the 1990s, to their lowest level in ten years. Factors behind the weakness in prices for manufactured goods include low inflation rates, steady declines in the prices of electronic products throughout the 1990s (as their share in world trade of manufactured goods was rising), and the strength of the U.S. dollar – in particular vis-à-vis European currencies, which led to a significant fall in the prices of European exports expressed in U.S. dollars.[3]

[3] The prices of manufactured goods excluding office and telecommunication products are estimated to have stagnated in 2000.

Table I.2
Growth in the value of world merchandise trade by region, 1990-2000
(US$ billion and per cent)

	Exports					Imports				
	Value	Annual percentage change				Value	Annual percentage change			
	2000	1990-2000	1998	1999	2000	2000	1990-2000	1998	1999	2000
World	**6,186**	**6.0**	**-1.5**	**4.0**	**12.5**	**6,490**	**6.0**	**-1.0**	**4.0**	**13.0**
North America	1,058	7.3	-0.7	4.9	12.5	1,504	8.9	4.6	11.2	17.4
Latin America	359	9.4	-1.3	6.6	20.1	388	11.9	5.0	-3.1	15.7
Mexico	166	15.1	6.4	16.1	22.0	183	15.4	14.0	13.5	22.9
Other Latin America	192	6.1	-6.1	-0.3	18.5	206	9.0	0.1	-13.3	10.0
Western Europe	2,441	4.1	3.6	0.3	3.0	2,567	4.2	5.7	1.3	5.3
European Union (15)	2,251	4.1	4.0	0.1	2.5	2,362	4.2	6.0	1.9	4.9
Excl. intra-EU trade	859	5.0	0.1	-1.5	7.1	966	5.3	5.2	3.5	13.2
Transition economies	271	7.4	-4.0	-0.2	26.1	242	7.8	-1.3	-12.5	13.0
Central/Eastern Europe	116	7.7	9.3	1.1	14.1	146	10.4	10.8	-1.1	12.5
Russian Federation	105	..	-15.2	1.1	39.0	46	..	-21.2	-31.7	11.6
Africa	145	3.4	-15.9	9.6	26.6	137	4.0	0.6	-2.7	6.7
South Africa	30	3.2	-9.0	1.3	12.3	30	5.0	-9.4	-8.7	11.2
Major fuels exporters (8)[a]	70	3.9	-31.0	27.7	61.1	37	4.1	-0.9	-2.2	21.4
Other Africa	44	3.2	-4.3	0.4	1.1	71	3.1	6.3	-0.5	-1.3
Middle East	263	7.0	-21.2	28.1	46.3	171	5.6	-0.6	1.3	13.5
Asia	1649	8.4	-6.1	7.5	18.5	1,481	7.6	-17.8	10.3	23.5
Japan	479	5.2	-7.8	8.1	14.3	380	4.9	-17.2	11.0	21.9
China	249	14.9	0.4	6.3	27.7	225	15.5	-1.3	18.2	35.8
Asia (5)[b]	441	11.3	-3.5	9.9	18.7	372	8.3	-30.9	15.1	27.5

.. Not available.

a Algeria, Angola, Republic of Congo, Equatorial Guinea, Gabon, Libyan Arab Yamahiriya, Nigeria and Sudan.
b Indonesia, the Republic of Korea, Malaysia, Philippines and Thailand.

Source: WTO Secretariat.

10. The product categories in world merchandise trade with the highest growth rates in 2000 were fuels (up 50% to US$630 billion) and office and telecommunications equipment (up 20% to US$940 billion). While the latter category recorded the highest growth among all major product groups throughout the 1990s, fuel's 10% share in world trade in 2000 was little changed from its 1990 level. World exports of agricultural products again recorded the weakest growth of all product categories in 2000 (up 2% to US$560 billion); consequently its share in world merchandise trade fell to a record low of 9%.

11. Regional trade value developments in 2000 were strongly influenced by higher oil prices. All regions with a large share of fuels in their export basket – the Middle East, Africa, and the transition economies – reported export expansions in excess of one quarter, or more than twice the global average export growth. For at least 17 oil-exporting countries, merchandise exports were up by more than one-half in 2000.[4] Export growth significantly exceeded import growth in both the Middle East, where exports are estimated to have risen by nearly 50%, and in the transition economies, where – largely due to the Russian Federation's high export growth – exports expanded by about 26%.

[4] Saudi Arabia, Venezuela, Islamic Republic of Iran, Nigeria, Algeria, Kuwait, Iraq, Libyan Arab Jamahiriya, Oman, Kazakhstan, Angola, Trinidad and Tobago, Yemen, Turkmenistan, Democratic Republic of the Congo, Sudan and Equatorial Guinea.

12. Africa's 27% increase in merchandise exports in 2000 was four times the growth of its imports, and more than double the growth rate for world exports. However, that aggregate figure for the continent as a whole hides exceptionally large differences among individual African countries. While the major fuel exporters in Africa recorded sharp export and import growth, some 20 African countries reported absolute declines in the level of exports and imports. Western Europe's export and import growth in 2000 was the lowest of all regions, principally due to the depreciation of the euro against the U.S. dollar. Expressed in euros, exports from the EU were up 17%, compared with a 2.5% gain in U.S. dollar terms. The marked difference between the stagnation of EU intra-trade and the 7% rise of exports to all other countries is attributable largely to different price developments.

13. For the fifth consecutive year the expansion of North America's trade – exports and imports – exceeded that of world trade. Imports were particularly buoyant, rising faster than exports and resulting in an excess of imports over exports in the order of US$450 billion, equivalent to 7% of world merchandise trade. North America's trade deficit is entirely due to trade developments of the United States, with Canada recording a trade surplus in 2000.

14. Asia's import growth of nearly one quarter exceeded that of its exports, which in turn still grew faster than world trade. Consequently, Asia's share in world trade rose again and recovered (for exports) to its previous peak level of 26.5% in 1996. All major traders recorded double-digit export and import growth and intra-trade of the region rose by one quarter. Another noteworthy development was the outstanding expansion of China's exports and imports and the recovery of imports of the Asian countries most affected by financial turbulences in 1997/98. The latter's imports rose sharply in 2000 and nearly matched the previous peak level in 1996. As these countries' exports have risen by one third between 1996 and 2000, their trade deficit of US$45 billion in 1996 turned into a surplus of US$70 billion by 2000.

15. Commercial services trade developments by region and major product categories differed markedly less than those for merchandise trade in 2000. However, there were a number of similarities with merchandise trade in regional developments (Table I.3). Western Europe, which alone accounts for almost 45% of world services trade, recorded a near stagnation of its exports and imports measured in U.S. dollars, compared with a 14% increase in euros. North America, Latin America, and the Middle East recorded strong expansions of their commercial services trade, with both exports and imports up by more than 10%. The fastest growth of imports of commercial services occurred in the transition economies, where exports grew faster than the world average.

16. Among the major categories of commercial services, transportation showed the strongest growth in 2000. This is unusual and most likely reflects both the strong expansion in merchandise trade and increased transportation costs due to the higher oil prices. The 5% increase in travel expenditure in 2000 was below that sector's average growth over the past decade. Trade in "other commercial services" (financial services, communications, information services, royalties and licence fees) grew at about the same 6% rate as total services trade, in contrast to most years when this sector has been by far the most dynamic category of traded services.

Table I.3
Growth in the value of world trade in commercial services by region, 1990-2000
(US$ billion and per cent)

	Exports					Imports				
	Value	Annual percentage change				Value	Annual percentage change			
	2000	1990-2000	1998	1999	2000	2000	1990-2000	1998	1999	2000
World	**1,435**	**6**	**1**	**2**	**6**	**1,435**	**6**	**2**	**2**	**6**
North America	312	8	2	5	10	241	7	8	4	13
United States	274	8	2	4	10	199	7	10	4	14
Latin America	61	7	8	0	12	72	8	4	-5	13
Mexico	14	7	6	-3	17	16	5	7	10	17
Other Latin America	47	8	8	0	11	55	8	4	-9	11
Western Europe	646	5	7	0	0	615	5	9	1	1
EU (15)	577	5	7	1	0	571	5	9	1	1
Transition economies	49	..	1	-14	8	50	..	-2	-8	15
Africa	31	5	-1	10	1	39	4	0	-3	9
Middle East	33	8	4	8	16	56	4	-8	2	10
Asia	303	9	-13	4	12	365	7	-11	6	8
Japan	68	5	-9	-2	13	116	3	-9	3	1
China	30	18	-3	10	15	36	24	-5	17	16
Hong Kong, China	42	9	-6	2	13	26	9	1	8	3
Asia (5)[a]	65	10	-22	0	5	85	11	-25	4	16

.. Not available.

a Indonesia, the Republic of Korea, Malaysia, Philippines and Thailand.

Source: WTO Secretariat.

3. Trade of developing countries

17. The developing countries made a major contribution to the vigorous expansion of world output and trade in 2000 (Table I.4). GDP growth in excess of 5% for the aggregate of developing countries was the strongest in a decade. The estimated 15% increase in the volume of merchandise exports from developing countries was three times faster than their GDP growth. In U.S. dollar terms, merchandise exports from developing countries rose 24%, twice the rate for world merchandise exports, while imports were up 21%.

Table I.4
Trade and output growth of developing countries, 1990-2000
(Annual percentage change)

	Developing countries			World
	1999	2000	1990-2000	1990-2000
GDP	3.1	5.2	4.9	2.8
Merchandise export volume	7.0	15.0	9.0	7.0
Merchandise import volume	4.5	15.5	8.0	7.0
Merchandise export value	9.5	24.0	9.0	6.0
Merchandise import value	4.0	21.0	9.0	6.0

Source: WTO Secretariat.

18. As a result, the share of the developing countries in world trade and output continued to increase, as it had throughout the 1990s. (Chapter III deals in more detail with trade developments in developing countries.) Indeed, the share of developing countries in world merchandise exports has risen steadily since 1986 – with the exception of 1998 during the Asian financial crisis – reaching a 50-year high of 30% last year. Only a small part of the increase in the share of developing countries

in world trade over the past decade is the result of increases in oil prices. It is due rather to their ability to expand their role in world exports of manufactured goods, the most dynamic part of world trade.

19. Developing countries accounted for 27% of world exports of manufactures in 2000, a remarkable increase from their 17% share in 1990. The largest part of this increased share is accounted for by China, Mexico, and East Asian exporters of office and telecommunications equipment; such equipment also accounts for a very large share in total developing countries' exports of manufactures. For the decade as a whole, a number of smaller exporters – particularly in Asia – also recorded export growth rates well above the global average.

20. The share of manufactures in the merchandise exports of developing countries rose markedly in the 1990s and exceeded two thirds in 2000. Exports of office and telecommunications equipment alone accounted for a larger share of their exports than either agricultural products or mining products. As regards the latter two product categories, the developing countries’ shares in world exports have shown limited gains over the past decade but still exceed - at 31% and 54% respectively – their 27% share of world exports of manufacturers.

21. Developing countries merchandise exports and imports slowed markedly in the first half of 2001. Preliminary data suggest that developing countries' exports rose about 2% in U.S. dollar terms in the first six months of 2001 and that over the same period their imports were up 4%. Trade of developing countries in Asia was most affected. According to preliminary data their merchandise exports and imports stagnated in U.S. dollar terms in the first six months, with trade in the second quarter below that in the same period in 2000. Lower volume growth and a decline in U.S. dollar prices contributed to this outcome. Latin America's trade was up by about 5% (both exports and imports) but also on a downward trend. Imports of oil-exporting countries showed some strength despite a marked deceleration of their export growth.

Least-developed countries

22. The 49 least-developed countries (LDCs) – as a group – shared in the dynamic output and trade growth of the other developing countries. In 2000, GDP growth of LDCs is estimated to have exceeded 5%, and the U.S. dollar value of their merchandise exports rose by 28%, to a record US$34 billion; this was the second consecutive year in which the growth in LDC merchandise exports exceeded the growth in world merchandise exports.[5]

23. However, the figures for the group as a whole conceal very divergent developments at the individual country level (Table I.5). For trade purposes, it is useful to distinguish at least four country groups:

– oil-exporting LDCs, such as Angola, Equatorial Guinea, Sudan and Yemen; they benefited from higher oil prices and increased their exports by between 60% and 120% last year. The four mentioned countries alone accounted for more than 40% of LDC exports in 2000.

– LDCs that export mostly manufactured goods; their merchandise exports rose by nearly one quarter last year. This group, which accounted for almost one third of LDC exports in 2000, comprises Bangladesh, Cambodia, Lao People's Democratic Republic, Lesotho, Madagascar, Myanmar and Nepal. As a group, these countries have recorded high export growth throughout the 1990s, nearly matching or

[5] As a group, the LDCs were the world's 34th largest merchandise exporters.

exceeding that of China. In many instances, exports from affiliates of multinational companies contributed to the outstanding trade growth.

– the largest group; consists of those LDCs whose exports are limited to a few primary commodities; their export performance is often determined by the cyclical demand in commodity markets and the vagaries of weather. Exports of these LDCs are not only erratic but their longer term growth remained well below that of world trade. Even in last year's buoyant economic environment, most of these countries saw their exports decline.

– those LDCs that, due to armed conflicts and civil strife, experienced a severe contraction of their trade in the 1990s to levels below that of 20 years ago. Countries in this group – which now accounts for less than 5% of LDC merchandise exports – are Afghanistan, Burundi, Democratic Republic of the Congo, Rwanda, Sierra Leone and Somalia.

Table I.5
Merchandise exports of least-developed countries by selected country groups, 1990-2000
(US$ billion and per cent)

	Value	Annual percentage change			
	2000	1990-2000	1998	1999	2000
Total LDC	34	7	-6	12	28
Oil exporters (4)[a]	15	11	-30	50	63
Exporters of manufactures(7)[b]	11	14	20	5	23
Commodity exporters (29)	8	1	-1	-6	-3
LDC with civil strife (6)[c]	1	-7	-12	-8	-3
Memorandum Item:					
World	6,185	6.0	-1.5	4.0	12.5

a Angola, Equatorial Guinea, Sudan and Yemen.
b Bangladesh, Cambodia, Lao People's Dem. Rep., Lesotho, Madagascar, Myanmar and Nepal.
c Afghanistan, Burundi, Congo Dem. Rep., Rwanda, Sierra Leone and Somalia.

Source: WTO Secretariat.

24. Given the very sharp differences in the economic and political conditions, as well as in the trade and output structure of these 49 countries, it is clear that aggregate figures for the LDCs as a whole are, for many purposes, not very helpful. This is evident, for example, from the fact that in 2000 aggregate merchandise exports from the LDCs were at a record level, while at the same time more than one third of the LDCs saw their exports decline.

4. Trade developments in major regional trade agreements (RTAs)

25. Merchandise trade developments, in U.S. dollar terms of the largest regional trade agreements showed great variation in 2000.[6] Their combined intra-trade is estimated to have accounted for about 36% of world merchandise exports in 2000; this a lower share than at any time during the 1990s and is entirely due to the declining share of EU intra-trade. While intra-trade of the EU, the largest and most integrated RTA, rose less rapidly than its extra-regional trade, intra-trade of NAFTA expanded substantially faster than its exports to other regions. However, NAFTA imports from other regions rose, at 18%, as fast as its intra-trade. For both MERCOSUR and ASEAN intra-trade rose

[6] The RTAs with, in U.S. dollar terms, the largest intra-trade flows in 2000 are: the EU (US$1,396 billion), NAFTA (US$680 billion), ASEAN (US$96 billion), MERCOSUR (US$18 billion), CEFTA (US$14 billion) and ANDEAN (US$5 billion).

significantly faster than their extra-regional trade: for MERCOSUR, in 2000 the share of intra-trade, slightly above one fifth, remained below its 1998 peak; for ASEAN, intra-trade accounted for nearly one quarter of total trade, a record on the import, but not on export, side. Intra-regional trade of CEFTA and ANDEAN accounted in each case for somewhat less than 10% of their total trade and generally grew less rapidly than their extra-regional trade in 2000, although ANDEAN's extra-regional imports grew less than its intra-trade.

26. Information on intra-regional trade in commercial services is generally not readily available and therefore often not taken into account in the evaluation of RTAs. However, it is of interest and feasible to shed some light on intra-trade in commercial services for the EU and NAFTA. In both cases the share of intra-trade is significantly higher for merchandise than for services trade. For the EU the share of intra-trade for commercial services was 55% in 1999 or eight percentage points less than for merchandise trade; this share has remained was roughly unchanged from the early 1990s. For NAFTA, the share of intra-trade in commercial services decreased in the 1990s by about five percentage points and in 2000 was, at less than one quarter of total services trade, about half the rate recorded for merchandise trade.[7] Preliminary data suggest that for both the EU and NAFTA intra-trade in services grew less than their extra-regional services trade.

5. Developments in the first half of 2001 and outlook for the year as a whole

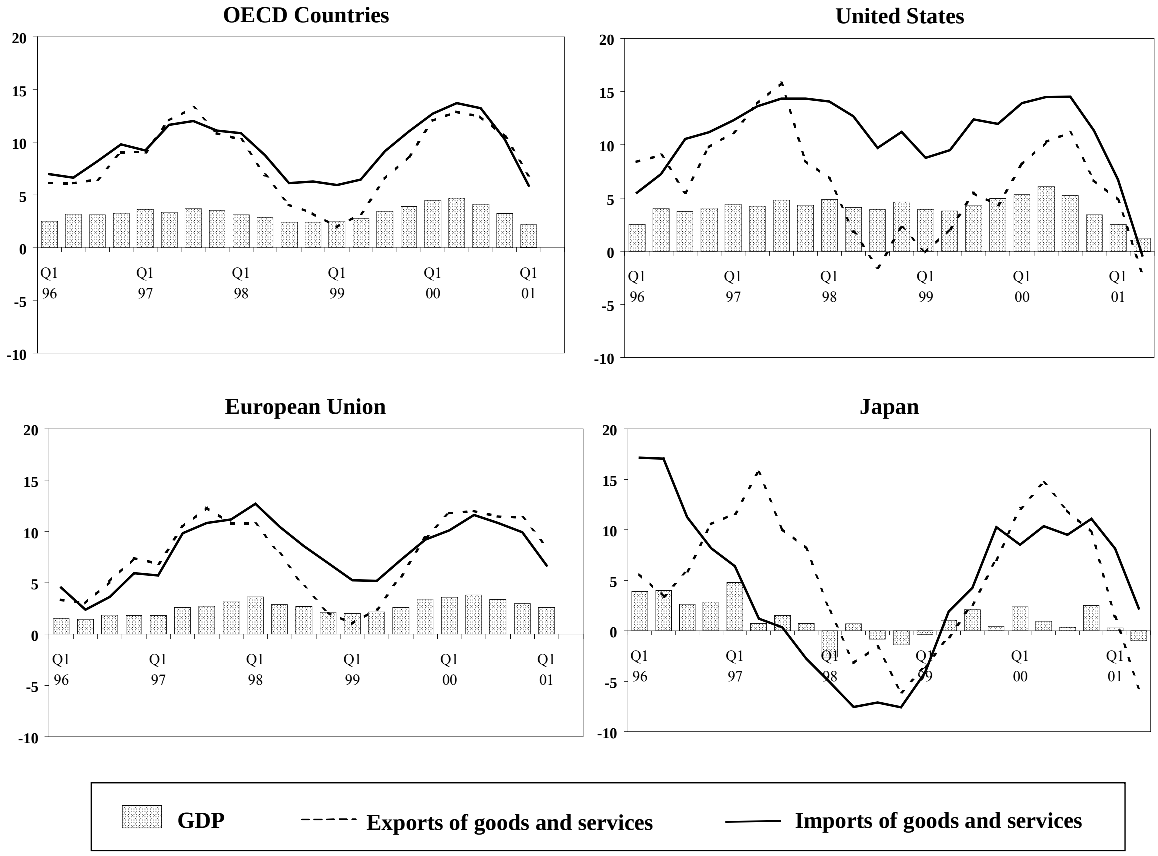
27. Following the strong growth of world trade in 2000, a marked deceleration in 2001 was widely anticipated, with parts of the world economy already showing signs of weakening in the fourth quarter of 2001 (Chart I.3). For the information technology sector, warning signs had appeared even earlier in the year – with sharp declines in share prices on major stock exchanges – but it was only in the first half of 2001 that the full impact on investment and production in this sector became fully apparent. Adjustment to higher energy prices and the effects of tighter monetary policies in the industrial countries for most of 2000 were other major factors behind the weaker economic growth in early 2001. While the slowing of the U.S. economy in 2001 has, for the most part, matched expectations, short-term growth prospects in many other parts of the world economy became more clouded in the first six months of the year.

28. Output growth in Western Europe slowed more than expected in the first half of 2001, while Japan's economy hovered on the edge of a recession. East Asian economies with a large share of information technology products in their export baskets suffered from the very sharp decline in global demand for these products. In contrast, China’s economy, helped by strong domestic demand, showed few effects of the weaker economies of its neighbours. Latin America's output growth was revised downwards due to the financial crisis in Argentina and the energy crisis in Brazil. Africa seems to be the only region in which GDP growth may be higher in 2001 than in 2000; however, it was also the region with the lowest growth in 2000 and its growth continues to be well below the average for developing countries.

29. An important factor behind the sharper-than-expected slowdown in world economic growth is the steep fall in expenditure on information technology products. This sector, which played a key role in the outstanding economic growth in many regions during the second half of the 1990s, is now undergoing severe contractionary pressures. World-wide sales of personal computers in the second quarter of 2001 were below their level in the corresponding period of 2000, and are expected to remain below last year's level for the full year 2001 – the first ever such annual decline. In June 2001, the value of global shipments of semi-conductors – also a major item in world trade – was down 30% compared with its level a year earlier.[8]

[7] Using the average of exports and imports.
[8] Semi-conductor Industry Association, Press Release August 2, 2001.

Chart I.3
Real GDP and trade growth of OECD countries, 1996-2001
Percentage change on a year to year basis



Source: **WTO Secretariat calculations.**

30. Preliminary figures for the first half of 2001 indicate that the deceleration of trade growth this year will be much sharper than previously expected. Factors behind the downward revision include the unexpectedly strong slowdown in demand growth in Western Europe, the stagnation of imports into the United States in the first half of the year, and the repercussions on trade – especially that of East Asia – of the dramatic downturn in production and investment in the information technology industry world wide.

31. With inflation in all major regions at low levels, the appreciation of the U.S. dollar vis-à-vis the currencies of the major traders in Western Europe and in Asia led to a fall in the prices of internationally traded goods. Falling U.S. dollar prices and a slowdown in volume growth, in turn, caused a sharp deceleration in the growth in the U.S. dollar value of world trade. According to preliminary data the value of world trade increased only 1% in the first half of 2001 after an increase of 12.5% for 2000; it appears that in the second quarter of 2001 the value of world trade fell to a level below that of a year ago.

32. Japan and those Asian developing countries that are major traders in office and telecommunications equipment reported double-digit percentage declines in the value of their merchandise exports and imports in the second quarter of 2001 (on a year-over-year basis). China's vigorous trade expansion became less pronounced in the first half of 2001; with imports growing at

double-digit rates and exports up by 9%, its sizeable trade surplus decreased. The relative strength of China's trade developments in the first six months of 2001 can be attributed to its strong domestic demand growth, the stability of its currency vis-à-vis the U.S. dollar and a relatively small share of office and telecommunications products in its merchandise trade.

33. Growth in the value of North America's trade decelerated further in the first quarter of 2001, and in the second quarter both exports and imports were below their year-earlier levels. Latin America's trade in the first half, in contrast, expanded by about 5% despite the sharply slower growth in Mexico's trade. Western Europe's merchandise export and import values are estimated to have increased by only 2.5% and 1.5%, respectively, during the first half, as trade growth faltered under the combined effect of the depreciation of the euro and other European currencies *vis-à-vis* the U.S. dollar and lower volume growth. Stimulated by Russia's strong 20% import expansion, the transition economies turned in the best trade performance among major regions during the first half of 2001.

34. On the basis of the latest available data, world merchandise trade is expected to grow in volume terms by only 2% in 2001, instead of the 7% projected earlier in the year. Moreover, there is great uncertainty about trade and growth developments in the fourth quarter of 2001, particularly in light of the tragic events of 11 September 2001, and thus even the 2% trade growth projection must be considered as tentative. Trade expansion in Western Europe and the transition economies is expected to be somewhat above 2% while that of North America is likely to be below the global average. Projections for Japan foresee a contraction in exports, coupled with moderate growth in imports.

II. WTO ACTIVITIES

A. ACTIVITIES RELATED TO THE MULTILATERAL AGREEMENTS

1. Full schedule of regular meetings in the WTO

1. WTO Members are engaged on a daily basis in regular meetings of the various Councils and Committees, established under the multilateral agreements, and directed towards monitoring and compliance. These notably concern the receipt and examination of regular and periodic notifications by Members of policy instruments covered by the WTO Agreements, regional trade agreements, and balance-of-payments measures, as well as the periodic review of the Agreements themselves. Members are also actively engaged in monitoring trade policy regimes in the Trade Policy Review Body, and in the resolution of disputes in the Dispute Settlement Body.

2. WTO Members also participate in the various Committees established to consider issues such as trade and development or trade and the environment. In addition, there are working groups to examine the relationship between trade and investment, the interaction between trade and competition policy, and transparency in government procurement; the work programme on electronic commerce adopted by the General Council in 1998 is also continuing in the General Council and the relevant subsidiary bodies.

3. Chapter III also deals with many of the topics in this section but with a particular focus on developing countries.

Mandated negotiations on agriculture and services enter second phase

4. The mandated negotiations on agriculture, which started on schedule in early 2000, moved into their second phase subsequent to the stock-taking exercise by a Special Session of the Committee on Agriculture in March 2001.[1] These negotiations are to continue the reform process that has brought the policy instruments used by many WTO Members to support domestic agricultural producers under strengthened and more operational multilateral rules. In addition to their effects on domestic consumers and producers, these support policies have spillover effects on world markets and on the export opportunities of trade partners, many of which are developing countries.

5. The stock-taking exercise conducted in March 2001 concluded with a work programme for the second phase. The programme called for three Special Session meetings, in September and December 2001 and in March 2002, plus three informal Special Session meetings, in May and July 2001 and in February 2002 (additional meetings may be scheduled by the Chair after consultations with Members).[2] In the second phase, work in depth on all issues and options for policy reform set out in Members' proposals is to be conducted, with further elaboration as appropriate. The initial list of issues to be addressed included: tariff quota administration; tariffs; amber box; export subsidies; export credits; state trading enterprises; export restrictions; food security; food safety; and rural development. A review of progress of the negotiations is to take place at the March 2002 meeting.

6. The mandated negotiations on services also entered their second phase following a stock-taking exercise by a Special Session of the GATS Council in March 2001. The negotiations are to address further rule-making and to "achieve a progressively higher level of liberalization" (GATS Article XIX), building on the market-access commitments already contained in the Schedules. The services sector – the leading sector of economic activity in many WTO Members – was brought into

[1] Work is ongoing on the negotiations to be undertaken in the TRIPS Council under Article 23:4 of the TRIPS Agreement concerning the establishment of a multilateral notification and registration system for wines.

[2] WTO document G/AG/NG/7.

the multilateral rules for the first time in the Uruguay Round, and additional substantial agreements were reached in 1997 on telecommunications and financial services. To clarify misconceptions about the GATS and the new services negotiations, the WTO Secretariat issued, on 19 March 2001, a booklet entitled *GATS — Fact and fiction.*[3] (See also Chapter V(B).)

7. The Services Council in March 2001 adopted guidelines and procedures for the continuing negotiations in services, with negotiating sessions in July and October 2001. Further meetings are to be held in December 2001 and in March 2002, at which point the Council is to review progress in the negotiations. To guide the negotiations, Members restated some of the fundamental principles of the GATS; notably, the right to regulate and to introduce new regulations on the supply of services in pursuit of national policy objectives; their right to specify which services they wish to open to foreign suppliers and under which conditions; and the overarching principle of flexibility for developing and least-developed countries. Liberalization is to be advanced through bilateral, plurilateral or multilateral negotiations. The main method of negotiation is the request-offer approach. Multilaterally agreed criteria are to be developed to take account of, and give credit for, autonomous liberalization undertaken by Members since previous negotiations.

Implementation-related issues and concerns

8. All WTO Members are bound to implement the commitments contained in the multilateral agreements that concluded the Uruguay Round and to implement, if applicable, post-Uruguay Round commitments on basic telecommunications, financial services or information technology products. Certain Members have, however, identified implementation issues and concerns.[4] Following the Decision of 3 May 2000 by the General Council to establish an Implementation Review Mechanism[5], and the work programme established in June at the first Special Session, discussions were held in the course of the year. The General Council took a Decision on 15 December 2000 (WT/L/384), which identified positive steps on outstanding implementation-related issues and concerns on which agreement had been reached. Further positive steps were agreed by WTO Members in July 2001, including agreement on some proposals and on the referral of some issues to subsidiary bodies; the latter are to report back to the General Council.

9. One category of implementation-related issues and concerns are the end of transition periods for implementation in certain agreements. These transitional periods to full implementation reflected the concept of "special and differential treatment" for developing and least-developed countries, as well as provisions for transition economies. Most transition periods for developing countries and transition economies expired on 31 December 1999, but certain transition periods are still in effect (notably, in relation to the TRIPS Agreement).

10. The agreements concerned by the end of transitional periods to full implementation in 1999 are those on intellectual property protection, the elimination of trade-related investment measures, methods of customs valuation, and on subsidies. Members that identified difficulties in fully meeting their commitments for customs valuation requested and, in most cases, obtained extensions in the framework of the agreement, where provision for such extensions had been made. A significant development in July 2001 was the resolution of the matter of the extensions requested by eight WTO Members to the transition periods in the TRIMs Agreement, which had been the subject of intensive consultations in the course of 2000 and 2001. Argentina, Colombia, Malaysia, Mexico, Pakistan, the Philippines and Romania were granted an additional two years (from 1 January 2000 to

[3] Available at: http://www.wto.org/english/tratop_e/serv_e/gats_factfiction_e.htm [13 July 2001].

[4] Implementation-related issues and concerns are generally understood to be those detailed in paragraphs 21 and 22 of the Draft Ministerial text of 19 October 1999 (Job(99)/5868/Rev.1), prepared for the Third Ministerial Meeting in Seattle, and in subsequent interventions on the issue.

[5] WTO Press Releases 177/2000 and 184/2000.

31 December 2001) with a possible further two years (1 January 2002 to 31 December 2003), subject to certain criteria such as the submission of a phase-out plan for the TRIMs; Thailand was granted a waiver.

11. Other implementation-related issues and concerns that have been put forward include market access conditions for exports of textiles and clothing products in the light of the integration programmes under the Agreement on Textiles and Clothing, as well as on agricultural products. Another issue concerns the capacity of developing countries to observe – given scant administrative resources - the requirements of the relevant agreements when establishing technical standards or setting sanitary and phytosanitary (SPS) measures, as well as participating in the development of international standards. On the latter, the Director-General was mandated to initiate discussions with standards-setting bodies.[6] Those concerned with SPS measures participated in a WTO-organized workshop on 13 March 2001 to provide information on their respective standard-setting processes, with a focus on maximizing developing country involvement. A further development, in July 2001, was the agreement to review the operation of the SPS Agreement every four years.

Discussions on the adoption of a broader negotiating agenda continue

12. WTO Members have continued to discuss the initiation of a broader agenda of negotiations than the mandated one, which could be agreed at the Fourth WTO Ministerial Conference in Doha, should consensus be attained. The agenda could include tariffs on non-agricultural products, and extending the framework of the multilateral rules to new areas. Many Members are of the view that a broader agenda will expand the scope for mutually beneficial trade-offs, which will, in turn, have a positive impact on the outcome of mandated negotiations (agriculture, services), and on implementation discussions. For other Members, the resolution of these latter concerns is a necessary step towards consideration of a broader agenda.

13. The political momentum on a broader negotiating agenda has been building throughout the year. For example:

– the annual Asia-Pacific Economic Cooperation (APEC) meeting, held in November 2000, ended with statement calling for a balanced and sufficiently broad based agenda, a statement reconfirmed in June 2001;

– the closing statement of the conference of Trade Ministers and experts representing 53 African countries held in November 2000 in Libreville reaffirmed confidence in the WTO system and the importance of the development dimension in future multilateral negotiations;

– Andean Trade Ministers (Bolivia, Colombia, Ecuador, Peru and Venezuela) issued a Declaration on 9 February 2001 in Lima supporting efforts to initiate a broader agenda of negotiations at the Fourth WTO Ministerial Conference;

– the closing statement of the G-8 meeting in Genoa, issued on 22 July 2001, noted the agreement reached by the leaders "to support the launch of an ambitious new Round of global trade negotiations with a balanced agenda";

– a preparatory meeting in Zanzibar in late July 2001, representatives of the LDCs stated in their Declaration they were not opposed to the adoption of a broader agenda of negotiations provided their concerns were fully taken into account, facilitating their integration into the multilateral trading system and avoiding, as such, their marginalization;

[6] WT/GC/42 and WT/GC/45.

– a preparatory meeting in Cairo at the end of July 2001, representatives of the regional integration agreements, COMESA and SADC, endorsed the position taken in the Zanzibar Declaration regarding the importance of the development dimension in the multilateral trading system;

– a meeting of Ministers from 18 Members, in Mexico in late August, from a broad range of regions and viewpoints, reaffirmed support for strengthening the rules-based multilateral trading system to the benefit of all; and

– in Abuja in late-September 2001, African Trade Ministers adopted the Abuja Declaration and a set of negotiating objectives, emphasizing the development dimension in multilateral trade negotiations.

14. The initiation of a broader negotiating agenda is seen by many as beneficial to maintaining the forward momentum of the multilateral trading system in addressing significant issues affecting trade and economic relations. These include potential improvements in areas already covered by existing multilateral trade rules, as well as bringing new areas into the rules. This forward momentum is seen to be of key importance in maintaining the relevance of the multilateral trading system in the changing context of the world economy. Without such momentum, the WTO Members could turn to alternative types of trading arrangements, notably regional trade agreements, to find solutions to pressing difficulties. Although the result may still be an improvement, the further fracturing of trade relations could contribute to marginalization of lower-income countries as they are unlikely to be top choices for partnerships. This explains the significance of carefully examining the accelerating trend to regional integration and its implications for the WTO system, which is the subject of Chapter IV.

15. Adoption of a broader negotiating agenda could also be of considerable benefit in sustaining the sources of growth in the world economy, currently in a slow-down (Chapter I). Confidence of investors and traders would be improved, and new export opportunities would be offered for all WTO Members. A WTO Secretariat study *Market Access: Unfinished Business*, published on 27 April 2001, indicates that significant trade barriers remain, including in areas of interest to developing countries, although world trade has been liberalized considerably as a result of the Uruguay Round.

2. Action Plan for Least-Developed Countries

16. The United Nations has classified 49 countries as least-developed countries (LDCs), based on social and economic criteria, of which 30 are WTO Members and nine are in the process of accession.[7] The most obvious manifestation of the difficult situation of LDCs in the world trading system is their almost continuously declining share in world merchandise exports. This share has fallen to some 0.5%, down from 0.7% in 1980; by contrast, LDCs accounted for 10.5% of the world's population. The decline largely reflects the continued importance of primary commodities in LDC exports, accounting for 80% or more of total merchandise exports in all but a handful of LDCs.[8]

17. The situation of LDCs has complex roots. The consensus on the forward agenda is for mutually supportive, coherent policies, spanning domestic reform and supportive action by the international community. Empirical evidence indicates that LDCs seeking to improve their growth

[7] WTO Members are Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Democratic Republic of Congo, Djibouti, Gambia, Guinea-Bissau, Guinea, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Niger, Rwanda, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda, and Zambia. LDCs in the process of accession to the WTO are Bhutan, Cambodia, Cape Verde, Laos, Nepal, Samoa, Sudan, Vanuatu, and Yemen. Other LDCs are Afghanistan, Comoros, Equatorial Guinea, Eritrea, Ethiopia, Kiribati, Liberia, Sao Tomé and Principe, Somalia, and Tuvalu.

