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# Governments remain committed to open trade policies in wake of financial crisis: trade growth outstrips gains in output

The multilateral trading system has stood up well so far to the economic pressures that began with the financial crisis in a number of East Asian countries in mid-1997. At the celebrations commemorating the 50th anniversary of the multilateral trading system, held in Geneva in May 1998, heads of state and government and ministers from across a wide spectrum of the WTO's membership reaffirmed their support for the system. This assessment is firmly underscored in the ***WTO's Annual Report for 1998***, published on 3 December.

Gains in 1998 trade volume, while forecast to be smaller than the previous year, will continue to outstrip growth in overall output. For 1999, trade growth in volume terms should exceed 1998 growth levels.

Chapter I of the Report emphasizes that while the current difficulties facing the world economy clearly have their origins in the financial system, the trading system has an important role to play in helping to address these problems. The WTO provides a valuable bulwark against protectionist pressures emerging from significant changes in trade flows as a result of the crisis. It can also help to advance and anchor trade policy-related reforms in the affected economies. A notable and timely example was the successful completion in December 1997 of negotiations on further liberalization of trade in financial services. Seventy WTO Members representing 95 per cent of the global financial service market, including some of the East Asian economies most affected by the financial crisis, agreed to open their financial service sectors. The agreement deals with liberalisation of trade in

*Continued on page 2*

## Keeping markets open key to world recovery, says Ruggiero

*WTO Director-General Renato Ruggiero*

Director-General Renato Ruggiero, at the WTO members' annual overview of developments in the world trading environment held on 9 December, said that developments in the financial crisis have formed the backdrop to the organization's activities and deliberations during 1998. Although financial in origin, the financial crisis will inevtably have repercussions for world trade, he said, stressing that "only be keeping markets open and the international trade system functioning smoothly can we hope to contain the crisis, and return the world economy to the parth of growth".

In presenting his annual report (*see page 4*), the Director-General cited as one defining point for the WTO the holding of the second Ministerial Conference in Geneva, during which "in the face of mounting uncertainty and instability in world markets, we were able to reach a balanced and ambitious action programme – to guide us into the next Ministerial Conference, and towards the negotiating rendezvous that is scheduled for the end of 1999. He also cited the participation of world leaders at the 50th anniversary celebration as having raised the political profile of the organization. ☐

## Inside

# World trade

*(Continued from page 1)*

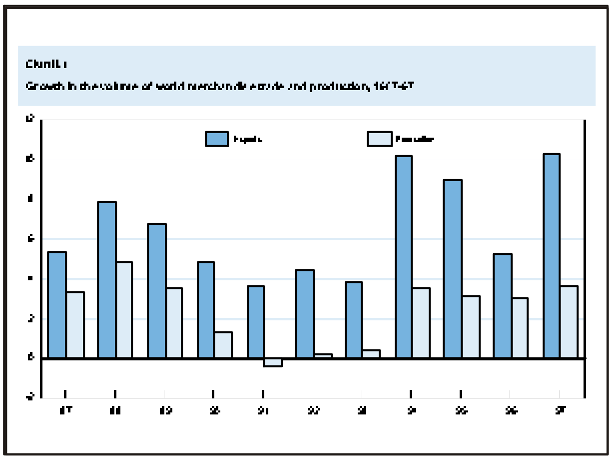
banking, insurance and other financial services. The agreement does not cover liberalisation of the capital account of WTO Members

This message was further strengthened by the results of the second WTO Ministerial Conference, also held in Geneva in May. At that meeting, member governments firmly rejected protectionism, and took the necessary decisions to prepare the third WTO Ministerial Conference, to be held in the United States from 30 November – 3 December 1999.

Chapter II of the Report reviews world trade in 1997 and the first half of 1998 in aggregate terms, as well as on a commodity and geographical basis. Detailed data on trade flows for 1997 are provided in the volume International Trade Statistics, which is issued at the same time as the Annual Report. More recent additional information on trade flows is also provided below. While real merchandise exports grew at the historically high level of 10 per cent in 1997, the growth rate for 1998 is expected to be less than half, at somewhere between 4 and 5 per cent. It may be noted that this rate is comparable to the annual average volume export growth rate in the years 1990-93. Trade growth continues to outpace overall economic growth, adding once again to the growing share of international trade in global economic activity. According to IMF estimates, world GDP growth was 4.1 per cent in 1997 and will be 2.0 per cent in 1998. The faster than expected slowdown in trade growth in 1998 is attributable primarily to economic developments in Asia. The East Asian financial crisis which began in the latter half of 1997, and the severity of the downturn in the Japanese economy in 1998, together with slower growth in the United Kingdom and Latin America led to reduced global economic activity. The downward tendency was somewhat mitigated, however, by increased momentum in continental Western Europe.

Developments in trade policy, addressed in Chapter III, underscore that despite increased difficulty for policy makers following the onset of the financial crisis and economic slowdown, the general drive toward multilateral, regional and unilateral market opening has continued in many countries. The report notes that there have been no fundamental reversals in the direction of trade policy, including in those countries most directly affected by the crisis. Nor is there any significant evidence of market-closing measures in the rest of the world, although there have been some increases in trade-defence measures in a few Members, with a view to forestalling increases in imports seen as “unfair”. Pressures in this direction may increase as exports from the countries most affected by the financial crisis pick up, and developments in this area will require careful monitoring. So far, export growth in value terms has been rather weak as volume increases were more than offset by price declines.

An examination of the process of globalization is featured in this year’s special topic, found in Chapter IV. The Report focuses on how trade liberalization has contributed to the process of globalization, and its impact vis-à-vis



other factors that have been key to the process, such as technological developments and the internationalization of business activity. The basic case for open trade as a mechanism for increasing economic growth and promoting development is also examined. The report briefly discusses some of the main policy challenges confronting governments as they manage such matters as adjustment costs, distributional questions, marginalization, the environment, labour, sovereignty, and management of the financial system.

### *Recent developments in international trade flows*

The sharper than projected deceleration of global output and trade in 1998, to about 4-5 per cent, is largely attributable to the underestimation of the recession in Japan and the deeper and more widespread repercussions of the financial crisis in East Asian countries. Growth projections made at the beginning of 1998 for the United States and Western Europe, however, are broadly accurate. Latin America’s prospects have been revised downwards, mainly due to the slump in commodity prices and to some extent a more sombre appreciation by international capital markets of the region’s near-term prospects, which led to sharply reduced net capital flows to the region since mid-year. Estimates of trade growth for 1998 remain more than usually tentative, and those for 1999 even less certain. Incomplete information for many countries, even in Western Europe, divergent regional growth rates, and the large price and exchange rate variations experienced in the course of the year give rise to unusually large error margins for trade growth estimates.

The slump in Asia’s growth contributed significantly to depressed commodity markets, with oil prices and non-fuel commodity prices falling by about 30 per cent and 15 per cent respectively on an annual average basis. Although prices of manufactured goods have continued to decline in 1998, their decrease is considerably smaller than in the case of primary products. In 1997, prices of primary products decreased less than those of manufactures. This year will be the third in a row with a decrease in the dollar prices of internationally traded goods. Average prices for total merchandise exports are falling back to the level of 1991, the lowest in the 1990s.

Expectations regarding global trade growth in 1999 have been lowered in recent months. Most forecasters regard a moderate acceleration in volume growth compared to 1998 as the most likely scenario. In value terms, the recovery should be more pronounced as price declines for primary commodities are partly reversed and the dollar is not expected to strengthen. The actual outcome will depend in large measure on developments in international capital markets, the rate of recovery in Asia and in particular Japan, and the sustainability of growth momentum in Western Europe and North America. A sharp correction of the historically-high-priced stock markets in Western Europe and North America, combined with a markedly lower dollar vis-à-vis other main currencies, are two of the major downside risks in the current projections of trade volumes.

**Growth in the value of world exports by major product group, 1990-97**

*(Billion dollars and percentage change)*

| | Value | Annual average | | | |
|---|---|---|---|---|---|
| | 1997 | 1990-97 | 1995 | 1996 | 1997 |
| **World merchandise exports*** | 5300 | **7.0** | **19.5** | 4.5 | **3.0** |
| Agricultural products | 580 | 5.0 | 17.0 | 1.5 | -1.0 |
| Mining products | 598 | 3.0 | 18.0 | 13.5 | 1.0 |
| Manufactures | 3927 | 7.5 | 19.0 | 3.5 | 4.0 |
| **World exports of commercial services** | 1310 | **8.0** | **15.0** | 6.5 | **3.0** |

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

### *Trade developments in 1998 by region*

The value of **Asia's** imports and exports continued to shrink in the third quarter at a pace similar to that of the second quarter of 1998. Intra-Asian trade continues to be most affected, falling about one quarter below the corresponding level of the preceding year. In the first nine months, Asia's exports are down by about 7 per cent, while imports contracted by an even faster 16 per cent. Imports of the five Asian countries most affected by the financial crisis (Indonesia, Korea, Malaysia, Philippines and Thailand) fell by one-third, while their exports decreased by 3 per cent. There was no pick up in the dollar value of exports noticeable in the third quarter, but some stabilization in the slowdown of imports. Japan's exports are down by 8.5 per cent in the first nine months, while imports fell more than two times faster at 19 per cent, leading to a marked rise in Japan's trade surplus. Due to the yen's recent rise vis-à-vis the dollar, the full year annual declines of export and import values are likely to be somewhat smaller than for the first three quarters.

