
Chapter Three

OVERVIEW OF DEVELOPMENTS IN THE INTERNATIONAL TRADING ENVIRONMENT

Overview of developments in the international trading environment

A. Introduction

For the WTO, the year 2000 was one of stiff challenge and significant opportunity. Stiff challenge due to the events that took place at the Third Ministerial Conference in November 1999 – the failure of the WTO Members to reach a consensus on the launch of a new round of multilateral negotiations, against a background of highly-publicized “anti-globalization” demonstrations in the streets of Seattle – but significant opportunity to effect the changes necessary to better meet the needs of the WTO Members and thereby strengthen the foundations of the trading system.

The inability of WTO Members to reach a consensus at Seattle on the launch of a new round was a reflection of significant differences of view, in spite of preparatory work throughout 1999. One major difference of view concerned whether the launch of a new round was propitious given the ongoing implementation of commitments assumed in consequence of the Uruguay Round, which gave rise to problems or concerns for certain developing country and transition economy Members. Even among the WTO Members that were supportive of the launch of a new round, major differences of view were evident on the scope of the agenda for the negotiations, beyond those on agriculture and services which were called for in the respective Uruguay Round agreements. There were also differences of view on the negotiations on agriculture and services. In the course of the Ministerial Conference, questions of process also came to the fore as a number of developing countries claimed insufficient participation in the proceedings.

In 2000, the WTO addressed these issues by:

- starting on schedule the mandated negotiations on agriculture and services, and continuing to explore, at the political and technical levels, the possibility of reaching a consensus on a negotiating agenda for a new round beyond that built-in to the Uruguay Round;
- establishing a mechanism to consider implementation-related issues and concerns;
- finding ways to ensure the fuller participation of all Members in the work of the WTO and to improve consultative procedures;
- improving external transparency and outreach to civil society; and
- giving priority to the integration of LDCs and other low-income WTO Members into the multilateral trading system to help them secure the benefits that can be derived therefrom.

Although the aftermath of Seattle was the outstanding trade policy event of 2000 in the life of the WTO, its manifestation was mainly at the political level since the business of the organization continued as usual. WTO Members maintained a busy schedule of regular meetings of Councils, bodies and working groups on matters within its mandate (Chapter IV). Dispute settlement showed, in particular, a high level of activity; although most disputes were satisfactorily resolved, recourse to retaliation increased in 2000. In addition to assisting the WTO Members in their activities, the Secretariat increased its provision of technical assistance to WTO Members, as well as adding to its programme of outreach to civil society.

The WTO gained five new members in 2000 – Albania, Croatia, Georgia, Jordan and Oman – to reach a total membership of 140, accounting for more than 90% of world merchandise trade¹, and Lithuania and Moldova were poised to accede. Significant traders that were still outside the multilateral trading system, but in the process of accession to the WTO, were China, Chinese Taipei, the Russian Federation, and Saudi Arabia, and another 23 accession negotiations are engaged. China made considerable progress in 2000 to reach the final stages of its accession negotiations by concluding bilateral market-opening agreements with most interested WTO Members (only the bilateral with Mexico remains outstanding), still leaving the technical matters of implementing certain multilateral commitments (notably agriculture and trade defence measures) on the agenda of China's working party.

While the situation of the WTO is generally satisfactory, a number of challenges lie ahead for the organization. The expansion of the world economy was sustained in 2000 and was broadly based across all regions, but the slowdown of economic activity in the United States will have an impact on global output and trade trends in 2001. According to the IMF, the world economic outlook is subject to greater downside risks. This should bring into sharper relief the gains to be realized by consumers, producers and the environment from removing the significant impediments to open markets that remain in place in virtually all Members.

Another key priority on the international agenda is helping LDCs up the development ladder. This challenge is engaging the governments of LDCs, supported by the World Bank and the IMF, as well as other governments, NGOs and citizens. The WTO also has a role to

¹Including flows between Member States of the European Union.

play. Experience has shown that development is fostered in a domestic environment of macroeconomic stability and market-friendly reforms, complemented by institution-building that fosters developmental capacity and good governance, including more open and transparent regimes for trade and trade-related policies. Countries poor in human and financial resources, or lacking the requisite experience in administering or enforcing WTO obligations, have asked for assistance in understanding their commitments and implementing them domestically. Technical assistance activities are important in this regard, but the ability of the WTO to respond is limited and sustained only by the generous extra-budgetary donations of certain WTO Members. Increased funding for technical assistance in the core budget of the WTO would create a more permanent basis for such activities, but agreement of all WTO Members on this action has not yet been reached.