[8] WT/COMTD/W/65. Exceptions include Bangladesh, Cambodia, Haiti, Laos, Madagascar, and Myanmar.

prospects are well advised to, *inter alia*, open their trade regimes and implement appropriately sequenced outward-oriented reforms that will permit trade diversification and expansion.[9] In addition to the efforts to be made by countries and the communities within them, global actions are also needed.

18. The WTO established a Plan of Action for LDCs at the First WTO Ministerial Meeting in 1996, to remove market access barriers and support trade development through technical assistance; this Plan of Action has been continuously monitored and improved. To a large extent, market access is determined by the range of tariff and non-tariff barriers in foreign markets. Strategies for improving market access for LDCs include reductions and eliminations of tariffs on a most-favoured-nation (MFN) basis, in which case all trading partners benefit, or on a preferential basis and therefore targeted at LDCs specifically, notably through GSP or similar programmes. However, LDCs' capacity to use the market access opportunities available to them – both existing and enhanced – is also strongly affected by, and linked to, domestic supply-side and policy constraints.[10] Addressing these constraints is the main motivation for the Integrated Framework.

19. Action by the WTO is part of a wider programme of action by international organizations. The IMF and World Bank support Poverty Reduction Strategy Programmes (PRSP), combining debt relief, macroeconomic stability, poverty reduction and better integration in the world economy. In this context, the initiative for Heavily Indebted Poor Countries (HIPC) makes available debt relief to IDA-eligible countries.[11] Most recently, the Third United Nations Conference on the Least Developed Countries (UNLDC III) held in May 2001 concluded with a new Programme of Action.[12]

Market access improvements

20. In a study recently completed as part of the WTO's input into UNLDC-III, the Secretariat provided factual information on market access conditions for products from LDCs in their 30 main export markets.[13] In these markets, the average trade weighted and unweighted applied tariff applicable on LDC exports is 3.8% and 7.1% respectively.[14] In developed-country markets, the trade weighted average applied tariff is 2.2% and the unweighted average is 2.5%; in developing countries these averages are 8.6% and 14.3%, respectively; and, in transition economies, they are 1.3% and 3.1%, respectively. About 75% of LDC exports, by value, at the HS 6-digit level, is eligible for duty-free treatment, either on an MFN basis (nearly 40%), or under GSP, GSTP or LDC specific preference schemes. Certain WTO Members offer preferences under regional arrangements or other schemes (e.g. Africa Growth and Opportunity Act (AGOA)), that include both developing and least-developed beneficiaries.

21. Since the WTO Singapore Ministerial Conference in 1996, there have been progressive improvements in measures taken by trading partners to secure more open and predictable trading conditions for LDCs. At the High Level Meeting (HLM) held on 27-28 October 1997, several Members announced new or additional preferential market access measures for LDCs that they had taken, or proposed to take, and/or made statements drawing attention to existing liberal market access

[9] World Bank (2000), *World Development Report 2000/2001: Attacking Poverty* [Online]. Available at: http://www.worldbank.org [1 October 2000]. See also Winters, L.A. (2000), "Trade and Poverty: Is there a Connection", in *Trade, Income Disparity and Poverty*, WTO, Geneva.

[10] WT/COMTD/W/11 and Rev.1.

[11] IMF, "Debt Initiative for the Heavily Indebted Poor Countries (HIPC)" [Online]. Available at: http://www.imf.org/external/np/hipc.hipc.htm [15 September 2001].

[12] "Programme of action for the least-developed countries" (UN Document A/CONF.191/11). Available at: http://www.unctad.org/conference/ [1 June 2001].

[13] WT/LDC/SWG/IF/14 and Add.1.

[14] Specific duties, other duties and charges and the impact of quotas especially in agriculture, textiles and clothing, have not been examined in the tabulation of these averages.

for LDCs under GSP or GSTP regimes and other preferential arrangements.[15] Based on the Director-General's continuing efforts to improve market access opportunities for LDCs, 28 Members announced measures they had taken or proposed to take in this regard at the General Council meeting on 3 and 8 May 2000.[16] To date, 12 Members have notified their market access improvements for LDCs to the WTO, namely: Canada, Egypt, European Communities, Japan, Republic of Korea, Mauritius, New Zealand, Norway, Singapore, Switzerland, Turkey, and the United States.[17]

22. At the Third Ministerial Conference in Seattle in November 1999, the European Union and Japan announced their intention to open their markets to essentially all products from LDCs. This undertaking was followed by the proposal by Canada, the European Union, Japan, and the United States – the Quad Proposal – at the General Council in May 2000 to implement "both tariff-free and quota-free treatment, consistent with domestic requirements and international agreements, under their preferential schemes, for essentially all products originating in LDCs", joined by the Czech Republic, Iceland, Poland and Slovenia.[18] This commitment was given effect by: Canada adding, effective 1 September 2000, a further 570 tariff lines to the list of goods from LDCs eligible for duty-free treatment, so that about 90% of all LDC imports (by tariff line) receive duty-free treatment[19]; the European Union adopting the "Everything but Arms (EBA)" Initiative in February 2001, which provides for duty-free and quota-free market access for all products from LDCs from March 2001, with some exceptions (bananas, liberalized by 2006; sugar and rice, liberalized by 2009)[20]; Japan modifying its GSP scheme as a result of the "99% initiative on Industrial Tariffs" to provide, from 1 April 2001, further product coverage for duty-free and quota-free treatment, totalling about 99% of industrial products, including textiles and clothing; and the United States adopting the African Growth and Opportunity Act (AGOA) in 2000, for which 23 LDCs were designated as beneficiaries in October 2000.[21]

23. Other WTO Members that have already notified duty- and quota-free access for imports from LDCs are the Czech Republic; Hong Kong, China; Hungary; and the Slovak Republic. A further development is the decision by New Zealand to provide 100% duty-free and quota-free market access for all products from LDCs, effective 1 July 2001.[22]

---

[15] WT/COMTD/12 and WT/LDC/HL/M/1. Members that elaborated on existing or proposed new measures for market access in favour of LDCs at the HLM were: Australia, Bulgaria, Canada, Chile, Egypt, European Communities, Hungary, India, Indonesia, Japan, Republic of Korea, Mauritius, Malaysia, Morocco, Norway, Singapore, Switzerland, Thailand, Turkey, and the United States.

[16] WT/GC/M/55. Argentina (on behalf of Mercosur), Canada, Chile, Czech Republic, European Communities, Hungary, Iceland, Japan, Republic of Korea, Norway, New Zealand, Slovak Republic, Slovenia, Switzerland and the United States were Members reported to have taken, or intending to take additional measures to further improve access of LDCs to their markets. Hong Kong, China, offered duty-free treatment on an MFN basis to the imports of all countries.

[17] WTO notifications of preferences have been accorded by developed countries under the 1979 Enabling Clause (L/4903) and by developing countries under the 1999 Waiver on Preferential Tariff Treatment for LDCs (WT/L/304).

[18] WT/GC/M/55.

[19] LDCs benefit from liberalized application of rules of origin requirements permitting cumulation from LDCs, Canada and furthermore of up to half of the required minimum 40% content sourcing from developing countries.

[20] Council Regulation (EC) No. 416/2001. In 2000, the European Union and the ACP States (one third are LDCs) concluded the Cotonou Agreement to succeed the Fourth Lomé Convention.

[21] Preferential treatment is granted on covered items from beneficiary countries meeting the eligibility conditions (USTR Press Release 00-67). Eligibility criteria include continuous progress toward establishing a market-based economy, maintenance of the rule of law, the elimination of barriers to U.S. trade and investment, poverty-alleviation economic policies, protection of internationally recognized worker rights and, a system to combat corruption. There are also customs-related eligibility requirements that have to be met.

[22] WT/COMTD/LDC/M/22.

Technical assistance under the Integrated Framework

24. Established at the High-Level Meeting, the Integrated Framework (IF) for the LDCs is a partnership between six agencies – IMF, ITC, UNCTAD, UNDP, WB, and WTO – and LDCs to provide them with assistance to integrate in the world economy. In the light of disappointing results in the first three years of existence of the IF, a review conducted in the course of 1999 and into mid-2000 determined that three aspects were needed to improve its functioning: (a) mainstreaming the IF into the existing development architecture; (b) resources; and (c) enhanced management and governance of the IF. The Inter-Agency Working Group (IAWG) consequently decided on 6 July 2000 to:

- mainstream trade into national development priorities through development frameworks, in the form of Poverty Reduction Strategy Papers (PRSPs) and the United Nations Development Assistance Framework (UNDAF), with the World Bank taking the lead[23];
- seek donor support for, and voluntary contributions to, an Integrated Framework Trust Fund (IFTF), with a funding objective of US$20 million for 2001-03, administered by UNDP on behalf of the core agencies of the IF; and
- invite representatives from LDCs and donor countries to serve, along with Heads of the core agencies, in a Steering Committee, to which the IAWG would periodically report.

25. The WTO Sub-Committee on Least-developed Countries adopted in February 2001 an Integrated Framework Pilot Scheme. The intention is to implement the IF first in a few selected LDCs, which have demonstrated a clear choice and commitment to mainstream, or integrate, a trade integration chapter or agenda, as part of their development and poverty reduction strategies. Once positive results are attained in the pilot countries, this approach could be considered for extension to other LDCs. Three countries were selected: Cambodia, Madagascar and Mauritania. This revised IF process incorporates an enhanced role for Trade Policy Reviews, in keeping with the more general policy adopted in this respect for LDCs.

26. The Integrated Framework Steering Committee (IFSC) held its first meeting on 15 March 2001. At the meeting, pledges were received totalling US$4.55 million for the IF Trust Fund. Donors immediately contributing were Canada, Denmark, the European Union, the Netherlands, Norway, Sweden, the United Kingdom, and UNDP. Subsequently, the amount pledged to the Trust Fund has risen to US$6.2 million, with additional contributions from Finland, Ireland, Japan, Switzerland, the United States and the World Bank. Most of the resources in the IF Trust Fund are to be directed towards mainstreaming work.

3. Trade-related capacity-building[24]

27. More than three quarters of the WTO's 142 Members have self-elected the status of developing countries, of which 30 are LDCs. The Agreement establishing the WTO recognizes the need for efforts "to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development". Technical assistance and training activities aims at building the human and institutional capacity of WTO Members and acceding countries to facilitate their full integration into the multilateral trading system and the world economy. One aspect is a better understanding of the

---

[23] The WTO hosted a seminar on "The Policy-Relevance of Mainstreaming Trade Into Country Development Strategies – Perspective of LDCs", 29-30 January 2001.

[24] Further detail is provided in Chapter III.C(4).

WTO Agreements to facilitate implementation of obligations, as well as effective participation in WTO processes, including negotiations. At the same time, emphasis is increasingly being placed on enhancing the capacity of countries to realize the benefits of the market access opportunities that are available to them as a result of being WTO Members.

28. These activities mainly consist of seminars, workshops, technical missions, courses on trade policy and materials. In recognition of the vital role of training, in June 2001, the Director-General reconstituted the Secretariat's Training Division as the WTO Training Institute, with extended activities, including distance-learning services, cooperation with universities and training for trainers. The WTO has also published a comprehensive *Guide to Sources of Trade-Related Technical Assistance*, to provide a single reference source on technical assistance, available on the WTO web-site.[25] To increase internal transparency, the Secretariat has been active in "shortening the distance" between Geneva and capitals, by providing regular briefings, and establishing WTO Reference Centres, supported by donations from WTO Members.[26]

29. LDCs continue to be a major focus of WTO technical assistance and cooperation activities. These activities supplement other ones in which the WTO participates, notably the Joint Integrated Technical Cooperation Programme (JITAP) for Selected Least Developed Countries and other African Countries (WTO, UNCTAD and ITC Secretariats), and the Integrated Framework (IF) (WTO, ITC, UNCTAD, World Bank, IMF, UNDP), covered above. The Heads of the World Intellectual Property Organization (WIPO) and WTO launched, on 14 June 2001, a new initiative to help LDCs on intellectual property issues, including their obligation to comply with the WTO's TRIPS Agreement by 2006.

30. A new approach to help identify the capacity-building needs of LDCs is based on the Trade Policy Review (TPR) process, which in itself is viewed as facilitating a better understanding of, and integration into, the WTO. Thus, more LDCs are being programmed for review – at least three each year, including for 2001. The review process for an LDC now includes, for its officials, a three-to-four-day in-country seminar, on the WTO and, in particular, on the trade policy review exercise and the role of trade in economic policy; and the associated Secretariat report for the Review includes a section on technical-assistance needs and priorities, as identified in cooperation with the Member concerned, and with a view to feeding this into the Integrated Framework process.

31. Another major focus is the preparation of developing country Members for the Fourth Ministerial Conference in Doha. In particular, on 10-11 May 2001 in Geneva, WTO delegations and experts from international agencies, governments and the private sector discussed technical assistance and capacity building in trade facilitation in a workshop organized by the WTO Secretariat; in June 2001 the WTO Secretariat helped to prepare a strategy for the Arab region, to raise awareness, improve information flows, help delegations in Geneva, and prepare Members for a broader agenda of negotiations that could potentially be adopted. The WTO also held, through its Committee on Trade and Development, on 14 February 2001, a seminar on "Trade, Technology and Development" aimed at identifying opportunities and challenges faced by developing countries in relation to technology access in the context of the WTO. Also, the third Geneva Week, held on 10-14 September 2001, brought together representatives of non-resident Members and Observers (i.e. those without representation at the WTO in Geneva) and, for the first time, representatives of regional organizations involved in trade. The main objective of the Week was to brief on the state of work in the approach to the Fourth Ministerial Conference and focus on the key issues for the representatives.

[25] http://www.wto.org/english/thewto_e/teccop_e/teccop_e.htm#guide.

[26] The WTO Reference Centres are available to LDCs and small island developing countries on a 'supply-driven' basis, according to which the WTO is the source of the equipment, software and training, as well as advising the local authorities on Internet access. For other developing countries or entities, the WTO provides training and its materials only.

32. Despite their vital nature, technical assistance and cooperation activities continue to be sustained only by the generous extra-budgetary voluntary donations of certain WTO Members. Between 1995 and 2000, the demand for technical assistance increased fivefold. The regular budget for such activities has remained inadequate to respond to such needs, funding just 10% of activities in 2000.[27] These voluntary contributions by WTO Members, although vital, still fall short of WTO needs. For this reason, on 15 December 2000, the WTO General Council approved guidelines governing the acceptance and use of voluntary contributions from private individuals and non-governmental, non-profit organizations or foundations (non-governmental donors).[28]

33. Training has been another area of sustained activity. The 16th Trade Policy Course was held in early 2001 for 30 developing and transition economy officials, conducted in English. The 17th Trade Policy Course was held in mid-2001, with strong representation of trade officials from Africa and least-developed countries, in a three-month course conducted in French. In addition, forty trade officials participated in the 19th Special Course on Dispute Settlement Rules and Procedures organized by the WTO Secretariat as part of its technical assistance programme.

4. Accessions

34. The accession of two new Members in 2001 to date – Lithuania and Moldova – brought to 14 the number of Members that have acceded to the WTO since 1995, raising the organization's membership to 142.[29]

35. Three new accession working parties were established in 2001: Bahamas, the Federal Republic of Yugoslavia, and Tadjikistan. The other 27 accession working parties in process are those for: Algeria, Andorra, Armenia, Azerbaijan, Belarus, Bhutan, Bosnia-Herzegovina, Cambodia, Cape Verde, China, Former Yugoslav Republic of Macedonia, Kazakhstan, Laos, Lebanon, Nepal, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Chinese Taipei, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam, and Yemen. Arrangements were made in 2000 for participation of acceding countries as observers in the mandated negotiations on agriculture, on services and on other elements of the built-in-agenda.

36. The accession working party for China, which had entered the final stage of its work in 2000 following the conclusion of virtually all bilateral market-opening agreements, made further significant progress in 2001 by agreeing the Draft Working Party Report and Draft Protocol. A final meeting of the working party took place in September 2001 to adopt these documents and forward them for action to Ministers at the 4th Ministerial Conference in Doha, Qatar. This step brings to a close a 15-year process of accession.

37. The accession working party for Chinese Taipei, which had also entered its final phase in 2000, is expected to conclude its work as well before the 4th Ministerial Conference in Doha, Qatar. The working party completed its mandate by agreeing the Draft Working Party Report and Draft Protocol at a final meeting of the in September 2001 and forwarded them for action to Ministers meeting in Doha, Qatar.

38. Each accession has the same 'win-win' quality for the multilateral trading system. The acceding Government operates a more transparent and predictable trade regime, by assuming WTO

---

[27] Donations have been disbursed by some 25 WTO Members since 1995, totalling over CHF 31 million. For major pledges in 2000, see WTO 2000 Press Releases 162, 164, 168, 186(Rev.1), 188, 192, 196, 201 and 204. For major pledges in 2001 to date, see WTO 2001 Press Releases 218, 225 and 234.

[28] WT/L/386.

[29] Ecuador and Bulgaria acceded in 1996; Mongolia and Panama acceded in 1997; the Kyrgyz Republic acceded in 1998; Latvia and Estonia acceded in 1999; and Albania, Croatia, Georgia, Jordan and Oman acceded in 2000.

obligations on goods, services, and intellectual property protection. It opens its markets for goods and services to its trading partners, and thus locks-in reforms and gains the benefit of more competitively-priced imports. In turn, the new WTO Member gains similar rights and terms of access on the markets of other WTO Members – on a permanent basis. These commitments are enforced – on both sides – by dispute settlement. Domestic reform and integration into the world economy thus go hand-in-hand to strengthen growth and investment prospects of the acceding Government, and of WTO Members. Opportunities and challenges of accession are considered in greater depth in Chapter IV of this Report.

5. Outreach

39. In addition to a very high level of activity directed at better integrating WTO Members from developing and least-developed countries into the multilateral trading system, the Director-General, his Deputies and the staff of the WTO Secretariat have also been active in building bridges outside the WTO. They maintain a comprehensive programme of participation in international meetings with the public and private sectors and non-governmental organizations (NGOs). In part, this activity is directed at enhancing the information flow on the WTO to parliamentarians, concerned citizens and NGOs, but it is also aimed at better integrating external contributions to the WTO, within the guidelines established by the WTO Members in July 1996.[30]

40. WTO policy with respect to NGOs, recognizes that NGOs are "a valuable resource, [which] can contribute to the accuracy and richness of the public debate", but "there is currently a broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings"[31], mainly as a result of the intergovernmental character of the WTO and the prerogative of Member Governments to channel to the WTO the results of consultations with domestic constituencies. NGOs may observe Ministerial Meetings, and registration has risen sharply – from 108 NGOs at the first meeting in Singapore in 1996, to 128 in Geneva in 1998, 686 in Seattle in 1999, and 647 in Doha in 2001.[32]

41. On the occasion of the first meeting on international trade of the Inter-Parliamentary Union held on 8 June 2001 in Geneva, the WTO Secretariat issued a *Guide on WTO policy issues for parliamentarians*, available on the WTO web-site.[33] The guide explains why governments created the WTO Agreements, the important role individual governments play in the WTO and the freedom they have to protect their people, their morals, food and environment while still drawing the benefits from trade.

42. On 5 July 2001, the Director-General announced the appointment of a group of experts to advise him on the challenges and opportunities confronting the WTO and the global trading system. The panel is to examine how the WTO should respond to the needs of its Members and their citizens at a time when an increasingly integrated global economy has brought about profound economic and political change. The panel is also mandated to examine how the organization can ensure the fullest possible participation of each Member as the WTO expands to near universal membership. The panelists have been asked to examine ways of creating a more effective partnership between the WTO and civil society.

[30] WTO document WT/L/162.

[31] Ibid.

[32] The procedures regarding the attendance of NGOs are: (i) NGOs are allowed to attend only the Plenary Sessions of the Conference (without the right to speak); (ii) applications from NGOs are to be registered and are to be accepted on the basis of Article V, paragraph 2 of the WTO Agreement, i.e. such NGOs "concerned with matters related to those of the WTO"; and (iii) a deadline is to be established for the registration of NGOs that wish to attend the Conference. For the procedures on IGOs and NGOs for Seattle, see WT/GC/M/40/Add.3.

[33] http://www.wto.org/english/thewto_e/teccop_e/teccop_e.htm#guide.

43. The WTO was the venue of a "Symposium on Issues Confronting the World Trading System" on 6 and 7 July 2001. Representatives from governments, non-governmental organizations, the media and members of the academic community participated. Special work-sessions focused on trade in agriculture, food safety and sanitary and phytosanitary standards, intellectual property rights (the TRIPS Agreement), development and environment issues and trade in services (the GATS). A fifth working session addressed the relationship between the WTO and civil society. The symposium was covered by the International Institute for Sustainable Development (IISD), which issued a full report on its web-site.[34]

44. Transparency is also an important dimension of outreach. Regular press briefings are held, a publications service and the WTO web-site (http://www.wto.org) are maintained, information products are developed, and responses are given to the many requests for information on the WTO received each day. In particular, the WTO web-site has been receiving an average of 350,000 visitors each month at last count, up from an average of 200,000 in 2000.

45. The Secretariat hosts regular briefings for NGOs on the work of WTO committees and working groups and provides the Membership each month with a list of documents, position papers and newsletters submitted by NGOs. These documents are made available upon request from Member states. A special section of the WTO web site, including a recently opened chat room for interactive discussion, is devoted to NGOs. Finally, a special electronic NGO bulletin is available to organizations that wish to receive information on the current status of activities at the WTO. This facility is an integral part of the efforts to reach out to individuals and organizations located all over the world.

46. In addition to obtaining information on the WTO, the web-site gives open access (without charge) to all publicly available WTO documents in the three official languages of English, French and Spanish.[35] This facility was re-designed and launched on 1 February 2001, as part of ongoing efforts to make the Organization more accessible and to make its work more transparent for the public at large.

47. In 2000 and 2001, WTO Members have been conferring on improvements that could be made to accelerate public availability of documents of particular interest to citizens, such as minutes of meetings of WTO bodies and panel reports.[36] According to the current policy, established in 1996, a presumption of public circulation status applies to notifications by Members, unless a restricted status is requested, and documents related to the regular activities of the WTO are circulated to the public after six months or when the activity has been completed.[37]

48. Outreach also concerns relations with other international intergovernmental organizations (IGOs).[38] A formal policy on such relations was established in 1995 for the IMF and the World Bank,

---

[34] http://www.iisd.ca/sd/wto-issues/.

[35] An important exception are the Trade Policy Reviews of Members (WT/TPR/- series), protected by copyright and distributed to the public in book form and on CD-ROM by the publisher.

[36] Paragraph 7 of WT/L/160/Rev.1 provided that: "In the light of the experience gained from the operation of these procedures and changes in any other relevant procedures under the WTO, the General Council will review, and if necessary modify, the procedures two years after their adoption."

[37] WT/L/160/Rev.1.

[38] Article V, paragraph 1 of the Marrakesh Agreement Establishing the World Trade Organization provides that the General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO. Annex 3 to the General Council's rules of procedure provides further guidance on relations with other intergovernmental organizations, specifically in respect to observer status. Paragraph 4 of that Annex suggests that the main factors to be considered in granting observer status to other intergovernmental organizations are: the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization,

as provided for in their respective agreements with the WTO, and observer status in the General Council also applies to the United Nations, UNCTAD, FAO, WIPO and the OECD. WTO Members have been conferring for some time on other IGOs to be granted observer status in the General Council and other WTO bodies. Arrangements were made for IGOs to observe Ministerial Meetings, on the same basis as NGOs: this opportunity was taken by 42 IGOs at the first meeting in Singapore in 1996, by 40 in Geneva in 1998, and by 50 in Seattle in 1999.

6. Dispute settlement[39]

A heavy case-load for the system

49. By mid-2001, 234 complaints, involving 180 distinct matters, had been filed under the WTO's Dispute Settlement Understanding (DSU) since the entry into force of the WTO on 1 January 1995. The complaints concern allegations of inconsistency with WTO obligations and span, among other measures, the use of trade defence instruments (anti-dumping, countervailing and safeguard measures), intellectual property protection, trade-related investment measures, domestic taxes on products, product regulations, and subsidies. The measures at issue in some complaints have been recently introduced, while others are part of legislation or regimes that have been in place for decades.

50. Of 234 complaints, developed countries filed two-thirds and developing countries the remainder.[40] The United States and the European Union (or its Member States) are the WTO Members most frequently complained against (Table AII.1).

51. The largest single category of complaints concerns trade defence instruments, accounting for close to one quarter of complaints filed. The United States is concerned as a respondent in 19 of these 54 complaints and developing countries figure as a respondent in most of the others. This high level of complaints is an indication of the frequency of use of trade defence instruments among WTO Members. The use of such measures is subject to the rules set down in the concerned WTO Agreements. Complaints lodged in the WTO have mainly contained contentions of deficient procedural practices, incorrect definitions of key aspects (e.g. domestic industry), faulty injury determinations, erroneous findings, and incorrect application of duties.

Satisfactory adjustment is generally the outcome, but some cases reach the stage of retaliation

52. Roughly three quarters of complaints do not proceed beyond consultations to the panel stage, indicating that a satisfactory adjustment of the matter obtains at an early stage of the WTO procedures, just as was the case under GATT 1947.[41] When complaints proceed to the panel stage, the issued report contains findings that were, in most cases, the subject of appeal to the Appellate Body.

---

reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.

[39] WTO (ongoing), "Overview of the State-of-play of WTO Disputes" [Online]. Available at: http://www.wto.org [15 September 2001].

[40] To overcome human and financial resource constraints that limit the participation of developing countries in the dispute settlement procedures, legal assistance is made available by the Technical Cooperation Division of the WTO Secretariat. The Advisory Centre on WTO Law (http://www.itd.org), which provides training and legal advice in WTO matters to its developing country Members and all least-developed countries, became operational in July 2001.

[41] Although Article 3:6 of the DSU requires that "mutually agreed solutions to matters formally raised under the consultation and dispute settlement provisions of the covered agreements shall be notified", notifications of outcomes have not been made in a number of complaints that have not proceeded to the panel stage.

53. When complaints have completed the panel and Appellate Body report process, the record on prompt compliance with the recommendations or rulings of the Dispute Settlement Body (DSB) is good. Certain cases, however, where action to implement was required of the respondent WTO Member, have led to further, often lengthy, proceedings. One category concerns the determination by arbitration (under Article 21.3 of the DSU) of a "reasonable period of time" in which to implement findings; the guideline is 15 months. Another category concerns disagreements between the complainant and the respondent on the consistency of the action taken to comply with the recommendations and rulings; a number of requests for review under Article 21.5 of the DSU have been filed with the DSB.[42] In such instances, the matter is referred to the original panel, which issues a finding.[43]

54. Article 22 of the DSU makes retaliation the last resort in the WTO system of dispute settlement, within a carefully circumscribed framework for the exercise of this instrument. In the event a Member fails to implement the DSB's rulings and recommendations within a reasonable period of time, negotiations to agree mutually satisfactory compensation is the preferred remedy available to the complainant. Failing such agreement, the complainant may then request authorization from the DSB for the suspension of concessions or other obligations (Article 22.2), which is granted unless the DSB decides by consensus to reject the request (Article 22.6). Such suspension is, however, subject to rules to ensure that its level is not excessive, and arbitration is available to this end (Articles 22.6 and 22.7).[44] Finally, the suspension is conceived as a temporary measure, in place only for as long as implementation is outstanding or a mutually satisfactory solution is not found (Article 22.8).

55. Only one case of mutually satisfactory compensation has been notified to the DSB, by India and Turkey, in the matter of Turkey's quotas on textiles and clothing products.[45] The DSB has authorized five instances of retaliation[46]:

---

[42] "EC – Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27), recourse by the EC and recourse by Ecuador; "Australia – Measures Affecting the Importation of Salmon" (WT/DS18), recourse by Canada; "Australia – Subsidies Provided to Producers and Exporters if Automotive Leather" (WT/DS126), recourse by the United States; "Brazil – Export Financing Programme for Aircraft" (WT/DS46), recourse by Canada; "Canada – Measures Affecting the Export of Civil Aircraft" (WT/DS70), recourse by Brazil; "United States – Anti-dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of one megabit or above from Korea" (WT/DS99), recourse by Korea; "United States – Import Prohibition of Certain Shrimp and Shrimp Products" (WT/DS58), recourse by Malaysia; "Mexico Anti-dumping Investigation of High-Fructose Corn Syrup (HFCS) from the United States" (WT/DS132), recourse by the United States; Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products, (WT/DS103, WT/DS113), recourse by the United States and by New Zealand; "United States - Tax Treatment for "Foreign Sales Corporations" (WT/DS108), recourse by the European Communities.

[43] The clarification of the relationship between Articles 21.5 and 22 of the DSU ("sequencing") is still outstanding in spite of the priority given to a solution by the General Council in 1999. On 10 October 2000, eleven WTO Members presented a proposal to amend the articles (WT/GC/W/410). The Appellate Body, in a ruling issued in "United States – Import Measures on Certain Products from the European Communities", complaint by the European Communities (WT/DS165), deferred to WTO Members the resolution of the sequencing issue (paras. 92 and 93 of WT/DS165/AB/R).

[44] So far there has been arbitration under Article 22.6 in the following cases: "EC-Measures Concerning Meat and Meat Products (Hormones)" (WT/DS26/ARB); "EC-Measures Concerning Meat and Meat Products (Hormones)" (WT/DS48/ARB); "EC-Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27/ARB); "EC-Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27/ARB/ECU); and "Brazil-Export Financing Programme for Aircraft" (WT/DS46/ARB).

[45] "Turkey – Restrictions on Imports of Textile and Clothing Products", complaint by India (WT/DS34).

[46] A matter in which the EC has stated that it may request authorization to suspend concessions or other obligations under Article 22:2 is its complaint on "United States – Tax Treatment for "Foreign Sales

– in the matter of the EC's ban on hormone-treated beef, Canada and the United States have both retaliated by raising duties on imports from the EC[47];

– in the matter of the EC's regime for bananas, retaliation was requested by and authorized for the United States and Ecuador, and has been carried out by the United States, but suspended as of 1 July 2001[48]; and

– in the matter of Brazil's financing for exports of aircraft, retaliation was requested by and authorized for Canada.[49]

In this context, a significant and welcome development in the long-running dispute on the EC's bananas regime was the adoption of a new regime on 1 July 2001, which led the United States to suspend its sanctions, with a view to their definitive lifting; a similar result would obtain for Ecuador's authorized retaliation.[50]

56. The use of retaliation in disputes did not increase in 2001, indicating that WTO Members continue to be careful in their use of this instrument. But it is also true that no instances of the lifting of sanctions in place has yet occurred, although there are hopeful developments in one case. Respondents and complainants involved in a case should continue to make every effort to find a satisfactory resolution to the dispute or, pending full implementation, mutually agree to compensation, which tends to create trade, rather than resort to retaliation, which is potentially damaging to both parties and the system.

B. TRADE POLICY TRENDS IN WTO MEMBERS

1. Overview

57. Although the path of world trade growth has been uneven in the past few years (contraction in 1998, rebound in 1999 and 2000, followed by a slowdown in 2001), the fact that trade continued to expand faster than output is indicative of the increasing openness of national economies. Part of this development is due to the gradual but continued trend towards more liberal trade policies around the world. Fears that the failure of the Third Ministerial Meeting in Seattle to agree on an agenda for a

---

Corporations" (WT/DS108). The parties notified the WTO of an agreement on the follow-up to the panel and Appellate Body reports adopted by the DSB (WT/DS108/12). Pursuant to this agreement, the United States and the EC jointly requested the Article 22.6 DSU arbitrator to suspend the arbitration proceeding. However, the EC considered that the revised law enacted by the United States, the FSC Replacement Act, replicates the violations of the WTO Agreement found in the original dispute, which led to the examination of that new law by the original panel. This compliance panel, on 20 August 2001, found the U.S. law not in full conformity with the WTO Agreement.

[47] In "European Communities – Measures Affecting Meat and Meat Products" (WT/DS26 and 48), the United States was authorized to suspend tariff concessions on products of a value of US$116.8 million, and Canada was authorized to suspend tariff concessions on products of a value of Can$11.3 million.

[48] In "European Communities – Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27), the DSB authorized the United States to suspend tariff concessions on products of a value of US$191.2 million, and Ecuador was authorized to suspend TRIPS obligations of the value of US$201.6 million.

[49] In "Brazil - Export Financing Programme for Aircraft" (WT/DS46), the DSB authorized Canada to suspend tariff concessions on products of a value of Can$344.2 million per year.

[50] Council Regulation (EC) No. 216/2001 of 29 January 2001 amending Regulation (EEC) No. 404/93 on the common organisation of the market in bananas. On 22 June 2001, the EC notified an "Understanding on Bananas between the EC and the US" of 11 April 2001, and an "Understanding on Bananas between the EC and Ecuador" of 30 April 2001 (WT/DS27/58). On 5 July 2001, the EC and Tanzania and Jamaica, on behalf of the ACP countries, made a request for a GATT Article XIII waiver concerning the transitional regime for the EC autonomous tariff rate quotas on its imports of bananas, to be examined simultaneously with the request for a GATT Article I waiver for the ACP-EU Partnership Agreement.

new trade round would lead to a resurgence of protectionism have not, by and large, materialized. This is a tribute to the good sense of governments in conducting their trade policies. But credit also goes to the strength of the multilateral rules under the WTO, as well as commitments made under regional trade arrangements, which have made it more difficult to take protectionist measures.

58. National trade policies have continued, by and large, to be outward-oriented, through the implementation of multilateral and regional commitments, and new liberalizing initiatives, both multilateral, regional and autonomous. Since the establishment of the WTO in 1995, Members have been implementing staged reductions in bound tariffs, in domestic levels of support and export subsidy levels for agricultural products, and lifting non-tariff barriers. Specific measures, targeted on improving market access for least-developed countries in particular, have also been implemented (section A(2) above). At the same time, with a view to improving the transparency, stability and openness of their trading environments, a number of WTO Members have been changing the procedural aspects of their trade policy regimes, particularly with respect to licensing and customs valuation. These efforts have resulted, without doubt, in more open markets, on the whole.

59. Nevertheless, significant barriers to trade remain. The unfinished business of market access is the subject of the recently-published WTO Secretariat's study *Market Access: Unfinished Business*.[51] Possibly contrary to common belief, the results of the study demonstrates that trade in industrial products continues to be subject to significant tariff protection in developed and developing countries, with ample scope for further liberalization.[52] For tariffs on industrial products, the study indicates that bindings cover 100% of tariff lines for most developed countries. As a result of Uruguay Round-related tariff reductions, on top of seven rounds of tariff negotiations held under GATT 1947, developed countries' average bound and applied tariff rates on industrial products have fallen to low levels (7% and 5%, respectively), on a most-favoured-nation (MFN) basis. However, these low average levels mask the much higher rates applied to imports in 'sensitive' sectors, such as textiles and clothing, footwear, travel goods, transport equipment or electric machinery. Tariff escalation – to protect upstream industries in relation to primary production of metals, minerals, fibres, fish and agricultural produce – is also an enduring feature of most tariff regimes, and may affect primarily the market access interests of developing countries.

60. Developing countries have also raised their share of bound tariffs (to three quarters of the total), but a significant proportion of their industrial product tariff lines remain unbound or are bound well above the level of applied tariffs through ceiling bindings. The average bound rate for developing countries as a whole remains well above that of developed countries, although this gap is much lower for applied tariffs. Peaks and tariff escalation are also features of developing countries' tariff regimes, generally in the same category of products as developed countries.

61. In agriculture, one of the main achievements of the Uruguay Round was the tariffication of all non-tariff measures and the binding of 100% of all tariffs on agricultural products by all WTO Members, improving predictability and security of access. However, resulting tariffs, even after implementation of staged reduction commitments, are high and continue to offer significant protection to the products concerned. The quantification and binding of disparate measures of domestic support was also a significant achievement, although overall levels of total support to farming also remain high. Export subsidies, although also bound and reduced in a staged manner, remain in place. This 'unfinished business' explains the emphasis currently being placed on the mandated negotiations on agriculture.

[51] WTO (2001), *Market Access: Unfinished Business*, Special Study 6, WTO Secretariat, Geneva.