**Latin America,** which recorded the most dynamic trade performance of all regions last year and even at the beginning of 1998, has experienced a very sharp slowdown in the course of 1998. Exports expanded by more than 10 per cent in 1997, but fell below the level of the preceding year in the third quarter of 1998. The region's import growth, which exceeded 15 per cent in 1997 and was still close to 15 per cent in the first quarter of 1998, has slowed down to about 5 per cent in the third quarter of 1998. The deceleration of import growth was widely spread across the region with Brazil – the region's largest economy and second largest importer - being most affected. Brazil's imports in the first nine months of 1998 fell by nearly 5 per cent, a dramatic turnaround from the 15 per cent increase in 1997.

**North America's** exports recorded a marked slowdown in 1998. Following an increase of nearly 10 per cent in 1997, price declines and the deceleration in volume growth led to a 5 per cent contraction of trade values in the third quarter of the current year. Import growth has also slowed down in the course of 1998, but far less than export growth. For the United States, data for the first 9 months indicate an import value growth rate of 4 per cent, while exports declined marginally. As U.S. import prices decreased by about 6 per cent and export prices by 3 per cent during that period, the difference between import and export growth is still larger in real terms (i.e. net of price changes) than in dollar value. With real import growth up close to 10 per cent – more than twice the rate of global trade expansion – and real export growth about 3 per cent higher than last year, the role of the United States in sustaining global trade expansion during the first nine months of 1998 has been very significant.

**Western Europe's** imports and exports measured in dollar terms rose both by about 2 per cent in the first nine months this year, following a small decrease in 1997. EU exports to third countries slowed down, while imports from third countries increased. EU imports rose by 5 per cent in the first half of 1998, while exports increased only 0.3 per cent. Consequently, the trade surplus of the EU with third countries was sharply reduced. Although EU intra-trade accelerated to about 3.5 per cent, its expansion remained below the rate of import growth from third countries. The stronger growth of Western Europe's trade values is largely due to exchange rate movements. The ECU depreciated vis-à-vis the US dollar by 10 per cent on average in 1997, but by only 3 per cent in the first nine months of 1998. As the ECU has strengthened considerably compared to the US dollar since August 1998, the annual average ECU/dollar rate might hardly change from the preceding year. This implies that the dollar value of Western Europe's trade in 1998 will not be depressed by exchange rate movements as was the case in 1997.

**Africa and the Middle East** are the two regions whose trade flows are most affected by the dramatic decline in commodity prices. In 1997, primary products accounted for two-thirds of Africa's and three quarters of the Middle East's merchandise exports. (Partner statistics available for the first three quarters can provide some indications of the 1998 developments: United States imports from OPEC countries and Japan's imports from the Middle East decreased by more than 30 per cent.) As indicated above, non-fuel commodity prices fell by 15 per cent on spot commodity markets, and crude petroleum by about 30 per cent. Both regions, which lagged behind in global trade growth throughout the 1990s up to 1997, are bound to fall further behind in 1998. This will be particularly true for those countries with low shares of manufactures in their total exports. Exporters of manufactures will be able to benefit from ongoing market expansion in North America and Western Europe in 1998. □

## Annual Report by the Director-General:

# Overview of developments in the international trading environment

### I. Recent trends in world trade

World trade achieved in 1997 its fastest growth rate in volume terms since the beginning of the decade as a result of continued integration of national economies and robust growth in the world's main trading entities, the United States and the European Union. The effects of the financial crisis that erupted in the second half of the year made themselves felt only in the first half of 1998, because of substantial time-lags in the transmission of monetary and financial developments into the real economy. Trade in 1997 was therefore not yet very significantly affected by the crisis. However, preliminary data show a contraction of exports in value terms in the first half of 1998. The deepening of the crisis on Southeast Asia, combined with Japan's largely unanticipated fall into recession in the first half of 1998, led the WTO to revise downwards its forecast for trade. Trade in volume terms is now expected to grow at about 4% in 1998, somewhat less than half the rate recorded in 1997.

#### *1997: Strong expansion of global trade–but storm clouds gather*

After slowing somewhat in 1996, world GDP and trade volumes expanded rapidly in 1997, at a pace faster than at any time in the decade. The volume of world merchandise trade grew 10% in 1997, compared to 5.5% in the previous year, and 6.5% on average since the beginning of the decade. World merchandise production was up by 3.5% in real terms, stimulated by the strength of manufacturing activity, which showed real growth of 4.5%. Thus the excess of trade over output growth, which narrowed in 1996, widened again in 1997, with trade volumes up at almost three times the rate of GDP growth. This increasing gap indicates the continued integration of national markets into the global economy, notwithstanding the Asian financial crisis.

The strong acceleration in trade volumes is not observed in trade values, which, in current U.S. dollar terms, increased by 3% in 1997. Among the main reasons for lower nominal growth in 1997 were low domestic inflation rates, appreciation of the U.S. dollar *vis-à-vis* the currencies of major traders in Western Europe and Asia, and weaker primary commodity prices, with falling demand in Asia playing a role.

These influences on current values notwithstanding, world merchandise exports nevertheless amounted to US$5,300 billion in 1997. Exports of manufactured goods, accounting for about three quarters of total merchandise exports, grew 11.5% in volume terms, outpacing agricultural and mining products trade, which registered export growth rates of 6.5% and 5%, respectively, in 1997.

Trade performance varied widely on a regional basis, with exchange rate developments, private capital flows

*The deepening of the crisis on Southeast Asia, combined with Japan's recession in the first half of 1998, led the WTO to revise downwards its forecast for trade.(ILO)*

and changes in relative prices being reflected in nominal trade values. The motor of trade expansion in 1997 was the Americas. Both North America and Latin America recorded a surge in imports (in particular of manufactures) linked to strong demand growth. The recovery in Western Europe also led to higher import growth in volume terms, albeit slightly under the world's average, but the depreciation of European currencies against the U.S. dollar resulted in a stagnation of Europe's trade in current U.S. dollar terms. Although the outbreak of financial turmoil started to have an impact on trade flows (both in real and nominal terms) in the second half of 1997, the repercussion on the figures for global and regional trade for the year as a whole were limited. While in U.S. dollar terms, Africa's exports and imports grew at roughly the same pace as global trade, Middle Eastern countries' trade growth was well under the world's average.

Compared to 1996, trade values in commercial services slowed in 1997. Exports of commercial services expanded by only 3%, less than half the rate in 1996 and the average for the period 1990-97. The three largest regions for trade in services, namely Western Europe, Asia and North America, saw a deceleration of both exports and imports of services. Africa and Latin America's trade in commercial services ran above the world average, in particular with imports expanding at more than twice the rate of exports.

#### *1998: The financial crisis hits trade*

The repercussions of the Asian financial crisis on global trade are only being felt after a fairly considerable time-lag, although import contraction had left a first mark on intra-regional trade and on commodity markets in the second half of 1997. Information available for the first half of 1998 shows more visible effects of the crisis on trade. According to preliminary data, world merchandise exports have declined in value terms, as a result of both a further decline in U.S. dollar prices and lower volume growth. The value of Asia's imports fell by about 15%, while exports decreased by 8%. Japan's merchandise exports decreased slightly less, by 7%, and its imports fell more than the Asian average rates. The five countries most directly affected by the financial crisis, Indonesia, the Republic of Korea, Malaysia, Thailand and the Philippines, recorded a small contraction of their combined exports in value terms, linked to the decline in U.S. dollar prices hiding a strong volume increase, due to increased competitiveness. While the strength of import volume growth in the Americas and Western Europe moderated downward trends in global trade expansion in the first half of 1998, the widening of the crisis to other emerging markets may have further depressing effects in the second half of the year.