WTO Members have the opportunity to do more for LDCs. The Plan of Action for LDCs launched at Singapore in 1996 gave priority to improvements in market access to remove external obstacles to development, and led to the Integrated Framework for technical assistance related to trade development. Since that time, a number of WTO Members have improved the market access for LDCs through preferential programmes, and further actions could be taken to achieve the goal of tariff-free and quota-free access for all trade of LDCs. And, following a review of its operation, the Integrated Framework is to be improved as a mechanism for the six participating agencies – the ITC, IMF, UNCTAD, UNDP, World Bank and WTO – to deliver trade-related technical assistance to LDCs. Donor support is now needed. As the WTO initiative on LDCs falls into place, its effects will reinforce others taken in 2000 to ease the plight of Africa, home to most LDCs, such as debt reduction to liberate domestic resources to build human capital and alleviate poverty. These actions, taken together, will help LDCs establish the basis for sustainable development and reverse their increasing marginalization in the world economy.

WTO Members are rightly concerned by the misunderstandings of the public over globalization and the role of the organization in this process. The anti-globalization protests in Seattle were the most extreme manifestation of these misunderstandings, re-staged for UNCTAD X in Bangkok in February, for the meetings of the World Bank and IMF in Washington in April and in Prague in September, and for other high-profile gatherings. The target is not the WTO per se, but all institutions, political parties or even individuals that promote or support or do not openly condemn the policies considered to advance the process of globalization.

Democratic societies legitimize and indeed encourage dialogue between citizens and representatives on all topics of concern. Adjustment to globalization is a valid element of this dialogue, while recalling that openness to trade is associated with growth and reduced poverty over time. Within its mandate to help move trade flows as smoothly, predictably and freely as possible, the WTO can assist the efforts of member governments to dialogue with citizens by highlighting the benefits of open markets and trade rules. Understanding of the WTO could be further enhanced through greater transparency in the day-to-day activities of the organization. The Secretariat has already made considerable efforts in this regard within the guidelines laid down by the Members in 1996.

This broad overview of the situation of the WTO, on which details are provided in the body of this and other chapters of this Annual Report, points to the following key challenges for the period ahead:

- addressing the issues and concerns on implementation;
- maintaining the momentum of liberalization through the mandated negotiations and guarding against increased barriers to trade;
- ensuring the full participation of all Members in the WTO, notably the LDCs and other low-income WTO Members;
- more effectively communicating to the general public the nature and activities of the WTO and the benefits of the multilateral trading system; and
- considering the question of a broader negotiating agenda.

B. Developments in the multilateral trading system

1. Mandated negotiations begin and discussions on a new round continue

The mandated negotiations on agriculture and services started on schedule in early 2000.² The negotiations under Article 20 of the Agreement on Agriculture are to continue the reform process set out in the agreement, which brought into the multilateral rules, largely for the first time, the policy instruments used by many WTO Members to support domestic agricultural

²Work 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.

producers. 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.³ At the same time, certain WTO Members have stressed the broader or “multifunctional” nature of support to the sector, notably the situation of rural communities. Forty proposals had been tabled in time for the stocktaking exercise held in a Special Session of the Committee on Agriculture in March 2001. The exercise was successfully completed and the next phase of the negotiations engaged.

On services, 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. It should be recalled that the services sector – the leading sector of economic activity in many WTO Members – was brought into the multilateral rules for the first time in the Uruguay Round, and additional substantial agreements were reached in 1997 on telecommunications and financial services. In 2000, WTO Members agreed on a “roadmap” for the first phase of negotiations and that the second phase of these negotiations would begin with a stocktaking exercise by a Special Session of the GATS Council in March 2001, to consider progress made and how to move forward. This exercise was successfully completed and the next phase of the negotiations was engaged.

While the mandated negotiations got under way in 2000, WTO Members continued to discuss a wider agenda of negotiations, to address other outstanding market-access barriers, notably tariffs on non-agricultural products, or extend the framework of the multilateral rules to new areas. In the latter case, proponents view the stakes as being the relevance of the WTO as the main framework of rules for the conduct of international economic relations, notably with respect to competition policy and investment matters. In addition, certain Members are of the view that securing a wider agenda for negotiation will have an impact on the final outcome of those mandated on agriculture and services by expanding the scope for mutually beneficial trade-offs. Other Members, however, continue to have doubts on whether it is appropriate to consider launching a new round of negotiations in the presence of implementation issues and concerns related to the Uruguay Round.