[52] The tariffs reported in the study are drawn from a sample of 42 WTO Members including all developed countries and a group of developing-country Members that account for 90% of all developing countries' trade.

62. The notification of products to be integrated under the third stage of the WTO's Agreement on Textiles and Clothing (ATC) suggests that a significant number of quantitative restrictions maintained under the ATC may not be removed until the end of 2004. Use of anti-dumping and countervailing procedures by established developed country users is increasing, joined by a larger number of developing countries each year. While regional trade agreements are increasingly attractive to WTO Members, they also raise questions regarding trade diversion, the effect of tariff preferences, and complex rules of origin.

63. The services agenda is also full. This sector, critical for businesses and consumers, was first brought into the multilateral rules in the Uruguay Round. Part of its unfinished business was addressed by the agreements on basic telecommunications and financial services reached in 1997. As in the industrial products area, levels of commitments may not reflect actual practice in the services area. Certain WTO Members may be interested in extending the scope of their commitments in order to provide a strong signal of interest in domestic services liberalization. This 'unfinished business' explains the emphasis currently being placed on the mandated negotiations on services.

64. This section looks in greater detail at recent trends in trade policies to take stock of progress, and unfinished business, in the multilateral trading system.

2. Market access for goods

Unfinished business on tariffs

65. The increase in the level of bindings was a major result of the Uruguay Round. In addition to higher levels of bindings on industrial products, all Members bound 100% of their tariff lines on agricultural items as a result of the WTO Agreement on Agriculture. Bindings reduce uncertainty and improve transparency in trading regimes. Bindings may also have laid the ground for improvements in access to developed countries' markets, as these Members chose to liberalize tariffs through reductions in bound rates.

66. Most developed countries have bound close to 100% of their industrial tariff lines (Table II.1). A very substantial increase in the share of bound industrial product tariff lines - from 21% to 73% - was effected by developing countries as a whole, although there are considerable differences between such Members. In Latin America, Members bound 100% of lines at ceiling levels, and in Central and Eastern Europe, bindings are close to 100%. The variation in level of bindings among Members in Asia is significant. Apart from a few, notably Gabon and South Africa, the scope of bindings of WTO Members from Africa is generally low.

67. Uruguay Round commitments will result in relatively low simple average bound rates for industrial products, although wide differences exist across Members and products. The average for the Quad – Canada, the European Union, Japan and the United States – is under 5%, for developed countries as a group it is about 7%, and for developing countries and transition economies the average is around 26%.[53] Japan has the highest share duty-free bound lines – just under one half – closely followed by Norway (Table AII.2). Few developing countries have bound any lines at zero.

[53] Taking into account the effects of recent WTO commitments on information technology and pharmaceutical products, the average bound rate of the Quad and other developed countries is further reduced by about one percentage point, and by a few decimals in developing countries.

Table II.1
Scope of bindings, average and bound tariff rates on industrial products for selected WTO Members[a]

Import Markets	Share of bound lines (%)	Average bound[b,c] rate (%)	Average applied rate	
			Level (%)	Year
North America				
Canada	99.6	5.2	4.4	2000
United States	100.0	3.9	4.1	2000
Latin America				
Argentina	100.0	31.0	13.4	2000
Chile	100.0	25.0	9.0	2000
Colombia	100.0	35.5	11.2	2000
Costa Rica	100.0	44.6	4.7	2000
Mexico	100.0	34.8	15.6	2000
Peru	100.0	30.0	13.0	1998
Western Europe				
European Union	100.0	4.1	4.5	2000
Iceland	93.2	9.7	2.5	1998
Norway	100.0	3.4	3.3	1998
Switzerland	98.9	1.8[d]	2.3	2000
Turkey	36.3	42.6	8.0	1999
Central and Eastern Europe				
Czech Republic	100.0	4.3	4.8	1998
Hungary	95.4	7.4	7.4	2001
Slovak Republic	100.0	4.3	4.4	2000
Asia				
Australia	95.9	14.2	4.7	2001
Hong Kong, China	23.5	0.0	0.0	2001
Japan	99.2	3.5	3.9	2000
Korea, Republic of	90.4	11.7	7.5	2000
Macau, China	9.9	0.0	0.0	1997
Philippines	58.6	26.1	6.7	2001
Singapore	65.5	4.6	0.0	2000
Africa				
Cameroon	0.1	17.6	17.6	1999
Chad	0.4	17.6	17.6	1999
Gabon	100.0	15.5	17.6	1999

a The data need to be interpreted with caution: neither the year nor nomenclature is the same for all Members listed. For bound duties, most of the Members were using Harmonized System 1988 or 1992, or still CCCN nomenclature. For applied duties, HS 1996 is used for the majority of the Members.
b Post Uruguay Round bound rate: the Member may have scheduled a longer implementation period for a certain number of tariff lines. One example is textiles and clothing products where several Members have until 2004 to implement the tariff reduction.
c Taking into account commitments on information technology and pharmaceutical products, post Uruguay Round bound rates for some countries will actually be slightly lower. For example, 3.3% for the United States, 2.9% for Japan, 9.5% for the Republic of Korea, and 22.8% for the Philippines.
d All Swiss tariffs are specific: *ad valorem* equivalents not available for all lines.

Source: WTO (2001), *Market Access: Unfinished Business*, Special Study 6. Figures on applied rates have been updated for the latest available year on the Consolidated Tariff Schedules (CTS) database.

68. Levels of bound rates for categories of industrial products vary significantly (Table AII.3). For both developed and developing countries, bound rates are highest in the category of textiles and clothing: Quad countries show a post-Uruguay Round average of 9% and developed countries as a whole are at 12%; developing and transition economies average 29%. Similar levels of rates are to

be found for leather, rubber, footwear and leather products (9% for the Quad, 10% for developed countries, 27% for developing countries).[54] Above-average bound rates are generally also found in the categories of fish and fish products, and transport equipment.

69. Among the Quad, tariffs well above the average continue to protect a number of industries from imports. In the European Union and Japan, peaks are concentrated in agriculture and food products, although peaks are also prevalent in footwear. In the United States and Canada, most tariff peaks are in manufactures, particularly textiles and clothing, footwear, glass and related products, and electrical parts.[55] Many of these products are of significant export interest to developing countries.

70. In addition to peaks, tariff escalation is a feature of industrial-product bound tariffs in many WTO Members. Tariffs structured according to the degree of processing (as well as peaks) affect resource allocation, as well as transparency, and provides scope for rent-seeking. In developed countries, such escalation is present in the same sectors that are affected by peaks, including in textiles and clothing, leather and footwear products. Despite significant efforts made by developing countries to achieve more uniform tariff regimes, peaks and escalation are in evidence, in many cases on the same categories of products as on those in developed countries (Table AII.2).[56]

71. Levels of bound rates for agricultural products are more difficult to analyse due to the presence of specific duties on certain products, which must be converted to *ad valorem* equivalents for comparative purposes; the prevalence of tariff quotas is also a complicating factor. The level of protection implied by specific duties depends on world commodity prices, domestic prices, and thus varies continuously; for tariff quotas, important issues concern administrative arrangements and their implementation. Keeping these difficulties in mind, the evidence suggests that for most WTO Members, the average bound rate for agricultural products is invariably higher than for industrial products; for developed countries, estimates indicate that the simple average of bound rates for agricultural products is around four times that on industrial products, and for developing countries, the average is two to three times higher than that for industrial products.[57] Peaks in more sensitive agricultural product categories are frequent, as is escalation by degree of processing.

72. Applied tariffs are generally at, or close to, bound rates for developed countries, whereas developing countries often apply tariffs at rates significantly below bound levels. This latter gap is the result of a combination of two factors: use of ceiling bindings in Schedules and/or autonomous liberalization initiatives to reduce applied tariffs since the WTO came into existence. Such initiatives, often remarked in Trade Policy Reviews (TPRs), frequently indicate significant progress in liberalization (e.g. Cameroon and Uganda in Africa, and India and Pakistan in Asia). Liberalization in Central Europe has also continued at a sustained pace, resulting in generally low applied MFN tariffs. There would seem to have been a pause in the process of tariff reduction in South East Asia and Latin America in connection with the 1997-98 financial crisis. In absolute terms, however, applied tariffs in these regions are already among the lowest among developing-country Members (9% on average in the ASEAN-6, 13% in South America), and no major policy reversals were observed during the financial crisis.

[54] This category of products is defined, in WTO (2001), *op. cit.*, Table 4, page 6, as the aggregation of HS Chapters 40 and 41 (except 4101-03), 4201, 4203-05, Chapter 43 (except 4301), Chapter 64 (except 6405-06), 9605.

[55] B. Hoekman, F. Ng, M. Olarreaga (2000), *Tariff Peaks in the Quad and Developing Countries' Exports*, World Bank.

[56] B. Hoekman, F. Ng, M. Olerreaga (2000), ibid.

[57] IMF and World Bank (2001), "Market access for developing countries", p. 18.

73. The gaps between applied and bound rates on industrial products differ among regions, noting however the different scope of bindings.[58] Average bound rates are three times higher than applied rates in Latin America, and two-and-a-half times higher in South East Asia.[59] In these cases, bindings contribute less to the stability of applied tariffs, since countries could, if they wish, raise their applied tariffs up to the level of their bindings. Trade Policy Reviews indicate that such increases generally have not occurred, although certain countries in Asia fine-tuned tariffs in the course of the 1997-98 financial crisis.

74. It has to be underlined that the scope of application of MFN tariffs by WTO Members is reduced by preferences granted to partners in regional trade agreements, non-reciprocal preferences, or other preferences granted to countries in transition and developing countries under the Generalized System of Preferences (GSP), or supplementary preferences for the least-developed countries. One recent development in this respect is the extension of preferences granted to the least-developed countries since the Action Plan was launched in 1996 (section A(2) above). The increase in the number of regional trade agreements in recent years looks set to further erode the scope of application of MFN tariffs (Chapter V).

Slow pace of elimination of restrictions on textile and clothing

75. Under the WTO Agreement on Textiles and Clothing (ATC), Canada, the European Union and the United States continue to maintain quantitative restrictions on certain of their imports of textiles and clothing from developing and transition economies. These restrictions were carried over from the Multifibre Arrangement, and are to be eliminated by end-2004. The first two phases of the ATC product integration programme, to bring the sector fully into GATT rules, required the integration of no less than 16% of the total volume of 1990 imports in 1995 and no less than 17% in 1998, respectively. Market access was also required to be improved in the first and second stages of integration, by increases in the quota growth-rates of at least 16% and 25%, respectively, and applied annually. The product integration percentages and the increases in the growth rates have been met, but the elimination of the restrictions has been modest, with a significant exception (Norway). Canada removed restrictions on one product in the first phase and on two categories in the second phase, the EU on 12 categories in the second phase (none in the first phase), and the United States on all or part of 24 product categories in the second stage (none in the first stage). Norway has removed all its quotas under a phased plan.[60]

76. The third stage of integration under the ATC will take place on 1 January 2002, and is to involve no less than 18% of the total volume 1990 imports. At least 12 months in advance of each implementation stage, Members were required to notify the Textiles Monitoring Body (TMB) of their respective integration programmes. The EU's integration programme will result in the elimination of restrictions on 11 EU categories of products, affecting nine WTO Members and leading to the elimination of 37 specific restrictions. In public statements, the EU has raised the possibility of removing additional quotas of particular interest to an exporter in exchange for better access to its

[58] It is difficult to include agricultural tariffs in this analysis because of the above-noted specific-duty and tariff-quota aspects of those tariffs.

[59] WTO (2001), *op. cit.* Table II.4, p. 17.

[60] Details are contained in notifications to the Textiles Monitoring Body. They are as follows: Canada's integration programme contained one product subject to restrictions (work gloves) in the first phase of integration and two categories of products under the second stage (tailored collar shirts and textiles handbags). Canada removed quotas on certain clothing products in six additional product categories, although not integrating these products. In the second stage, the EU's integration programme contained products in 12 restricted categories, affecting five Members to varying extents. Norway gradually removed all its restrictions: 14 quotas in 1996, 32 in 1997, 5 in 1998 and 3 in 2001. The United States' second stage of integration programme contained all or part of 24 product categories, with specific limits affecting three of these categories or combined categories and six Members, and the other product categories in group or aggregate limits.

domestic textiles and clothing market. For its part, the United States, is going to integrate products from 38 U.S. categories for which the United States maintains restrictions, affecting 20 WTO Members and resulting in the elimination of 43 specific limits or sub-limits. Canada will integrate three categories and two sub-categories for which it maintains restrictions; as a result 27 specific restraints will be lifted. In addition, restrictions affecting 17 other Canadian categories or sub-categories will be partially eliminated.[61] In addition, in the third stage of integration all growth rates on the remaining restrictions will be increased by 27%, to be applied annually.

77. As a result of the implementation of the third stage of integration of textiles and clothing under the ATC, some additional liberalization is to take place beyond that in the previous two stages. However, this still leaves the bulk of trade affected by quotas, to be liberalized only on 31 December 2004, at the end of transitional period to full implementation. It is worth noting, in this respect, that Canada, the EU and the United States have already largely liberalized textiles and clothing trade with neighbouring countries under regional trade agreements.[62]

78. Restrictions on textiles and clothing products maintained by some other WTO Members outside the ATC but with reference to GATT provisions are also gradually being eliminated. Those maintained by India were removed on 1 April 2001, as scheduled.[63] Pakistan is in the process of phasing-out restrictions on textiles and clothing products maintained under the balance-of-payments provisions of GATT[64]; it notified the Committee on Balance-of-Payments Restrictions that it had liberalized certain fabrics and apparel products in early 2001.[65] Turkey, for the implementation of the results of a dispute-settlement proceeding with India, agreed to a phase-out plan of restrictions affecting textiles and clothing imports from that country; subsequently the two Members notified a mutually satisfactory agreement to the DSB, which includes compensation.[66]

Rising trend in the use of trade defence instruments slows in 2000

79. Under the WTO Agreements, Members have the right to apply contingency trade measures (anti-dumping, countervailing or safeguard), subject to specified rules. However, to preserve the market access gains from reducing traditional measures of protection, care should be taken not to abuse such contingency measures to impose new barriers to trade. Moreover, even when in compliance with WTO disciplines on the use of such measures, it is possible that the initiation of procedures (sometimes in a combined manner, both anti-dumping and countervailing procedures) may have a chilling effect on trade; in particular, responding to procedures imposes costs on traders and exporters that may discourage trade, in particular in sensitive products. Finally, the use of the procedures themselves can be the source of disputes, as a significant percentage of all complaints filed in the WTO since 1995 concern the use of trade defence instruments (section A(6) above).

80. During the period 1995-2000, records maintained by the WTO indicate nearly 1,500 initiations of anti-dumping investigations world-wide. More than half of these investigations were initiated by developing or transition countries, demonstrating their growing use of anti-dumping procedures; developing and transition countries accounted for one third of total initiations of

[61] G/TMB/N/370/Corr.3.

[62] For example, quantitative restrictions maintained by the EU on textiles and clothing imports from EU membership candidates were eliminated on 1 January 1998, while tariffs had been eliminated one year before. Rules of origin have been harmonized between the EU and the associated countries (WTO (1997), *Trade Policy Review – European Union*, and WTO (2000), *Trade Policy Review – European Union*).

[63] *India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, complaint by the United States (WT/DS90/1).

[64] WT/BOP/R/51.

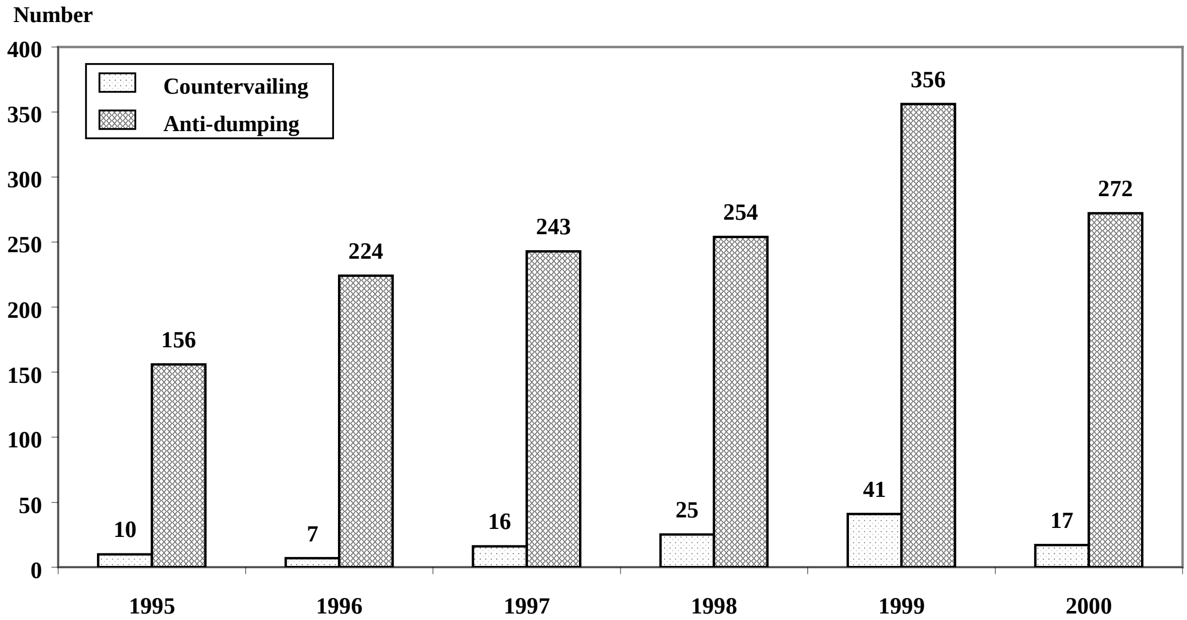
[65] WT/BOP/N/53/Add.2 of 10 January 2001 and WT/BOP/N/57 of 15 February 2001.

[66] *Turkey – Restrictions on Imports of Textiles and Clothing Products*, complaint by India (WT/DS34/14).

investigations in the previous five-year period. At the same time, exporters in developing and transition countries are the main targets of anti-dumping investigations – of both developing countries and developed countries – accounting for nearly three quarters of initiations.

81. A slowdown in the number of initiations occurred in 2000 after the surge of 1999 – 272 anti-dumping investigations initiated compared with 356 in 1999 (Chart II.1 and Table AII.4). The leading four users are: the United States (47 initiations), Argentina (45), India (41), and the European Union (31). In 2000, the WTO Members whose exporters were most often the subject of initiated anti-dumping investigations were: the European Union and its Member States together (41); the Republic of Korea (19); Indonesia (13); and the United States (12). Chinese exporters were also often targeted (42 initiations). Since 1995, the European Union and its Member States have been the most affected by initiations (264), followed by the Republic of Korea (117), the United States (89), Japan (67), Indonesia (61) and India (56). Among non-members of the WTO, China (202) and Chinese Taipei (75) have been the most affected.

Chart II.1
Initiations of anti-dumping and countervailing investigations, 1995-2000



Source: WTO Secretariat.

82. On average, about one-half of initiated anti-dumping investigations are terminated without measures being imposed, and the rest end with a definitive anti-dumping measure in the form of a duty or, much less frequently, a price undertaking by the exporter. The number of anti-dumping measures in force rose from 880 at the end of 1997 to 1,120 at end-1999; in 2000 the number declined to 1,088. In 2000, the United States had the most measures in place, followed by the European Union, South Africa, India, and Canada. Counted together, the EU and its Member States were the WTO Members most affected by anti-dumping measures in place, although exporters from China are affected by a similar number of measures.

83. Sectors where anti-dumping measures are more frequent include chemical products and base metals, notably steel. Requests for anti-dumping investigations by the steel industry have been relatively frequent in recent years, notably in the United States (almost two-thirds of the 125 anti-dumping investigations initiated between 1998 and 2000 involved steel products), in

relation to chronic excess-supply in world markets.[67] As steel prices are falling again, new calls for anti-dumping investigations are re-emerging from both sides of the Atlantic.

84. The use of countervailing procedures – both in terms of the number of user WTO Members, initiations, and measures in force – remains much lower than for anti-dumping. While the number of initiations also reached a peak in 1999, a slowdown occurred in 2000, with 17 initiations compared with 41 in 1999 (Table AII.5). The United States has the largest number of measures in force (21), followed by the European Union (14), while the European Union and its Member States are the most affected by measures (20).

Subsidies are still an issue, in particular in agriculture

85. Although there is no global accounting available on the use of subsidies, a number of factors, ranging from fiscal consolidation in major economies to private sector-oriented structural reforms in developing countries, have contributed to limit the use of subsidies in the manufacturing and services sectors.[68] The disciplines on trade-distorting subsidies contained in the WTO Agreement on Agriculture have also capped support to this sector, which nevertheless remains among the leading recipients of support in a number of WTO Members.

86. Total support to agriculture by OECD countries is estimated by the OECD to have decreased in 2000, from US$356 billion to US$327 billion. The decline was due to higher world prices (and hence a reduction of the gap between domestic and world prices) and exchange rate movements, "rather than major agricultural policy changes".[69] Producer support granted in the OECD area also declined from US$274 billion in 1999 to US$246 billion in 2000, i.e. from 37% to 34% of total farm receipts: the largest share of this producer support is accounted for by the European Union (36%), followed by Japan (24%) and the United States (20%). Chart II.2 presents producer subsidy equivalents for these four countries. It should be noted that OECD figures do not segregate less from more trade-distorting measures of producer support, notably the measures in the 18 "green box" categories of Annex 2 of the Agreement on Agriculture.[70]

87. In relation to the peak 1986-88 period, when the Uruguay Round was underway, the OECD notes that the overall level of support to producers in 2000 was some 7 percentage points below the peak (Chart II.2). This is an improvement over 1999, when the OECD found support to have risen to the 1986-88 level for the first time. On the whole, the OECD finds that:

> The overall reduction in market protection in the OECD area may partly reflect the process of achieving WTO commitments. However, the current levels of protection are still an important factor in encouraging production, distorting trade and depressing world prices of agricultural commodities. Moreover, such protection continues to be regressive as it mainly benefits large firms and impacts most strongly on low-income consumers for whom food constitutes a larger share of their total household expenditure.[71]

[67] During the 1997-98 financial crisis in some emerging markets, calls for anti-dumping actions were heard in the main importing (and producing) countries, in particular the United States, raising fears of a new wave of anti-dumping actions; however, world demand and prices rebounded quickly, preventing a new "steel war".

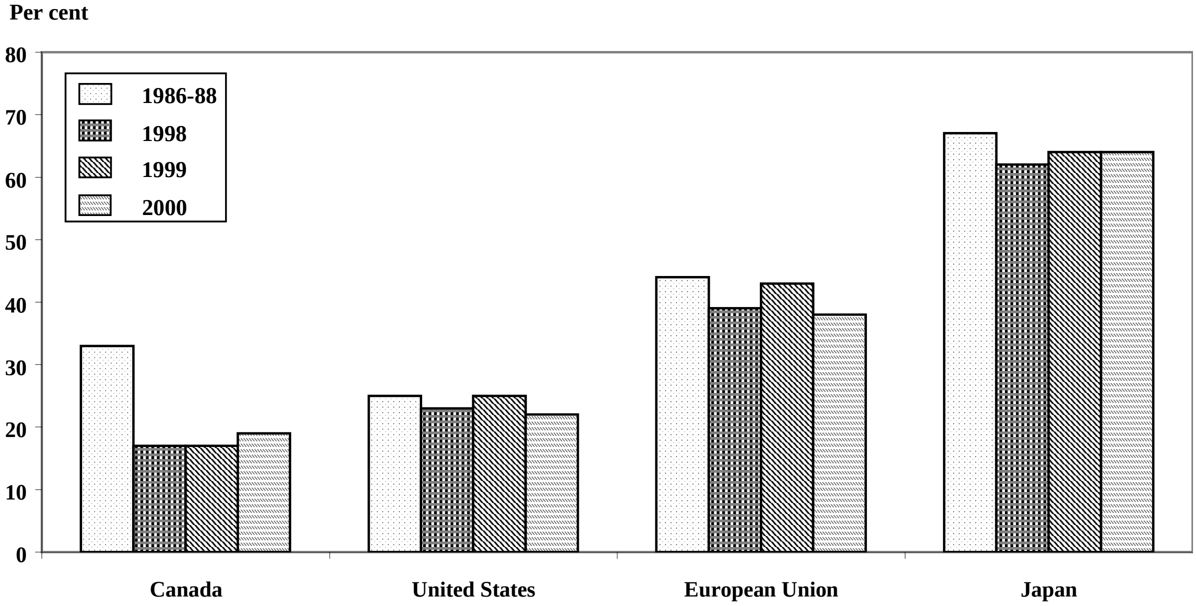
[68] All WTO Members are required to notify their subsidy programmes to trading partners. For notifications on subsidies under Article XVI:1 of GATT 1994 and Article 25 of the Subsidies Agreement, see document series WT/G/SCM/N/; and for notifications on agricultural support measures under the Agreement on Agriculture, see document series WT/G/AG/N. Comparisons are however difficult to make regarding the actual amounts of subsidy involved.

[69] OECD (2001), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p. 5.

[70] G/AG/NG/2.

[71] OECD (2001), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p. 16.

Chart II.2
Producer Subsidy Equivalents (PSE) for Canada, the United States, the European Union and Japan, 1986-2000



Source: OECD (2001), *Agricultural Policies in OECD Countries - Monitoring and Evaluation,* Paris: OECD Secretariat.

88. Under the WTO Agreement on Agriculture, Members are committed to limit and reduce the volume and value of export subsidies; the use of new export subsidies is prohibited.[72] These commitments primarily constrain developed countries, and notably the European Union, which accounts for about 90% of export subsidies granted by OECD countries. According to the OECD, the total value of export subsidies on agricultural products decreased in 2000, mainly due to a fall in the value of subsidies granted by the European Union (this in turn being the outcome of the lower gap between domestic and international prices). Still, the post Uruguay Round levels of export subsidies that will continue to be allowed at the end of the implementation period amount to close to US$13 billion, permitting significant use of these subsidies, if Members so wish.[73] This underlines the importance of meaningful progress in the currently engaged negotiations, under Article 20 of the Agreement on Agriculture, to continue the reform process.

89. Subsidies are used in sectors other than agriculture. Although their use is by no means confined to the two largest WTO Member economies – the United States and the European Union – their impact on conditions of competition in world markets tends to be significant. Statistics produced by the European Commission, which monitors state aid in the European Union, show a clear downward trend since 1996.[74] No similar overall assessment is available for the United States concerning trends in aid provided at the federal, state and local government levels, but there is no

[72] Commitments include the reduction of subsidized exports by 21% over 6 years (14% over 10 years for developing countries) and the reduction of the value of export subsidies by 36% (24% over 10 years for developing countries).

[73] 70% to the European Union. See WTO (2001), *Market Access: Unfinished Business*, Geneva, Table III.10, p. 61.

[74] European Commission (2001), *Eighth Survey on State Aid, Brussels,* p. 9. State aid to the manufacturing sector in the Community has been reduced by a third between 1995 and 1998, the latest year for which statistics are available.

reason to believe a trend to rising levels.[75] Subsidies tend to be narrowly targeted on specific sectors, certain types of business (e.g. small and medium-sized enterprises), disadvantaged regions or certain objectives (e.g. technological development, environmental protection). Subsidy practices on both sides of the Atlantic have proved to be a persistent source of disputes in the WTO.

Product regulations and standards are a growing issue for market access

90. Products placed on the markets of WTO Members, whether domestic or imported, must comply with the relevant regulations, where they exist, to meet, *inter alia*, health, safety and environmental objectives. Such regulations may include sanitary and phytosanitary (SPS) measures, which are taken to protect human, animal or plant health, or other product regulations and standards, such as labelling and packaging requirements, to meet public policy objectives. Generally, the entry of imported products is permitted subject to conformity assessment procedures conducted on the territory of the destination market. However, sometimes the measures involve outright bans, notably in the context of the implementation of multilateral environmental agreements such as the Montreal Protocol, the Basel Convention or CITES.

91. The WTO Agreements on Technical Barriers to Trade (TBT), and on Sanitary and Phytosanitary Measures (SPS) recognize and encourage the activities at the international level designed to reduce barriers to trade resulting from products and products-related regulation, in particular, the development of international standards, guidelines, and recommendations. Such activities at the international level reduce the potential barriers to exports. As part of implementation-related issues and concerns with respect to WTO Agreements, developing countries have pointed to their inadequate levels of participation in standard-setting bodies, an issue on which initiative was taken by the Director-General (section A(1)).

92. A new development, encouraged by the TBT Agreement, is the conclusion of mutual recognition agreements (MRAs), on the results of conformity assessment procedures, between trading partners having established confidence in each other's testing entities and procedures. The trend to conclude such MRAs is confined, to date, to developed countries.[76] The SPS Agreement encourages the acceptance, by an importing country, of health protection measures that may differ from those of the importing country but that provide an equivalent level of safety. The SPS Committee has identified actions that could assist developing countries that are seeking to have their measures recognized as equivalent.

93. The prevalence of SPS measures appears to have grown in recent years. Developed countries are significant users of such measures, mainly for food safety reasons; developing countries are also using them with greater frequency. In 2000, the United States notified the highest number of SPS measures (162) to the WTO followed by the European Union and its Member States, and New Zealand. The significance of TBT measures also appears to have grown, rising from 365 notified measures in 1995 to 611 measures in 2000 (after a peak of 672 measures in 1999), in part due to the expanded use of such measures by developing countries (Table II.2).

---

[75] According to WTO(2001), *Trade Policy Review – United States*, for 1999, estimated U.S. outlays in support of commerce and business amounted to US$28 billion and credit programmes slightly exceeded US$2 billion. By comparison, tax expenditures were US$6.8 billion in the international business sector, US$2.4 billion for space and technology companies, US$3.2 billion in the energy sector, and US$1.7 billion for natural resources and the environment; the largest single business tax expenditure (accelerated depreciation of assets) was estimated at US$32 billion in lost revenue that year.

[76] For example, the European Union has concluded MRAs for the results of conformity assessment with Australia, Canada, Japan, New Zealand, Switzerland, and the United States.

Table II.2
TBT notifications of technical regulations and standards, 1995-2000

	1995	1996	1997	1998	1999	2000
Argentina	0	1	0	1	16	37
Australia	20	18	26	12	35	10
Brazil	1	9	35	43	17	12
Canada	29	20	30	115	24	26
Czech Republic	12	14	1	6	28	52
European Union[a]	123	123	437	276	185	156
Japan	50	41	35	28	30	56
Korea, Rep. of	13	9	14	8	22	27
Malaysia	1	19	12	28	98	3
Mexico	29	27	29	35	34	28
Switzerland	4	12	21	7	22	9
Thailand	7	13	22	34	22	9
United States	33	40	33	35	49	32
Total	**365**	**460**	**795**	**648**	**672**	**611**

a The European Union and its Member States. For details of Member States' notifications, see WT/TPR/S/72, p. 62, Table III.6.

Source: WTO Secretariat.

94. SPS and TBT measures are an integral part of the instruments at the disposal of WTO Members to meet public policy goals: an objective of the relevant WTO Agreements is to ensure that such measures do not create unnecessary obstacles to international trade. Complaints of such barriers to trade being created are on the rise: by mid-2001, there were 21 complaints invoking provisions of the SPS or TBT Agreements.[77]

3. Market access conditions for services

95. The services sector plays a dominant role in the economies of most WTO Members, both in providing consumer benefits directly, such as through health and education, and as a support to business activities through, for example, finance, communications, and transportation. Services is the main sector of activity in high-income countries (both in terms of GDP and employment) and its importance is growing in lower-income countries. The importance of the services sector in the world economy greatly exceeds its share in world trade, the latter being estimated at one fifth in 2000, in part because these statistics only count cross-border transactions and not services provided through affiliates.[78]

96. Efficiency in the production and trade of services has an important bearing on economic performance and development. Services like transportation and distribution, banking and finance are of critical importance in developing countries (and no less in developed countries), both for the emergence of a competitive manufacturing sector, and, more broadly, for social development and poverty reduction. In many of the poorest countries, economic and social development is hampered by the lack of adequate basic infrastructure such as roads, power supply, telecommunications, and public transport. Open services trade regimes may therefore entail major benefits by helping poor countries to obtain infrastructural services at internationally competitive prices. For those reasons, similar basic policy prescriptions as in the goods sector apply, such as ensuring that policies encourage rather than impede competition, and that economic operators have some certainty regarding

[77] Allegations of inconsistency with provisions of the TBT Agreement and/or the SPS Agreement were made in the following complaints: shelf-life (DS5); salmon (DS18); hormones (DS26, DS48); shrimp (DS58, DS61); butter (DS72); agricultural products (DS76); textiles and apparel products (DS85); quantitative restrictions (DS96); poultry (DS100); footwear (DS121); rice (DS134); asbestos (DS135); wood of conifers (DS137); cattle, swine and grain (DS144); textiles and apparel products (DS151); swine (DS203), sardines (DS231); matches (DS232); pharmaceutical products (DS233).

[78] WT/S/C/W/27.

the stability of the policy framework. In addition to domestic benefits from a greater variety and competitive pricing of services, trading partners gain the opportunity for trade-related development, based on services trade.

97. A key development in the multilateral trading system was therefore the WTO GATS Agreement, which established a framework of commitments by Members to bind, reduce or eliminate impediments to the supply of services by foreign providers; this was followed up by the agreements on basic telecommunications and financial services in 1997 (Fourth and Fifth Protocols of the GATS, respectively). Just as is the case of the policies affecting market access for goods, Members display a wide variety of approaches to service-sector liberalization (Table II.3). Within the sectoral commitments, all modes of delivery are generally provided for, although a number of Members maintain restrictions on commercial presence, and the scope of access for delivery by mode 4 – movement of natural persons – is severely limited (essentially to business travellers and intra-corporate transferees).

Table II.3
Sectoral coverage of Schedules

Sectors committed	Number of Members	WTO Members
≤20	44	Angola, Bahrain, Barbados, Benin, Botswana, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Congo (Republic), Costa Rica, Cyprus, Fiji, Gabon, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mozambique, Myanmar, Namibia, Niger, Paraguay, Rwanda, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Solomon Islands, Sri Lanka, Suriname, Swaziland, Tanzania, Togo, Uganda, Zambia
21-40	23	Bangladesh, Bolivia, Brunei Darussalam, Burundi, Côte d'Ivoire, Djibouti, Dominica, El Salvador, Ghana, Grenada, Guatemala, Kenya, Macau, Mongolia, Nigeria, Papua New Guinea, Peru, Qatar, Senegal, Sierra Leone, Tunisia, Uruguay, Zimbabwe
41-60	10	Antigua & Barbuda, Belize, Cuba, India, Morocco, Netherlands Antilles, Nicaragua, Pakistan, Trinidad & Tobago, United Arab Emirates
61-80	12	Brazil, Ecuador, Egypt, Hong Kong (China), Israel, Jamaica, Kuwait, Liechtenstein, Poland, Romania, Singapore, Venezuela
81-100	12	Argentina, Chile, Czech Republic, Dominican Republic, Indonesia, Lesotho, New Zealand, Panama, Slovak Republic, Slovenia, South Africa, Turkey
101-120	7	Australia, Bulgaria, Gambia, Canada, Philippines, Switzerland, Thailand
≥121	24	EC (15), Iceland, Japan, Columbia, Korea (Rep. of), Malaysia, Mexico, Norway, Hungary, United States

Source: WTO document T/S/C/W/94, 9 February 1999.

98. Although GATS commitments are of relatively recent vintage, a number of Members have pursued, or are still pursuing, privatization and deregulation of services activities, accelerating the pace of autonomous liberalization in the services sector, and leading to policies in place that are generally more liberal – in some instances, much more so – than those specified in Schedules. Since the mid-1990's, a wave of restructuring, rationalization and privatization of key services has been undertaken in many developing countries, particularly in the areas of telecommunications, finance and transportation. Among the underlying factors were the rapid rate of technological change (in telecommunications, for example), financial crises and the need to redress ailing banking sectors, the restructuring of public sectors, supply bottlenecks (public transport, energy) as well as fiscal considerations. Foreign participation has often been encouraged to provide capital, transfer of technology and entrepreneurial methods. Faced with the rapid globalization of markets and technologies and changing consumer demands, service reforms have also been undertaken by developed countries, in particular in "network industries" (telecommunications, power and gas supply). Domestic reforms have generally resulted in more open markets for both domestic and foreign suppliers. Chapter V deals in part with some issues related to GATS and the provision of health and education services.