Since the outbreak of the Asian crises in mid-1997, forecasters have continued to lower their projections for trade and output growth for 1998. World GDP growth of about 2% is now considered more likely, but this could fall further in light of some recent events, especially in Russia, which could have negative effects on trade and output. As a result, world trade volume is projected to grow by 4.1% in 1998, compared to the 10% of 1997. The deterioration of global trade and output growth is the result of a much steeper than predicted slowdown in Asia, only partially offset by stronger then predicted growth in the U.S. and continental Europe. In value terms, world merchandise trade is likely to stagnate and perhaps even decline if the U.S. dollar and oil prices remain close to their summer 1998 levels.

### *II. Trends in trade policies*

The worsening of the world's economic conditions in 1998 created more difficult conditions for the formula tion and the implementation of trade and trade-related policies. The effects of the financial and economic crisis affecting emerging markets and of the economic downturn in Japan have far from fully worked themselves through. The fall in import demand in Asia, and subsequently in other parts of the world, together with moderating domestic demand, have already had major effects on trade flows and on commodity prices. Accordingly, economic prospects for 1998 and 1999 have been revised downward in practically all countries.

There have, however, been no major trade policy reversals, including in those countries most directly affected by the financial crisis, and so far, there is little evidence of market closing in the rest of the world. Not only are multilateral commitments under the Uruguay Round agreements generally being respected, but a large majority of countries have continued to liberalize trade on a unilateral basis. This includes significant trade liberalization packages in Asia and continued m.f.n. tariff reductions in other countries.

Nevertheless, a few countries, in particular in Latin America, have introduced "pre-emptive" measures in the form of increased surveillance of imports, although their significance has remained limited. Trade frictions between major trading partners seem also to be on the rise. While these tensions are localized and often confined to long-standing issues, they indicate growing sensitivity about market access as global economic activity weakens, regional cycles diverge and current account imbalances increase. In addition, the process of regional integration seems to show some signs of slowdown. There are also somewhat worrying developments in the steel market, with new anti-dumping activity in the second half of 1998 in a context of falling prices and excess capacity. Therefore, the situation needs to be closely monitored to avoid an unwarranted proliferation of such actions, which could contribute to a negative mood for the upcoming WTO negotiations.

Overall, however, the trade environment remains largely positive. This outcome is due to the good sense of Governments and the strength of the multilateral rules, which constrain the ability to revert to trade-restrictive measures. The trading system contains checks and balances, including strengthened disciplines for the use of trade defense instruments, the prohibition of "voluntary" export restraints, and an effective dispute settlement procedure, in which both developing and developed countries have been increasingly participating. Moreover, few Governments in power today would see an advantage in returning to autarkic policies. The shock absorbing nature of the multilateral trading system is now well recognized.

In addition, the WTO has provided for a continued momentum of trade liberalization, which includes both the implementation of Uruguay Round commitments and the conclusion of new agreements. In the case of industrial products, some countries have immediately implemented their concessions, while the majority of Members are phasing in their tariff reductions as scheduled. In agriculture, non-tariff barriers (NTBs) were tariffied and liberalization is also proceeding on schedule. In textiles and clothing, the "integration" of products under the Agreement on Textiles and Clothing (ATC) has continued, with the second stage underway from 1 January 1998. The use of the ATC's transitional safeguards has decreased considerably, from 24 occasions in 1995 to nine cases so far in 1998. The outcome of these events is that the scope of quantitative restrictions maintained by both industrialized and developing countries has been reduced significantly and the level of tariffs on manufactures is steadily declining.

Moreover, in the recent past, new commitments have been undertaken by 44 participants, including two non-members of the WTO, on goods in the WTO Declaration on Trade in Information Technology Products (the ITA), by 70 Members on services in the Agreement on Trade in Financial Services—an agreement signed *after* the Asian crisis broke—and 69 in the Agreement on Telecommunication Services. Participants in these agreements account for around 93% of world trade in information technology products and telecommunication services and over 95% of world trade in financial services. In addition, a total of 22 Members made new "zero for zero" commitments on a range of pharmaceutical products. Altogether, these agreements greatly extended the package of commitments undertaken in the Uruguay Round and will significantly increase the scope of duty-free trade in industrial goods and of liberalized trade in two important services sectors.

Recent Trade Policy Reviews confirm that the momentum for trade liberalization, combining multilateral initiatives, regional agreements in which some provisions are extended on an m.f.n. basis, and unilateral trade reforms, has generally been maintained. For example:

Despite fears that the economic downturn in Asia and consequent loss of jobs and related social problems might lead to an upsurge in protectionism, most countries have accepted, either unilaterally, as part of structural adjustment programmes, or as a result of recent sectoral negotiations in the WTO, substantial liberalization—and commitments of further liberalization—of their trade and investment policies. While a few countries have increased tariffs selectively, in general countries in South-East Asia have not used extensively the lee way allowed by the gap between bound and applied tariffs to raise the latter. One country has introduced exchange controls, but no other has followed suit. Other WTO Members in the region, such as Hong Kong, China and Singapore have continued to pursue their traditionally open trade policies; and there is no evidence of major backtracking in China's trade policy, although a few measures limiting foreign direct investment have been introduced in recent weeks.

- In South Asia, India has reduced import duties on some essential agricultural commodities, lifted quantitative restrictions on imports of more than 2000 products from a South Asia regional grouping, and relaxed foreign investment restrictions pertaining to several sectors.
- Japan has continued to liberalize trade on an m.f.n. basis through Uruguay Round concessions, participation in the ITA and other sectoral initiatives; indeed, it made a commitment, under APEC provisions, to accelerate the application of its Uruguay Round concessions by up to two years. At the same time, in their review of Japan's trade policies, participants in the Trade Policy Review Body (TPRB) clearly stressed the need for stimulation of the Japanese economy through fiscal and structural reforms, and for continuing domestic deregulation and reform, particularly in the financial sector, as essential complements to trade liberalization and to each other.
- Liberalization in Latin America has become more complex as a unilateral process has given way increasingly to regionally-oriented trade liberalization. In some cases, this is coupled with a continuation of unilateral reductions in tariffs and other measures; however, concerns have been expressed over recent increases in some tariffs and the introduction of administrative and technical measures against imports.
- Transition economies have generally continued their process of economic transformation, albeit in difficult economic and social circumstances. While no major backtracking in trade polices has been observed to date, the situation in Russia will have to be monitored closely in the coming months. For countries in central and eastern Europe, the transition process is closely linked to the objective of joining the European Union (EU). As a result of the implementation of (free-trade) Association Agreements, most bilateral trade is already duty and quota-free. The liberalization of measures such as quantitative restrictions has largely proceeded on an m.f.n. basis.

*The integration of African countries into the multilateral system has deepened, partly as a result of the strong emphasis of the WTO – in cooperation with sister organizations – on technical cooperation activities.(ILO Photo)*

- The integration of African countries into the multilateral system has deepened, partly as a result of the strong emphasis of the WTO – in cooperation with sister organizations – on technical cooperation activities. In this context, the monitoring, and thus transparency, of African countries' trade policies has been enhanced as a result of the increasing number of trade policy reviews conducted in recent months.
- By and large, industrialized countries (including the major economies) have continued their progress towards more liberal trade policies, under the combined effects of WTO implementation in areas such as tariff reduction or the gradual elimination of non-tariff barriers, enlarged m.f.n. commitments through the ITA and new agreements in services, and, when it leads to greater market access for m.f.n. partners, regional integration. However, certain sectors continue to benefit from a high level of protection, including agriculture, and textiles and clothing, and the continued expansion of preferential agreements is bound to cause some concern to m.f.n. partners because of the potential for trade diversion.

The positive developments listed above should not detract attention from longstanding areas of concern in the area of market access. Tariffs on a substantial number of industrial products, such as steel, textiles and clothing, footwear, leather, travel goods and transport equipment, in particular automobiles, remain generally higher than average levels in both developing and developed countries. Furthermore, the tariffication process in agriculture and agro-industrial products has – while increasing clarity and transparency – led to extremely high duties in many instances. In addition, specific duties, which tend to conceal high *ad valorem* equivalents, afford increased real protection against those imported products whose prices have declined as a consequence of currency devaluation in South-East Asia and elsewhere.

Although recent anti-dumping actions in the steel market have attracted attention, the information available does not indicate a widespread surge in anti-dumping investigations in response to economic turmoil, particularly in investigations directed at imports from some regions and countries. Reported initiations of anti-dumping investigations through the first half of 1998 do not indicate any significant increase with respect to Asian and developing countries, although the overall level of anti-dumping activity has grown since the low point recorded in 1995. Indeed, the country and sectoral distribution of investigations initiated remains largely the same as in the past, and does not show any significant increases in actions directed at particular exporters or products. The fact that investigations do not appear to have increased significantly as a result of currency devaluations in South-East Asia and elsewhere is perhaps explained by the fact that, contrary to widespread notions, currency devaluations do not in themselves give rise to or substantiate allegations of dumping. This is because devaluations affect both domestic and export prices in equal proportions, and thus cannot be the source of the price differential necessary for a finding of dumping. Moreover, as many countries and industries, at least until quite recently, have been enjoying satisfactory growth and general economic health, domestic industries may find it difficult to make the necessary showing of the existence or threat of material injury for the initiation of investigations and imposition of measures.