2. Implementation mechanism established

All WTO Members are bound to observe – as part of the “single undertaking” that seals their membership in the organization – the multilateral agreements concluded in the Uruguay Round and to implement, if applicable to them, post-Uruguay Round commitments on basic telecommunications, financial services, or information technology products.⁴ Reflecting the concept of “special and differential treatment” for developing countries, transition economies, and least-developed countries, transitional periods to full implementation applied in certain areas. Most expired on 31 December 1999 for developing and transition economies, but certain transition periods for LDCs are still in effect.

The agreements concerned by the end of transitional periods to full implementation are those on intellectual property protection, the elimination of trade-related investment measures (measures that depart from the GATT national treatment obligation, such as local-content requirements), methods of customs valuation, and on subsidies. Members that identified difficulties of fully meeting their implementation commitments for customs valuation requested and, in most cases, obtained extensions in the framework of the agreement (Chapter IV), where such provision was made. Nine WTO Members requested extensions on the transition periods in the TRIMs agreement, which are being considered by trading partners within a framework established by the General Council at its meeting of 3 and 8 May 2000.⁵

A wide range of other implementation-related issues and concerns has also been put forward at various times. One issue concerns the slow pace of integration of the textiles and clothing sector into GATT 1994, where many developing countries and transition economies claim a comparative advantage. The quotas on textiles and clothing products brought into the WTO from the Multi-Fibre Arrangement by Canada, the European Communities and the United States, are still largely in place, despite two completed stages of integration. 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 measures (e.g. conducting risk assessments), as well as participating in the development of international standards. The full range of implementation-related issues and concerns are being considered by the General Council in the Implementation Review Mechanism established for the purpose (Chapter IV).⁶

3. Internal transparency improved⁷

In the course of the Third Ministerial Conference in Seattle, questions of procedures and practices were raised by certain developing countries claiming insufficient participation in the proceedings. This issue has deeper roots in the history of the GATT and WTO. Briefly, the

³World Bank (2000). World Development Report 2000/2001: Attacking Poverty [Online], p.45. Available at: <http://www.worldbank.org> [1 October 2000].

⁴The “plurilateral” agreements on civil aircraft, government purchases, beef and dairy products were not part of the single undertaking; only the first two remain in existence in 2001.

⁵Related dispute settlement proceedings are “India – Measures Affecting the Automotive Sector”, complaint by the European Communities (WT/DS146/1); “Philippines – Measures Affecting Trade and Investment in the Motor Vehicle Sector”, complaint by the United States (WT/DS195/1); “Brazil – Certain Automotive Investment Measures”, complaint by Japan (WT/DS51); “Brazil – Certain Measures Affecting Trade and Investment in the Automotive Sector”, complaints by the United States (WT/DS52 and WT/DS65); “Brazil – Measures Affecting Trade and Investment in the Automotive Sector”, complaint by the European Communities (WT/DS81/1). Dispute settlement procedures have been completed in “Indonesia – Certain Measures Affecting the Automobile Industry”, complaints by Japan (WT/DS55), the European Communities (WT/DS54), and the United States (WT/DS59).

⁶WTO Press Release 184/2000.

⁷WTO News: 2000 News Items, “Internal Transparency and the effective participation of Members” [Online]. Available at: <http://www.wto.org> [31 October 2000].

bodies established formally by the WTO are open to participation by all WTO Members, but not all WTO Members maintain delegations in Geneva and, even when they do, few developing countries have the human resources available to fully participate in WTO activities. The WTO Secretariat has given priority in 2000 to improving and speeding up the information flow to Members, particularly those who do not have representatives resident in Geneva (e.g., establishment of WTO Reference Centres).

Apart from their formal gatherings, WTO Members also use informal processes to consult on matters requiring political decision, such as negotiations. These are usually selective, as could be expected. For example, partners in regional trade agreements tend to coordinate their positions, so the WTO Members can be informed by a member of EFTA, CEFTA or ASEAN. Where the issue of participation has proved more controversial is the "green room"⁸ meetings, chaired by the Secretariat, and attended by a selection of WTO Members (usually about 20-25). This process is used to narrow the differences between Members with the goal of reaching a consensus, given the time-consuming and cumbersome process of securing the agreement individually of each of the 140 Members of the WTO. At the same time, this process functions smoothly when the participants represent the interests of the membership as a whole. Over time, and notably as a result of the transition from the GATT to the WTO, which saw a much higher level of commitment being assumed by developing countries, those outside the green room process have claimed the right to more fully participate.