99. The Trade Policy Reviews conducted since the establishment of the WTO in 1995 provide numerous examples of domestic reforms undertaken in both developed and developing countries after

the end of the Uruguay Round, and which have not been bound in GATS Schedules of Commitments. For example, the recent financial crisis in South-East Asia (1997-98) provided for extensive opening to foreign participation in banking (Indonesia, Republic of Korea, Thailand), other financial services (Republic of Korea), telecommunications (Republic of Korea, Thailand), and distribution services (Indonesia). Wide-ranging liberalization of service sectors had the objective to increase economic efficiency and resilience in key services as well as to attract foreign expertise. The lowering of foreign ownership thresholds in Indonesia, Republic of Korea and Thailand allowed foreign banks to take effective control of ailing domestic institutions and facilitate restructuring. In addition, the lifting of branch restrictions (Indonesia) aimed at creating a level playing field throughout the country, as foreign institutions had initially been confined to selected urban centers. In Brazil, the structural reform agenda in services covers the privatization of state-owned banks, the national telephone company and the leasing of port, airports and highways. In South Africa, the main telephone company was sold to a private consortium and the authorities are considering the implication of privatizations in the air transport sector. Many countries in Africa have taken similar steps (Gabon, Kenya, Uganda), seeking foreign strategic partners for major banks or telecommunications companies. Reforms are undertaken on an autonomous basis, often under IMF and World Bank-supported programs.

4. Intellectual property protection

100. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) establishes a framework of rules on minimum levels of protection for intellectual property rights (IPRs) and the means to ensure their enforcement. These rules concern the protection of patents (for inventions), trademarks, geographical indications (identifying the origin of a product) industrial designs of integrated circuits, undisclosed information, as well as the protection of copyright (for literary and artistic works such as novels, poems, plays, films, musical works, paintings, photographs, sculptures, and architectural designs, and the rights of performers, producers of sound recordings and broadcasting organization). Protecting intellectual property rights such as patents and copyright preserves the incentive for creativity and inventiveness, while in the area of distinctive signs, such as trademarks and geographical indications, its main purpose is to protect the consumer and prevent unfair competition between producers. In the area of patents, another benefit is to foster disclosure of inventions, which encourages further innovation.

101. When the WTO Agreements took effect on 1 January 1995, developed countries had one year to ensure that their laws and practices conformed with the TRIPS Agreement, developing-country Members and (under certain conditions) transition economies had an additional four years (plus five years to provide patents for areas of technology not subject to such protection previously, although exclusive marketing rights were required as of 1995), and LDCs had an additional 10 years. Thus, as of 1 January 2000, developing-country Members were required to have implemented the TRIPS Agreement by introducing new legislation or modifying existing legislation; the WTO has received notifications to this effect and the TRIPS Council has been engaged in reviewing implementation efforts by such Members.[79]

102. Trade Policy Reviews conducted in the course of 2000 and 2001 confirm the steps taken by many developing and transition countries to adopt entirely new intellectual property legislation, or update existing legislation.[80] In Latin America, Brazil enacted revised copyright, patent and

[79] IP/C/19.

[80] Based mainly on the information contained in Trade Policy Review documents (WT/TPR/G/, S, M) circulated between January 2000 and July 2001 for the reviews of Kenya (WT/TPR/S,G,M64), Peru (WT/TPR/S,G,M69), Poland (WT/TPR/S,G,M71), Republic of Korea (WT/TPR/S,G,M73), Bahrain (WT/TPR/S,G,M74), Brazil (WT/TPR/S,G,M75), Ghana (WT/TPR/S,G,M81), Macau, China (WT/TPR/S,G,M82), Brunei Darussalam (WT/TPR/S,G,M84), Organization of Eastern Caribbean States (OECS) (WT/TPR/S,G,M85), Gabon ((WT/TPR/S,G,M86), and Cameroon (WT/TPR/S,G,M87).

trademark legislation, while Costa Rica adopted regulations to give effect to TRIPS obligations. In the Caribbean, the degree to which the Members of the Organization of Eastern Caribbean States (OECS) have amended or introduced domestic legislation to reflect the TRIPS Agreement varies considerably, but no country has completed the process. Dominica updated or introduced domestic legislation regarding trademarks, industrial designs, geographical indications, patents, and protection of layout-designs of integrated circuits, between 1998 and 2000. No new or amended legislation with respect to the protection of intellectual property rights has been passed in Antigua and Barbuda, Grenada, and St. Vincent and the Grenadines since the inception of the WTO. In Antigua and Barbuda, however, draft legislation is being prepared with respect to copyright and related rights, layout designs, trademarks and geographical indications.

103. In Asia, new legislation was adopted by Macau, China, and measures have been taken to better enforce rights. Brunei Darussalam introduced legislative changes in 2000 for the protection of copyright, trademarks, patents, layout designs of integrated circuits, and industrial designs. The Republic of Korea launched in April 1998 the "Intellectual Property Great Leap Forward Policy" to raise competitiveness through strengthened inventive activities and enhanced protection of IPRs, enacting legislation on IPRs, notably patents in 1999, trademarks and designs in 1998, and enhancing enforcement by raising the ceiling on fines by 150%. In Africa, Ghana and Kenya were proceeding to update their intellectual property laws, and the members of the Organisation Africaine de la Propriété Intellectuelle (OAPI) revised the 1977 Bangui Agreement to attain consistency with TRIPS provisions. In Europe, the Czech Republic and Poland revised their legislation to meet TRIPS requirements and to harmonize with legislation of the European Union.

104. Although the Reviews confirm significant progress being made on implementation, they also indicate that certain Members face more difficulties than others on implementation. These difficulties include delays in completing legislative procedures in some areas of IPR legislation or in ratifications of regional agreements, or with respect to measures required to be taken to better enforce IPRs. The latter includes the border measures to be taken by customs authorities, which requires training, as well as the training of police and of magistrates on judicial tribunals. The use of the 'flexibility' provisions of the TRIPS Agreement by developing countries and their scope has recently been at issue with respect to access to essential medicines, and is dealt with in more depth in Chapter V.

5. Regional trade agreements

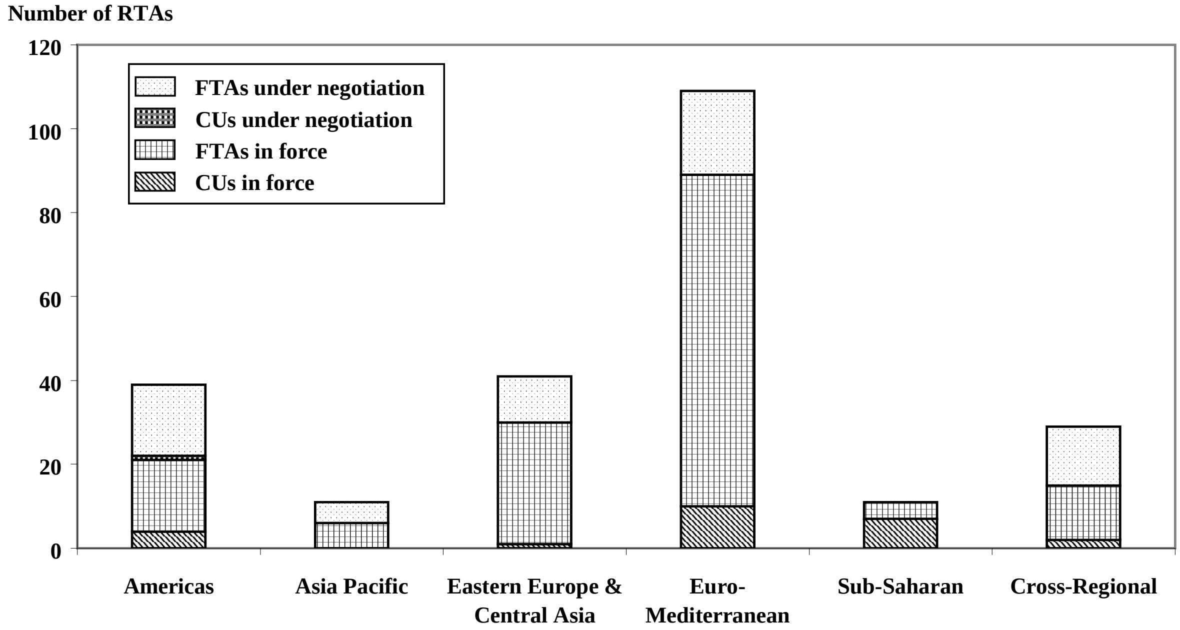
105. Virtually all WTO Members are partners in at least one regional trade agreement (RTA), and many are partners in two or more.[81] A major development in 2001 is the formal launch of negotiations on a Free-Trade Agreement of the Americas (FTAA), linking partners in North and South America (except Cuba). Other cross-regional trade integration initiatives are also making progress, notably the negotiations on free-trade agreements between the European Union, on the one hand, and Chile and MERCOSUR, respectively, on the other hand. Another major development is the rising number of RTAs planned or under negotiation in Asia, the region with the smallest number of RTAs currently in force, including by Japan, still among the few WTO Members not party to one or more RTAs.

106. Although RTAs may take the form of free-trade areas (FTAs), customs unions (CUs), or agreements leading to the formation of one or the other, free-trade areas are generally more prevalent

[81] Regional *trade* agreements are distinct from regional *integration* agreements insofar as the former provide for partners to grant each other preferential tariff treatment on a reciprocal basis, while the latter promote open trade and cooperation. The Asia-Pacific Economic Cooperation (APEC), established in 1989, is an example of "open" regionalism. APEC Members are: Australia; Brunei Darussalam; Canada; Chile; China; Chinese Taipei; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Russian Federation; Singapore; Thailand; United States; and Viet Nam (http://www.apecsec.org.sg/).

than customs unions. FTAs account for almost 90% of all RTAs.[82] Another fact of note is the prevalence of RTAs in Europe and neighbouring regions, accounting for about half of all RTAs, the result of the long-standing use of RTAs as an instrument to forge closer ties with neighbours on the part of the European Communities (Chart II.3).

Chart II.3
Geographical distribution of RTAs, both in force and under negotiation, 2001



Source: **WT/REG/W/41.**

107. In the Americas, the FTAA planned for 2005 would link 34 countries in the Americas. In effect, the FTAA is to link pre-existing sub-regional groupings, including the NAFTA (which is in its last stage of implementation), customs unions such as MERCOSUR, CARICOM in the Caribbean, and CACM in Central America, as well as the dense network of bilateral free-trade agreements (many of partial scope) concluded under the Latin American Integration Association (Chile and Mexico being among the most active countries in this regard). Parties to NAFTA – the United States, Canada and Mexico – have also pursued an active agenda of negotiations on bilateral FTAs with countries in other regions of the world.

108. In Europe, the liberalization provisions of most of the FTAs between the European Union (EU) and candidates to accession have been implemented, and further liberalization has been agreed for agricultural products. In turn, the candidates to accession are linked among themselves by FTAs such as the CEFTA (Central European Free Trade Agreement) and BAFTA (Baltic Free Trade Area), which are broadly framed and modelled on the RTAs negotiated with the EU. Meanwhile, the EU is negotiating and concluding second-generation bilateral FTAs, based on a reciprocal exchange of preferences, with partners in the Mediterranean and North Africa, with the objective of a Euro-Med free-trade area by 2010. A similar process is envisaged for African, Caribbean and Pacific (ACP) countries, as part of the transitional provisions of the ACP-EU partnership agreement concluded in February 2000. The EU is also looking to forge closer ties with emerging markets in Latin America;

[82] WT/REG/W/41.

its FTA with Mexico entered into force in mid-2000 and negotiations on FTAs with MERCOSUR and Chile have taken place in the past few months.

109. In Africa, the regional integration process continues to intensify, with initiatives in western and eastern Africa involving in some cases the same countries with different objectives and rules.[83] In western Africa, countries are working at the completion of the West African Economic and Monetary Union (WAEMU) and Central African Economic and Monetary Community (CEMAC).[84] Certain Members of the Economic Community of West African States (ECOWAS) agreed to establish a common external tariff by the end of 2001, but progress has been uneven.[85] Ambitious plans to achieve a free-trade area among 20 countries in eastern and southern Africa under the COMESA, supported by closer monetary cooperation, are under way.[86] Members of the SADC are working towards achieving a free-trade area by 2004.[87]

110. In Asia, Japan, like the Republic of Korea, has shifted its long-standing policy of multilateral-only trade liberalization to initiate negotiations on an FTA with Singapore, and has formed a study group to consider the feasibility of FTAs with the Republic of Korea and Mexico. Singapore hopes to conclude FTAs with Australia, Canada, and Mexico; an FTA with New Zealand was concluded in November 2000. Singapore, already a member of ASEAN, considers such FTAs as a useful means to forge links with trading partners. Similar considerations are motivating Thailand in its search for bilateral FTAs with Croatia, the Czech Republic, and the Republic of Korea. The Members of ASEAN moved towards their objective of achieving a free-trade area by 2005, although most tariffs will already be cut to between zero and 5% by 2002. The Republic of Korea is negotiating an FTA with Chile, and is considering the feasibility of FTAs with Japan and Thailand.

111. In the rest of the world, regional initiatives have been burgeoning, from the Middle-East (in the context of the Gulf Cooperation Council and the Arab League) to Eastern Europe (customs union between several former Soviet Union countries) and South Asia (recent free-trade agreement between India and Sri Lanka), involving both WTO Members and non-members.

112. While it was argued that regional integration could strengthen after Seattle, in response to disappointment with the multilateral trading system, most of the initiatives described above were designed or launched before the Third WTO Ministerial Conference. In addition, not all regional processes are moving forward without difficulties. The process established under APEC to meet the goal set at Bogor in 1994 of "free and open trade and investment in the Asia-Pacific by 2010 for developed member economies and 2020 for developing ones", through autonomous MFN tariff reductions has not advanced significantly in recent years.[88] MERCOSUR has encountered obstacles following the decision by Argentina, on an emergency basis, to suspend certain regional commitments and impose a surcharge on imports in the autumn of 2000. Finally, plans to complete customs unions

[83] Concerns have been voiced by multilateral and regional aid agencies over the number of internally inconsistent initiatives, particularly in eastern and southern Africa. COMESA, SACU, SADC and the EAC have overlapping memberships, conflicting obligations, different strategies and objectives, and conflicting rules and administrative procedures (one example is the existence of multiple rules of origin, leading to possible discretion at customs and costly duplication of administrative efforts).

[84] WAEMU is composed of Benin, Burkina Faso, Guinea-Bissau, Côte d'Ivoire, Mali, Niger, Senegal and Togo; and CEMAC comprises Cameroon, the Central African Republic, the Congo, Gabon, Equatorial Guinea, and Chad.

[85] The countries concerned are Benin, Burkina Faso, Ghana, Mali, Niger, Nigeria, and Togo.

[86] COMESA Members are Angola, Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

[87] SADC is composed of Angola, Botswana, the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

[88] For information on APEC developments, see http://www.apecsec.org.sg/.

or FTAs in Africa have at times proved difficult to complete or been slowed by significant delays or even defections by parties.

113. Still, the evidence regarding the stock of completed RTAs, and the large number of RTAs planned or under negotiation, is testimony to the basic attraction of such agreements to virtually all WTO Members. RTAs can offer intermediate steps to the broader process of integration into the world economy and, in some cases, achieve faster and deeper liberalization than is possible at the multilateral level. Some countries argue that liberalization at the regional level is sometimes a prerequisite to achieving multilateral consensus. Other countries view trade agreements as part of a wider integration projects, aimed at stimulating economic, social and political links in their regions; this is notably the case for small or landlocked African states, which typically seek integration of infrastructures and monetary unions. In this context, the exchange of trade preferences is but an initial aspect of much broader and deeper integration agenda.

114. RTAs have their limits. Experience has also shown that 100% product coverage of free-trade provisions is the exception as opposed to the rule, as the domestic forces that resist trade liberalization at the multilateral level are just as likely to resist it at the regional level, perhaps even more so given proximity. And FTA partners do not generally exempt each other from using trade defence instruments, which are a frequent source of dispute in the WTO, but also regionally. For third parties, RTAs imply trade diversion as a result of tariff preferences, reinforced by preferential rules of origin. These and other issues related to RTAs are explored in greater detail in Chapter IV of this report.

III. DEVELOPING COUNTRIES' PARTICIPATION IN WORLD TRADE AND IN WTO ACTIVITIES

A. INTRODUCTION

1. The participation of developing countries in the multilateral trading system has changed considerably in recent years. The WTO's membership has increased steadily to 142, over 75% of which are developing-country Members. Also, the WTO Agreement, negotiated in the Uruguay Round, resulted in a major expansion of the rules-based multilateral trading system. Certain sectors that had been characterized by pervasive distortions, such as agriculture and textiles and clothing, were brought under strengthened multilateral disciplines. Rule-making in the areas of services and intellectual property was introduced and there was a tightening of disciplines on contingent trade remedies, the use of subsidies, standards, and customs valuation. The dispute-settlement mechanism was strengthened, a trade-policy review mechanism was permanently established, and the World Trade Organization was created.

2. This institutional shift coincided with, and was to some extent driven by, a change in the trade policies and practices of developing countries. A number of these rejected inward-looking, interventionist, import-substitution models of development in favour of trade reform and liberalization, on the grounds that this enhanced their growth and development prospects. In particular, the justification for intervention based on the argument that countries at a different stage of development required different policies was seen as both conceptually and empirically unsubstantiated. During the 1990s, the openness of all developing countries to trade (as measured by the share of trade in GDP) has increased considerably (Table III.1).

Table III.1
Developing countries' share of exports and imports of goods and services in GDP by selected country groups and regions, 1990-1999
(Per cent, based on constant 1995 dollar values)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Developing countries[a]	43.1	45.4	47.8	49.9	52.7	56.3	57.6	60.4	59.2	59.9
Latin America	24.4	25.6	27.5	28.9	30.8	33.1	35.2	37.9	40.3	40.9
Africa	64.4	63.0	63.5	64.1	63.5	65.9	65.1	66.6	65.8	66.8
Middle East	67.6	72.1	70.3	68.9	60.3	52.7	53.9	48.9	46.2	46.0
Asia[a]	53.6	57.7	61.0	63.5	67.7	72.1	72.2	75.4	71.6	71.8
China	35.1	38.8	40.9	42.8	45.2	45.7	44.4	49.0	46.3	48.9
Other Asia[a]	59.7	64.0	68.4	71.5	77.0	83.2	84.2	87.3	84.4	83.5

a Due to missing data, Singapore and Chinese Taipei are not included.

Source: World Bank, World Development Indicators.

3. Developing countries' interest in the multilateral trading system rests on a number of different factors. First, the need to address and discipline interventionist and trade distorting policies – whether in developing or developed countries. Second, the fact that multilateral rules and negotiations can reinforce autonomous reform efforts by helping to guard against policy reversal and slippages. Third, the possibility that multilateral processes and rules can help create coalitions among the beneficiaries of trade liberalization, generating the momentum needed to address politically sensitive areas. Fourth, the security afforded by multilateral rules, which are of special interest to developing – and especially smaller, low-income and least-developed – countries, since larger developed countries can also bring to bear their size and economic weight in trade relations.

4. Developing countries thus have a significant stake in the smooth functioning of the multilateral trading system, providing predictable and secure access to export markets. The use of trade policy instruments is regulated and certain legitimate trade policy actions, such as trade defence

measures, are subject to enforceable multilateral rules and disciplines. The WTO provides developing countries the opportunity to assert themselves in dispute settlement and in the crafting of new trade rules. In addition, WTO Membership includes the provision of technical assistance by the WTO and other relevant agencies to help build capacity and improve the wider institutional infrastructure in developing countries.

5. Developing countries have a lot to gain from further wide-ranging trade liberalization. In manufacturing, despite generally low average tariff levels, products exported by developing countries are affected by tariff peaks and tariff escalation in both developed and developing countries. In agriculture, the continuation of the reform process remains a key area for the growth prospects of many developing countries. Also, all developing countries can gain considerably from further liberalization of services in both developed and other developing countries, in particular in regard to the temporary movement of natural persons in areas such as construction, distribution and software services. Dynamic gains can also be expected from further liberalization in developing countries of key infrastructure services, such as telecommunications, transport, and financial services.

B. DEVELOPING COUNTRIES' PARTICIPATION IN WORLD TRADE IN THE 1990S

Total merchandise exports

6. In the past decade, considerable progress has been made in integrating developing countries into international trade, although this has not necessarily been even across all developing countries. The share of developing countries in world merchandise exports has increased steadily, largely on account of strong growth in merchandise exports in six East-Asian traders[1] and China, and to a lesser extent Latin America. In 2000, developing countries' share in total merchandise exports amounted to more than 30%; as a group, developing countries' merchandise exports grew at an average rate of 9% in the period 1990-2000 (Tables III.2 and III.3).

Table III.2
Share of selected country groups and regions in world merchandise exports, 1990-2000
(Per cent)

	1990	1994	1998	1999	2000	Percentage point change 1990-00
World[ab]	100.0	100.0	100.0	100.0	100.0	
Developed countries[b]	72.8	70.6	69.3	68.1	64.8	-8.0
Developing countries	24.1	26.4	26.7	28.0	30.8	6.7
Latin America	4.3	4.6	5.3	5.4	5.8	1.5
Africa	3.1	2.3	2.0	2.1	2.3	-0.7
Middle East	4.0	3.0	2.6	3.3	4.2	0.2
Asia	11.9	15.7	15.8	16.4	17.7	5.8
China	1.8	2.9	3.5	3.5	4.0	2.2
Six East-Asian traders[c]	7.9	10.2	9.5	9.9	10.5	2.6
Other Asia	2.2	2.6	2.8	3.0	3.1	0.9

a Includes transition economies.
b Includes EU intra-trade.
c Chinese Taipei; Hong Kong, China; the Republic of Korea; Malaysia; Singapore; and Thailand. Significant re-exports are excluded.

Source: WTO Secretariat.

[1] This group is composed of Chinese Taipei; Hong Kong, China; the Republic of Korea; Malaysia; Singapore; and Thailand. Significant re-exports are excluded.

Table III.3
Growth of merchandise exports by selected country groups and regions, 1990-2000
(Annual percentage change)

	1990	1994	1998	1999	2000	1990-2000
World[ab]	13.0	13.2	-1.5	4.0	12.3	6.1
Developed countries[b]	14.8	12.4	0.8	2.3	6.8	5.0
Developing countries	13.4	15.1	-6.8	9.2	23.6	8.8
Latin America	9.5	16.4	-1.3	6.6	20.1	9.4
Africa	20.8	3.1	-15.9	9.6	26.6	3.4
Middle East	24.6	2.1	-21.2	28.1	46.3	7.0
Asia	10.3	19.6	-4.7	7.7	20.9	10.5
China	18.2	31.9	0.4	6.3	27.7	14.9
Six East-Asian traders[c]	7.9	18.4	-7.4	7.9	19.1	9.3
Other Asia	12.9	12.6	-1.2	8.7	18.5	10.2

a Includes transition economies.
b Includes EU intra-trade.
c Chinese Taipei; Hong Kong, China; the Republic of Korea; Singapore; and Thailand. Significant re-exports are excluded.

Source: WTO Secretariat.

7. The performance of developing countries' merchandise export growth has been uneven across regions. China and the six East-Asian traders accounted for the bulk of developing country exports in 2000, with a share of nearly 47%, up from 40% in 1990 but down from 50% in 1994. Latin American and Caribbean countries saw their share remaining approximately constant with 18% in 1990, 17% in 1994 and 19% in 2000. Conversely, African countries have experienced strong fluctuations in merchandise export growth; their share of 13% of developing countries' merchandise exports in 1990 had declined to some 8% by 2000. The reasons for the latter are complex and include strong dependence on primary commodities, but also domestic constraints, such as structural problems, weak institutional frameworks and civil unrest.

Agricultural trade

8. Agriculture remains of great importance to many developing-country economies, as is apparent from its contribution to GDP in these countries. Agriculture as a share of GDP, although down during the 1990s, remains high for many developing countries, in particular low-income countries (29% in 1990, 26% in 1999) compared, for instance, to EU countries (mostly between 1% and 4% in 1999). Net food-importing developing countries point to the role agriculture plays in their total imports and to the difficulties that result from falling levels of food aid in the 1990s.

9. There was a significant increase in exports of agricultural products by developing countries in the 1990s. In that period, developing countries' share of world agricultural exports increased from 28% to 31%, with their exports growing at some 4% a year on average. For about one third of all developing-country Members, agricultural exports still account for 50% or more of total merchandise exports.

10. In agriculture, trade-distorting measures remain significant, in both developed and developing countries, and tariffs are much higher than those applied to manufactured goods. Developing countries find it hard to enter protected markets and to compete with subsidized production from certain developed countries. Also, in some instances, practices in administering lower-duty tariff-rate quotas are seen as possible constraints to market access.

Trade in manufactures

11. Since 1990, developing countries have steadily increased their share of world exports of manufactures, from 17% to some 27% in 2000 (Table III.4). However, as with total merchandise exports, growth in exports of manufactures from developing countries has been uneven across regions. China and the six East-Asians traders accounted for about 63% and 62% in 1990 and 2000, respectively, of developing countries' exports of manufactures. The share accounted for by Asia excluding China and the six East-Asian traders increased from 9% in 1990 to about 11% at the end of the decade. In 2000, Latin America accounted for 17%, Africa for 3%, and Asian developing countries for 72% of all developing countries exports in manufactures, compared with 13%, 5%, and 72% respectively, in 1990.

Table III.4
Share of selected country groups and regions in world exports of manufactures, 1990-2000
Per cent

	1990	1994	1998	1999	2000
World[ab]	100.0	100.0	100.0	100.0	100.0
Developed countries[b]	80.4	75.2	72.8	72.0	69.4
Developing countries	17.5	22.6	24.0	25.0	27.4
Latin America	2.3	3.0	4.1	4.3	4.7
Africa	0.9	0.8	0.8	0.7	0.8
Middle East	0.8	0.9	1.0	1.0	1.2
Asia	12.6	17.1	17.3	18.2	19.9
China	1.9	3.3	4.0	4.1	4.7
Six East-Asian traders[c]	9.1	11.7	10.7	11.4	12.2
Other Asia	1.6	2.2	2.6	2.8	2.9

a Includes transition economies.
b Includes EU intra-trade.
c Chinese Taipei; Hong Kong, China; the Republic of Korea; Malaysia; Singapore; and Thailand. Significant re-exports are excluded.

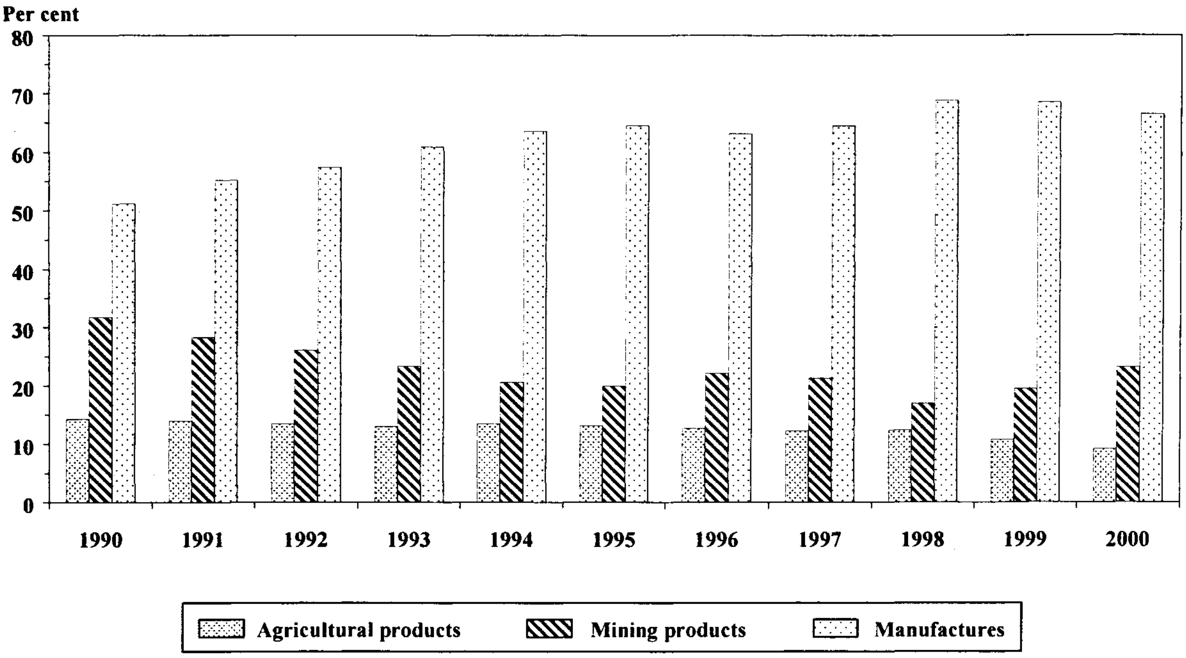
Source: WTO Secretariat.

Export structure of developing countries

12. The increase in the share of developing country merchandise exports accounted for by manufactures reflects a significant shift, away from primary products, in the export structure of developing countries as a whole (Chart III.1). From 1990 to 2000, average annual growth of more than 10% for developing country exports in manufactures to developed country markets by far outperformed export growth to those markets in primary products, which rose at an average annual growth rate of about 3%.

13. Regional differences are very marked with regard to the diversification of exports. The share of merchandise exports from China and the six East-Asian traders accounted for by manufactures rose from 75% in 1990 to 85% in 2000; in Latin America a significant increase from 38% to more than 60% occurred, and the share of manufactures in African merchandise exports rose from 20% to about 25% over the same period. In many of these latter countries, around 75% of exports are still concentrated in traditional primary commodities and their manufactures share therefore remains significantly below the world average share of manufactures in total merchandise exports, of over 75%.

Chart III.1
Composition of developing countries' merchandise exports, 1990-2000



Exports of commercial services

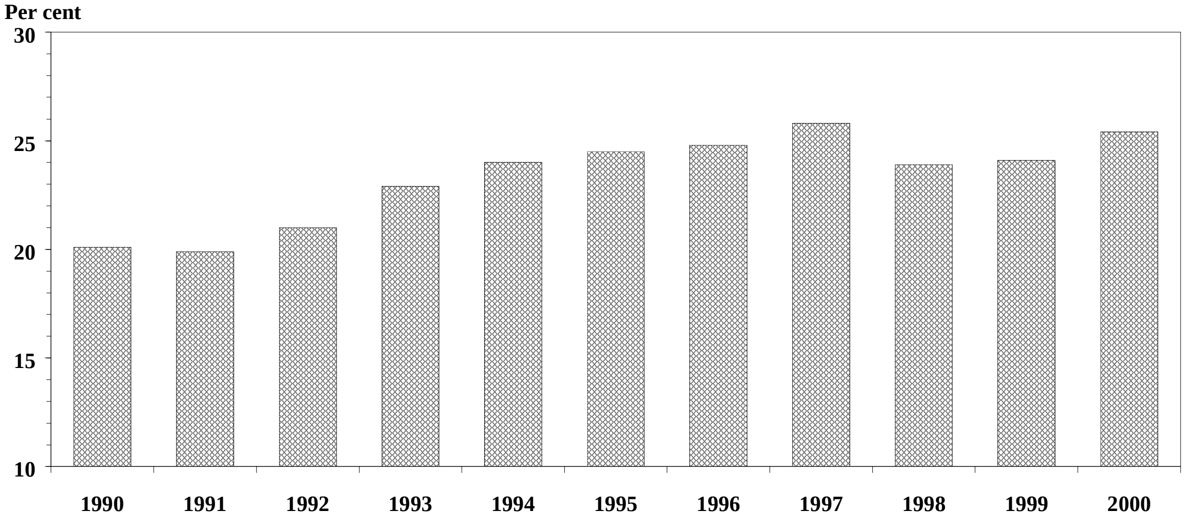
14. Based on balance-of-payments data, the total value of world exports of commercial services is estimated at US$1,415 billion in 2000.[2] Trade in commercial services has expanded quickly over the past years, with 12.4% growth in 2000. Developing countries' share in world exports of commercial services rose to about 25% in 2000, up from some 20% in 1990 (Chart III.2). In 2000, Latin America was estimated to account for approximately 4.3%, Africa for 2%, the Middle East for 2.3%, and developing Asia for 15.1%.

15. Trade in services is increasingly important for the diversification of developing-country economies and as a source of foreign exchange and export earnings. Individual developing countries feature among those countries most specialized in services, as measured by the importance of services exports as a share of total exports. For instance, for the small-island developing countries of the Organization of Eastern Caribbean States (OECS), tourism receipts accounted for 55% of total exports of goods and services, and for about three times the value of their total exports of merchandise.[3]

[2] These figures underestimate the true share of commercial services in total world trade. For instance, conventional balance-of-payments statistics fail to cover trade in services embodied in goods or production and sales of foreign affiliates.

[3] WT/TPR/S/85.

Chart III.2
Share of developing countries' commercial services exports in world exports of commercial services, 1990-2000



Source: WTO Secretariat.

South-South trade

16. Developing countries are trading more, in particular with each other. Total merchandise exports from developing countries to other developing countries in the 1990s grew much faster (an average 10% rate) than exports from developing to developed countries, which grew at an average rate of 6.5% a year. Merchandise exports from developing countries to other developing countries as a share of total developing-country exports increased from 28% in 1990 to about 36% in 2000. Increases in exports to other developing countries were particularly pronounced for Asia (in particular due to intra-Asian trade), Africa, and the Middle East.

17. Manufactures proved to be by far the most dynamic component of intra-developing country trade with an increased share in total intra-developing country merchandise exports of more than 63% in 2000, compared to 54% ten years earlier. A large part of this increase can be ascribed to a nearly sevenfold increase in intra-developing country exports of office and telecommunications equipment.

18. Agricultural trade among developing countries has grown rapidly in recent years. In 1999, about 40% of the agricultural exports of developing countries was sold in the markets of other developing countries, up from 30% in 1990. Nonetheless, agriculture's share in total intra-developing country merchandise exports declined from 16% in 1990 to about 12% in 2000, due to the significant rise in trade in manufactures.

C. DEVELOPING COUNTRIES' PARTICIPATION IN WTO ACTIVITIES

19. Participation of developing countries in the multilateral trading system has changed dramatically. Among the original 23 signatories of GATT 1947, only 11 were developing countries[4]. Currently, over 70% of the WTO's Members are developing countries. Participation of developing

[4] Brazil, Chile, Cuba, China, India, Lebanon, Myanmar, Pakistan, Sri Lanka, Syria, and Zimbabwe.

countries in trade negotiations has also increased steadily: for example, 25 developing countries took part in the Kennedy Round, 68 in the Tokyo Round, and 76 in the Uruguay Round. In the current WTO negotiations on agriculture and services, most developing countries are playing an active role.

20. The Uruguay Round was a major step forward in the integration of developing countries into the multilateral trading system, as fully-fledged commitments were taken on for the first time, covering trade in goods and services, as well as on intellectual property rights. Previously in the GATT, developing countries' efforts had concentrated more on expanding their rights to remain exempt from the rules rather than participating actively in negotiations. However, with more and more developing countries becoming important exporters, increasingly in manufactured goods, and with many developing countries undertaking trade liberalization reforms in the 1980s, developing countries have been participating more actively in the trade negotiations to assert their trading interests and are actively shaping the trade agenda of the WTO.

21. In this section, the current situation of developing countries' participation in the WTO is described by examining their involvement in four key WTO areas: the ongoing negotiations in agriculture and services, implementation of the WTO Agreements, dispute settlement, and trade-related capacity-building.

1. On-going negotiations in agriculture and services

Agriculture

22. The concerns of developing countries, including special and differential treatment, are an integral feature of the current negotiations on agriculture. Developing countries are participating very actively in the negotiations, including by submitting or co-sponsoring negotiating proposals. Almost two thirds of developing-country Members, and about 90% of WTO Members have submitted negotiating proposals to date.