National laws on anti-dumping are the subject of multilateral review in the WTO for consistency with the strict substantive and procedural requirements of the WTO Agreement, and anti-dumping measures can be challenged through the WTO's dispute settlement procedures, but there is little evidence of significant problems, as expressed concerns and challenges have been few. One notable recent development has been the increased use of anti-dumping measures by developing countries, which has, in the past few years, equalled or overtaken that of developed countries. However, developing countries are subject to the same WTO requirements in the investigation and imposition of measures as developed countries, and have generally shown similar patterns with respect to country and sectoral distribution of investigations. Overall, the use of contingent trade relief measures by developed and developing countries alike has not negated the movement towards trade liberalization. While experience indicates that their use is highly cyclical, and tends to increase at times when specific commodity markets enter downturns, information available through the first half of 1998 does not indicate any immediate basis for alarm. Nonetheless, the use of these types of measures by all countries needs to be monitored closely in the period ahead.

During the past year, the march towards the strengthening of regional trade agreements has continued on all continents. Regional arrangements, including customs unions, free-trade agreements, or other trade-related initiatives such as APEC, have become the norm in international trading relations, and political impetus to increase their number and scope has anything but diminished. Examples in 1998 include:

- In Africa, the new Economic and Monetary Union gathering Francophone countries of West Africa plans, among objectives, to bring into effect a common external tariff; in southern Africa, negotiations to create a free-trade area among the members of the Southern African Development Community (SADC) are ongoing; within this group, the Southern Africa Customs Union (including Botswana, Lesotho, Namibia, South Africa and Swaziland) are renegotiating their customs union's relations. The East African Cooperation member States are continuing their progress towards an eventual economic and monetary union. The African members of the Lomé Convention are currently engaged in negotiations on a new EU-ACP Convention.
- In the Americas, an agreement has been signed between 34 countries to create the Free-Trade Area of the Americas (FTAA) by 2005. In addition, progress towards the completion of a common external tariff among MERCOSUR members has continued. Other agreements involve individual countries in the regions or pre-existing sub-regional groupings (for example, the recent agreements between MERCOSUR and the Andean Community, and between Chile and Canada).
- In Asia, the process of economic integration under the ASEAN has continued apace. As a direct response to the crisis, ASEAN members decided to accelerate tariff liberalization and to further open to foreign direct investment. The acceleration of the CEPT-AFTA tariff reduction scheme will be implemented on a voluntary and "best efforts" basis. In addition, while APEC members have been working on a plan for accelerated tariff reductions on nine fast-tracked sectors, including toys, chemicals and fish and fisheries products, it was recently decided to send the package instead to the WTO for further negotiations. In Central Asia, five newly independent republics (Kazakhstan, Kyrgyz Republic, Tadjikistan, Turkmenistan and Uzbekistan) have joined with Iran, Pakistan and Turkey to develop trade links.
- In Europe, preparations for the future enlargement of the European Union are moving ahead. The European Council has selected, in a first step, Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia for negotiations for EU Membership. Accession negotiations are scheduled to start in 1999. The negotiation of a new generation of free-trade agreements with Mediterranean countries has also progressed, and the customs union with Turkey is in place. In addition to these moves, a number of agreements have been signed between European Free Trade Association (EFTA) member States and countries in Central and Eastern Europe and the Mediterranean. Finally, the EU is involved in most inter-continental initiatives, including plans for a free-trade agreement with MERCOSUR, Mexico, Canada and South-Africa. Under the new Transatlantic Economic Partnership, the EU and the United States are working on the elimination of non-tariff barriers to trade and a better coordination of their positions in the WTO.

As of mid-1998, there were more than 100 regional trade agreements in force. The interface between regional and multilateral activities has become one of the main issues for the trading system. While recent Trade Policy Reviews indicate that, by and large, regional integration and multilateral negotiations have gone ahead side by side in the recent years, the question of the gaps between m.f.n. and preferential tariffs, the differences between regional and international standards, the multiplication of rules of origin and other market access issues need to be addressed. It was generally recognized, during the review of the EU's trade policies, that the process of economic integration under the single market, by providing for the harmonization of national rules in areas such as customs, industrial standards, competition policy, state aid, and services, resulted in market access improvement for non-EU suppliers. In some cases, however, changes in national rules in an acceding country resulting from accession to a regional grouping may have adverse effects on outsiders, particularly if these new rules clearly encourage domestic producers to trade within the regional grouping. Such considerations could be important in the context of future multilateral negotiations. As regional initiatives progress, it is important that the multilateral trading system set itself an ambitious agenda, reaffirm the pre-eminence of its rules, and ensure that the opportunities generated by trade liberalization are both evenly spread and universally recognized.

The pace and direction of WTO activities in the first half of 1998 was strongly influenced by preparations for the 2nd Ministerial Conference and the commemoration of the 50th anniversary of the multilateral trading system. The two events were held in Geneva in May 1998. The focus of work during the second half of 1998 concerned the work programme outlined in the Ministerial Declaration, and preparations for the Third Session of the Ministerial Conference, to be held in the United States at the end of 1999.

Details of WTO activities are spelled out in Chapter V of the Annual Report and complemented by the various Council and Committee reports to the WTO's General Council. This section, therefore, focuses mainly on the areas mentioned above.

During the first part of the year, the General Council finalized its report and prepared a draft Ministerial Declaration and draft Declaration on Global Electronic Commerce. The report and draft declarations were forwarded to and adopted by the 2nd Ministerial Conference. Ministers noted that the 50th anniversary came at a time when the economies of a number of WTO Members were experiencing difficulties as a result of disturbances in financial markets. In their Declaration, Ministers rejected the use of any protectionist measures and agreed to work together in the WTO, and with the IMF and World Bank, to improve the coherence of international economic policy-making, thereby maximizing the contribution that an open, rules-based trading system can make to fostering stable growth for economies at all levels of development.

Ministers stated their deep concern over the marginalization of least-developed countries and certain small economies. They welcomed the report of the Director-General on the follow-up of the Plan of Action for least-developed countries agreed in Singapore in December 1996 and committed themselves to improving market access conditions for products exported by the least-developed countries on as broad and liberal a basis as possible.

Full and faithful implementation of the WTO Agreement and Ministerial Decisions was considered by Ministers to be imperative for the credibility of the multilateral trading system and indispensable for maintaining the momentum for expanding global trade, fostering job creation and raising standards of living in all parts of the world. Ministers reaffirmed their commitment to respect the existing schedules for reviews, negotiations and other work.

*The second Ministerial Conference and the 50th anniversary commemoration were 1998 highlights for the WTO.*

In July 1998, the General Council initiated discussions to establish a process to ensure full and faithful implementation of the existing agreements and to prepare for the Third Session of the Ministerial Conference. The General Council met in Special Session in September 1998 to begin work on its recommendations concerning the implementation of existing agreements and decisions and to ensure that the negotiations mandated in Marrakesh in April 1994 begin on schedule. They also considered future work on programmes initiated in Singapore and recommendations on the follow-up to the High-Level Meeting on Least-Developed Countries.

Work has also begun on a comprehensive work programme to examine all trade-related issues relating to global electronic commerce. Members agreed at the 2nd Ministerial Conference in May 1998 not to impose customs duties on electronic transmissions pending their work and to report to the 3rd Ministerial Conference at the end of 1999.

As a follow-up to the 1998 Ministerial Declaration's recognition of the importance of enhancing public understanding of the benefits of the multilateral trading system and indicates Members' wish to consider how to improve transparency in WTO operations, the General Council intensified its work in this area, especially in regard to the derestriction of WTO documents. In July 1998, the Director-General announced enhanced cooperation between the WTO and non-governmental organizations, including regular briefings, a special section on the WTO's website for NGOs and a procedure allowing NGOs to submit to the Secretariat position papers and newsletters which would be made available to Members on demand.

Further work was undertaken in 1998 in the three working groups established in Singapore in 1996, mainly the working groups on trade and investment, transparency in government procurement and the interaction between trade and competition policy. The groups on trade and investment and on the interaction between trade and competition policy reported to the General Council at the end of 1998 while the group on improving transparency in government procurement continued its examination of transparency in government procurement practices in order to develop elements for inclusion in an appropriate future agreement.