Following up on concerns over transparency and process that emerged around the Third Ministerial, the Chairman of the General Council and the Director-General began early in the year a series of consultations with Members on possible improvements. Numerous contributions were received from members in the course of these consultations. The process itself was instrumental in WTO Members giving more attention to the issue, boosting inclusiveness, transparency and information flow. It also became clear that Members in general saw no need for radical reform of the WTO, that they firmly supported the practice of reaching decisions by consensus, and that informal consultations continued to be a useful tool provided that certain improvements regarding inclusiveness and transparency were applied (Chapter IV). Members are continuing to maintain a close watch on the issue as the organization moves forward on the substantive agenda.

4. External transparency and outreach enhanced

External transparency

Since the establishment of the WTO in 1995, the WTO Members and the Secretariat have taken a number of steps to improve the exchange of information about the nature and goals of the organization. Regular press briefings are held, a publications service and the WTO website (<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 website receives an average of 200,000 visitors each month, from 145 countries, at last count.

In addition to obtaining information on the WTO, the website gives open access (without charge) to the Documents Online Facility, containing virtually all publicly available WTO documents in the three official languages of English, French and Spanish.⁹ 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.¹⁰ Although not formally articulated as such, the policy on document availability adopted by the WTO Members appears to rely on the twin foundations of (a) the domestic transparency requirements of WTO Members for measures covered by the multilateral agreements; and (b) confidentiality for the jointly undertaken activities of the WTO Members until the activity is completed in accordance with the traditions of diplomacy.

Of the some 5,500 WTO documents issued in 1999, this policy resulted in 62% being made available immediately to the public. Of the remainder, half were circulated within six months, and the rest remained restricted mainly because the activity (e.g., accession) was still in process. Since the WTO was established in 1995, this policy has led to the cumulative release to the public of 99.6% of WTO documents.

In 2000, 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.¹¹ One obstacle is technical – WTO documents are in principle issued simultaneously in the three official languages, requiring time to translate the original document. With respect to improvements to the general policy on public availability, differences of view remain among the Members, mainly because the benefits to quicker derestriction are weighed differently. While some Members see instant public availability of documents as not detracting from the efficiency of the WTO as an

⁸Named after the Director-General's conference room.

⁹An 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.

¹⁰WT/L/160/Rev.1.

¹¹Paragraph 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."

organization, others are more cautious, and see confidentiality for the time required to complete the activity as promoting deliberation and fruitful dialogue.

Outreach

Outreach has also been an important activity of WTO Members and the Secretariat. The public has access to WTO headquarters in Geneva, and the Secretariat handles a large number of visits. The Secretariat has organized symposia on various issues of particular concern to segments of the NGO community, maintains an "NGO Room" on the WTO website, receives material from NGOs and keeps WTO Members informed thereof.¹² The Director-General, his deputies and staff members frequently meet with representatives of civil society. In 2000, activity has focused on outreach to – in addition to NGOs – parliamentarians, universities and other research centres, and representatives from transnational parliamentary groups.¹³

In October 2000, an on-line Forum on "Trade and Sustainable Development" was sponsored by the WTO and the World Bank. The forum is the first initiative of the WTO Network, which links the WTO with universities and research centres to build and disseminate knowledge on international trade issues. Several of these participating institutions contribute to a World Bank project on building a trade negotiating agenda for developing countries. The first two weeks of the forum focused on "effects of trade on poverty"; and the final two weeks on "how to ensure that trade and environment are mutually supportive".

The current policy on NGO participation in the WTO, established in 1996, 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"¹⁴, 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 NGOs in Geneva in 1998, and 686 NGOs in Seattle in 1999.¹⁵

Outreach also concerns relations with other international intergovernmental organizations (IGOs).¹⁶ A formal policy on such relations was established in 1995 for the IMF and the World Bank, as provided for in their respective agreements with the WTO. The basis is the "coherence" mandate, which requires closer cooperation between the multilateral institutions with key roles in the formulation and implementation of different elements of the global economic policy framework. In addition to the IMF and World Bank, observer status in the General Council also applies to the United Nations, UNCTAD, FAO, WIPO and OECD. WTO Members have been conferring for some time on the IGOs to be granted observer status in the General Council and other WTO bodies.