23. In general, negotiating proposals by developing countries reflect a diverse range of interests. For example, the Cairns Group, which counts 15 developing countries among its 18 members, favours much greater liberalization in agricultural trade. On domestic support, many developing countries call for Green-Box exemptions that are more responsive to the specific needs and special situations of developing countries, especially with respect to food security, rural development and poverty alleviation. One approach proposed by India and the Group of Like-Minded (G-13) countries (a number of African, Asian and Latin American/Caribbean countries) is to create a "Food Security/Development Box" to enable developing countries greater scope to protect and enhance, through domestic support and other measures, their food production capacity, particularly in key staples. Also, a number of developing countries have proposed various forms of additional flexibility in the area of domestic support, including an increase in the *de minimis* level of trade-distorting – but for developing countries exempt – subsidies.

24. With regard to export competition, virtually all developing-country proposals call for the elimination of export subsidies or all forms of export subsidization, although a number of developing countries, including ASEAN and the African Group, supplement this by proposing to continue special and differential provisions under which developing countries are able to use certain marketing and transportation subsidies in order to assist them in the development of their exports. There are also calls for improved measures in favour of least-developed and net food-importing developing countries. Enhanced disciplines on export restrictions and export taxes feature in a number of proposals, for instance by the Cairns Group and Korea, in the context of food security.

25. On agricultural market access, a wide range of developing-country Members calls for substantial further reductions in tariffs. Many proposals refer to the need to eliminate tariff peaks

and tariff escalation, particularly with regard to products of export interest to developing countries. In several proposals the need to simplify tariff regimes, particularly by way of eliminating complex non-*ad valorem* tariff schemes, is highlighted. Proposals by a number of developing-country groupings (ASEAN, Group of Like-Minded (G-13) countries) call for substantial liberalization of trade in products of interest to developing countries, including full liberalization for processed tropical products. There is also the proposal to improve and bind non-reciprocal preferential tariffs. Some smaller developing countries, such as the CARICOM countries, Mauritius, and Swaziland, have expressed concern about import barriers in developed countries falling too fast; these countries usually depend on a few basic commodities, and preferential treatment (such as duty-free trade) in these is essential for them to preserve the value of their access to richer markets.

26. Other issues of particular concern to developing countries are the administration of tariff quotas, including commercially meaningful access opportunities for small suppliers or newcomers from developing countries; and the special agricultural safeguard mechanism, with a number of developing countries proposing to make it available to all developing countries for all agricultural products. A considerable number of developing countries also point to the need for enhanced technical assistance, with some, including the CARICOM countries, Senegal, and Jordan, referring to the establishment of special agricultural technical assistance funds.

Services

27. Services have become a crucial component for developing countries' trade both as exports and as inputs into production processes and infrastructure development. Barriers in services trade vary from sector to sector and between modes of delivery. Liberalization of the temporary movement of natural persons (mode 4), in which the least commitments have been made to date, is of particular export interest to developing countries. Many developing-country Members have undertaken to liberalize key infrastructure services, such as telecommunications, transport, and financial services, autonomously, as inefficiencies in these sectors add to the export costs of goods and services and reduce their ability to compete internationally.

28. The mandated negotiations will take liberalization of services further, by extending market access commitments over a broader range of services and by removing limitations from existing commitments. The Negotiating Guidelines and Procedures, which were adopted by the Council for Trade in Service in March 2001, stress the need for flexibility for developing countries to liberalize at a pace consistent with their development situations and emphasize the liberalization of sectors and modes of supply that are of export interest to them.

29. Developing countries have so far indicated a similar level of activity and interest as their developed counterparts. A group of developing countries, which includes the Dominican Republic, El Salvador, and Honduras, has proposed the addition to the GATS of an Annex on Tourism. Attention is drawn to the heavy dependence of the tourism sector on other services, such as air transport and computer reservation services, where trade regimes tend to be much less liberal than in the tourism sector itself. Apart from tourism, the sector focus has been mainly on infrastructural services, such as finance, communication, and transport. Chile, for instance, made a proposal on the latter two areas, Colombia one on financial services. Other proposals include professional services (Chile, Colombia), construction (Chile), and distribution (Mercosur, Chile). Venezuela has submitted a specific and detailed proposal on energy services. Also, India submitted a very substantive and detailed proposal on the liberalization of the movement of natural persons. Mode 4 was also emphasized in a Colombian proposal and in a comprehensive proposal by the CARICOM countries. The latter also elaborated on dealing with small service providers as a proxy for the treatment of small developing economies. The Andean Community countries made a proposal on classification of services for the purpose of the negotiations.

2. Implementation

30. The WTO Agreements expanded the depth and breadth of multilateral rules and obligations for both developed and developing countries. Thus, with the entry into force of the WTO and the acceptance by all WTO Members of all the results of the Uruguay Round as a single undertaking, developing countries saw a sharp increase in their obligations. Several agreements specify transition time periods for developing and least-developed countries, which allow for delayed implementation of obligations but not for differences as to the nature of the obligations themselves. Many developing countries have implemented their obligations as foreseen, but others have had difficulty in doing so.

31. During the preparatory process for the Third WTO Ministerial Conference in Seattle, a number of developing countries put forward a wide range of proposals dealing with their perceived problems in the implementation of WTO Agreements. Overall, there were more than 100 proposals touching on most of the WTO Agreements. Following the Seattle Ministerial Conference, the General Council decided on 3 May 2000 to set up an Implementation Review Mechanism and meet in Special Sessions to address all outstanding implementation issues and concerns with a view to completing the process no later than the Fourth Ministerial Conference. Intensive consultations were held in the second part of 2000 leading to the adoption of a Decision on some of the proposals in December 2000.

32. The expiry of transition periods for some agreements at the end of 1999 gave additional impetus to the debate on increased obligations of developing countries under the multilateral trading system and the lack of resources in many of these countries to implement these obligations. In the case of TRIMs and Customs Valuation, several developing countries saw the need to request an extension. In the case of TRIMs, all developing countries that so requested were given additional time to phase out their TRIMs.[5] In the area of Customs Valuation, 22 Members have requested an extension of the transition period[6], of which 19 have already been granted with three decisions still outstanding.[7]

33. Implementation of the WTO Agreements by developing countries has turned out to be a particularly difficult and sensitive issue. In 2001, further wide consultations were held on the remaining proposals. In a bid to move the process forward, Uruguay and six other Members (Argentina, Morocco, New Zealand, Norway, Switzerland, and Thailand) submitted a paper in June, which was favourably received by most delegations. Following consultations on the basis of this paper, the Chairman of the General Council and the Director-General circulated another paper identifying some elements on which they saw the possibility for early agreement. In late July, an agreement was reached on some proposals and on the referral of some issues to subsidiary bodies for their consideration. It was decided that all subsidiary bodies, also on earlier referrals, were to report back to the General Council by 30 September 2001.

34. Some of the concerns expressed in the proposals relate to what a number of developing countries see as inadequate implementation by developed countries of provisions requiring them to undertake positive actions in favour or developing countries. Dissatisfaction has also been expressed with the best-endeavours or non-operational nature of many special and differential treatment provisions in WTO Agreements. Another series of concerns relates to alleged abuses of certain provisions of the Agreements (particularly anti-dumping), and to the lack of expected market-opening

---

[5] Argentina, Colombia, Malaysia, Mexico, Pakistan, the Philippines, Romania, and Thailand.

[6] Bahrain, Bolivia, Burundi, Cameroon, Côte d'Ivoire, Dominican Republic, El Salvador, Egypt, Guatemala, Haiti, Jamaica, Kuwait, Mauritania, Maldives, Myanmar, Paraguay, Rwanda, Senegal, Sri Lanka, Tanzania, Tunisia, and UAE.

[7] Several developing countries have never requested a delay period, but have not yet notified their Customs Valuation legislation.

in an area of significant export interest to many developing countries, namely, textiles and clothing. Finally, in many of these proposals, developing countries seek to modify provisions in the existing agreements to rebalance the obligations, i.e. make them more responsive to their concerns.

35. Despite the considerable amount of time and resources devoted to implementation large gaps have remained among Members both on substance and on further process with regard to many of the outstanding implementation issues. However, most, if not all WTO Members agree that implementation has been assigned high priority by a large number of delegations (not only developing countries), and that addressing it would be a key to a successful Ministerial Conference in Doha.

3. Dispute settlement

36. Averaged out over the period from 1995 to June 2001, developing countries account for approximately 31% of the complaints so far under the WTO. About 43% of these complaints were directed at other developing countries. Of a total of 75 developing-country complaints, 16 were successful and four unsuccessful; the rest were brought to a mutually agreed or otherwise satisfactory solution, are inactive or still pending. To date, a developing country has only once lost a case it initiated against an industrialized country. Developed countries are responsible for about 69% of all complaints, of which 38% were against developing countries. Taken together, developing countries were the target in 39% of all complaints. Overall, about 50 developing country Members have been involved in a case at the consultation or panel stage.

37. The growing use by developing countries of the WTO dispute settlement mechanism may reflect their widening range of trade interests and greater diversity of export products and trading partners. A continuously increasing number of complaints levelled by developing countries against other developing countries gives an indication of their growing stake in each other's markets. By the same token, developing countries more frequently become subject to complaints. The fact that only 13% of all cases were brought against developing countries in the last 15 years of the GATT (1980-94) as against 39% under the WTO from 1995 to the present seems to suggest that the increase in developing countries' obligations after the conclusion of the Uruguay Round goes hand in hand with an increase in WTO litigation in which they are involved.

38. Another indication of developing countries' interests in each other's markets can be found in the growing number of anti-dumping procedures initiated against other developing countries. About 53% of all 252 new anti-dumping investigations in 2000 were initiated by developing countries. This compares with 53% in 1995 and 11% in 1990, when the numbers of new initiations were also smaller, totalling 156 and 167. In 2000, 70% were directed against other developing countries, as opposed to 66% in 1995 and 28% in 1990. Main product groups targeted among developing countries comprise steel and chemical products and, more recently also consumer goods.

4. Trade-related capacity-building

39. Technical assistance and training activities are conducted by the WTO and other relevant organizations in order to help build the human and institutional capacity in developing countries needed to participate effectively in the multilateral trading system and in world trade. During 2000, a total of 398 technical assistance activities were organized by the WTO. This compares with 382 activities in 1999, representing an increase of 4.2%. These activities were held in 121 countries, of which 99 were WTO Members, 16 were in the process of accession, and six had expressed interest in acceding to the WTO. Out of the 99 Member countries where technical assistance activities were held, 18 were least-developed (LDCs). Another nine LDCs not Members of the WTO were also beneficiaries. The Integrated Framework has been established for LDCs (Chapter II.A(2)).

40. In addition to ongoing technical cooperation activities, a practice was instituted of holding regional events for the purpose of sensitizing high-level capitals-based officials on WTO matters. A

major meeting involving African Trade Ministers was held in November 2000 in Libreville, Gabon, and a regional event for Trade Ministers and senior trade officials of the Caribbean took place in June 2001.

41. Under the WTO Reference Centre programme, the WTO provides Centres in beneficiary countries with computer equipment, software, a WTO print and CD-Rom library, a "help desk" service, an equipment replacement plan, and hands-on training. For LDCs, the Centres are provided free of charge, and free Internet connection for LDCs Reference Centre users are envisaged in the future; for developing countries, the charges are minimal. So far, more than 100 Reference Centres have been established covering close to 100 countries or regional/sub-regional organizations. Moreover, one official depository library is to be designated by each WTO Member to receive all WTO publications in print and CD-ROM formats free of charge.

42. Technical assistance was also provided to several developing countries in the preparation of their Trade Policy Reviews. At the end of the year 2000, over 50 developing-country Members and 11 LDC Members of the WTO had been reviewed through the Trade Policy Review Mechanism at least once. The review exercise also serves to take stock of the problems and constraints these countries are facing and to identify the technical assistance requirements needed to remedy those problems. While the reviews of most developing and least-developed countries are less frequent than for developed countries, the number of requests has been increasing.

Initiatives for non-residents and capacity-constrained missions

43. Ensuring the effective participation of all developing countries has been a priority area of action. Thirty-six Members and acceding Observers have no missions in Geneva. Initiatives in favour of "non-residents" include regular briefing notes giving an overview of work in progress, briefings by senior Secretariat staff, and the holding of "Geneva Week" for senior officials from non-residents' capitals and European missions. "Geneva week" gives non-residents the opportunity to be briefed by Secretariat staff, to receive training in the use of information technology, to interact with Geneva-based delegations, and to participate directly in the WTO's work. The Secretariat also works closely with other service providers, such as the Agency for International Trade Information and Cooperation (AITIC), and the Commonwealth Secretariat, in meeting the needs of non-residents. The Secretariat has stepped up cooperation with regional organizations comprising non-residents, through regional workshops and conferences and the creation of reference centres.

44. A number of developing countries with missions in Geneva also face constraints in participating fully in the work of the WTO, owing principally to the limited number of staff in the Missions. Since June 2000, a number of new initiatives have been developed, including internships to bring additional staff from capitals to Geneva-based Missions; orientation courses for new staff of developing country Missions in Geneva by the WTO Training Institute; and the dissemination of the briefing notes supplied to non-residents also to small, capacity-constrained Missions. The new Documents On-line system has also greatly facilitated access to information. As with non-residents, the WTO Secretariat works closely with other service providers and the secretariats of regional organizations to meet the needs of developing countries with small, capacity-constrained Missions.

Inter-Secretariat Cooperation

45. The WTO continues to develop and strengthen links with regional and other institutions, bodies, and organizations to cooperate in the organization of technical assistance activities. In this regard, the WTO Secretariat signed a number of Memoranda of Understanding with the Secretariats of other bodies (e.g. the Inter-American Development Bank, the Caribbean Community, the Central African Economic and Monetary Community, the Economic and Social Commission for Asia and the Pacific, the Economic and Social Commission for Western Asia, the Islamic Development Bank, the

Economic Commission for Africa, the Joint Vienna Institute, and the Common Market for Eastern and Southern Africa, among others) to formalize such ties.

Training

46. In 2000, the WTO organized three twelve-week Trade Policy Courses at the WTO premises in Geneva. Eighty-two officials from 70 countries/customs territories participated in the courses. Twenty-four fellowships were granted for each course. Eleven auditors were self-financed, including one from a regional secretariat. At mid-point of the present cycle of six courses, which started in January 2000, 47% of the total number of eligible countries/customs territories had been represented by at least one participant. In order to ensure that the network created during the courses between participants and WTO staff remains active and productive, former participants to the trade policy courses posted in Geneva (presently 86) reactivated the Association of Former Participants to GATT/WTO Trade Policy Courses.

47. On 5 June 2001, the Director-General of the WTO decided to reconstitute the Secretariat's Training Division as the WTO Training Institute. The Division's activities have consequently been extended beyond traditional trade policy courses to include also: training for trainers, a diversified range of short-term trade policy courses, distance-learning services, and cooperation with universities and other institutions of learning.

D. CONCLUSION

48. The WTO and multilateral trade rules have a key role to play in enhancing development prospects, and developing countries have a key interest in a unified system of common rules. It is necessary to build on the achievements of the Uruguay Round to enhance the benefits developing countries can derive from the WTO. This requires action by both developed and developing countries to tackle persisting trade distortions. Further wide-ranging multilateral trade liberalization is key in view of developing countries' export interests and potential. But developing countries find it equally important that further trade liberalization is accompanied by appropriate action that takes into account developing countries' limited capacities and needs for parallel reform in order to mainstream trade policies into their overall development objectives.

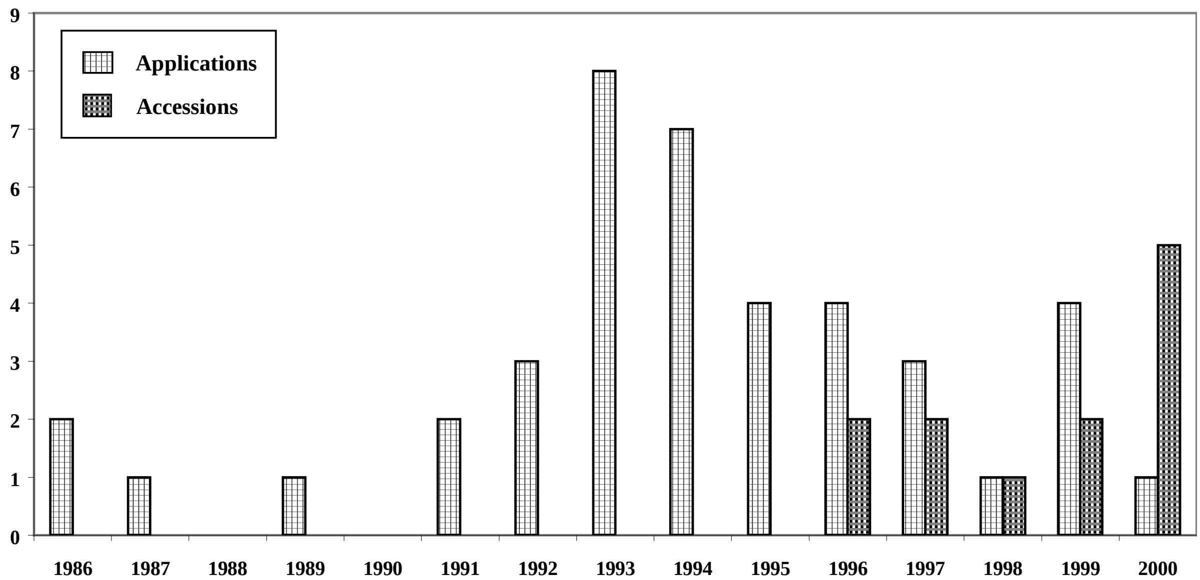
IV. OPPORTUNITIES AND CHALLENGES OF WTO ACCESSION

1. Overview

1. The WTO is moving towards universal membership. Presently it has 142 Members, and 30 governments are in the process of accession. Accessions are governed by Article XII of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), which states, *inter alia*, that "any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations… may accede to this Agreement on terms to be agreed between it and the WTO".

2. Since the start of the Uruguay Round, a total of 44 governments have applied to accede to the WTO (or, previously, to the GATT), of which 14 have completed the process: Albania, Bulgaria, Croatia, Ecuador, Estonia, Georgia, Jordan, the Kyrgyz Republic, Latvia, Lithuania, Mongolia, Moldova, Oman, and Panama. More than half of the 44 applications started as applications to accede to GATT 1947, and were converted in December 1994 into applications to the WTO (Chart IV.1). The longest-running process is that of China, which requested a resumption of its contracting-party status to the GATT in 1986, and is expected to finalize its accession to the WTO in 2001. A majority of the 44 applications occurred between 1993 and 1996, but four governments applied in 1999, one in 2000, and three have applied in 2001.

Chart IV.1
Number of applications and accessions under Article XII, 1986-2000



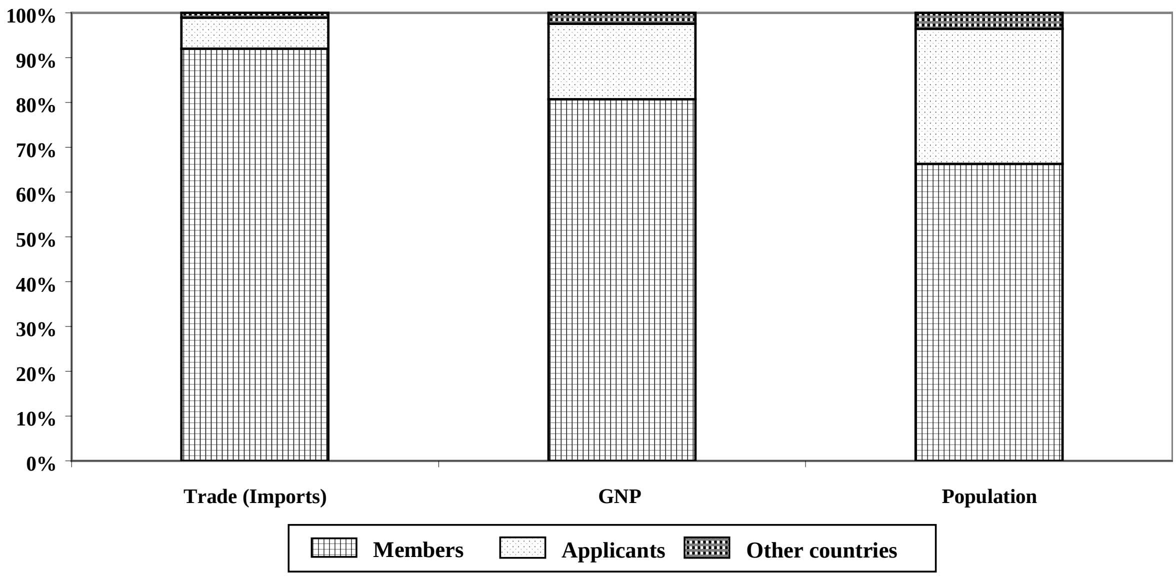
Source: **WTO Secretariat.**

3. The 142 Members of the WTO represent almost three quarters of the world's 191 independent states.[1] They also account for 90% of world trade[2], more than 80% of world GNP, and two thirds of

[1] Separate customs territories possessing full autonomy in the conduct of their external commercial relations and of the other matters provided for in the WTO Agreements may also accede. Hong Kong, China and Macau, China are WTO Members in this category.
[2] Including flows between Member States of the European Union.

the world's population (Chart IV.2). Significant traders in the process of accession to the WTO, include China, Chinese Taipei, the Russian Federation, and Saudi Arabia; in terms of population and market size, China and the Russian Federation are the largest among applicants for accession. About two in three States outside the WTO have applied for accession and others are observers; few States do not have official links with the WTO.

Chart IV.2
Share of WTO member and non-member countries in world trade, GNP and population in 1999



Source: **World Development Indicators 2001, WTO International Trade Statistics 2000.**

4. The process of acceding to the WTO is the same for all applicants (Box IV.1). Following acceptance of the request by the General Council, a working party is established to steer the process to, eventually, a successful conclusion for the applicant and the WTO Members: a draft Protocol of Accession and a Working Party Report. These constitute the basis for a final Decision by the General Council or by the Ministerial Conference. Such decisions require a two thirds majority of the WTO Members; in practice, such decisions are taken by consensus.

5. The length of the process of accession, from the initial establishment of a working party to the adoption of the Protocol of Accession and related Decision, varies greatly due to the fact that accession is obtained through a process of negotiation. The Kyrgyz Republic completed the process in approximately three years, Bulgaria's accession process spanned 14 years, and, as of 2001, China had been negotiating for over 15 years. The speed of the accession process depends mainly on the efforts made by each applicant to achieve consistency of its domestic regime with the WTO Agreements and conclude bilateral market-opening agreements. WTO Members have been exhorted, in the context of UNLDC-III, to give particular attention to the burdens the accession process imposes on LDCs, with a view expediting the process to the extent possible.

6. There are two important differences between the process of accession to the WTO and that which obtained previously under GATT 1947. The first, and most obvious, is the increased scope and coverage of the WTO Agreement, covering not only goods but also services and trade-related aspects of intellectual property rights. This increased scope and coverage could require a more

comprehensive agenda of trade reform on the part of the acceding government than under GATT 1947, just as it has for original Members of the WTO. The second, and less obvious, is that a number of developing countries became contracting parties to GATT 1947 by assuming their own membership in the GATT, which had previously been exercised on their behalf by the colonial power.[3] This route obviated the need for a working party process, which meant that the governments which took this route to membership did not have their regimes scrutinized. About 1 in 4 original Members of the WTO fall into this category.

Box IV.1: Steps to acceding to the WTO

All accessions begin with a letter from the requesting government addressed to the Director-General. The item is then placed on the agenda of the WTO General Council for action, which generally establishes a "working party" composed of representatives of Members, to examine the application. The applicant generally obtains observer status in the WTO to become familiar with its activities.

The applicant submits a Memorandum on its Foreign Trade Regime in one of the WTO's three official languages (English, French or Spanish), describing in detail the regime (including copies of relevant legislation) and providing data. Questions may then be submitted by Members, to which the applicant is invited to respond, to establish a basis for dialogue on the regime and its conformity with WTO obligations, with a view to ensuring a good match. Technical assistance may be requested from the Secretariat or may be provided by individual Members.

When the examination of the foreign trade regime is sufficiently advanced, Members of the working party may initiate bilateral market access negotiations on goods and services and on the other terms to be agreed. At their successful conclusion, the results of the negotiations are reflected in the Schedules appended to the draft Protocol of Accession. The market-opening commitments of acceding WTO Members, although negotiated on a bilateral basis with individual WTO Members at their request, apply to all other WTO Members through the application of the Most-Favoured-Nation clause.

The working party concludes its activity by submitting a report to the WTO General Council, a Draft Protocol of Accession, and a draft Decision. Such a decision on accession is, in practice, approved by consensus. The accession takes effect 30 days after domestic ratification by the applicant.

Source: WT/ACC/1, 4, 5, 8 and 9. For a comprehensive overview of the accession process in practice, see WT/ACC/7/Rev.1.

7. When entering the accession process, most applicants are already engaged in far-reaching reform programmes aimed at removing domestic impediments to growth and better integrating their economies in the world economy. In this context, WTO accession provides a framework for reforms in covered areas, strengthens competition by opening the domestic market, and improves governance by requiring administrations to operate transparent and predictable trade policy regimes in areas of discretionary authority (e.g. customs valuation). In other words, the process of WTO accession ensures that the reform of the trade policy regime is a coherent part of a broader programme of reform. Reform is, however, typically accompanied by an adjustment process that can be painful to segments of the population. The challenge for acceding governments is to promote the reform process by ensuring that adjustment occurs in a timely and sustainable fashion and that it is not undermined by social costs.

8. For WTO Members, each accession is viewed on its own merits and no one Member expects to reap the same benefits as another. In general, however, the main economic benefits are due to the

[3] Under the 'succession' provision of Article XXVI:5(c), a State or separate customs territory could become a contracting party by sending the Director-General a letter certifying that it had attained "full autonomy in the conduct of its external commercial relations and of other matters provided for in the [General Agreement]". The provision was invoked mainly by States established in the 1950s and 1960s following the dissolution of the British, Belgian, Dutch, and French colonial dominions.

export opportunities derived from more open markets for goods and services, as well as improved protection of intellectual property rights. These will differ between candidates; access to China's huge domestic market is likely to affect the export opportunities of many more WTO Members than access to Cambodia's market, an LDC, although accession will be just as important to domestic reform in both cases. More generally, expanding the membership of the WTO fosters global growth through three main channels: a positive effect on investment, a positive effect on productivity, and a positive impact on policy and governance.

9. The political benefits of accession are just as significant as the economic ones. Experience has shown that the conduct of trade relations through mutual respect for the rules contained in a strong multilateral framework, as well interdependence through economic integration, can serve to foster peaceful relations between countries.

2. Opportunities and challenges of WTO accession for acceding governments

10. The opportunities of WTO membership for acceding governments fall into two main categories: those related to the new Member's own trade regime, and those resulting from the new Member's rights in relation to its trading partners. The relative importance of each of these effects – domestic reform and access to markets – will differ for each acceding government. However, in all cases, consumers of the new WTO Member stand to benefit, directly through lower prices and a greater choice of products, and indirectly through the strengthened growth prospects of their economy. Enterprises are beneficiaries of the new market access opportunities.

11. Acceding governments also face challenges. The process of accession to the WTO is a demanding one, which can take a number of years depending on the effort made on both sides. The different stages require highly-skilled professionals both in the capital and in Geneva. Aside from the exigencies of the process itself, accession is politically challenging for the acceding government, since domestic constituencies are unlikely to be united in all cases on the benefits to be derived. All levels of government should be involved from the start in a coordinated and informed process, from the executive branch that leads the negotiating process, to the legislative branch that must consider and enact reforms and eventually ratify the Protocol of Accession.

12. The first stage is fact-finding, consisting of the preparation of a complete and detailed description of the government's trade-related policies and institutions (the "Memorandum on the Foreign Trade Regime"), which elicits questions from WTO Members, requiring detailed and precise responses, typically leading to further fact-finding, questions, and answers. The aim is to determine the extent to which the acceding government is in a position to comply with the requirements of the WTO Agreements. The Secretariat provides technical assistance, on request to the acceding government, for this purpose (within the limits of available resources); other programmes of assistance are also available (e.g. UNCTAD, World Customs Organisation, and WIPO). Once the fact-finding stage is sufficiently advanced, the process of bilateral market access negotiations is initiated with "interested" WTO Members, a subset of the 142 WTO Members, which have identified themselves as negotiating partners. Many WTO Members are interested by negotiations with larger potential Members, because they have commercial interests to advance, but fewer with the smaller ones. Negotiations on agricultural products are generally on a plurilateral basis.

13. Article XII of the Marrakesh Agreement provides that accession occurs on the terms agreed between the WTO and the applicant, which makes each accession negotiation unique. Members recognize that accession often requires far-reaching and sometimes difficult legislative and executive action to be taken by the acceding government, in the context of its own specific domestic situation. At the same time, the goal of accession is to secure a fit with WTO obligations, thereby preserving the integrity of the system. Achieving the appropriate balance in the accession negotiations between the

specific needs of the acceding government and the integrity of the system is the main challenge for incumbent Members.

14. WTO Members are well-placed to ask an applicant to liberalize, based on the principle that liberalization benefits both their exports and the economy that liberalizes. On the other hand, governments in applicant countries tend to consider liberalization in the light of the domestic adjustment required, carefully weighing the social and political risks involved. They are also likely to examine closely the costs associated with implementing obligations. Questions of parity of commitments with existing WTO Members also tend to be present, notably with respect to "developing country status" and market access commitments.[4] Depending on the circumstances, finding an appropriate balance can take time.

15. Certain Members have emphasized that the benefits of accession for the new Member can only be realized once the process is completed, meaning that particular urgency should be applied to the accessions of least-developed countries. Proposals for facilitating the accession of LDCs include a fast-track accession procedure, allowing transitional periods to full implementation, or additional technical assistance.[5] Other Members have emphasized that full compliance is needed upon accession and that the transitional periods that were available to original Members have expired, for the most part.

Domestic trade reform

16. In order to accede, applicants often need to adopt or modify existing legislation and implementing regulations in areas covered by the WTO Agreements. Frequently, the result is new legislation and institutions that facilitate the functioning of markets, as well as a set of norms that contribute to transparency and thus promote the rule of law. Applicants also agree, in the context of bilateral market access negotiations with existing Members, to open up their economies to foreign competition by reducing barriers to trade in goods and services through scheduled commitments.

17. Implementation of the WTO Agreements typically requires, in addition to legislation, the administrative capacity to give effect to their provisions, in turn requiring training and financing.[6] For example, the Agreement on Article VII of GATT 1994, which pertains to customs valuation, may require customs officers to be trained in order to appropriately implement the Agreement. Implementing internationally agreed sanitary and phytosanitary measures, or participating in their elaboration, is also a costly and challenging process. Financial resources are needed to establish and equip government bodies mandated to set standards or to operate conformity assessment procedures. The implementation of the TRIPS Agreement may also require the setting up or strengthening of judicial systems and other enforcement agencies.

18. There are certain similarities in the scheduled commitments of acceding governments to date, although each government accedes "on terms to be agreed between it and the WTO", according to Article XII of the WTO Agreement. Like all other WTO Members, new Members are required to bind all agricultural product tariff lines. In addition, new Members have bound all their non-agricultural product tariff lines – a step accomplished by a number of WTO Members, but not the

[4] WT/ACC/7/Rev.3.

[5] See for example the Communication from the European Communities presented to the WTO's General Council as part of preparations for the 1999 Ministerial Conference (WT/GC/W/153), and more recently the Programme of Action for the Least Developed Countries adopted by UNLDC-III.

[6] Costs involved are estimated at an entire year's development budget in many of the least-developed countries, according to Finger, J.M. and P. Schuler (1999), "Implementation of Uruguay Round commitments, the development challenge", World Bank Policy Research Working Paper, No. 2215. Similarly, Professor Maskus estimates that it can cost a poor country roughly US$1.5 - 2 million to build a bare-bones infrastructure to implement the WTO's TRIPS Agreement (*The Economist*, 23 June 2001).

majority. Furthermore, the levels at which tariffs are bound (Table IV.1) compare favourably with those of existing WTO Members at similar levels of development. On average, recently acceding economies have bound their tariffs on agricultural and non-agricultural products at an average 22% and 13%, respectively. Newly acceding governments have also signed on to zero-for-zero liberalization initiatives such as the Information Technology Agreement (ITA).

Table IV.1
Average tariff bindings of newly acceded developing and transition economies

	Simple average bound tariff[a]	
	Agricultural products	**Non-agricultural products**
Transition economies		
Albania	10.6	6.0
Bulgaria	34.9	12.6
Croatia	10.4	5.0
Estonia	17.7	6.6
Georgia	12.1	5.8
Kyrgyz Republic	11.7	6.7
Latvia	33.6	9.3
Lithuania	15.6	8.2
Moldova	12.4	5.7
Mongolia	18.4	20.0
Developing economies		
Ecuador	25.8	20.1
Jordan	25.0	15.0
Oman	30.5	11.0
Panama	26.1	11.5

a Estimates do not take specific tariffs into account.

Source: WTO Secretariat estimates; WT/ACC/7, Protocols of Accession.

19. New Members of the WTO have also taken a comprehensive approach to GATS sectoral commitments. They have made commitments in professional services (mostly accounting, legal, taxation, architecture, engineering), business services (in some cases with important exclusions), and construction services. Coverage is most comprehensive in construction, distribution, and financial services. Thirteen new Members have undertaken commitments in environment, tourism, and transport services, twelve in health and education services, eleven in recreational services, and six in audio-visual services. The limitations on market access and national treatment for the four modes of supply, as well as MFN exemptions, are however similar to those of original Members.[7]

20. These accession commitments underline the important role played by the WTO in facilitating, consolidating and locking in reforms. Although governments are not prevented from reducing trade barriers and putting into place the same market-oriented reforms on their own, the WTO enhances the benefits to be derived in two essential respects. First, it facilitates the introduction of the reforms by reinforcing the credibility of the government's policy choices. An external commitment can help a reform-minded government contain domestic opposition to needed economic reform. Second, it turns the policy reforms into intergovernmental commitments of a legal nature, enforceable by other WTO Members through the dispute settlement process, and thereby prevents backsliding. These two aspects confer credibility and stability on the government's policy choices, which are important for traders, but even more important for domestic and foreign investors with their long planning horizons.

21. Liberalization and associated reforms can be challenging and costly in terms of domestic adjustment, both in economic and political terms. The reduction of tariffs and other obstacles to trade will induce a reallocation of resources, both workers and capital, from import-competing sectors to

[7] WT/ACC/7/Rev.2, Annex 4.

outward-oriented sectors.[8] A quick and smooth reallocation of resources from the shrinking to the expanding industries will tend to minimize adjustment costs. These costs comprise mainly training and the cost of temporarily idle resources. Trade theory also suggests that liberalization and the ensuing reallocation of resources could induce changes in the distribution of income. Overall, some firms and workers will gain while others experience a temporary or permanent loss in income following accession; an inter-regional reallocation of income may also occur as a result of shifting location of production. The challenge for the government is to ensure that the benefits of accession are shared by facilitating adjustment and providing assistance to the losers.

22. An overlooked but important aspect of the adjustment that is required to establish a competitive presence on the home and export markets, is the need to adjust domestic production of agricultural products and other products to meet product regulations and standards, and conformity assessment procedures. Adjusting domestic production to meet regulations and standards may require a complete renewal of fixed assets and technologies, which requires large investments.

Access to markets of trading partners

23. The new Member of the WTO gains access to trading partners' markets on the terms and conditions established by the WTO Agreements, Protocols of Accession, and individual schedules of commitments. These terms and conditions constitute the mutually enforceable obligations of all Members. Only Members that invoke the "non-application clause" (Article XIII of the WTO Agreement), before the Decision of the General Council or Ministerial Conference, need not apply the WTO Agreements to the new Member.