The Council for Trade in Goods started to undertake exploratory and analytical work on the simplification of trade procedures in order to assess the scope for WTO rules on trade facilitation. At a symposium on trade facilitation held in March 1998, views were exchanged between representatives from private enterprises and inter-governmental organizations. The Goods Council decided in July 1998 to hold regular informal meetings to continue the work on trade facilitation, including import and export procedures and requirements, physical movement of consignments and technical cooperation.

Participants agreed to extend the ITA II negotiations until 20 November 1998 after the Chairman reported that his consultations had indicated that agreement could be achieved by that date. The Committee agreed to resume work on two other items in its programme, non-tariff barriers and divergences in classification of IT products, after the conclusion of the IT negotiations.

The fourth protocol to the GATS on basic telecommunications entered into force on 5 February 1998. The fifth protocol to the GATS on financial services was opened for acceptance as of 27 February 1998 and will remain open for ratification and acceptance until 29 January 1999. The GATS Council, meanwhile, agreed to extend the negotiations on the question of emergency safeguard measures until 30 June 1999.

In 1998, 39 new requests for consultations were received by the Dispute Settlement Body (up to 1 November), bringing the total to 150 requests since the WTO's establishment. In its report to the 1998 Ministerial Conference, the Chairman of the DSB stated that the role of the DSB in managing the settlement of disputes within the WTO had continued to be positive. The DSB's work reflected the fact that Members continued to show confidence in the dispute settlement mechanism. The proper functioning of the DSB clearly contributed to the strengthening and consolidation of the WTO and the multilateral trading system. Also in 1998, the DSB began a full review of rules and procedures under the Dispute Settlement Understanding.

Two WTO plurilateral trade agreements - the International Dairy Agreement and the International Bovine Meat Agreement – were terminated on 1 January 1998. The Agreement on Government Procurement is the only remaining plurilateral agreement in the WTO. Although the plurilateral Agreement on Trade in Civil Aircraft is part of the WTO Agreement, it remains outside the WTO framework. Since November 1997, attempts to adapt the provisions of the Agreement on Trade in Civil Aircraft to the WTO framework have proven unsuccessful.

The relations of the WTO with the IMF and the World Bank have been developed under the WTO's agreements with the two organizations. In October 1998, the Managing Director of the IMF, the President of the World Bank, and the Director-General of the WTO issued a report on Coherence; this was in accord with the Ministerial Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking. During 1998, cooperation on technical assistance with the IMF, the World Bank, UNCTAD, the ITC and UNDP has been reinforced in regard to technical assistance initiatives for least-developed countries.

*A WTO Reference Centre is established in Addis Ababa in December--the 38th such Centre linking electronically developing countries with the organization.(B. Allemby)*

Of the 32 working parties established to examine applications for WTO membership, two completed their work in 1998. The General Council adopted the protocols of accession and the working party reports for the Kyrgyz Republic and Latvia at its October session. Ratification by the said governments had not been notified to the Secretariat by end of October. Several other working parties were deemed to be close to completing their work. In the Declaration of May 1998, Ministers welcomed the progress made in the accession working parties and renewed their resolution to ensure that the accession processes proceed as rapidly as possible. They recalled that accession to the WTO requires full respect of WTO rules and disciplines as well as meaningful market-access commitments on the part of the acceding candidates.

The higher political profile of our Organization requires improving contact and understanding of its work in the world we exist to serve. To this end, informal dialogue with non-governmental organizations has been actively pursued within the guidelines set down by Members, notably through a series of initiatives by the Director-General. He has held a number of meetings with a wide range of NGOs, and invited them to suggest ways of improving our dialogue. Furthermore he announced a package of measures in July, including the establishment of an NGO Forum on the WTO's highly successful website (The statistics on the use of the WTO Internet Site show that a new usage record was set in October 1998, when a total of 57,823 individual computers logged onto the site, an increase of 10,000 over the previous month)., aimed at making the WTO more accessible to civil society while respecting its intergovernmental character. These initiatives will be intensified in 1999 with the holding in March of two high-level gatherings of government officials, NGOs and academics to discuss Trade and Environment and Trade and Development, respectively. □

# WTO adopts disciplines on domestic regulation for the accounting sector

The WTO's Council for Trade in Services, on 14 December, adopted the Disciplines on Domestic Regulation in the Accountancy Sector which have been developed by the Working Party on Professional Services. The disciplines are to be applicable to all WTO Member who have scheduled specific commitments for accountancy under the General Agreement on Trade in Services (GATS). This is the first step in the development of GATS Disciplines on the domestic regulation of services. Most professional services, and many others, are heavily regulated, and for goods reasons: but it is also true that regulations can be an unnecessary, and usually unintended, barrier to trade in services. The GATS calls for the development of disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute such barriers.

The disciplines now adopted, in addition to transparency requirements and other general provisions, contain provisions on the administration of licensing requirements, qualification requirements and procedures, and technical standard for the accountancy profession. A key provision is the general requirement that measures taken for these purposes should not be more trade-restrictive than is necessary to fulfil a legitimate objective. Examples of legitimate objectives specified in the Disciplines are the protection of consumers (including all users of accounting services and the public generally), ensuring the quality of the service, ensuring professional competence, and ensuring the integrity of the profession. The disciplines relate to measures taken by governments and to those taken by non-governmental authorities exercising delegated powers: in many countries the accountancy profession is regulated by professional associations operating under delegated powers.

*A key provision is the general requirement that measures taken should not be more trade-restrictive than is necessary to fulfil a legitimate objective. (ILO Photo)*

The disciplines will not have immediate legal effect. WTO Members, as stated in today's *Decision on Disciplines Relating to the Accountancy Sector*, will continue their work on domestic regulation in the context of the Working Party on Professional Services (WPPS), aiming to develop general disciplines for professional services while retaining the possibility to develop additional sectoral disciplines. Before the end of the forth coming round of services negotiations, which commence in January 2000, all the disciplines developed by the WPPS are to be integrated into the GATS and will then become legally binding. The decision by the Council includes a "standstill provision", effective immediately, under which all WTO Members, including those without GATS commitments in the accountancy sector, agree, to the fullest extent consistent with their existing legislation, not to take measures which would be inconsistent with the accountancy disciplines. ☐

## DISCIPLINES ON DOMESTIC REGULATION IN THE ACCOUNTANCY SECTOR

### I. OBJECTIVES

1. Having regard to the Ministerial Decision on Professional Services, Members have agreed to the following disciplines elaborating upon the provisions of the GATS relating to domestic regulation of the sector. The purpose of these disciplines is to facilitate trade in accountancy services by ensuring that domestic regulations affecting trade in accountancy services meet the requirements of Article VI:4 of the GATS. The disciplines therefore do not address measures subject to scheduling under Articles XVI and XVII of the GATS, which restrict access to the domestic market or limit the application of national treatment to foreign suppliers. Such measures are addressed in the GATS through the negotiation and scheduling of specific commitments.

### II. GENERAL PROVISIONS

2. Members shall ensure that measures not subject to scheduling under Articles XVI or XVII of the GATS,[1] relating to licensing requirements and procedures, technical standards and qualification requirements and procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary barriers to trade in accountancy services. For this purpose, Members shall ensure that such measures are not more trade-restrictive than necessary to fulfil a legitimate objective. Legitimate objectives are, *inter alia*, the protection of consumers (which includes all users of accounting services and the public generally), the quality of the service, professional competence, and the integrity of the profession.

### III. TRANSPARENCY

3. Members shall make publicly available, including through the enquiry and contact points established under Articles III and IV of the GATS, the names and addresses of competent authorities (i.e. governmental or non-governmental entities responsible for the licensing of professionals or firms, or accounting regulations).

4. Members shall make publicly available, or shall ensure that their competent authorities make publicly available, including through the enquiry and contact points:

(a) where applicable, information describing the activities and professional titles which are regulated or which must comply with specific technical standards;

(b) requirements and procedures to obtain, renew or retain any licences or professional qualifications and the competent authorities' monitoring arrangements for ensuring compliance;

(c) information on technical standards; and

(d) upon request, confirmation that a particular professional or firm is licensed to practise within their jurisdiction.

5. Members shall inform another Member, upon request, of the rationale behind domestic regulatory measures in the accountancy sector, in relation to legitimate objectives as referred to in paragraph 2.

6. When introducing measures which significantly affect trade in accountancy services, Members shall endeavour to provide opportunity for comment, and give consideration to such comments, before adoption.

7. Details of procedures for the review of administrative decisions, as provided for by Article VI:2 of the GATS, shall be made public, including the prescribed time-limits, if any, for requesting such a review.

**IV. LICENSING REQUIREMENTS**

8. Licensing requirements (i.e. the substantive requirements, other than qualification requirements, to be satisfied in order to obtain or renew an authorization to practice) shall be pre-established, publicly available and objective.

9. Where residency requirements not subject to scheduling under Article XVII of the GATS exist, Members shall consider whether less trade restrictive means could be employed to achieve the purposes for which these requirements were set, taking into account costs and local conditions.

10. Where membership of a professional organisation is required, in order to fulfil a legitimate objective in accordance with paragraph 2, Members shall ensure that the terms for membership are reasonable, and do not include conditions or pre-conditions unrelated to the fulfilment of such an objective. Where membership of a professional organization is required as a prior condition for application for a licence (i.e. an authorization to practice), the period of membership imposed before the application may be submitted shall be kept to a minimum.

11. Members shall ensure that the use of firm names is not restricted, save in fulfilment of a legitimate objective.

12. Members shall ensure that requirements regarding professional indemnity insurance for foreign applicants take into account any existing insurance coverage, in so far as it covers activities in its territory or the relevant jurisdiction in its territory and is consistent with the legislation of the host Member.

13. Fees charged by the competent authorities shall reflect the administrative costs involved, and shall not represent an impediment in themselves to practising the relevant activity. This shall not preclude the recovery of any additional costs of verification of information, processing and examinations. A concessional fee for applicants from developing countries may be considered.

**V. LICENSING PROCEDURES**

14. Licensing procedures (i.e. the procedures to be followed for the submission and processing of an application for an authorization to practise) shall be pre-established, publicly available and objective, and shall not in themselves constitute a restriction on the supply of the service.

15. Application procedures and the related documentation shall be not more burdensome than necessary to ensure that applicants fulfil qualification and licensing requirements. For example, competent authorities shall not require more documents than are strictly necessary for the purpose of licensing, and shall not impose unreasonable requirements regarding the format of documentation. Where minor errors are made in the completion of applications, applicants shall be given the opportunity to correct them. The establishment of the authenticity of documents shall be sought through the least burdensome procedure and, wherever possible, authenticated copies should be accepted in place of original documents.

16. Members shall ensure that the receipt of an application is acknowledged promptly by the competent authority, and that applicants are informed without undue delay in cases where the application is incomplete. The competent authority shall inform the applicant of the decision concerning the completed application within a reasonable time after receipt, in principle within six months, separate from any periods in respect of qualification procedures referred to below.

17. On request, an unsuccessful applicant shall be informed of the reasons for rejection of the application. An applicant shall be permitted, within reasonable limits, to resubmit applications for licensing.

18. A licence, once granted, shall enter into effect immediately, in accordance with the terms and conditions specified therein.

**VI. QUALIFICATION REQUIREMENTS**

19. A Member shall ensure that its competent authorities take account of qualifications acquired in the territory of another Member, on the basis of equivalency of education, experience and/or examination requirements.

20. The scope of examinations and of any other qualification requirements shall be limited to subjects relevant to the activities for which authorization is sought. Qualification requirements may include education, examinations, practical training, experience and language skills.

21. Members note the role which mutual recognition agreements can play in facilitating the process of verification of qualifications and/or in establishing equivalency of education.

**VII. QUALIFICATION PROCEDURES**

22. Verification of an applicant's qualifications acquired in the territory of another Member shall take place within a reasonable time-frame, in principle within six months and, where applicants' qualifications fall short of requirements, shall result in a decision which identifies additional qualifications, if any, to be acquired by the applicant.

23. Examinations shall be scheduled at reasonably frequent intervals, in principle at least once a year, and shall be open for all eligible applicants, including foreign and foreign-qualified applicants. Applicants shall be allowed a reasonable period for the submission of applications. Fees charged by the competent authorities shall reflect the administrative costs involved, and shall not represent an impediment in themselves to practising the relevant activity. This shall not preclude the recovery of any additional costs of verification of information, processing and examinations. A concessional fee for applicants from developing countries may be considered.

24. Residency requirements not subject to scheduling under Article XVII of the GATS shall not be required for sitting examinations.

**VIII. TECHNICAL STANDARDS**

25. Members shall ensure that measures relating to technical standards are prepared, adopted and applied only to fulfil legitimate objectives.

26. In determining whether a measure is in conformity with the obligations under paragraph 2, account shall be taken of internationally recognized standards of relevant international organizations[2] applied by that Member.

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[1] The texts of GATS Aricles XVI and XVII is reproduced in an appendix to this document.

[2] The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

# Discussion develops on geographical indications

During its 1–2 December meeting, the body administering the WTO's intellectual property agreement, the Council for Trade-Related Intellectual Property Rights (TRIPS), discussed at some length a proposed international register of geographical indications.

The focus of the discussion was a proposal from the European Union for a multilateral system for registering geographical indications — the use of place names or words associated with a place to identify the origin, type and quality of a product. Among the issues debated was whether negotiations on setting up the system should concentrate on wines or include spirits and other products.

The TRIPS Council also started preparations for a review of a provision (Article 27.3(b)) of the TRIPS Agreement that allows countries to exempt certain plant or animal inventions from patentability.

And it took first steps to prepare its contribution to WTO work on electronic commerce and trade facilitation.

### Geographical indications

The EU's proposal comes under an article (23.4) of the TRIPS Agreement which says WTO members will negotiate a multilateral system for notifying and registering protected geographical indications for wines. (The article does not deal with the separate issue of negotiating enhanced protection for geographical indications.)

It proposes including spirits, with the possibility of adding other products at a later stage. Participation (submitting names for registration) would be voluntary. However, products accepted for registration would be protected in all WTO member countries, although the method each country uses would follow its existing practice — there would be no need to change countries' laws, the EU says.

Countries could oppose registration, for example on the grounds that the name in question is used so commonly that it has become a generic term. Only countries successfully opposing registration would be exempt from having to protect the geographical indication, the EU's proposal says.

The purpose is "transparency and clarity", the EU stressed. The debate covered the following issues:

***Scope — wines alone, or spirits and other products as well?*** In the meeting, a number of countries cautioned against being over-ambitious. They included the United States, Australia, Japan, Republic of Korea, Canada, Chile and Hong Kong.

Some said the new multilateral system should not increase countries' burdens and obligations, pointing out that under the EU's proposal each country would have to scrutinize every name submitted for registration. Others emphasized the fact that the agreement only obliges countries to negotiate a system for wines.

Countries in favour of including other products included Iceland (for fish), Czech Republic, Morocco (food and handicrafts), India (expressing in general, a "strong interest"), Venezuela (crafts and industrial products), Cuba (agricultural and other products), Turkey and Nigeria.

***Voluntary participation:*** Art 23.4 speaks of voluntary participation. Some countries questioned whether the EU's interpretation of "voluntary" is correct when all WTO members would be required to protect names accepted for registration.

***Administration and disputes:*** Several countries wanted to know more about these, for example who would judge whether a name can be registered and whether disputes would be handled in the WTO's Dispute Settlement Body. The EU said these and other details would have to be worked out as discussions about the proposal progress.

The United States said it would shortly table its own proposal.

### Plant and animal inventions

The provisions of the TRIPS Agreement allow certain plant and animal inventions (except, for example, micro-organisms) to be exempt from patent protection. How-

### Existing laws: vastly different approaches

Countries differ considerably in the way their laws handle geographical indications. This is reflected in responses from countries now implementing the TRIPS Agreement — mainly developed countries — to a WTO questionnaire.

Some have specific geographical indications laws. Others use trademark law, consumer protection law, marketing law or common law or combinations of these.

Some have formal lists of registered geographical indications. Others do not, preferring to rely on court case histories (based on criteria such as consumer protection) to identify where problems have arisen and been sorted out.

Some only recognize place names. Others accept other names that are associated with a place. As a result, the criteria for providing protection also differ. □

### "Mailbox" and "exclusive marketing rights"

If a developing country did not provide product patent protection in a particular area of technology when the TRIPS Agreement came into force (1 January 1995), it has up to 10 years to introduce the protection.

But for pharmaceutical and agricultural chemical products, the country must accept the filing of patent applications (provide a "mailbox") from the beginning of the transitional period, though the patent need not be granted until after the end of this period.

If the government allows the relevant pharmaceutical or agricultural chemical to be marketed during the transition period, it must — subject to certain conditions — provide an exclusive marketing right for the product for five years, or until a product patent is granted, whichever is shorter.

The TRIPS Agreement requires patent protection to last for at least 20 years from the time the application was filed. □

ever, plant varieties have to be protected either by patent or by a special (*sui generis*) law. These provisions are due for review next year (1999).