24. This treatment is an improvement over non-member status in two essential respects. The first is that the WTO Members are required to observe a certain standard of treatment in relation to other Members that is not required for non-members – indeed, the WTO Agreement is silent on the matter of relations with non-members. For example, in their mutual relations for merchandise trade, WTO Members observe the most-favoured-nation (MFN) principle, which provides for the no-less-favourable standard, with exceptions for regional trade agreements. Furthermore, they cannot impose quantitative restrictions except in limited circumstances, and must follow certain rules in the use of trade remedies. The second improvement is predictability of treatment. While imports from a non-member will typically (but not always) enjoy MFN treatment in WTO Members, the terms of this treatment may be determined by the granting government, which can modify, terminate or subject it to yearly renewal. Thus, upon accession, the trade policy actions of other WTO Members in relation to that new Member are subject – for the first time – to enforceable multilateral rules and disciplines; these provide for a high standard of treatment that cannot be withdrawn.

25. More generally, joining the WTO brings the government into the rules-based world trading system. All Members, but especially the smaller and economically less powerful Members, benefit from a system based on rules rather than the exercise of economic and political power alone. Access to the WTO's dispute settlement procedures is an important source of benefits for governments at risk of conflict with other, more powerful partners. Similarly, membership guarantees an opportunity to participate in multilateral trade negotiations and rule-making processes, including the opportunity for smaller and economically weaker governments to negotiate with larger governments on a more equal footing than is possible in bilateral or regional frameworks.

[8] One obstacle to tariff reduction commitments on the part of developing countries, notably LDCs, is their adverse revenue implications. Many developing countries rely on trade taxes to fund public expenditure to an important extent, as domestic personal tax collection systems are absent. Evidence has shown, however, that such implications can be counter-balanced by reform of internal taxation, which would over time offset revenue losses from reductions in border taxes. (Ebrill, L., J. Stotsky, R. Gropp (1999), "Revenue Implications of Trade Liberalization", IMF Occasional Paper No. 180.)

Least-developed countries

26. Of the 49 LDCs, 30 are WTO Members and nine have applied for membership. The criteria used by the United Nations for LDC designation include: a low GDP per capita (currently the threshold is US$800 per year); a low level of human resources; and a low level of economic diversification.[9] Many LDCs are remote islands or landlocked States with a highly concentrated export structure in which one or two products – often subject to large fluctuations – account for more than half of total exports. For LDC island economies, the main export is often travel services, while other LDCs typically rely on exports of primary products (e.g. minerals for Mauritania and Zambia, or oil in the case of Sudan).

27. With respect to conditions of market access, virtually all LDCs that are Members of the WTO benefit from preferential access to major developed country markets under GSP or other preferential agreements and arrangements, although such access falls short, in most cases, of tariff-free and quota-free access. Non-members may also typically be granted such access, but WTO membership establishes a sounder basis for its continuation.

28. Given these characteristics, it is clear that an expectation of rapid returns in export performance from WTO membership is unrealistic; accession cannot remedy remoteness or landlocked status, and LDCs already obtain the best standard of market access treatment available in major markets. WTO accession may not appear, therefore, to be a top priority to most LDCs. This view, however, ignores the impact of accession in laying the basis for economic development by modifying government policies that inhibit growth. Accession can be used to facilitate economic reforms in the short run, and in the longer run, it is a key condition for the diversification of these countries' exports and for their integration into world markets for trade and investment. Experience indicates that the goal of acceding and the interaction with multilateral agencies and large countries, contributes to the momentum in favour of economic reforms.

29. In the medium term, accession can contribute importantly to the diversification and the expansion of exports through several mechanisms. First, import liberalization will reduce import protection's implicit tax on exports and induce some reallocation of resources towards industries where the country has a comparative advantage. The second benefit of membership is to make LDCs more attractive to foreign investors. Third, membership will allow LDCs to defend their interests not only in future trade negotiations, either individually or in a coalition, but also in current disputes and discussions.

30. The accession process is also an exercise in transparency, which is crucial to informed policy-making and improving governance. Moreover, the WTO and other multilateral agencies provide technical assistance to help LDCs with policy formulation and implementation. Training and the formation of human capital can contribute to the development of an institutional infrastructure whose usefulness extends beyond the government's trade regime. The WTO, as well as other intergovernmental organizations, has a key role to play in capacity-building.

31. Anticipated benefits for LDCs explain the importance attached by the international community to their integration into the multilateral trading system through accession. At the same time, it has been recognized that LDCs face particular difficulties in assuming the burdens of the accession process due to limited human and financial resources; these also affect participation of LDCs in the WTO once they are Members. Action directed at "facilitating the accession process on the basis of terms that take into account their stage of development and the basic principles of special and differential treatment" was therefore agreed at the Third UN Conference on Least-developed

[9] http://www.unctad.org/conference/ [25 July 2001].

Countries (UNLDC-III).[10] This pledge is part of Commitment 5 of the agreed action programme on behalf of LDCs, which concerns enhancing the role of trade in development.

Transition economies

32. Most of the transition economies that are in the process of accession are States created from the dissolution of the former USSR.[11] Their defining characteristic is the decision to shift from central planning to a more market-oriented economic system. Ten transition economies have already acceded under Article XII, accounting for 70% of all accessions to the WTO. Those currently in the process of acceding generally have a lower level of economic development and are relatively less advanced in their process of transition.

33. After a decade of transition, a comparison with developing countries suggests that the States created from the former USSR (with the exception of the Baltic States) exhibit certain defining characteristics, even though transition economies are difficult to distinguish from other countries with the same level of GDP per capita. While some positive legacies from central planning persist, such as a relatively well educated labour force, inherited structural distortions are still present in lower income transition economies.[12] The size of the government sector is generally larger than in market economies, and efficiency in the delivery of public services is low. The financial system tends to be underdeveloped by international standards. Also, a larger share of the workforce is in industry, economic activities are more energy intensive, infrastructure is often inadequate, and plant and equipment tends to be obsolete.

34. As with other applicants, transition economies stand to benefit from the impact of accession to the WTO on their own policies. Accession can be used to facilitate reform and to improve institutional quality, an important consideration, given that recent empirical studies point to the prominent role of structural reforms in explaining differences in performance across transition economies.[13] Specific components of the reform programmes do not emerge as of greater importance than others, suggesting that a broad programme of policy reforms is preferable to a narrowly focussed reform programme. A binding commitment to pursue an open and transparent trade policy, for example, is only one element, albeit an important one, of policies aimed at attracting foreign investment. Accordingly, WTO accession by itself will not establish the basis for development in transition economies, but it can be an important building block in reform programmes.

35. Among transition economies of the former USSR, which had extensive trade ties previous to the start of the transition, efforts to re-integrate as market economies under regional trade agreements have not encountered great success. Instead, joining the WTO has proved to be a more solid anchor to trade policy reform, the pre-condition for trade to flourish, as can be seen from the accessions of the transition economies to date. Those accessions that remain to be completed, and notably the

---

[10] A/CONF.191/11.

[11] The three exceptions are the Federal Republic of Yugoslavia, the Former Yugoslav Republic of Macedonia, and Bosnia Herzegovina. Four East-Asian countries are sometimes listed as transition economies: Cambodia and the Lao PDR, which are also LDCs (see above), as well as China (see below) and Viet Nam.

[12] See IMF (2000), *World Economic Outlook*, Focus on Transition Economies, October, and Gros, D. and M. Suhrcke (2000), "Ten years after: what is special about transition countries?", EBRD Working Paper No. 56.

[13] See Berg, A., E. Borensztein, R. Sahay, and J. Zettelmeyer (1999), "The evolution of output in transition economies: explaining the differences", IMF Working Paper 99/73; and Havrylyshyn, O. T., J. Wolf, J. Beregaut, M. Castello-Branco, R. van Rooden, and V. Mercer-Blackman (1999), "Growth experience in transition countries, 1990-1998", IMF Occasional Paper No. 184.

Russian Federation, will add significant scope to the emerging regional market, and prevent backsliding.[14]

36. With respect to conditions of market access, transition economies benefit, as others do, from the permanent and unconditional MFN status that accession brings with it (barring invocation of non-application). Of particular tangible benefit is the improvement to be anticipated in the application of trade defence measures (anti-dumping, countervailing and safeguard measures), both with respect to procedural guarantees and the duration and type of measure imposed. WTO-non member transition economies have been the target of numerous anti-dumping actions (Table IV.2), and are subject, as "non-market economies", to different, arguably less favourable criteria to assess margins of dumping[15], or fewer constraints on the type of anti-dumping measure that can be imposed.[16] Alternatively, transition economies may be subject, again as "non-market economies", to specific safeguard regimes providing for surveillance or quotas.[17]

Table IV.2
Number of anti-dumping initiations, by affected countries, 1995-2000

	1995	1996	1997	1998	1999	2000	Total
Non-members	36	66	66	67	101	75	411
Algeria	0	0	0	0	1	0	1
Belarus	0	0	0	0	3	2	5
Bosnia Herzegovina	1	0	0	0	0	0	1
China, P.R.	20	43	33	28	41	37	202
Chinese Taipei	4	9	16	10	22	14	75
Iran	0	1	2	0	2	2	7
Kazakstan	3	1	2	4	0	3	13
Libya	0	0	0	0	0	1	1
Macedonia	1	0	1	1	1	0	4
Russia	2	7	7	12	17	9	54
Saudi Arabia	0	1	0	3	2	1	7
Ukraine	2	3	4	9	9	5	32
Uzbekistan	2	0	0	0	0	0	2
Viet Nam	0	0	1	0	1	1	3
Yugoslavia	1	1	0	0	2	0	4
Members	120	158	177	183	255	179	1,072
Total	192	290	309	317	457	329	1,894

Source: WTO Secretariat.

[14] The Kyrgyz Republic for instance will welcome the accession of the Russian Federation and other larger Central Asian countries. In 1998 and 1999, first Kazakhstan and then Uzbekistan imposed significant impediments to Kyrgyz exports, including very high tariffs, quotas, and other trade restrictions. If all three countries had been members of the WTO, tariff bindings would have limited the tariff increases, quotas would not have been allowed, and any disputes would have been resolved through the dispute settlement mechanism.

[15] For example, Article 2(7) of the European Union's Council Regulation 384/96 provides for normal value to be computed from constructed value in a third-country market economy.

[16] For example, under U.S. legislation, agreements with WTO Members with respect to suspended anti-dumping investigations must involve only price undertakings; agreements with respect to countervailing measure investigations may involve also quantitative restrictions. Agreements with WTO non-members regarding both anti-dumping and countervailing measure investigations may involve price, quantity undertakings or both.

[17] For example, the European Union's Council Regulation 519/94 provides for safeguard measures in the form of surveillance or quotas on imports from Annex I countries (Albania, Armenia, Azerbaijan, Belarus, China, Georgia, Kazakhstan, Democratic Republic of Korea, Kyrgyz Republic, Moldova, Mongolia, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Viet Nam).

China

37. Since 1979, China has been progressively reforming its economic system, with the objective of establishing and improving the socialist market economy. The initial objective was to improve the functioning of central planning rather than to replace it; China currently is considered as an intermediate reformer.[18]

38. China has been reaping the benefits of its reform programme for some time already. Its GDP grew by 10.7% on average over the last decade (1990-99). By 1999, China's GDP had reached a level slightly below US$1 trillion, making it the world's seventh-largest economy; with a population of some 1.3 billion, however, per capita income remains around US$800. During the 1990s, China has also become a major trader, with exports growing at 15% annually on average, more than double the rate of world exports. China is now the world's fifth-largest exporter and sixth-largest importer of goods and services (counting the European Union as a single trading entity).

39. The authorities are counting on WTO accession to give renewed impetus to domestic reforms that are expected to double GDP by 2010 (Box IV.2). Accession is also expected to signal to external observers and domestic constituencies China's intention to prevent backsliding and to continue to open its economy. A number of reforms have been introduced recently to prepare the economy for accession and ensure WTO-conformity of China's laws and regulations, including: the shift from a fixed to a managed float exchange rate regime; the partial lifting of ceilings on deposit and loan interest rates; the elimination of investor requirements with respect to foreign exchange balancing, local content, export performance, and technology transfer; tariff reductions, the elimination of certain quotas, and the introduction of WTO customs valuation practices; and new legislation to improve enforcement of intellectual property protection rules on counterfeiting. Of particular benefit has been the impetus to reform state-owned enterprises, which still account for some 40% of GDP (and take two thirds of loans), in anticipation of enhanced competition from lower-priced imports after accession. The authorities have also engaged in a large-scale training programme to improve knowledge of the WTO among public officials and the community.

40. Other reforms are to be introduced upon accession. Although the exact nature of China's final accession package has yet to be fully analysed, details of the bilateral market-opening agreements negotiated with major WTO Members indicate the nature of the reforms China is to undertake.[19] Transparency and the rule of law should improve as China is to publish all trade-relevant laws, rules, regulations, and administrative guidance; judicial review is also to be made available. With respect to trade in goods, China is to reduce both its agricultural and non-agricultural tariffs, and eliminate a broad array of impediments to trade in various areas, including licensing and quotas. A unified fiscal regime is to apply to enterprises inside and outside Special Economic Zones. State-owned enterprises are to make purchases and sales based on commercial considerations alone. The four major state-owned banks are to face competition from foreign institutions in the corporate loan market two years after accession and within five years in the consumer market, and foreign insurance service providers are to gain access progressively to China's market. Additional telecommunications licences are to be granted for mobile telephony services provided in the context of joint ventures. The opening of the

[18] Reform progress as measured by the EBRD's transition indicator, which ranges from 1 to 4+, is 2.1, which is far below the EU accession countries' average (3.3) and just below the average level for the Commonwealth of Independent States (2.3). See IMF (2000), *World Economic Outlook*, Focus on Transition Economies, October.

[19] The bilateral agreement finalized between China and the United States in 1999 is available at: http://www.uschina.org/ [1 August 2001]. A summary of the bilateral agreement concluded between China and the European Union in May 2000 is available at: http://europa.eu.int/comm/trade/bilateral/china/high.htm [1 August 2001].

financial and telecommunication sectors will in particular have important spillovers on downstream sectors. The TRIPS Agreement is to be implemented upon accession, without a transitional period.

Box IV.2: Measuring the impact of WTO accession on China's growth

Several quantitative assessments of the economic effects of China's accession have been made. These assessments are subject to considerable uncertainties for two main reasons. The first is the uncertainty on the scope of the reforms that China will eventually enact as the final terms of accession are not known with precision. The second reason is that many of the important changes China will make to its trade regime upon accession cannot be taken into account in such assessments due to their nature: the effects of tariff reductions or quota elimination can be quantified, but other important changes, such as increased transparency or greater reliance on the rule of law, are impossible to quantify.

Estimates of the impact of tariff reductions on China's GDP range between 0.6% and 4%. In USITC (1999), detailed qualitative assessments of the effect of changes in non-tariff measures affecting trade are provided. More generally, macroeconomic projections in IMF (2000) suggest that following a limited initial adverse impact, accession should increase China's real GDP growth by 0.1 percentage point in the second year following accession, by 0.6% in the third and fourth years, and by 0.8% in the fifth year. Estimates suggest that China's external current account, which at present shows a large surplus, could weaken in the first years following accession as imports are expected to increase faster than exports. The elimination, under the WTO's Agreement on Textiles and Clothing of all quotas on textiles and clothing could reverse the trend. The deterioration of the current account should in principle be financed by an increase in foreign investment.

The short-run adjustment costs for China have also been estimated. There are reasons to believe that labour market pressures and income distribution problems will increase in the years following accession. A study by Ming-tai Fan and Yu-xin Zheng (2000) estimates that accession will require an additional 13 million workers in rural areas and 1.25 million workers in urban areas (together around 2% of the workforce) to find new jobs in other sectors over the next five years.

Source: IMF (2000), *World Economic Outlook*, October, Focus on Transition Economies; USITC (1999), *Assessment of the economic effects on the United States, of China's Accession to the WTO*; Shoukang Li and Fan Zhai (1999), "China's WTO accession and implications for national and provincial economies", unpublished, People's Republic of China Development Research Center of the State Council; and Ming-tai Fan and Yu-xin Zheng (2000), "China's Trade Liberalization …" paper presented to the XIII International Conference on Input-Output Techniques, University of Macerata, Italy, 21-25 August.

41. WTO accession will also play an important role in stabilizing and securing China's access to its export markets. In addition to securing MFN treatment on a permanent basis, China will derive benefits from the phasing out of "non-market economy" status with respect to the application of anti-dumping and safeguard measures. In addition, the European Union has agreed to eliminate surveillance and quotas within five years of accession. The United States negotiated a 'China-specific' safeguard mechanism that may be invoked for up to 12 years, and will phase out "non-market" economy status on all dumping investigations within 15 years.

3. Opportunities and challenges of accession for existing WTO Members

42. Certain benefits of integrating new Members into the WTO are available to all existing WTO Members, large or small. Integration demonstrates both the continuing relevance and viability of the multilateral trading system, and advances the goal of an organization with a truly global reach. Integrating new Members into a rules-based system for the conduct of trade relations enhances the prospect of peaceful coexistence. Economically, accession leads to enhanced trade opportunities and, in the medium term, fosters growth prospects of the new Member with important spillover effects on existing WTO Members, particularly when a large economy is involved.

43. The trade benefits that each existing WTO Member derives from any particular government's accession depends on the interaction of their economy with that of the acceding government, and therefore varies significantly across the membership. Although there are no hard-and-fast rules on this matter, trade flows between any two countries tend to be associated with proximity, with the relative size of their economies, and with differences between them in sources of comparative advantage (e.g. labour, skills, knowledge, capital). Small countries tend to have relatively high trade-to-output ratios, while much lower levels prevail among larger countries due to scope for large-scale local production of goods and services.

44. In general, new Members that are relatively well endowed with unskilled labour will offer more trade opportunities to incumbents relatively well endowed with capital and skilled labour than to those with a comparative advantage in unskilled labour products. Existing WTO Members might see candidates with endowments similar to their own primarily as competitors on third-country markets. Or existing Members with labour-intensive sunset industries are likely to fear for domestic employment from the competitive export industries of a new Member with abundant labour, which helps to explain the phase-out time schedules in bilateral market access agreements for restrictive measures maintained by existing Members.

45. A more attractive environment for national investors is also to be anticipated from WTO membership. As noted above, the stability conferred by accession is a key aspect of decisions to locate a plant or establish a commercial presence to supply services. In addition, qualitative aspects of the investment regime are likely to improve through the application of transparency to laws and regulations; with respect to China, for instance, the foreign business community anticipates significant benefits through a unification of applicable laws and regulations, their publication, and the possibility of judicial review of administrative decisions. Other improvements are the lifting of certain restrictions on foreign investment or, although not mandated by WTO obligations, a more attractive fiscal regime. These types of changes build confidence in the new Member's business environment and are an inducement to increased foreign investment.

46. From this perspective, the accession of China to the WTO will have significant effects on most WTO Members, reinforcing the already evident trend to integration through trade with major trading partners. Currently, the main sources of China's imports (goods) are Japan, the European Union, Chinese Taipei, the Republic of Korea, and the United States, while the United States, Hong Kong, China, Japan, and the European Union, are also the main destinations of China's exports. These economies are likely to experience important positive effects following China's accession both due to the observance by China of the WTO Agreements and to the trade reforms China is to make. At the same time, China's exports are likely to increase as a result of fewer special restrictions on them and, in the medium-term, of more efficient export industries. By contrast, the accession of LDCs is unlikely to offer significant new market access opportunities to WTO Members, although effects will be important for LDCs themselves.

47. Another dimension of accessions is their influence on existing processes within the WTO, such as negotiations and decision-making. In such processes, each WTO Member can be counted upon to articulate and pursue its own interests. This situation is unlikely to change as a result of the accession of China or any other new Member. Where there is uncertainty is on the manner in which the accession of such an economically large and politically important new Member will affect consensus-based outcomes.

4. Conclusions

48. Thirty governments are currently in the process of accession to the WTO. The first challenge for WTO Members is to complete these accession processes. Much depends on the applicants' efforts, but WTO Members also have a role to play in facilitating governments' accession. For

applicants, the accession process is beneficial in itself due to the examination of trade and trade-related policies, knowledge of the rules and procedures of the multilateral trading system, and the reforms facilitated by an "external anchor" for commitments. The supportive nature of accession to domestic reform is likely to be very much more important to citizens and enterprises than the effects of improved access to foreign markets.

49. WTO membership will not automatically and immediately stimulate economic growth in a new Member government. Most applicants are currently in the process of introducing deep economic reforms aimed at promoting market mechanisms and at stimulating growth and development. By facilitating reforms, accession can significantly contribute to an economy's integration into the world trading system. But trade liberalization will better foster growth if other policies are sound. One of the main lessons of experience with economic reform is that inter-linkages between policies cannot be overlooked. Another lesson of this experience is that management of the costs of adjustment is important to maintaining the political support necessary to see the reform/accession process through and should not be underestimated.

50. Finally, the completion of the accession process is just the start of WTO membership, opening the door to an Organization whose daily activities are multiple and complex. Effective participation is a major challenge for most new Members, requiring knowledge of the rules and procedures of the multilateral trading system. The WTO's Secretariat plays an important role in facilitating such participation through information dissemination, technical assistance, and training. But existing WTO Members also have their part to play in ensuring that new members, and in particular the LDCs, fulfil their ambition to fully participate in the world trading system.

V. CONTROVERSIES ON HEALTH AND THE MULTILATERAL TRADING SYSTEM

A. OVERVIEW

1. Critics of the WTO have singled out two issues in particular in 2001: access to essential drugs in low-income countries and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); and the potential impact of the WTO's General Agreement on Trade in Services (GATS) on the quality and availability of health and education services. On the first issue, critics charge that by requiring developing countries to enforce pharmaceutical patents, the TRIPS Agreement enables pharmaceutical companies to charge exorbitant prices for essential drugs, which, particularly in the dire circumstances of the HIV/AIDS epidemic, appears reprehensible. At the same time, patents are widely acknowledged as providing the incentive for investment in research and development (R&D) to bring new and more effective pharmaceutical products to market; although there is no cure for HIV/AIDS at present, there is hope that research efforts currently under way will yield results.

2. This issue has emerged in the wider context of a campaign to provide better access to essential drugs for the treatment of health and related problems in needy populations. The Accelerating Access Initiative was launched by UNICEF, UNFPA, WHO, the World Bank, and the UNAIDS Secretariat in May 2000, on the basis of offers by five pharmaceutical manufacturers to supply anti-retroviral drugs at reduced prices for use in developing countries; other manufacturers have since responded to the Access initiative. Most recently, in June 2001, a Special Session of the General Assembly on HIV/AIDS was held by the UN for the purpose of proposing a global trust fund to receive new donations to finance action against HIV/AIDS, malaria, and tuberculosis in developing countries, as a supplement to resources committed by the affected countries themselves.[1]

3. The WTO has also taken action. A joint WHO/WTO workshop of experts was held in May 2001 in Høsbjør, Norway, on the issue of differential pricing and financing of access to essential drugs. WTO Members have taken up the issue of "Intellectual Property and Access to Medicines" in special sessions of the TRIPS Council. These discussions have enabled the Members to discern more clearly the relationship between the TRIPS Agreement and the public policy objective of affordable access to patent-protected essential drugs, and to identify an agenda of points requiring further discussion; this includes clarification of the Agreement's flexibility provisions so as to minimize the potential for disputes.

4. On the second issue – the quality and availability of health and education services under GATS commitments – critics have charged that the GATS unduly constrains the ability of governments to protect public services and/or to operate necessary quality standards. Further, it is alleged that the objective of the ongoing WTO negotiations on services is free trade in these areas. Although this objective has manifestly not been endorsed by Members, the underlying issue of providing for competition in health and education services, including through foreign service providers, does merit attention. Under the GATS, governments have complete discretion to make commitments in covered service sectors, including health and education. A number of developing countries have in fact scheduled such commitments in the hope of attracting much-needed investment into these sectors, with a view to improving the quality and availability of vital services.

[1] http://www.un.org/ga/aids/ungassfactsheets/html/fsfund_en.htm.

B. Access to essential drugs in low-income countries and the TRIPS Agreement

1. Public health in development

5. The WHO, UNAIDS and several other UN agencies identify four components of an "access framework", each of which is necessary to ensure access to essential drugs in developing countries: rational selection; affordable prices; sustainable and adequate financing; and reliable health care and supply systems. The first and last of these components engage primarily the public health authorities of developing countries; the international community and the pharmaceutical manufacturers have a role in the other two.

6. In meeting the public policy objective of delivering health care, governments face numerous domestic challenges, including:

– situating public health in an array of urgent needs, such as nutrition, education, infrastructure, employment or national defence;
– establishing structures to deliver health care efficiently to the needy; and
– supporting families of affected persons.

7. Externally, governments face two challenges: dealing with the suppliers of essential drugs for the purpose of securing adequate supplies on the domestic market; and securing the necessary assistance from the international community, constituted by IGOs, governments, NGOs, and private citizens acting on their own, to supplement domestic resource commitments.

8. These challenges are not new; they have been a constant feature of the development landscape. What is new, or what has crystallized awareness of the need for "doing business differently"[2], is the combination of (a) the squeeze in the international purchasing power of incomes of certain developing countries, mainly in Africa, in the course of the past two decades, as a result of numerous factors, including declining terms of trade, (b) the explosive growth in demand for care related to the treatment of HIV/AIDS as the epidemic has developed, again mainly in Africa, and (c) the "negative synergy" between poverty and HIV/AIDS, creating and deepening poverty, making it harder to escape from deprivation.[3]

9. Moreover, HIV/AIDS has no known cure. In conjunction with the treatment of infected persons – the care agenda - a major effort is needed on prevention. While certain countries have achieved a sustained and dramatic decline in infection rates, others have had less success and still experience rising rates of infection. On the whole, it is estimated that in 2000 some 36 million people are living with HIV, the virus that causes AIDS, of which 90% are in developing countries and 75% in sub-Saharan Africa.[4] Within this group, it is estimated that very few – between 10,000 to 25,000 people – receive anti-retroviral treatment therapies, which are routinely used in developed countries to prolong the lives of HIV-infected people.[5]

10. Funding programmes for the prevention, care, treatment and mitigation of the impact of HIV/AIDS – of which drugs are but one essential component – is a major challenge, especially for the

---

[2] Report from the Executive Director of UNAIDS, UN Document E/2001/82, p. 4 [Online]. Available at: http://www.unaids.org/ [30 July 2001].

[3] See Introduction by Dr. Peter Piot, Executive Director of UNAIDS, in a joint publication of WHO, UNICEF, UNAIDS, World Bank, UNESCO, UNFPA (2000), *Health a key to prosperity: Success stories in developing Countries*, WHO, Geneva.

[4] UN Document E/2001/82 [Online]. Available at: http://www.unaids.org/ [30 July 2001].

[5] WHO, UNICEF, UNAIDS Secretariat, and MSF (May 2001), "Sources and prices of selected drugs and diagnostics for people living with HIV/AIDS" [Online]. Available at: http://www.unaids.org/acc_access/access_drugs/index.html [1 July 2001].

governments of the most affected countries. UNAIDS estimates an annual need of US$3-4 billion for HIV/AIDS programmes, compared with current annual expenditures of US$0.3-0.4 billion.[6] A part of the solution is to raise the level of domestic resources committed to HIV/AIDS; the African Heads of State or Government pledged, at the Abuja Special Summit in April 2001, to set a target of allocating at least 15% of their annual national budgets for the improvement of the health sector to help address the HIV/AIDS epidemic. The level of commitment engaged to support this effort by the international community also must rise. Dr. Brundtland, Director-General of the World Health Organization (WHO), has stated:

> The OECD estimates that total Official Development Assistance for health – for all purposes, for all countries, from all sources, loans and grants – is currently about US$3.5 billion a year. We now suspect that this estimate might be a little low. But just to treat one million people with AIDS in Africa, with the prices now on offer, would require that the US$3.5 billion be increased, almost immediately, by one third.[7]

In June 2001, the UN set a new target to be reached by 2005, through a series of incremental steps, for annual expenditure on the epidemic of between US$7 and US10 billion, from donor countries and national budgets.[8]

2. Pricing of essential drugs in developing countries

11. For a number of reasons, including location of research facilities and personnel, economies of scale in production, and patent regimes, the bulk of world production of drugs is located in six countries: the United States, Japan, France, Germany, Italy, and the United Kingdom.[9] Major developing-country producers of drugs include Argentina, Brazil, and India.

12. There are two basic sources of supply onto the domestic market: domestic production and imports. Drugs can be categorized according to whether they are produced and sold under patent or outside of patent A product could be produced and sold out of patent if the patent has expired, if no patent has been taken out, if the country does not provide for patent protection in this area or, eventually, as a result of a compulsory licence. Given the location of the world's productive capacity for drugs, the major part of domestic demand for essential drugs is met in most countries, developed and developing, by imports. A pre-condition is approval for placement on the market by the national authorities responsible for human health.

13. In this context, the causes of high prices of AIDS drugs on developing-country markets are multiple. The WHO, UNICEF, the UNAIDS Secretariat, and MSF stated jointly in May 2001 that:

---

[6] UNAIDS (2001), "Mobilizing Billions to Fight AIDS in Africa: The Way Forward", Presentation to Conference of African Ministers of Finance, Algiers, Algeria, 8 to 10 May 2001 [Online]. Available at: http://www.unaids.org [17 June 2001].

[7] "Opening remarks", WHO/WTO workshop on differential pricing and financing of essential drugs, Høsbjør, 2001.

[8] United Nations, "Declaration of commitment on HIV/AIDS", special session of the 26th General Assembly convened in accordance with resolution 55/13 to review the problem of HIV/AIDS in all its aspects, from 25 to 27 June 2001, New York.

[9] OECD Document DAFFE/CLP(2000)29. According to calculations by UNIDO, 46 of the 133 non-OECD countries, or about one third, imported 100% of their demand for medicines in 1989. This count goes up to about two thirds when all nations importing more than 50% of consumed medicines are counted. Thirty-one developing countries (less than one quarter) supplied three fourths or more of their consumption domestically. See United Nations Industrial Development Organization (UNIDO), *International Yearbook of Industrial Statistics, 1992,* Vienna.

> The high price of many AIDS drugs – especially antiretroviral drugs – is one of the main barriers to their availability in developing countries. Factors related to affordability may include: patents; limited volume; limited competition; import duties and tariffs; local taxes; and mark-ups for wholesaling, distribution, and dispensing.[10]

By the time a drug reaches the consumer, its price will have been successively raised from the ex-factory level by the combined effects of charges of middlemen and of taxes. These factors, which affect pricing of essential drugs in any country, are considered more burdensome in developing countries, where drug costs weigh more heavily in national health expenditures.

14. However, it should be borne in mind that the pricing of pharmaceutical products is but one among the key issues that affect access to essential drugs. Reducing drug prices will make them more affordable to the population. On the other hand, without an efficient structure for delivery, an abundant supply of cheap essential drugs might not save many more lives; administering treatment therapies for AIDS requires, for example, trained doctors and nurses, and careful monitoring of patients' doses within a working infrastructure for health delivery.

Tariffs and taxes

15. Recent Trade Policy Reviews indicate that duty-free treatment is granted to imports of pharmaceutical products by a number of developing countries, but not all (Table V.1). Most developing countries apply moderate to low tariffs. By contrast, a group of WTO Members (Canada, the Czech Republic, the European Union, Japan, Norway, the Slovak Republic, Switzerland, and the United States) agreed to eliminate tariffs on pharmaceutical products during the Uruguay Round and to bind the duty-free treatment in their Schedules (the 'zero-for-zero' agreement).[11] Since that time, two rounds of discussions have been held to broaden the scope of duty-free treatment.[12]

Table V.1
Tariff treatment of pharmaceutical products, in selected WTO Members

Tariff treatment (Per cent)	WTO Members
0	Brunei Darussalam; Canada; European Union; Japan; Madagascar; Mozambique; Malaysia; Norway; Papua New Guinea; Singapore; Turkey; Uganda; United States
Greater than 0 but less than or equal to 5%	Australia; Cameroon; Gabon; Iceland; Indonesia; Kenya; Saint Kitts and Nevis; Malawi; Mauritius; Philippines
Greater than 5% but less than or equal to 10%	Antigua and Barbuda; Bangladesh; Bahrain; Chile; Colombia; Dominican Republic; Ghana; Grenada; Israel; Republic of Korea; Saint Lucia; Mauritania; Poland; Romania; United Republic of Tanzania; Thailand; Saint Vincent and the Grenadines
Greater than 10% but less than or equal to 20%	Argentina; Brazil; Egypt; Mexico; Pakistan; Peru
Greater than 20% but less than or equal to 30%	n.a.
Greater than 30%	India

n.a. Not applicable.

Note: Simple average of tariffs (including surcharges) applied on products in Chapter 30 of the Harmonized System. The coverage of pharmaceutical products used for the zero-for-zero agreement is broader.

Source: WTO Secretariat, Trade Policy Review Division, Tariff Data Base System.

[10] WHO, UNICEF, UNAIDS Secretariat, and MSF (May 2001), "Sources and prices of selected drugs and diagnostics for people living with HIV/AIDS" [Online]. Available at: http://www.unaids.org/acc_access/access_drugs/index.html [1 July 2001].

[11] WTO Documents L/7430, Add.1, Add.2, Add.3, Add.4. Legal effect has been given to the commitments on pharmaceutical products in the schedules of concessions of participating WTO Members.

[12] WTO Documents G/MA/W/10 and G/MA/W18.

16. In addition to import duties, domestic taxes (e.g. VAT or sales tax) are often applied on drugs, as on other products, even if they are deemed essential (although many countries apply a reduced VAT or sales tax rate). There is, of course, nothing in the WTO to prevent Members from eliminating domestic taxes on drugs provided they do so also for imported drugs.

Patent regimes

17. Regarding the sale price of patented medicines, a pharmaceutical company will seek to set a price that reflects to some degree any market power resulting from the exercise of patent rights. Market power is enhanced where the price elasticity of demand for drugs is low in the absence of substitute therapies. Competitors accordingly have a considerable incentive to bring therapeutic substitutes rapidly to market. This suggests that the exercise of market power will be higher in the very early stages of the launch of a new treatment, and be dissipated over time as competing drugs emerge. In any event, the pricing by market forces of products under patent is unlikely to reflect the marginal cost of production. Fixed costs including R&D and profit are borne disproportionately by the most successful products.[13]

18. These considerations on pricing of products under patent protection are not surprising. A patent is intended to provide a positive incentive to R&D efforts by granting to the owner the right to prevent others from using the invention without the owner's agreement for a period of time, a minimum of 20 years under the TRIPS Agreement. (In practice, the effective life of a patent is curtailed by the lead-time required to bring a drug to market, which can be eight to 12 years; most OECD countries provide an extension of up to five years to pharmaceutical patents to compensate in part for the loss of effective patent term).[14] This incentive is widely thought to contribute to the availability of new and more effective pharmaceutical products. Patent protection is also considered to help make information on the innovation public, establishing a stock of knowledge on which other innovators can build, or duplicate once the patent has expired.[15]

19. In the TRIPS Agreement, compulsory licensing is one exception to the owner's right to prevent others from using the invention, provided certain conditions are met.[16] The applicant for a compulsory licence must have first attempted, unsuccessfully, to obtain a voluntary licence from the right holder on reasonable commercial terms (Article 31(b)), except for "national emergencies", "other circumstances of extreme urgency", "public non-commercial use" (or "government use"), or anti-competitive practices. If a compulsory licence is issued, among other conditions, production must predominately be for the domestic market (Article 31(f)) and 'adequate' remuneration must be paid to the patent holder (Article 31(h)).

---

[13] In the United States, the fixed costs of R&D are estimated at 21% of total sales, and 30% of interest forgone in the 12 or more years of the drug development and approval process (Danzon, P.M. (2000), "Making Sense of Drug Prices", *Regulation*, Volume, 23, No. 1, pp. 56-63).

[14] OECD Document DAFFE/CLP(2000)29.

[15] Many countries allow third parties to use a patented invention for research purposes where the aim is to understand more fully the invention as a basis for advancing science and technology. In addition, a WTO dispute-settlement panel on "Canada — Patent Protection for Pharmaceutical Products" (WT/DS114) decided on the WTO-consistency of a provision of Canadian law that permits the use by generic producers of patented products, without authorization and prior to the expiry of the patent term, for the purposes of seeking regulatory approval from public health authorities for the marketing of their generic version as soon as the patent expires.