The Council is now starting its initial, fact-finding step. The chairman, Ambassador István Major of Hungary, concluded that the meeting had decided —subject to confirmation by one developing country— that:

- members already under obligation to apply the provisions should be asked to provide information on how they are doing this,
- those not under obligation could also supply information voluntarily,
- the Secretariat should supply an "illustrative list" of questions for these, and
- UPOV (International Union for the Protection of New Varieties of Plants), FAO (Food and Agriculture Organization) and the Secretariat of the Biodiversity Convention should be invited to supply information.

### Pharmaceuticals and agricultural chemicals

The issue here is how countries are applying the "mailbox" and exclusive marketing rights provisions (Articles 70.8 and 70.9) for pharmaceuticals and agricultural chemicals.

The US has distributed a set of questions addressed to Argentina, Egypt, Paraguay and Uruguay.

### Incentives for technology transfer to LDCs

Article 66.2 of the TRIPS Agreement says developed countries must provide incentives for their enterprises and institutions to transfer technology to least developed countries (LDCs) in order to enable these countries "to create a sound and viable technological base".

Haiti, speaking as "the only least developed country in the Americas" asked how developed countries are fulfilling their obligation. Venezuela, Morocco, Pakistan and the Philippines supported Haiti.

The council agreed that Haiti's question should be circulated informally and that developed countries should be invited to reply.

### Non-violation complaints

GATT provisions allow countries to use raise a complaint in the WTO Dispute Settlement Body if they think their rights have been impaired, even if an agreement has not been violated.

Under the TRIPS Agreement, non-violation complaints are not allowed until the end of 1999. Some countries want this moratorium extended.

Korea, Canada and India spoke in favour of extending it. Japan and the United States said it should lapse. ASEAN (through the Philippines) said they were not ready to state their position.

The Secretariat will prepare a factual note on this issue and the discussions will continue at the next meeting.

### Electronic commerce

The Council began preparations to report on electronic commerce issues related to TRIPS to the General Council in July. A representative of the World Intellectual Property Organization described work in WIPO on electronic commerce and the separate but linked issue of intellectual property in digital form.

> ### What products?
>
> Examples of some geographical indications that are protected in some developed countries:
>
> - **Bulgaria**: 192 local appellations of origin registered, e.g. Bulgarian yoghurt, Trami ner from Khan Kroum (wine), Merlou from Sakar (wine)
> - **Canada**: Canadian Rye Whisky, Canadian Whisky, Fraser Valley, Okanagan Valley, Similkameen Valley, Vancouver Island
> - **Czech Republic**: Beers - Pilsen, Budweis; Others: various vines, liqueurs, Saaz hops, Auscha hops, Jablonec jewellery, Bohemia crystal, Vamberk lace
> - **European Union**: Wines - Champagne, Sherry, Porto, Chianti, Samos, Rheinhessen, Moselle Luxembourgeoise, Mittleburgenland; Spirits: Cognac, Brandy de Jerez, Grappa di Barolo, Berliner Kümmel, Genièvre Flandres Artois, Scotch Whisky, Irish Whiskey, Tsikoudia (from Crete); Other products: Newcastle brown ale, Kentish ale, Kentish strong ale, Rutland bitter, Gloucestershire/Herefordshire/Worcestershire cider/perry, Scottish beef, Orkney beef, Orkney lamb, Jersey Royal potatoes, Cornish Clotted Cream, Cabrales, Roquefort, Gorgonzola, Aziete de Moura, Olive de Kalamata, Opperdoezer Ronde, Wachauer Marille, Danablu, Lübecker Marzipan, Svecia, Queijo do Pico, Coquille Saint-Jacques des Côtes-d'Amour, Jamón de Huelva, Lammefjordsgulerod
> - **Hungary**: Eger (wine), Szatmar (plum)
> - **Liechtenstein**: Malbuner (meat products), Balzer (Hi-tech products)
> - **Slovak Republic**: Korytnická minerálna voda (mineral water), Karpatská perla (wine), Modranská majolika (hand-painted pottery), Piešť'anské bahno (healing mud)
> - **United States**: Idaho, (potatoes and onions), Real California Cheese, Napa Valley Reserve (still and sparkling wines), Pride of New York (agricultural products), Ohio River Valley (viticulture area). ☐
>
> *Source: members' replies to questionnaire*

The TRIPS Council agreed that the Secretariat should compile information on TRIPS provisions relevant to electronic commerce, and on relevant activities in other international organizations. The issue will be discussed again at the next meeting.

### Other topics discussed

The council began preparations to report on trade facilitation to the Goods Council in March, again focusing on issues related to TRIPS.

Canada and the EU exchanged comment on their disputes in the WTO over pharmaceutical patents.

The EU and US said they were close to settling their dispute over Swedish enforcement legislation—the US said it understands that under new Swedish law, from 1 January 1999 courts can authorize searches for pirated material and documents without having to give advance warning to the people suspected of piracy.

The next meeting will be in February. ☐

Indonesia

# Strong support for reforms and economic recovery

*The Trade Policy Review Body (TPRB) concluded its third review of Indonesia's trade polices on 3-4 December. Excerpts from the Chairperson's concluding remarks:*

Members noted that 25 years of continuous economic expansion had been abruptly interrupted by the Asian financial crisis. Despite extremely difficult economic and social circumstances, Indonesia had resisted protectionist pressures. Instead, it had adopted a comprehensive programme of macroeconomic and structural reforms, which included, *inter alia*, an acceleration of trade and investment liberalization, a major review of anti-competitive practices (such as monopolies and cartels) and a reform of the banking sector. Indonesia was commended for its steadfast implementation of these measures, which had already resulted in substantial liberalization of the economy and set the stage for a recovery of growth

In response, the representative of Indonesia said that, in the face of economic urgency and rising poverty, the Government had focused on macroeconomic stabilization and measures aimed at providing adequate supplies of food at affordable prices to the population. It also aimed at extending reforms to the most protected sectors of its economy, in order to increase competitiveness and strengthen the export base. However, economic recovery was likely to be slow and difficult, and would depend on the implementation of a complex agenda of reforms and on the necessary support from the international community. The representative explained that the depreciation of the Rupiah had contributed to the sharp contraction of the economy.

Members commended Indonesia for having significantly liberalized its trade regime with: the reduction of MFN tariffs, from an average of 20% to 9.5%, well beyond Indonesia's WTO commitments; the phasing-out of all import surcharges; the reduction by half of restrictive licensing requirements and the commitment to remove all remaining measures by 2000; the phasing-out of local content programmes; and the conversion of restrictions and specific taxes on exports into low resource rent taxes, to remove the long-standing anti-export bias of Indonesia's trade policy.

Indonesia was commended for establishing a freer and more competitive market-orientated economy. This involved recent efforts to modernize legislation in the areas of customs, banking and intellectual property rights; the termination of a number of monopolies and restrictive marketing arrangements in sensitive sectors; and the removal of trade and tax privileges to specific groups. Members welcomed Indonesia's progress throughout the review period in liberalizing its investment regime, which is now one of the most open in the region. This contributed to attracting an unprecedented amount of foreign investment to the country. They pointed to recent liberalization of retail and wholesale trade and the possible further opening up of banking and telecommunications sectors.

*Indonesia is a participant in the WTO's Information Technology Agreement. (ILO Photo)*

Members raised questions and concerns in some specific areas on customs, including on the inspection and administration of imports. On tariffs, questions were raised on the possible binding of recent unilateral tariff reductions, which would reduce uncertainly for traders. Members pointed to remaining tariff peaks on motor vehicles, alcoholic beverages, and certain chemicals, and to tariff escalation in industry. Non-tariff barriers notably import licensing and bans, also attracted attention. Some Members raised questions concerning export restrictions and taxes as well as local content rules..

In response, the representative of Indonesia stated that the Government was continuously taking steps to improve customs inspection and administration procedures, which included implementation of the early phase of the EDI system. Notwithstanding the recent cuts in applied tariffs, bindings would be maintained in accordance with Indonesia's existing commitments (which excluded automobiles and chemicals). Import licensing had been significantly reduced and simplified, so that it now applied only for reasons involving public health and safety, security, public morals and environmental protection. As regards export measures, the Government had relaxed export controls on several products. Measures were being taken to ensure protection of intellectual property rights.