[16] The term "compulsory licensing" does not appear in the TRIPS Agreement. Instead, the phrase "other use without authorization of the right holder" appears in the title of Article 31. Compulsory licensing is only part of this since "other use" includes use by governments for their own purposes.

20. Compulsory licensing, or its threat, may lower prices of pharmaceutical products.[17] The scope for parallel trade is another aspect influencing the pricing of pharmaceutical products on the domestic market. As noted, pharmaceutical manufacturers have an incentive to price their product according to local market conditions, determined by supply and demand, including availability of alternative therapies. Thus, patent owners typically prefer national exhaustion regimes that support domestic distribution and licensing arrangements by allowing them to take action against parallel imports.

21. Proponents of international exhaustion regimes hold that parallel trade will tend to lower prices of pharmaceutical products by encouraging arbitrage through trade and limiting the scope for price differentiation. Evidence on this point is not available for developing countries. For developed countries, the OECD has noted that "the effect of parallel trade in lowering prices in high-price countries is muted" and its primary effect is that it increases the profitability of pharmaceutical wholesalers and retailers.[18]

22. Another factor known to reduce prices of pharmaceutical products is the availability of generic bio-equivalent drugs.[19] The term "generic" is often used to refer to drugs that are not produced under patent – "generic from a patent point of view".[20] Availability of generics at lower prices typically sharply reduces the market share of manufacturers of the patented product; thus their interest in delaying such an eventuality by seeking extended terms of patent protection or exercising other delay tactics.[21] On the other hand, certain countries have adopted policies to facilitate the approval process for generic drugs, bringing them to market more quickly, by permitting generic companies to conduct development work and product testing prior to a patent's expiration. This has been found to be consistent with the TRIPS Agreement by a recent WTO panel.

23. Governments often regulate the prices of pharmaceutical products to make drugs affordable to the local population and control public expenditures on drugs.[22] An alternative is for government or private insurers or managed care providers to negotiate equivalent results with health care providers and suppliers of equipment and drugs. Managed care providers, for example, leverage their market power on the consumption side of the market by reaching agreements with health care providers and manufacturers. State or private insurers may limit reimbursement of prescriptions or treatments in order to ensure shared responsibility by patients and health care providers in keeping costs down.

24. Leveraging market power on the consumption side of the market has been followed by the WHO since 1989 in its test kit bulk-procurement scheme, in collaboration with other UN agencies.

[17] The OECD has recently explored the issue of compulsory licensing in the context of introducing competition into pharmaceutical production as an alternative to price controls, noting its advantages, in particular curbing x-inefficiencies, which refer to the tendency of monopolies to relax their vigilance on costs, reinforced in the presence of price controls (OECD Document DAFFE/CLP(2000)29, p. 48).

[18] OECD document DAFFE/CLP(2000)29, p. 53.

[19] There is extensive evidence from countries with patent protection that average pharmaceutical prices fall sharply when generic entry occurs following the expiration of the patents (Scherer, F. M. (2000): "The Pharmaceutical Industry", in Culyer, A.J. and J.P. Newhouse, eds. *Handbook of Health Economics,* Vol. 1, Elsevier Science B.V., pp. 1298-1322.). Estimates for the United States indicate that generics cost 50% less than brand-name equivalents and can capture up to 50% of the market (by volume) within a year of the patent expiring (OECD Document DAFFE/CLP(2000)29).

[20] "Generic" as a product can also be defined as a product that does not have a trademark. For example, "paracetamol" is a chemical ingredient that is found in many brand-name painkillers and is often sold as a (generic) medicine in its own right. This is "generic from a trademark point of view".

[21] "Delay, delay, delay", *Wall Street Journal*, 17 July 2001.

[22] OECD document DAFFE/CLP(2000)29, p. 78.

The WHO negotiates bulk purchase prices directly with the manufacturers, a process that enables it to offer test-kits at approximately half the cost of those purchased on the open market.[23]

25. A counterfeit drug is in a different category altogether. Counterfeit drugs appear under fake labelling and packaging, which often makes them indistinguishable (except to the expert) from the brand-name version. However, counterfeit drugs can be very dangerous. Consequently, a major campaign has been under way for some time by the WHO and other organizations to combat counterfeit products.[24]

26. These issues – compulsory licensing, scope for parallel trade, availability of generics – are of current significance to developing-country and transition-economy WTO Members, because certain transitional periods for implementation of the TRIPS Agreement ended on 1 January 2000, and those for LDCs will expire in 2006 (with a further extension perhaps possible).[25] Implementation of the TRIPS Agreement has thus led many developing countries and transition economies to introduce new legislation or modify existing legislation. Such legislation typically includes most compulsory licensing provisions and some have specified the nature of the exhaustion regime so as to provide for the possibility of parallel trade.

27. It should be noted that most developing country Members of the WTO already had patent protection for pharmaceutical products prior to the entry into force of the WTO. In these countries, implementation may have required modification of terms and conditions. For example, the 15 members of the Organisation Africaine de Propriété Intellectuelle granted patent coverage to pharmaceutical products under the Bangui Accord (1977) for a term of ten years, which has been extended to 20 years under the revised Bangui Accord (1999) in the light of relevant TRIPS provisions.

28. Developing countries that had not previously provided protection to pharmaceutical products are required to do so by 2005 at the latest. Such governments also had to provide as of 1 January 1995 a means of filing applications for patents on such products, as well as, subject to various conditions, patent-like protection through exclusive marketing rights if such products get onto the market prior to the decision being taken on the grant or not of the patent.[26] For such countries, implementation of the TRIPS Agreement's provisions on pharmaceutical products is bound to materially alter the competitive conditions on the domestic market for new pharmaceutical products.

29. It should be noted that the WHO Model List of Essential Drugs (11th revision, 1999) mainly contains drugs for which patents have expired everywhere, and which are available as generics. However, because HIV is a relatively new infection, many of the drugs developed specifically to treat HIV/AIDS are still under patent protection in some countries, as are some important drugs for other communicable diseases.

---

[23] WHO, UNICEF, UNAIDS Secretariat, and MSF (May 2001), "Sources and prices of selected drugs and diagnostics for people living with HIV/AIDS" [Online]. Available at http://www.unaids.org/acc_access/access_drugs/index.html [1 July 2001].

[24] Press Release WHO/84, 28 November 1997, and Press Release WHA/012, of 17 May 2000.

[25] When the WTO Agreements took effect on 1 January 1995, developed countries had one year to ensure that their laws and practices conformed with the TRIPS Agreement, developing countries and (under certain conditions) transition economies had, in general, an additional four years, and least-developed an additional ten years.

[26] Thirteen WTO Members (Argentina, Brazil, Cuba, Egypt, India, Kuwait, Morocco, Pakistan, Paraguay, Tunisia, Turkey, United Arab Emirates, and Uruguay) have notified "mailbox" systems to the TRIPS Council, thus indicating that they did not grant patent protection to pharmaceutical products. Some of them, such as Argentina, Brazil, Morocco, Paraguay, Turkey, and Uruguay, are not using the full transition period, having introduced such protection already or indicated that they will do so shortly. It cannot be excluded that there are a few other WTO Members who should have notified but have not done so.

30. Anti-competitive practices by distributors of imports can occur in developing (and other) countries for pharmaceutical and other products, particularly when the domestic markets are small. Domestic distribution may also be subject to anti-competitive practices. However, many developing-country governments lack the means to combat such practices effectively, either through lack of competition law or inadequate resources for its effective enforcement.

3. WTO action on access to essential drugs

Differential pricing by pharmaceutical companies

31. The issue of differential pricing was considered at a joint WHO/WTO Secretariat workshop of experts held in May 2001, in Høsbjør, Norway. "Differential pricing" is generally understood to mean charging lower prices to lower-income clients – pricing in relation to income levels.

32. Differential pricing has occurred for some time with respect to vaccines and contraceptives. So far, with respect to HIV/AIDS-related drugs, several of the major pharmaceutical manufacturers have offered donations of individual drugs or significant reductions on the price of some expensive patented drugs for use exclusively in developing countries. Sources and prices of drugs and diagnostics for people living with HIV/AIDS are contained in a report published bi-annually by the WHO, UNICEF, the UNAIDS Secretariat, and Medecins Sans Frontières (MSF).[27]

33. The WHO/WTO Secretariat workshop concluded that differential pricing was feasible, provided certain conditions were met. One concerned segmenting markets to prevent reduced-priced drugs from making their way to markets where higher prices prevail. This is important not only for manufacturers but also for the poor-country recipients, since otherwise a differentially priced product would not reach the people for which it is intended.

TRIPS Council discussions

34. At the initiative of the African Group, the TRIPS Council initiated a discussion on "Intellectual Property and Access to Medicines" in June 2001. Members are discussing the precise nature of the scope and nature of the flexibility provisions in the TRIPS Agreement with a view to providing greater legal certainty and avoiding disputes. A wide range of provisions and issues have been raised with the discussion focusing on Articles 7 and 8 of the TRIPS Agreement (objectives and principles), the TRIPS provisions relating to compulsory licensing, and the TRIPS provisions on parallel imports. Various texts for language to be adopted by Ministers have also been tabled by Members and discussed.

4. Conclusions

35. The pricing of pharmaceutical products is among the key issues that affect access to essential drugs; other vital elements include an efficient structure for delivery and resource commitments, both domestic and external.[28] In 2001, governments pledged to augment domestic resource commitments and the UN has engaged action to mobilize external sources of funds.

---

[27] WHO, UNICEF, UNAIDS Secretariat, and MSF (May 2001), "Sources and prices of selected drugs and diagnostics for people living with HIV/AIDS" [Online]. Available at: http://www.unaids.org/acc_access/access_drugs/index.html [1 July 2001].

[28] Summarizing recent developments in the pricing/care nexus, UNAIDS has stated: "With the United Nations as facilitator and partner, the advocacy of civil society, the initiatives of a number of major research and development pharmaceutical companies, and generic competition have combined to reduce significantly the prices of HIV drugs, beginning to bring them within reach of a greater number of people living with HIV in developing countries. One unintended consequence of the focus on antiretrovirals has been the way

36. With respect to the factors that influence the prices of essential drugs, the importance of tariffs and domestic taxes, and anti-competitive practices by manufacturers and distributors need to be noted, in addition to the influence of intellectual property rights regimes. On the latter, patents are widely thought to provide the incentive for investment in R&D to bring to market new and more effective pharmaceutical products. At the same time, the TRIPS Agreement provides – and Members have used – flexibility with respect to compulsory licensing and parallel trade, which can mitigate the exclusive rights of patent owners.

37. The precise nature and extent of the flexibility provisions of the TRIPS Agreement have been under discussion among the WTO Members. The discussions on the issue of "Intellectual Property and Access to Medicines" may lead to action being taken by the Members (to clarify provisions) of the TRIPS Agreement so as to ensure the Agreement is implemented in a way that not only promotes the development of new drugs but also contributes to access to existing drugs, especially for the poorest.

C. HEALTH AND EDUCATION SERVICES UNDER GATS

1. Overview

38. The liberalization of services is important to countries mainly because it is difficult to prosper with an inefficient and expensive services infrastructure. Producers and exporters of textiles, bananas or any other product will be more competitive with access to efficient banking, insurance, accountancy, telecommunications, and transport systems. Consumers are likely to have better, more competitively priced products – goods and services – available to them. The list of services of direct importance to consumers is long, ranging from leisure (e.g. restaurant, hotel, and other tourism services), to transport, telecommunications, financial services (e.g. banking, insurance, share trading), health, and education services.

39. The GATS is a powerful framework to liberalize services mainly because of the binding nature of commitments, which sends a clear signal to domestic and foreign service providers on the policy of government. This is not the only route to services liberalization. Indeed, many governments have done so on an autonomous basis over the past two decades, acting on their own to enhance the conditions of market participation, using various policy instruments (e.g. facilitating new entry and/or privatization). Collective action to liberalize services outside the GATS has occurred as well, mainly in the European Union.

40. Telecommunication services is the most visible sector in which liberalization has proceeded in the past decade. Most European countries have now dismantled the long-standing state-run monopolies in the sector to allow new entrants to offer services, including through new technologies (e.g. wireless). The aim has been to reduce prices and expand the scope of services available, to advance the penetration of affordable information and communication technologies among enterprises and consumers, and to boost innovation and employment in the sector and related areas. Many Members anchored these new conditions of market participation in the telecommunications sector in the form of binding commitments in the GATS Agreement.

41. The situation of health and education services is different. With few exceptions, their provision is viewed as a core governmental responsibility. Although social policy concepts – including equity and universal access – do not necessarily imply that governments also act as producers, public facilities have traditionally been, and continue to be, the main suppliers of health

---

in which it has overshadowed care intervention." (UN Document E/2001/82, p. 5 [Online]. Available at: http://www.unaids.org/ [30 July 2001].)

and education services in most countries. This does not mean that efficiency considerations are irrelevant; value for money is an important objective.

42. According to a WTO Secretariat study on education services[29], OECD countries as a whole spent 5.9% of their collective GDP on education in 1994, of which 80% was devoted to direct public expenditure on educational institutions. For most OECD countries, education represents between 10% and 15% of total government outlays.[30] A WTO Secretariat study on health services indicates that in most OECD economies, health care spending accounted for more than 8% of GDP in the later 1990s (1.5% to 5.5% in the early 1960s), compared with some 5% in developing countries.[31] The WHO notes that "differing degrees of efficiency with which health systems organize and finance themselves, and react to the needs of their populations, explain much of the widening gap in death rates between the rich and poor, in countries and between countries, around the world".[32]

43. Prompted by budgetary constraints and/or supply bottlenecks in certain areas, including specialized professionals, governments have increasingly come to recognize the need for a more productive use of resources. Relevant initiatives in this context include organizational changes expected to yield economies of scale and scope, the introduction of monetary incentives in previously tightly regulated areas (commercialization of hospital functions) or reforms in public insurance and subsidy schemes to encourage more prudent resource use. While many of these initiatives may lead to greater market orientation, various countries have also introduced administrative controls and other command-and-control measures to deter new entrants, curtail "excessive" demand for pharmaceuticals or hospital beds, or influence geographic patterns of supply.

44. Attributing a predominant role to government in the provision of health or education services does not mean that the private sector – domestic or foreign – should be excluded. In fact, public and private sectors co-exist in most countries. In addition, many students go abroad to access education services that are not available domestically. Travel abroad to obtain medical treatment also occurs. Distance learning (through the Internet) is also on the rise, as is the provision of certain medical consultancy services (telehealth). Thus, the responsibility of the public authorities to provide health or education services does not preclude other channels to supply the domestic market, including private provision or trade.

2. Nature of the GATS Agreement

45. The GATS Agreement has two parts: the framework agreement containing the rules, and the national schedules of commitments in which each Member specifies the degree of access it is prepared to guarantee for foreign service suppliers in designated sectors. The GATS covers all services with two exceptions, i.e. services provided in the exercise of governmental authority and, in the air transport sector, air traffic rights and all services directly related to the exercise of traffic rights.

46. Services provided in the exercise of governmental authority are defined as any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers. Many public services are therefore manifestly excluded from GATS coverage – national defence being the

[29] WT/S/C/W/49 [Online]. Available at: http://www.wto.org/english/tratop_e/serv_e/sanaly_e.htm [13 July 2001].

[30] OECD (1997), Education at a Glance Indicators, pp. 67-69.

[31] WT/S/C/W/50 [Online]. Available at: http://www.wto.org/english/tratop_e/serv_e/sanaly_e.htm [13 July 2001]. It is worth noting that health care spending – which includes the inputs provided by other sectors – is significantly higher than the health sector's genuine contribution to GDP. Estimates on a gross value-added basis indicate a share of health services in GDP, in 1994, of 5.6% in the United States (private market and non-market services), 3.6% in France, 2.4% in Germany, and 2.1% in Canada (market services only) (OECD (1997), *Services Statistics on Value Added and Employment*, Paris).

[32] WHO (2000), *The World Health Report 2000*, Overview, p. 2.

most obvious example. In other instances, where public and private provision of services already co-exists, as is the case for certain forms of health or education services in many countries, the relevance of the carve-out for governmental services is less clear. No jurisprudence yet exists on the issue.

47. The basic principles that apply to all covered services include most-favoured-nation (MFN) treatment, which amounts to placing all WTO Members on an equivalent footing, i.e. not treating one better than another.[33] Other policy constraints associated with GATS coverage are minimal: monopoly suppliers, whether public or private, can be maintained, established or re-established (if no commitments have been made); and, limitations of any other kind can be imposed on foreign service suppliers. There is nothing in the Agreement to require that covered services should be privatized or liberalized. It is thus hard to discern in what manner basic GATS obligations would limit public policy options to meet national objective for health and education services.

48. Governments are free to decide whether to schedule a sector and thus make commitments on market access and national treatment for the four modes of supply: cross-border, consumption abroad, commercial presence, movement of natural persons. As a result, there is wide variation in the number of sectors covered by Schedules. In general, higher-income countries made more wide-ranging commitments in terms of covered service activities than developing countries or LDCs. Over 90% of Members undertook some form of commitment on tourism services, compared with less than 40% for health and education services. Participation of Members in the post Uruguay Round negotiations on financial services and telecommunications was also less than comprehensive among developing countries.

49. If a specific commitment on a sector is made, it can be circumscribed to exclude sub-sectors. Thus, for example, a Member may make a commitment on education services, but restrict the scope of that commitment to adult education only; similarly health services may be covered only for medical and dental services and not for hospital or other health services. Furthermore, Members can schedule limitations on the scope of market access and national treatment with respect to modes of supply. For example, a Member may decide that consumption abroad of health services is allowed – which amounts to a commitment not to limit the travel abroad of citizens seeking health services – but limit the scope for refund from public funds.

50. Making a commitment to provide access to foreign service suppliers does not imply giving up the right to regulate, for obvious reasons of consumer safety. A commitment on medical doctors does not exempt foreign service providers from meeting national standards; qualifications obtained abroad may however be recognized as equivalent. Part of the agenda of the GATS is ensuring that qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services. The negotiations under Article VI:4 are confined to the use of *measures* in specified areas (qualification and licensing requirements, technical standards, etc.), and will not affect Members' rights to pursue the regulatory *objectives* they deem appropriate within their jurisdiction.

3. Commitments on health or education services

51. The GATS does not compel governments to make specific commitments on defined service activities such as health or education, but it *does* provide the opportunity to those wanting to do so. Such a "positive" approach to specific commitments – voluntary, rather than mandatory – ensures that the GATS can be reconciled with the very significant differences in attitudes and domestic constraints to service sector liberalization among Members.

---

[33] Exemptions to MFN are permitted in principle for ten-years and were listed by many Members. Other exceptions pertain to regional trade arrangements and mutual recognition agreements for standards and/or certification.

52. Less than 50 of the WTO's Members have made commitments on education or health.[34] The main reason for this is the lack of interest in negotiating access for services already provided on the domestic market for free or at subsidized rates by the government. Nevertheless, in virtually all Members, the public provision of services like education or health co-exists with private-sector provision, suggesting they are not perfect substitutes. Private service providers may offer different types of services or ones that are not considered part of the universal service obligation (although governments remain free, even in fully liberalized sectors, to require such (non-discriminatory) obligations from private-sector providers).

53. The opportunities for trade in education or health services is also attracting increasing attention. Exporters of these services are interested in expanding client bases, either by encouraging travel to the home location, by locating abroad or by delivering services through new Internet-based technologies. Importers are interested in expanding the scope for affordable quality services available to citizens, either by consumption abroad, by using external resources domestically, through foreign direct investment, location domestically, or through the Internet. Again, not all importers and exporters of health or education services share these attitudes, helping to explain the different level of commitments in the GATS.

54. Governments that make commitments on education services may do so to meet several social policy objectives. The crucial role of education in fostering economic growth, personal, and social development, as well as in reducing inequality, is well recognized. Countries seek to ensure that their populations are well equipped to contribute to, and participate in, the process of social and economic development. Education enables them to face the challenges of technological change and global commercial integration. Through its capacity to provide skills and enable effective participation in the work force, education is crucial to economic adjustment.

55. Motivations involved in making commitments on medical and hospital services may include boosting private-sector provision, which enhances consumer choice and can have pro-competitive effects on public-sector provision. Such commitments are for example contained in the European Union's services Schedule, ratified by the Parliaments of all EU States, and effective since 1 January 1995.[35] For hospital services not provided by public utilities, the EU guarantees foreign investors unimpeded market access and national treatment in Denmark, Germany, Greece, Ireland, and the United Kingdom.

56. Another motivation for making a specific commitment on health care services may be a desire to augment the performance of the health care system, especially if public provision is weak. Burundi, the Gambia, Lesotho, Malawi, Sierra Leone, and Zambia are the LDCs that have made specific commitments, and each of these has low levels of life expectancy at birth, expenditure per capita, and health system attainment and performance.[36] Some of the countries that have recently acceded to the WTO also made extensive commitments – Albania, Estonia, Georgia, Jordan, the Kyrgyz Republic, and Latvia.

57. It should be noted that although attracting foreign direct investment to the health sector may be facilitated by the GATS Agreement, commitments are unlikely to be the sole consideration in location decisions. These depend on a host of other aspects of the business environment, such as domestic factor costs, taxation, security, and regulatory conditions.

[34] Adlung R, and A. Carzaniga (2001), "Trade in Health Services under GATS – Past and Future", *Bulletin of the World Health Organization*, Volume 79, No. 4, 2001, 278-380.

[35] GATT document GATS/SC/31, 14 April 1994.

[36] WHO (2000), *The World Health Report 2000*, Annex Tables 1 and 2.

4. Conclusions

58. The ongoing WTO services negotiations are expected to promote further market liberalization or to translate liberalization already undertaken into binding commitments. To date, no proposal has been made on health services, and just two proposals have been made on education services.[37] Even if a request for inclusion of these services is made, there is no need for other Members to agree. To clarify misconceptions about the GATS and the new services negotiations, the WTO Secretariat issued in March 2001 a booklet entitled *GATS — Fact and Fiction*.[38]

59. In its proposal for negotiations on higher education services, dated 26 June 2001, and available on the WTO web-site, New Zealand notes:

> In addition to generating revenue for private and state sector education institutions, and Members' economies, trade in education services provides benefits to participating economies at the individual, institutional and societal level, through academic exchange, increased cross-cultural linkages and technology transfer. Increased access for Members to education where it has previously been limited is a vital component in the development of human capital.

60. In its proposal for negotiations on higher education services, dated 18 December 2000, and available on the WTO web-site, the United States recognizes that:

> …education to a large extent is a government function, but that most countries permit private education to co-exist with public education. The proposal therefore envisions that private education and training will continue to supplement, not displace public education systems. … It seeks to supplement public education systems, affording opportunities for suppliers to make their services available to students in other countries.

It may be that a number of Members will heed this call and decide to schedule commitments for education services to supplement domestic resource commitments with foreign capital and expertise.[39] Other Members may be reluctant. But under the GATS "positive" list approach those who wish to schedule commitments have the option to do so.

---

[37] New Zealand (S/CSS/W/93) and the United States (S/CSS/W/23).

[38] Available at: http://www.wto.org/english/tratop_e/serv_e/gats_factfiction_e.htm [13 July 2001].

[39] For example, Cornell University has established a branch of its medical school in Qatar; Johns Hopkins Medical School helps train doctors in Singapore to be researchers; and the University of Chicago offers an executive master's degree in business administration in Spain and Singapore (*International Herald Tribune*, 10 April 2001).

VI. REGIONAL TRADE ARRANGEMENTS AND THE WTO

1. Introduction

1. The cornerstone of the WTO is non-discrimination, a principle embodied in the most-favoured-nation (MFN) provisions of Article I of GATT 1994, Article II of GATS and Article 4 of the TRIPS Agreement, and fundamental to all the multilateral trade agreements annexed to the WTO Agreement. At the same time, the WTO – as did the GATT from its inception – allows Members to conclude customs unions and free-trade areas, which by definition establish an element of preference in the trade between the parties to the agreement vis-à-vis the rest of the world. Such regional trade arrangements (RTAs) have become by far the most important exception to the MFN principle.

2. The provisions contained in GATT Article XXIV (on customs unions and free-trade areas), which have their origins in the Havana Charter, were not conceived to address the surge in regionalism that has occurred in recent years. Indeed, in the late 1940s, reflecting the dismal experience with discriminatory trading arrangements in the inter-war period, the presumption was that the exception to the MFN contained in Article XXIV would remain an exception, and a positive one.[1] Article XXIV offered the possibility to contracting parties to further the market access they had bound in the GATT through deeper trade liberalization among themselves.

3. The current trading landscape reveals a very different reality from the one foreseen nearly six decades ago when Article XXIV was drafted. Far from being the exception, RTAs (now primarily free-trade areas) are today almost the norm in international trade relations.[2] Most WTO Members are party to at least one and often several agreements, and a number of Members that had not previously considered RTAs as a policy option are either actively negotiating or considering such agreements (Chapter II, section B(5)). As a result, intra-RTA trade could soon account for more than half of world trade. In addition, as the number of RTAs multiplies, networks of overlapping agreements may generate intricate webs of discriminatory treatment, which are likely to lead to complex and incoherent regulatory structures for the conduct of a growing share of world trade.[3]

4. The purpose of this chapter is twofold: first, to alert Members to the rapid and ongoing changes in trade regimes triggered by the spread of RTAs at a time when the outlook for multilateral trade liberalization is uncertain, and when the shortcomings and inadequacies in WTO rules and procedures for RTAs have not been corrected; and second, to make the case for an early comprehensive review of the treatment of RTAs under the WTO.

---

[1] See D. Irwin (1993) "Multilateral and bilateral trade policies in the world trading system: an historical perspective", in J. de Melo and A. Panagariya (eds) *New Dimensions in Regional Integration*, Cambridge University Press; and WTO (1995) *Regionalism and the World Trading System*, for historical perspectives on Article XXIV.

[2] It should be noted that the initial draft Charter of the International Trade Organization (ITO) only provided for customs unions, and that the inclusion of free-trade areas (FTAs) in article 44 of the Havana Charter (subsequently included as Article XXIV in the GATT) was the result of a last-minute political compromise made possible by the United States agreeing to accept FTAs.

[3] Some experts believe this proliferation of RTAs should be welcomed (see, for example, L. Summers (1991) "Regionalism and the World Trading System" in *Policy Implications of Trade and Currency Zones*, Federal Reserve Bank, Kansas City). Others are less sanguine and emphasize the importance of multilateral trade liberalization, warning against the discrimination and fragmentation of the global economy that can accompany the spread of RTAs (see, for example, J. Bhagwati and A. Krueger (1995) "The Dangerous Drift to Preferential Trade Agreements", AEI Press, Washington, D.C.).

2. The regionalization of the world economy

5. As detailed in Chapter II(B)(5), there has been a massive proliferation of RTAs in recent years, with an average of one RTA per month being notified to the WTO. A recent study by the WTO Secretariat identified a total of 170 RTAs currently in force (including some that have not, or not yet, been notified to the WTO), and this number may well grow to about 250 by 2005.[4]

6. Some recent moves to conclude new RTAs appear to stem partly from defensive motives, such as fear of being left out of a movement that is gathering pace, or of finding one's trade discriminated against in a growing number of markets.

7. On the basis of the 113 RTAs notified to WTO and deemed to be in force as of July 2000, it is estimated that some 43% of world trade is intra-RTA trade. This share would rise to 51% if all 68 or so RTAs currently under discussion and scheduled to be in force by 2005 were already in place. Intra-trade in the European Union (EU), a mature customs union, is somewhat over 60% of its total trade, marginally down from ten years previously. Other regions, starting from a lower level of intra-RTA trade, are catching up. For example, the share for Latin America, excluding Mexico (which has a head start because of the NAFTA), is projected to increase from 18% to 64% by 2005, if the FTAA is implemented on schedule. In Asia, the current share of intra-RTA trade is expected to increase from the current 5% to 15% by 2005.

8. At the same time, it is important to recall that only a part of intra-RTA trade flows involve preferential treatment – the essence of an RTA – since (i) many tariffs are MFN-bound at zero (among the Quad countries, for example, the share of imports entering under bound MFN zero rates ranges from about 25% for Japan to somewhat over 40% for the EU); (ii) most RTAs exclude certain sectors, for example, agriculture; and (iii) in some instances importers forgo free-trade treatment because the MFN duty is less than the cost of complying with rules of origin and other requirements. There have been important instances of regional *disintegration*, in particular the collapse of the Council of Mutual Economic Assistance (CMEA) and the splitting-up of the former Soviet Union, Yugoslavia, and the Czechoslovakia into 15, five and two countries, respectively. This was followed by strong moves on the part of many of their countries to find new partners of integration. Indeed, over 20% of the RTAs notified to the WTO involve at least one of these countries.

9. Half of all RTAs under negotiation involve only two parties, i.e. they are bilateral RTAs. Others are agreements in which one (or more) of the parties is an RTA itself.[5] The most noteworthy development anticipated in the next five years is the emergence of RTAs in which each party is itself a distinct RTA. At present, there are no agreements of this kind in force, but several are currently under negotiation and this tendency looks set to intensify in the near future.[6]

10. Regional trade agreements also differ considerably in scope. In their simplest form, they provide for the exchange of preferences on a limited range of products between two or more developing countries. At the other extreme, they may go well beyond traditional tariff elimination for goods, to include services and rules on various trade-related topics, such as foreign investment, intellectual property rights, standards, competition policy, government procurement and, in some instances, environment and labour issues. In these and other ways, many of the new RTAs are paralleling or anticipating the evolution of the GATT/WTO system.

---

[4] See document WT/REG/W/41.

[5] Examples include the RTAs signed between the EC and individual EFTA members, as well as those signed by CMEA and the CACM with third parties.

[6] For example, the EC-Gulf Cooperation Council (GCC), EC-MERCOSUR, MERCOSUR-Southern African Customs Union (SACU) and CER-ASEAN.

11. The resulting multitude of special trade regimes is creating several related problems. One concerns the extent to which the nature of these special regimes is consistent with the basic message of deeper liberalization underlying GATT Article XXIV. Another concerns the coherence between the provisions in these special regimes. A third is the diminishing adequacy of the WTO's rules and procedures for RTAs – originally designed for a GATT concerned primarily with tariffs – as RTA agendas expand beyond the mutual elimination of tariffs among the partners.

3. The political economy of regional integration

12. Countries conclude or expand RTAs for a mix of political and economic reasons. As a general rule the economic motivations behind an RTA – for example, to benefit from economies of scale in producing for a larger market, to expose domestic producers to a limited amount of foreign competition (perhaps preparing them for wider-scale competition), and to increase the country's attractiveness to foreign investors – are less compelling than the political motivations. A recent World Bank report, for example, noted that regional integration "… meets political needs, such as security or enhanced bargaining power, and it satisfies influential lobbies. Indeed, the purpose of regional integration is often political, and the economic consequences, good or bad, are side effects of the political payoff".[7]

13. Four possible political benefits are identified. One is intra-regional and extra-regional security. A case in point is the European Coal and Steel Community, established in 1951 for the purpose of preventing future conflicts by putting critical natural resources for the defence industry under common control. Security considerations have figured also in other RTAs, including MERCOSUR, ASEAN, and the Gulf Cooperation Council. Second, cooperation on trade can pave the way for cooperation in other areas, including shared natural resources (water, fishing, hydroelectric power), transboundary pollution problems, and infrastructure for trade (railways, roads, ports, telecommunications).

14. Regional trade agreements may also serve as an anchor for domestic economic (and political) reforms that otherwise would be politically difficult to carry out, a case in point being the ongoing restructuring of Central European countries in preparation for their accession to the European Union. A fourth political benefit is the enhanced bargaining power, in commercial relations and other aspects of international affairs, that can flow from a larger economic area and a common voice. This advantage can be particularly important for medium/small developing countries.

15. The economic success of an RTA is often gauged by the growth of trade between the participants. However, a trade criterion, while seemingly a reasonable way of evaluating the success of a trade agreement, does not reveal much about the economic benefits that flow from increased regional trade. The problem is that the trade between the parties expands for both good and bad reasons. When efficient producers inside the RTA expand their market shares at the expense of inefficient partner-country producers, the participating countries gain. But if inefficient firms producing at above-world-market prices gain market share at the expense of third country firms – because of their preferential access to partners' markets – both the participating countries and third-country suppliers lose. Thus the net economic impact can go either way, depending for the most part on the balance between trade creation and trade diversion – something that is difficult to estimate *ex post*, let alone *ex ante*.

[7] World Bank (2000) *Trade Blocs*, Oxford University Press.

16. While RTAs are *ex ante* inherently ambiguous with regard to their *economic* benefits, they can always be designed to benefit economically both the members and the world at large.[8] If trade diversion is a problem, it can be mitigated by reducing trade barriers on imports from third countries, either unilaterally by members of the RTA or in multilateral trade negotiations. More generally, the balance between trade creation and trade diversion often depends on the details of the agreement, including provisions on external trade barriers, rules of origin, and sectoral coverage. By choosing these parameters carefully, the risk of trade diversion can be mitigated, if not eliminated altogether. Clearly there is a role to be played here by WTO rules and procedures for RTAs.

4. Assessing the new regionalism

17. The composition of new RTAs – and especially of those currently being negotiated – reveals a relative decline in the importance of such factors as geographical proximity, cultural similarities, and similar levels of economic development. RTAs connecting developed and developing countries from different continents are increasingly common, with the predominant format being a free-trade area rather than a customs union. This is symptomatic of a regionalism driven less by traditional objectives of economic integration and more by feelings that complex trade policy issues can better be managed amongst a more limited circle of "friends".

18. With regard to scope and coverage, the broader agendas of the current generation of RTAs reflect, among other developments, decreasing tariff levels in OECD countries for most non-agricultural goods, the globalization of markets, and the growing importance of cross-border issues in such areas as services, foreign direct investment, and corporate strategies (for example, mergers and acquisitions), together with insufficient regulatory provisions for non-tariff issues at both the regional and multilateral levels.

19. The web of overlapping RTAs, as well as the intercontinental dimension of many new agreements, constitutes not only a departure from the traditional concept of regionalism among neighbouring countries, but also a conceptual shift away from multilateralism towards trading strategies based on numerous selective preferential agreements comprising no more than two or three parties. This could be viewed as a consolidation of trading patterns and a welcome development for further trade liberalization across the globe. Alternatively, the idiosyncrasy of the agreements, and the growing preference for bilateral RTAs also suggests a shift to *regionalism à la carte*, based on the selective choice of trading partners and sectors to be liberalized in a preferential – that is, discriminatory – way, leading to greater complexity in world trade relations.

Implications for the WTO

20. As RTAs increase in importance, the world trading system looks more and more multi-tier rather than multilateral. The bedrock of the system remains the WTO, as the repository of global rules and the forum for trade negotiations and dispute resolution. But spreading from this, ranging all the way to the bilateral level, is a variety of less-than-global trade initiatives, varying in composition and scope, engaged in preferential trade liberalization and policy negotiations in parallel to the WTO's efforts in an MFN framework.

21. It should be noted that, in line with the thinking of the GATT's founders, well-structured regional trading initiatives can contribute to the development of the multilateral trading system. However, in an increasingly multi-tiered system, there is a growing risk of inconsistencies in the rules

[8] See M. Kemp and H. Wan (1976) "Elementary proposition concerning the formation of Customs Unions", *Journal of International Economics*, Vol. 6, February, pp. 95-98.

and procedures adopted by RTAs on the same and different tiers. Such inconsistencies would not only produce current regulatory confusion, but would also greatly complicate future efforts to develop a consistent set of multilateral rules and procedures governing countries' trade-related policies. The result could be "regulatory gridlock", distortion of regional markets and severe implementation problems, especially where there are overlapping RTAs. Under the best of circumstances – defined to include, in particular, effective and unambiguous WTO rules covering all dimensions of RTAs – dealing with this risk would be a formidable challenge. In fact, in the current circumstances, the ineffectiveness or absence of WTO rules practically invites RTAs to develop inconsistent rules and procedures.

WTO rules and regional trade agreements

22. For the most part, tariffs and other forms of protection against foreign competition exist not because governments are ignorant of the efficiency arguments for free trade, but rather because other considerations have entered the political balance sheet. Governments are well aware – from intense lobbying by inefficient import-competing industries, trade unions, and other special interest groups – that trade liberalization, be it multilateral, regional or unilateral, creates losers as well as winners, at least in the short term. Just as with multilateral liberalization, some compromises with free trade are thus politically inevitable for RTAs.[9][10]

23. This political need for flexibility is recognized in the WTO provisions on RTAs. GATT Article XXIV states that tariffs must be "eliminated" and cover "substantially all the trade" between the participating countries (the fact that the rule does not specify "all trade" often is used to defend the exclusion of certain "sensitive" sectors from the agreement, most frequently agriculture). Another key provision is that the tariffs and other regulations of commerce in a customs union's harmonized tariff schedule "shall not on the whole be higher or more restrictive than ... prior to the formation of such union." A similar provision applies for free-trade areas with respect to the trade regimes of individual members. There is also flexibility with regard to the length of the transition period: while an RTA should be fully implemented within ten years, there exists the possibility of additional time on an exceptional basis. Provisions of GATS Article V, which deal with economic integration agreements in the area of trade in services, largely mirror GATT Article XXIV provisions.

24. There have been problems and controversies in these three areas – sectoral coverage, post-RTA trade barriers, and the length of the transition period for full RTA implementation[11] – but at least there are WTO rules that attempt to strike a balance between political needs and the need to protect the interests both of third countries and of the trading system. This is in contrast to an important fourth dimension of RTAs – rules of origin – which Members have refused to subject to multilateral rules. Preferential rules of origin (PROs), which are used in RTAs, are unregulated, except by the

[9] As noted by Mayer (1998), in his insightful political analysis of the NAFTA, the issue was not whether trade should be liberalized between the parties or not: "The issue was how far and how fast they would go and what rules they would establish to govern commerce in the region. In the end, the most interesting features of the agreement have to do with deviations from free trade: some sectors exempted, long phase-outs of protections in others, high rules of origin, and a host of other carefully tailored provisions that make up the bulk of the several-thousand-page agreement." F. Mayer, (1998) "Interpreting NAFTA", (p. 146), Columbia University Press, New York.

[10] See G. Grossman and E. Helpman (1995), "The Politics of Free Trade Agreements", *American Economic Review* 84(4), pp. 833-850, for a formal political-economy analysis.

[11] See Chapter I of WTO (1995), *Regionalism and the World Trading System*, and document WT/REG/W/37 for a detailed discussion.

transparency provisions included in Annex II of the WTO Agreement on Rules of Origin.[12] The result is that Members have unlimited freedom in designing rules of origin for free-trade areas and customs unions.

25. PROs define whether a good is “made” in a member of a RTA and hence entitled to preferential entry into the markets of the participating countries. Rules of origin are complex and controversial because, in an integrating global economy where different stages of processing frequently take place at different locations, there is no objective way of defining “where” a product is made. This lack of an objective definition does not, however, mean that “all PROs are equal.” There are two important criteria for judging PROs: the degree to which they are transparent and simple to understand/administer, and their degree of restrictiveness (e.g. percentage of local content required).

26. The inherent ambiguity of deciding the country of origin of a good or service, combined with the absence of any meaningful WTO rules for PROs, opens the door wide for protectionist interests to play an often important role in drafting origin rules. PROs are easily designed to induce producers to source inputs within the RTA, thereby reducing their competitiveness and increasing trade diversion in intermediate products, or to forgo duty-free entry to partners' markets.

The Committee on Regional Trade Agreements (CRTA)

27. Problems in dealing with RTAs is not a new development. During the GATT years, divergences on the interpretation of Article XXIV conditions used to determine the GATT-conformity of RTAs hindered the review process, with the result that only one examined RTA, the Czech-Slovak customs union, was ever found fully in conformity with the GATT provisions.[13] In his 1991 report to the GATT Council, the Chairman of the CUSFTA Working Party observed:

> One might ... question what point was there in establishing a working party if no one expected it to reach consensus findings ... or to recommend to the participants how to meet certain benchmarks. ... As further agreements came along, there might be a risk that they would be treated increasingly superficially and that contracting parties would lose – if they had not already done so – the ability to distinguish between agreements of greater or lesser GATT consistency....[14]

28. Ten years later, not only has there been no progress in dealing with the problems noted in the quotation, but the situation has worsened, as both the number of RTAs among Members and the number of trade-related topics covered by the agreements have multiplied. This despite the fact that the CRTA was established in 1996 (i) to oversee, under a single framework, all regional trade agreements, and (ii) to consider the implications of such agreements and regional initiatives for the multilateral trading system and the relationship between them – the so-called "systemic issues".

29. The CRTA’s main failure has been its inability to resolve the problem of reaching consensus on the terms of such assessments. It has not issued a report on any of the more than 100 RTAs notified to the WTO. This impasse is due to various political and practical difficulties. First, Members oppose any conclusive judgement on the consistency of RTAs because of the possible consequences for dispute settlement processes. Second, there is long-standing controversy about the

[12] That Agreement deals primarily with so-called non-preferential rules of origin used in connection with anti-dumping actions, safeguard actions, and so forth.

[13] The adoption of the WTO Understanding on the Interpretation of Article XXIV, as part of the Final Act of the Uruguay Round, clarified some of the disputed issues but did little to resolve the more serious problems.

[14] GATT document C/M/253, p. 25.

interpretation of the WTO rules against which RTAs are assessed. Given the high political stakes involved, and the fact that the flexibility enshrined in these rules allows for divergent interpretations, it is no surprise that any ambiguity in wording is transformed into a major issue of conflicting opinions.

30. Other practical difficulties hindering the examination process include the great diversity of RTAs; linkages drawn by the Members among the Committee's assessments of different RTAs; and the reluctance of the parties to many agreements to provide information requested by other Members in order to make an informed judgement of the RTA's WTO-conformity. Not surprisingly, in these circumstances, the debate on systemic issues has also become completely empty – another major failure of the CRTA – focusing instead on repetitive discussions of divergent interpretations of the legal requirements contained in GATT Article XXIV and GATS Article V.

31. Clearly, a variety of inter-linked issues lies behind the regionalism debate. Some arise from the interpretation of the wording of the requirements in GATT Article XXIV and GATS Article V, on which there is no agreement. Others are more institutional in nature and arise from either the absence of WTO rules (especially on PROs), or from troublesome discrepancies between the WTO's rules and those contained in the numerous RTAs, for example in such areas as anti-dumping, subsidies, and standards.

32. In summary, against the background of these and other unresolved problem areas affecting the functioning and adequacy of the WTO's rules and procedures for RTAs, it is not surprising that work in the CRTA – which should be, in the present circumstances, one of the WTO's most important and active committees – has come to a standstill.[15]

5. Conclusions

33. The broad conclusions from the preceding, rather sombre analysis, may be briefly summarized as follows:

– ***RTAs are proliferating***. In itself, this is not necessarily a threatening development. What is worrying is this trend in conjunction with the WTO's inability thus far to fully recover from the set-back at Seattle, the chronic ineffectiveness/inadequacy of the WTO's procedures and practices for RTAs, and the increasing extent to which RTAs are taking the form of *à la carte* approaches to trade liberalization and negotiation.

– ***The proliferation of RTAs poses systemic risk.*** The risk posed by the current spread of RTAs lies less in the potential for trade diversion in each individual RTA than in the *collective impact of a large number of RTAs*, each with its own special mini-trade regime, on the functioning of the rules-based multilateral trading system.[16]

– ***There is less risk if the WTO is functioning well.*** RTAs and the WTO are more likely to be mutually supportive when the WTO is functioning well, when it is seen to be moving forward on trade liberalization and rulemaking, and responding to the needs of its Membership. In contrast, when WTO Members are having difficulty agreeing on how to move forward multilaterally, as has been the case for the past few years, incentives to follow the regional route become stronger and the importance countries attach to ensuring compatibility between

[15] See WTO (1995) for details on the other problem areas.

[16] See OECD (2001) "Regional Integration: Observed Trade and Other Economic Effects", Working Party of the Trade Committee, TD/TC/WP(2001)19/Rev.1, for an extensive up-to-date summary of the empirical evidence on the trade effects of RTAs. The empirical evidence also suggests that the impact on economic growth is quite small.

regional and multilateral trade liberalization and rules becomes weaker. The prolonged paralysis of the CRTA is a sign of this problem.

– ***Middle/lower income developing countries would be the biggest losers.*** Should the world turn its back – partly or completely – on multilateralism in favour of regionalism, the biggest losers in term of national welfare would be the middle/lower income developing countries, which constitute well over half of the WTO Membership. Because of their relatively small domestic markets, such countries are often at a disadvantage when other countries, especially important trading partners, are seeking partners for an RTA. If they get over this hurdle and are invited to join, the other partners – with their greater economic and political bargaining power, and their vastly greater negotiating resources and capabilities – are certain to dominate the process of drafting the agreement (exceptions, safeguard provisions, rules of origin, and so forth).

– ***Options exist for the WTO to respond effectively to the new regionalism.*** Two actions are needed to ensure the "inherent complementarity" of regional and multilateral approaches to trade liberalization:

  - Continued multilateral trade liberalization. While past experience indicates that regional trade initiatives can increase the incentives for pursuing multilateral liberalization, it is unclear to what extent that factor is at work in the present situation.

  - WTO Members need to overcome their resistance to dealing with the serious problems and shortcomings affecting the WTO's rules and procedures for RTAs, and to carry out a thorough review, reform, and extension of those rules and procedures. At Seattle, some Members pushed unsuccessfully to include just such a review on the WTO's agenda. Clearly, moving forward will require a political initiative and a sustained political commitment. Experience suggests that, without a radical change in its mandate, the CRTA would not be the best venue/forum for pursuing review and reform.

– ***An earlier warning.*** The WTO's 1995 study of the relationship between regionalism and multilateralism reached two broad conclusions regarding the postwar experience: first, that experience indicated the relationship between the two had been "at least satisfactory, if not broadly positive", but that this probably had more to do with circumstances and good luck than with GATT's problematic rules and procedures for RTAs; and second, that governments should consider reforms designed to put the relationship between regionalism and multilateralism on a more solid foundation. In the six years since that study appeared – a period when the role of RTAs in the life of the WTO has expanded greatly – a large majority of WTO Members has consistently refused to accept the critical need for a major review of the functioning and adequacy of existing rules and procedures for RTAs. Time may be running out.

APPENDIX TABLES

Table AII.1
Respondents in dispute settlement proceedings initiated in the WTO, 1995-2001

Respondents	Dispute settlement cases	Total cases
United States	gasoline (DS2, DS4); automobiles (DS6); underwear (DS24); wool coats (DS32); wool shirts (DS33); Helms Burton Act (DS38); hormones retaliation (DS39); anti-dumping (tomatoes) (DS49); shrimp (DS58, DS61); anti-dumping (urea) (DS63); safeguard (brooms) (DS78); textiles (DS85); government procurement (DS88, DS95); anti-dumping (CTVs) (DS89); countervail (salmon) (DS97); anti-dumping (DRAMS) (DS99); poultry (DS100); foreign sales corporations (tax treatment) (DS108); tariff rate quota (groundnuts) (DS111); harbour tax (DS118); Anti-Dumping Act 1916 (DS136); countervail (lead and steel) (DS138); cattle and swine (DS144); textiles (DS151); sections 301-310 (DS152); copyrights (DS160); Anti-Dumping Act 1916 (II) (DS162); import measures (bananas retaliation) (DS165); safeguard (wheat gluten) (DS166); countervail (cattle) (DS167); Omnibus Act (Cuban rum trademarks) (DS176); safeguard (lamb) (New Zealand) (DS177); safeguard (lamb) (Australia) (DS178); , anti-dumping (steel) (DS179); anti-dumping (steel) (DS184); Section 337 (DS186); safeguard (cotton yarn) (DS192) countervail (export restraints) (DS194); Section 306 (retaliation) (DS200); safeguard (line pipe) (DS202); anti-dumping and countervailing measures (steel plate) (DS206); countervailing measures (DS212); countervail (carbon steel) (DS213); safeguard (wire rod and line pipe) (DS214); 2000 Offset Act (Australia, Brazil, Chile, the EC, India, Indonesia, Japan, Korea and Thailand) (DS217); countervail (carbon steel) (DS218); Section 129(c)(1) (DS221); Patents Code (DS224); anti-dumping (seamless pipe) (DS225); 2000 Offset Act (Canada and Mexico) (DS234)	53
European Communities or its Member States	scallops (DS7, DS12, DS14); grains (DS9, DS13, DS17, DS25); bananas (DS16, DS27); hormones (DS26, DS48); patent[a] (DS37); computers (DS62, DS67, DS68)[b]; poultry (DS69); butter (DS72); telephone directories (DS80)[c]; copyright (grant of rights) (DS82)[d]; intellectual property (enforcement) (DS83)[e]; intellectual property (enforcement) (DS86)[f]; subsidies (processed cheese) (DS104); bananas (DS105); intellectual property (DS124, DS125)[g]; subsidies (income tax measures) (DS127, DS128, DS129, DS130, DS131)[h]; import duties (rice) (DS134); asbestos (DS135); wood conifers (DS137); anti-dumping (cotton fabrics) (DS140); anti-dumping (bed-linen) (DS141); patent protection (pharmaceuticals) (DS153); special & differential treatment (coffee) (DS154); bananas II (DS158); subsidies (FMS for Airbus) (DS172, DS173)[i]; trademark protection (DS174); soluble coffee (DS209); customs duties for rice (DS210)[j]; anti-dumping (pipe fittings) (DS219); corn gluten feed (DS223); sardines (DS231)	46
Japan	alcoholic beverages (DS8, DS10, DS11); telecommunications (DS15); sound recordings (DS28, DS42); film (DS44); distribution (DS45); pork (DS66); aircraft (DS70, DS71); procurement (DS73); agricultural products (DS76); tariff quotas (leather) (DS147)	14
Argentina	textiles (DS56); textiles (DS77); safeguard measures (footwear) (DS121); subsidies (footwear) (DS123); countervailing duties (wheat gluten) (DS145); bovine hides (DS155); anti-dumping (drill bits) (DS157); import measures (footwear) (DS164); patent protection (DS171); anti-dumping (card-board and ceramic floor tiles) (DS189); safeguards (cotton fabrics) (DS190); patent protection (DS196); pharmaceutical products (DS233)	13
India	patent (DS50); patent (DS79); quantitative restrictions (DS90, DS91, DS92, DS93, DS94, DS96); export commodities (DS120); auto (DS146) ; import restrictions (DS149); customs duties (DS150); motor vehicles (DS175)	13
Brazil	countervail (coconut) (Philippines) (DS22); countervail (coconut) (Sri Lanka) (DS30); aircraft (DS46); automobiles (DS51, DS52, DS65, DS81); import payment terms (DS116); import licensing (DS183); minimum import prices (DS197); patent protection (DS199); anti-dumping (jute bags) (DS229)	12
Canada	periodicals (DS31); aircraft (DS70, DS71); subsidies (milk and cheese) (DS103); dairy exports (DS113); patent protection (pharmaceuticals) (DS114); film distribution (DS117); auto industry (DS139, DS142); patent protection (DS170); export credits and loan guarantees (DS222)	13
Republic of Korea	inspection of agricultural products (DS3, DS41); shelf-life (DS5); bottled water (DS20); telecom (DS40); alcoholic beverages (DS75, DS84); safeguard measure (dairy) (DS98); beef imports (DS161, DS169); government procurement (DS163)	11
Chile	alcoholic beverages (DS87); alcoholic beverages (DS109, DS110); swordfish (DS193); price band system and safeguard measures (DS207); price band system and safeguard measures (DS220); safeguard (mixed edible oils) (DS226); safeguard (sugar) (DS230)	8
Mexico	customs valuation (DS53); anti-dumping (corn syrup) (DS101); anti-dumping (corn syrup) (DS132); live swine (DS203); telecommunications services (DS204); anti-dumping (electric transformers) (DS216); matches (DS232)	7
Australia	salmon (DS18); salmon (DS21); leather (DS57); subsidies (auto leather) (DS106, DS126); anti-dumping measures (paper sheets) (DS119)	6
Turkey	textiles (DS29, DS34, DS47); film tax (DS43); anti-dumping (steel and iron pipe fittings) (DS208)	5

Table AII.1 (cont'd)

Respondents	Dispute settlement cases	Total cases
Indonesia	automobiles (DS54, DS55, DS59, DS64)	4
Philippines	pork and poultry (DS74, DS102); motor vehicles (DS195); p olypropylene resins (DS215)	4
Guatemala	anti-dumping (cement) (DS60); anti-dumping (cement) (DS156)	2
Ecuador	anti-dumping (cement) (DS182); anti-dumping (cement) (DS191)	2
Egypt	import prohibition (DS205); anti-dumping (steel rebar) (DS211)	2
Hungary	export subsidies (DS35); safeguard measure (steel) (DS159)	2
Nicaragua	imports from Honduras and Colombia (I) (DS188); imports from Honduras and Colombia (II) (DS201)	2
Pakistan	patent (DS36); hides, skins and leather (DS107)	2
Peru	countervail (buses) (DS112); cigarettes (DS227)	2
Slovak Republic	dairy products (DS133); import duty (wheat) (DS143)	2
Trinidad and Tobago	anti-dumping (pasta) (DS185); anti-dumping (pasta) (DS187)	2
Colombia	safeguard (polyester) (DS181)	1
Czech Republic	import duty (wheat) (DS148)	1
Malaysia	polyethylene and polypropylene (DS1)	1
Poland	automobiles (DS19)	1
Romania	minimum import prices (DS198)	1
South Africa	anti-dumping (pharmaceuticals) (DS168)	1
Thailand	anti-dumping (metal products) (DS122)	1
Venezuela	anti-dumping (OCTG) (DS23)	1

a Portugal.
b EC, UK, Ireland.
c Belgium.
d Ireland.
e Denmark.
f Sweden.
g EC, Greece.
h Belgium, France, Greece, Ireland, Netherlands.
i EC, France.
j Belgium.

Note: The references in parenthesis, e.g. DS1, refer to the WTO document series for each case. Adopted panel and Appellate Body reports are available on the web-site of the WTO. This listing includes all requests for consultations on new dispute settlement cases; it does not include so-called "implementation panels" under Article 21.5 of the DSU.

Source: WTO Secretariat.

Table AII.2
Bound tariffs on industrial products[a]: scope of bindings and simple averages

Import Markets	Total number of tariff lines	Share of bound tariff lines[b]	Share of bound duty-free tariff lines	Share of unbound duty-free tariff lines	Share of non-ad valorem tariff lines	Simple average bound tariff
North America						
Canada	6,261	99.6	34.5	0.1	0.3	5.2
United States	7,872	100.0	39.4	0.0	4.2	3.9
Latin America						
Argentina	10,530	100.0	0.0	0.0	N.A	31.0
Brazil	10,860	100.0	0.5	0.0	0.0	30.0
Chile	5,055	100.0	0.0	0.0	0.1	25.0
Colombia	6,145	100.0	0.0	0.0	0.2	35.5
Costa Rica	1,546	100.0	0.0	0.0	N.A	44.6
El Salvador	4,922	100.0	0.0	0.0	0.0	36.9
Jamaica	3,097	100.0	0.0	0.0	0.0	50.0
Mexico	11,255	100.0	0.0	0.0	0.0	34.8
Peru	4,545	100.0	0.0	0.0	N.A	30.0
Venezuela	5,974	100.0	0.0	0.0	0.0	33.9
Western Europe						
European Union	7,635	100.0	26.9	0.0	0.5	4.1
Iceland	5,689	93.2	41.6	2.9	0.0	9.7
Norway	5,326	100.0	46.5	0.0	2.6	3.4
Switzerland	6,217	98.9	17.2	0.0	82.8	1.8
Turkey	15,479	36.3	1.4	0.8	0.1	42.6
Central and Eastern Europe						
Czech Republic	4,354	100.0	14.0	0.0	0.0	4.3
Hungary	5,896	95.4	10.4	0.2	0.1	7.4
Poland	4,354	95.8	2.2	0.0	0.0	10.4
Romania	4,602	100.0	5.8	0.0	0.0	30.8
Slovak Republic	4,354	100.0	14.0	0.0	0.0	4.3
Asia						
Australia	5,520	95.9	17.7	0.2	0.8	14.2
Hong Kong, China	5,110	23.5	23.5	76.5	0.0	0.0
India	4,354	61.6	0.0	0.4	1.1	58.7
Indonesia	7,735	93.2	0.0	1.2	0.0	38.9
Japan	7,339	99.2	47.4	0.4	3.5	3.5
Korea, Republic of	8,882	90.4	11.6	0.0	0.2	11.7
Macau, China	5,337	9.9	9.9	90.1	0.0	0.0
Malaysia	10,832	61.8	1.6	2.8	3.2	17.2
New Zealand	5,894	100.0	39.4	0.0	2.5	12.7
Philippines	5,387	58.6	0.0	0.0	4.1	26.1
Singapore	4,963	65.5	15.2	33.8	0.2	4.6
Sri Lanka	5,933	8.0	0.1	1.4	22.4	28.1
Thailand	5,244	67.9	0.0	1.2	19.7	27.5
Africa						
Cameroon	4,721	0.1	0.0	0.0	0.0	17.6
Chad	4,721	0.4	0.0	0.0	0.0	17.8
Gabon	4,721	100.0	0.0	0.0	0.0	15.5
Senegal	2,818	32.3	0.9	0.0	N.A	13.8
South Africa	11,677	98.1	7.7	0.3	1.3	17.7
Tunisia	5,087	46.3	0.0	1.0	0.0	34.0
Zimbabwe	1,929	8.8	3.0	44.7	N.A	11.3

a Excluding petroleum.
b All shares are expressed as a percentage of the total number of industrial tariff lines (column 1).
Source: WTO (2001), *Market Access: Unfinished Business*, Special Study 6.

Table AII.3
Bound tariffs on industrial products: simple averages by stage of processing and by category

Import markets	Stage of process	Wood, pulp, paper and furniture	Textiles and clothing	Leather, rubber, footwear and travel goods	Metals	Chemicals and photographic supplies	Transport equipment	Non-electric machinery	Electric machinery	Mineral products and precious stones and precious metals	Manufactured articles not elsewhere specified	Fish and fish products
North America												
Canada	Raw materials	0.2	2.5	0.3	0.1					2.7		0.6
	Semi-manufactures	0.9	11.1	5.7	1.7	4.7				1.0		0.3
	Finished products	1.9	14.5	10.3	5.2	3.9	6.8	3.6	5.2	4.4	4.2	4.6
United States	Raw materials	0.0	2.8	0.0	0.8					0.6		0.7
	Semi-manufactures	0.7	9.1	2.3	1.1	4.1				1.3		1.7
	Finished products	0.7	9.1	11.7	2.9	2.3	2.7	1.2	2.1	5.3	3.0	4.0
Latin America												
Brazil	Raw materials	20.2	35.0	34.3	35.0					34.3		35.0
	Semi-manufactures	25.8	34.8	34.4	33.3	21.6				29.4		25.6
	Finished products	31.1	34.9	35.0	33.4	26.2	33.6	32.6	31.9	34.8	33.5	34.5
Chile	Raw materials	25.0	25.0	25.0	25.0					24.8		25.0
	Semi-manufactures	25.0	25.0	25.0	25.0	25.0				25.0		25.0
	Finished products	25.0	25.0	25.0	25.0	25.0	24.9	25.0	25.0	25.0	25.0	25.0
Colombia	Raw materials	35.0	35.3	34.6	35.0					35.1		35.0
	Semi-manufactures	35.0	35.0	35.0	35.0	35.0				35.0		35.0
	Finished products	35.0	38.8	35.5	35.0	35.0	35.8	35.0	35.0	35.1	35.0	63.8
El Salvador	Raw materials	36.4	40.0	40.0	26.3					39.1		42.4
	Semi-manufactures	30.0	37.1	38.5	32.8	38.0				32.6		48.3
	Finished products	39.7	40.0	42.4	39.9	36.7	35.8	32.6	34.6	39.2	38.2	55.2
Jamaica	Raw materials	50.0	50.0	50.0	50.0					50.0		50.0
	Semi-manufactures	50.0	50.0	50.0	50.0	50.0				50.0		50.0
	Finished products	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	50.0	52.4
Mexico	Raw materials	30.1	34.2	34.8	34.1					33.7		35.0
	Semi-manufactures	34.1	35.1	34.7	34.4	35.1				33.6		33.0
	Finished products	34.6	35.0	34.9	35.0	35.4	35.8	35.0	34.1	35.0	34.6	36.0
Venezuela	Raw materials	31.8	34.7	34.9	35.0					33.8		33.4
	Semi-manufactures	32.8	35.0	33.9	32.8	34.0				33.8		34.8
	Finished products	34.6	34.9	34.6	34.4	34.3	33.6	33.2	33.9	34.6	33.4	33.5
Western Europe												
European Union	Raw materials	0.0	2.6	0.1	0.0					0.4		11.2
	Semi-manufactures	1.0	6.6	2.4	1.2	5.2				2.4		13.3
	Finished products	0.5	9.7	7.0	2.8	3.4	4.7	1.8	3.3	3.7	2.7	14.1
Iceland	Raw materials	1.9	1.1	0.3	1.6					2.3		1.5
	Semi-manufactures	6.1	3.4	8.4	2.1	1.2				5.5		0.0
	Finished products	18.1	18.2	19.1	15.3	6.5	17.1	7.0	19.4	20.9	21.9	10.4
Norway	Raw materials	0.0	0.1	0.0	0.0					0.2		0.0
	Semi-manufactures	0.2	7.8		0.3	3.0				0.0		0.0
	Finished products	0.6	9.5	4.4	2.5	2.9	3.3	2.7	2.7	1.3	2.2	30.9
Switzerland	Raw materials	1.2	1.6	0.1	0.0					1.7		0.3
	Semi-manufactures	2.9	3.9	0.8	1.1	1.5				1.5		0.2
	Finished products	1.7	5.5	3.2	1.3	1.2	2.2	0.6	0.7	1.4	1.3	1.1

Table AII.3 (cont'd)

Import markets	Stage of process	Wood, pulp, paper and furniture	Textiles and clothing	Leather, rubber, footwear and travel goods	Metals	Chemicals and photographic supplies	Transport equipment	Non-electric machinery	Electric machinery	Mineral products and precious stones and precious metals	Manufactured articles not elsewhere specified	Fish and fish products
Turkey	Raw materials	15.7	27.3	18.1	6.0					26.3		21.2
	Semi-manufactures	39.2	74.2	87.6	24.5	27.0				35.8		25.0
	Finished products	52.8	89.8	87.3	47.9	35.6	25.8	23.7	26.6	49.7	43.3	58.8
Eastern Europe												
Czech Republic	Raw materials	2.3	3.3	0.6	0.1					0.4		0.2
	Semi-manufactures	6.2	4.8	2.2	3.7	4.1				3.6		0.0
	Finished products	6.0	7.8	5.7	4.6	3.8	6.2	3.8	4.2	5.8	3.6	0.0
Hungary	Raw materials	1.6	3.1	4.6	1.4					3.2		13.9
	Semi-manufactures	5.4	7.1	6.9	3.9	5.0				4.6		22.9
	Finished products	6.6	9.6	7.2	8.0	7.2	15.9	8.4	9.5	6.6	7.8	23.6
Poland	Raw materials	3.1	5.7	7.4	2.5					2.8		14.3
	Semi-manufactures	9.0	10.1	11.2	10.2	8.6				6.3		10.8
	Finished products	8.8	16.7	13.6	10.5	9.1	16.1	8.9	9.7	10.5	11.6	27.9
Romania	Raw materials	34.0	33.4	35.0	35.0					30.4		27.1
	Semi-manufactures	30.5	32.5	30.3	32.5	31.2				35.0		28.3
	Finished products	31.3	33.1	29.7	30.0	28.7	32.1	29.5	27.3	32.0	29.3	31.8
Slovak Republic	Raw materials	2.3	3.3	0.6	0.1					0.4		0.2
	Semi-manufactures	6.2	4.8	2.2	3.7	4.1				3.6		0.0
	Finished products	6.0	7.8	5.7	4.6	3.8	6.2	3.8	4.2	5.8	3.6	0.0
Asia/Pacific												
Australia	Raw materials	0.3	1.5	4.2	0.6					2.4		0.4
	Semi-manufactures	7.0	22.9	11.5	0.8	9.8				6.0		0.0
	Finished products	8.9	35.7	22.0	11.8	7.6	15.1	9.1	13.3	11.1	7.0	3.2
Hong Kong, China	Raw materials	0.0	0.0	0.0	0.0					0.0		0.0
	Semi-manufactures	0.0	0.0	0.0	0.0	0.0			0.0	0.0		0.0
	Finished products	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
India	Raw materials	25.1	39.1	37.0	29.0					38.5		60.5
	Semi-manufactures	40.4	86.5	33.7	47.1	39.4				40.6		60.0
	Finished products	81.1	93.8	96.3	82.1	61.1	53.9	36.2	44.8	58.0	72.4	106.6
Indonesia	Raw materials	38.3	40.0	39.0	40.0					39.5		40.0
	Semi-manufactures	39.8	40.0	40.0	35.1	37.5				37.1		40.0
	Finished products	39.9	39.8	39.8	38.7	37.2	58.5	36.6	38.7	40.0	36.9	40.0
Japan	Raw materials	0.1	2.6	0.1	0.0					0.2		5.2
	Semi-manufactures	1.9	5.9	10.4	1.0	2.9				0.5		10.4
	Finished products	0.6	8.3	20.7	0.9	1.0	0.0	0.0	0.2	1.8	1.1	7.9
Korea, Republic of	Raw materials	2.1	8.1	9.4	1.2					5.6		17.8
	Semi-manufactures	7.1	14.0	11.1	4.5	6.0				8.6		20.0
	Finished products	3.6	24.5	19.8	13.2	8.2	24.6	11.1	16.1	14.9	11.4	22.5
Macau, China	Raw materials	0.0	0.0	0.0	0.0					0.0		0.0
	Semi-manufactures	0.0	0.0	0.0	0.0	0.0			0.0	0.0		0.0
	Finished products	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Table AII.3 (cont'd)

Import markets	Stage of process	Wood, pulp, paper and furniture	Textiles and clothing	Leather, rubber, footwear and travel goods	Metals	Chemicals and photographic supplies	Transport equipment	Non-electric machinery	Electric machinery	Mineral products and precious stones and precious metals	Manufactured articles not elsewhere specified	Fish and fish products
Malaysia	Raw materials	19.7	5.2	10.2	5.8					5.4		9.8
	Semi-manufactures	19.7	19.6	21.1	12.0	14.7				13.3		20.4
	Finished products	20.5	23.5	24.4	19.5	16.8	29.8	10.9	14.1	21.4	12.6	22.9
New Zealand	Raw materials	0.0	0.0	5.9	0.0					2.1		1.1
	Semi-manufactures	4.6	9.2	14.8	9.4	4.1				1.6		0.0
	Finished products	5.6	34.4	23.1	15.2	11.4	17.0	15.1	16.1	13.1	11.7	6.6
Philippines	Raw materials	13.7	14.4	20.6	10.6					17.8		24.9
	Semi-manufactures	32.5	25.7	27.1	18.8	20.8				30.3		50.0
	Finished products	37.2	31.2	40.3	33.6	28.4	26.1	22.0	26.2	35.6	29.5	41.9
Sri Lanka	Raw materials	13.1	22.6	29.6	5.0					18.9		50.1
	Semi-manufactures	31.9	40.2	43.8	9.1	11.3				11.9		50.0
	Finished products	41.9	56.7	47.8	31.4	28.4	18.3	12.8	20.4	39.0	27.1	45.8
Singapore	Raw materials	4.2	6.8	6.3	0.0					0.3		10.0
	Semi-manufactures	4.2	5.1	1.2	4.1	5.2				2.2		10.0
	Finished products	1.8	9.6	3.0	2.1	4.6	4.4	4.3	4.9	1.4	1.2	8.8
Thailand	Raw materials	8.3	29.3	28.6	28.8					17.4		8.8
	Semi-manufactures	22.3	27.6	34.7	21.4	29.7				27.9		6.9
	Finished products	24.8	30.4	35.8	31.9	28.1	38.5	23.4	30.5	33.0	29.5	27.0
Africa												
Cameroon	Raw materials	24.1	12.6	10.0	10.0					12.6		24.3
	Semi-manufactures	20.6	18.8	17.8	13.2	10.3				17.5		20.0
	Finished products	21.9	27.7	25.9	20.9	15.6	14.9	12.2	16.8	23.7	22.9	27.6
Chad	Raw materials	24.1	11.6	10.0	10.0					12.6		24.3
	Semi-manufactures	20.6	18.6	17.8	13.2	10.3				17.5		20.0
	Finished products	21.9	27.7	25.9	20.9	15.6	20.2	12.2	16.8	23.7	22.9	27.6
Gabon	Raw materials	15.0	15.0	15.0	15.0					15.0		15.0
	Semi-manufactures	15.0	15.0	15.0	15.0	15.1				16.6		15.0
	Finished products	16.5	15.1	15.0	15.6	15.2	15.0	15.2	15.0	16.8	18.5	15.0
South Africa	Raw materials	1.2	12.5	12.7	0.0					4.3		22.7
	Semi-manufactures	6.7	23.9	16.3	10.8	13.0				6.7		25.0
	Finished products	15.5	36.6	27.0	20.0	16.7	23.3	12.0	17.4	16.8	14.8	21.4
Tunisia	Raw materials	18.2	55.5	25.2	17.0					20.4		39.4
	Semi-manufactures	36.2	55.2	35.4	22.6	24.9				26.9		43.0
	Finished products	36.9	57.3	39.1	32.0	30.7	25.5	25.2	29.1	35.3	32.5	47.0

Source: WTO (2001), *Market Access: Unfinished Business*, Special Study 6, p. 36.

Table AII.4
Initiations of anti-dumping investigations by reporting WTO Member and affected exporter, 2000

Reporting WTO Member		Affected exporter	
Name	**Number**	**Name**	**Number**
Argentina	45	Argentina	2
Australia	15	Australia	4
Brazil	11	Austria	3
Canada	21	Belarus	2
Chile	5	Brazil	9
Colombia	3	Bulgaria	1
Egypt	1	Canada	1
European Union	31	Chile	6
India	41	China, P.R.	42
Indonesia	3	Chinese Taipei	14
Israel	1	Croatia	1
Korea, Rep. of	2	Czech Republic	3
Mexico	7	Egypt	1
New Zealand	10	Estonia	1
Peru	1	European Union	9
Philippines	2	France	1
South Africa	21	Germany	4
Trinidad and Tobago	1	Greece	1
Turkey	2	Hong Kong, China	1
United States	47	India	10
Uruguay	1	Indonesia	13
Venezuela	1	Iran	3
		Israel	1
Total	**272**	Italy	5
		Japan	9
		Kazakstan	3
		Korea, Rep. of	19
		Latvia	2
		Libya	1
		Lithuania	1
		Malaysia	7
		Mexico	1
		Moldova	2
		Netherlands	2
		Norway	1
		Peru	1
		Philippines	1
		Poland	5
		Portugal	1
		Romania	4
		Russia	10
		Saudi Arabia	3
		Slovak Republic	1
		South Africa	6
		Spain	6
		Thailand	10
		Turkey	7
		Ukraine	6
		United Arab Emirates	2
		United Kingdom	8
		United States	12
		Venezuela	2
		Viet Nam	1
		Total	**272**

Source: WTO Secretariat.

Table AII.5
Initiations of countervailing investigations by reporting WTO Member and affected exporter, 2000

Reporting WTO Member		Affected exporter	
Name	**Number**	**Name**	**Number**
Canada	4	Argentina	3
Peru	1	Brazil	1
South Africa	5	India	6
United States	7	Indonesia	1
		Israel	1
Total	**17**	Korea, Rep. of	1
		Pakistan	1
		South Africa	1
		Thailand	1
		United States	1
		Total	**17**

Source: WTO Secretariat.