***

In conclusion, it is my feeling that this Body strongly supported Indonesia's impressive reform programme and expressed confidence that it would ensure thorough implementation in the next few months. Delegations appreciated that these reforms were being implemented on an MFN basis. Members have also recognized that Indonesia had taken seriously the need for timely implementation of its WTO commitments, and had applied the principle of open regionalism in its relations with ASEAN and APEC. It is my sense that Members saw the importance of keeping their markets open and maintaining stable and predictable trading conditions, in order to support Indonesia's recovery from the current economic crisis. In turn, Members recognized that once Indonesia's reform had been fully implemented, it would have one of the most open economies among developing countries. It is my sense that the meeting also felt that the consolidation of this liberalization in the WTO would contribute to the strengthening of the multilateral trading system. □

Hong Kong, China

# "Business as usual" despite major developments

*The TPRB concluded its third review of the trade policies of Hong Kong, China on 7 and 8 December. Excerpts from the Chairperson's concluding remarks:*

Members congratulated Hong Kong, China on both the smooth transfer of sovereignty and on its reaction to the Asian crisis. Notwithstanding these two major developments, the present economic regime could be characterized as "business as usual". Indeed, the Hong Kong, China economy remained among the most open of WTO Members, a feature which had contributed to Hong Kong, China having one of the highest standards of living in the world. Despite the current economic difficulties, notably the contraction of GDP and rising unemployment, Hong Kong had maintained its traditional openness to both trade and investment and had not taken any measures directly affecting imports or foreign direct investment, thereby demonstrating its continuing commitment to the primacy of the WTO, to which Hong Kong, China had contributed significant leadership.

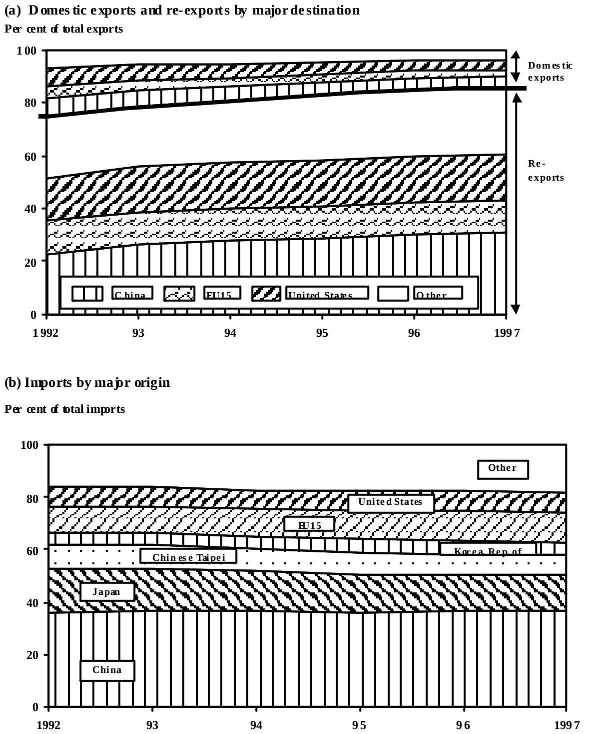
In reply, the representative of Hong Kong, China thanked Members for their support for Hong Kong, China's policies and for their confirmation that Hong Kong, China continued to conduct "business as usual".

Members commended Hong Kong, China on its continued trade-liberalization effort and on the transparency of its trade and investment regime, which remained one of the most attractive in the world. In particular, Members welcomed Hong Kong, China's accession to the WTO Agreement on Government Procurement and its early completion of the necessary legislation implementing the TRIPS Agreement. Members also expressed their appreciation of Hong Kong, China's industrial development policy, which involved "minimum intervention and maximum support".

Members raised a number of questions, particularly with respect to: the prospects of further binding Hong Kong, China's tariff lines, less than half of which were currently bound; anti-dumping; a bid challenge system in government procurement practices; the maintenance of the non-interventionist industrial policy; the continuing problem of forged trade marks and copyright piracy, notwithstanding strengthened legislation on intellectual property; and the adequacy of Hong Kong, China's competition policy.

In reply, the representative stated that Hong Kong, China saw no need to accelerate its schedule to bind tariffs, particularly as it had already taken significant action in this regard, for example, under the ITA. Hong Kong, China had no enabling legislation on anti-dumping, countervailing duties and safeguards because it did not believe in protecting its domestic industries through such measures. Hong Kong, China's accession to the Agreement on Government Procurement had not changed the Government's procurement policy, which was open and non-discriminatory. Hong Kong, China's support

**Chart I.2**
**Merchandise trade by partner, 1992-97**




Source: UNSD, Comtrade database (SITC Rev.3).

programmes were aimed at providing the necessary infrastructure to move into areas that require innovation and skills, but not to pick special sectors. Hong Kong, China had effectively implemented the provisions of the TRIPS Agreement and stronger enforcement actions had been taken. Hong Kong, China was committed to promoting competition and economic efficiency through a comprehensive, transparent and overarching competition policy; the introduction of a general competition law was not necessary given Hong Kong, China's small, externally-oriented, highly competitive economy.

### *Conclusions*

In conclusion, it is my feeling that this Body strongly commended Hong Kong, China for maintaining its predictable trade and investment regime following reunification with China and despite the Asian crisis. Notwithstanding these two major developments, the free-market principles underlying Hong Kong's trade and investment policies together with its respect for the rule of law had not changed. Members also expressed their confidence that with these policies Hong Kong, China's economy would soon resume strong and sustained economic growth. In short, it is my sense that Members felt that Hong Kong, China remained one of the most open economies in the world, and that they looked forward to Hong Kong, China's consolidation of this status by, for example, increasing its bindings and GATS commitments. Members also looked forward to seeing Hong Kong, China continuing to contribute, by its example and leadership at the WTO, to the further strengthening of the multilateral trading system. □

## Participants agree to resume ITA II talks in February 1999

The Committee of Participants on the Expansion of Trade in Information Technology Products, on 11 December, agreed to resume negotiations on expanding the coverage of the WTO Information Technology Agreement (ITA) in the week of 22 February 1999.

The acting Committee Chairman, Ambassador Ronald Saborio Soto (Costa Rica), noted that at the meeting, 35 out of a total of 44 ITA participants (the EC counting as 15) have indicated they could accept a draft ITA II list of additional products proposed by a number of delegations last month; two participants have said they could not accept the proposal; and two participants said they needed more time.

The participants that supported the ITA II proposal were the following: Australia, Canada, Costa Rica, the Czech Republic, the European Communities, Hong Kong (China), Iceland, Israel, Japan, Korea, Norway, Poland, Romania, Singaporet, the Slovak Republic, Switzerland and Liechtenstein, Turkey, the United States, Chinese Taipei and Estonia.

Many of these participants said that the compromise ITA II proposal represented a modest but balanced package that would mark a positive step forward for the WTO amidst the financial crisis. They urged the rapid completion of ITA II work so that the Committee could move ahead on other aspects of its work programme, including dealing with non-tariff measures on IT products. A number of them stressed their objection to the inclusion of so-called "electronic consumer goods". Several participants signalled they would need an extended time-period for eliminating tariffs on certain proposed products.

Malaysia said that as the proposal did not include the products it had requested, it could not agree to the list unless substantial changes were made. India expressed serious concern that certain security-related products that it considered to be non-IT products were on the list. It stressed that there was no consensus on the proposal, adding that unless fundamental changes were made, continuing on with the ITA II talks was not feasible.

El Salvador said that intensive domestic consultations were still ongoing on the compromise list. The Philippines said that it was not yet in a position to accept the list as the required domestic public hearings have not yet been completed.

Aside from the resumption of the ITA II talks in February 1999, the Committee also agreed on other aspects of its work programme in the new year:

- To continue efforts to ensure that non-tariff measures do not impede the free flow of information technology products. Its constructive work in the area of standards was noted.
- To continue consultations regarding divergences in classifying IT products, noting work already undertaken on semiconductor manufacturing and testing equipment, and printed circuit board/printed wiring board manufacturing equipment. ☐

***WTO-UNCTAD-ITC joint francophone training programme****: 26 senior officials from governments, business organizations and universities of Benin, Burkina Faso, Côte d'Ivoire and Tunisia hold their closing session after a three-week "training-of-trainers" course on 11 December at the WTO headquarters in Geneva. Presiding over the closing ceremonies was the International Trade Centre UNCTAD/WTO Executive Director J. Denis Bélisle (centre) with representatives from the three organizations, including Mr. Jean-Marc Fortin (second from left) of the Technical Cooperation Division of the WTO. (Photos by Tania Tang/WTO)*

## MEETINGS

**January 1999**

| | |
|---|---|
| 20-21 | Trade Policy Review: Argentina |
| 25 | Dispute Settlement Body; Committee on Rules of Origin |
| 25-26 | Council for Trade in Services |
| 27-28 | Trade Policy Review: Togo |
| 28 | Working Party on Preshipment Inspection |
| 29 | Committee on Rules of Origin |
| 29-30 | Committee on Anti-Dumping Practices |

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