Regarding outreach to other IGOs, many of which have expressed an interest in the WTO and its activities, arrangements were made for IGOs to observe Ministerial Meetings.¹⁷ This opportunity was taken up by 42 IGOs at the first meeting in Singapore in 1996, by 40 IGOs in Geneva in 1998, and by 50 IGOs in Seattle in 1999.

5. Technical assistance activities and training

Technical assistance activities aim to improve the understanding of the agreements and facilitate implementation of obligations; at the same time, emphasis is increasingly being placed on enhancing the capacity of countries to integrate into the world economy to realize the benefits of the market-access opportunities that are available to them as a result of being WTO Members. Despite their vital nature, technical assistance and cooperation activities in 1999 and 2000 have been sustained only by the generous extra-budgetary voluntary donations of certain WTO Members, given that the regular budget for such activities has remained inadequate to respond to needs, funding just 10% of activities in 1999.¹⁸ Increased funding for technical assistance in the core budget of the WTO would create a more permanent basis for such activities, but no agreement has yet been reached by WTO Members.

Least-developed countries have been a major focus of WTO technical assistance and cooperation activities, since resource constraints weigh most heavily on their ability to participate in the multilateral trading system.¹⁹ In addition to its own activities on behalf of this group, the WTO participates in activities organized by other institutions, and cooperates with some of them on joint projects or programmes, 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) of technical cooperation for least-developed countries (WTO, ITC, UNCTAD, World Bank, IMF, UNDP). In 2000, the IF was independently reviewed, and lead agencies decided on steps to

¹²For details see

http://www.wto.org/english/forums_e/ngo_e/ospap_e.htm.

¹³An informal consultation on questions of External Transparency was held in November by the General Council Chairman, based on submissions from Members.

¹⁴WT/L/162.

¹⁵The 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.

¹⁶Article 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, 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.

¹⁷The procedures on participation of IGOs are the same as for NGOs.

¹⁸Donations have been disbursed by some 25 WTO Members since 1995, totalling over CHF 31million. For major pledges in 2000, see WTO Press Releases 188/2000, 162/2000, 164/2000, 168/2000, 186(Rev.1)/2000, 188/2000 and 192/2000.

¹⁹Another aspect of the WTO activities on behalf of LDCs is the pledge by WTO Members to remove virtually all the outstanding barriers to market access, to extend the opportunity for export-led growth (Section III).

improve the delivery of trade-related technical assistance, including by establishing a trust fund, which now needs donor support (Section C).

In addition to materials, seminars, workshops, technical missions, and courses on trade policy, as well as regular briefings, the Secretariat has been very active in establishing WTO Reference Centres, supported by donations from WTO Members.²⁰ Such centres provide access to trade-related information resources on the Internet, notably those developed by the WTO, as well as PC-based resources; they play a vital role in linking trade ministries in remote capitals to Geneva. By October 2000, the Secretariat had set up 90 centres, up from 68 at the end of 1999 and 42 at the end of 1998. The majority of such centres are in Africa. Unfortunately, not all the centres have remained fully operational (an estimated 65% is operational).

6. Dispute settlement²¹

A heavy case-load for the system

In 2000, the number of complaints filed under the WTO's Dispute Settlement Understanding (DSU) since the start of the WTO topped 200, indicating a continued heavy use of the dispute settlement procedures by WTO Members. The complaints concern allegations of inconsistency with WTO obligations, mainly with regard to the use of trade defence instruments (anti-dumping, countervailing and safeguard measures), taxes on imported and domestic like products, subsidies, automotive investment regimes, product regulations, protection for patents or copyright, and market access for foreign service suppliers. 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.

Developed countries filed about three quarters of the complaints, and were the respondent in the same share of complaints. Developing countries filed the remaining one quarter of complaints, against developed countries in over 50% of complaints and the rest against other developing countries.²² The United States and the European Union are the most frequent complainants to the WTO, and in a number of instances, complaints concern a measure maintained by the other, confirming the important role of the WTO in resolving conflicts in the transatlantic relationship.

Satisfactory settlement is generally the outcome, but retaliation is being used

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 1947.²³ For those complaints that proceed to the panel stage and on which panel reports are issued, most rulings are the subject of appeal to the Appellate Body; 37 such appeals have been filed since the start of the WTO.

When complaints have completed the panel and Appellate Body process, the record on prompt compliance with the recommendations or rulings of the Dispute Settlement Body (DSB) is good. When such recommendations or rulings call for the respondent WTO Member to remove or modify the measure in dispute, such action is not liberalization as such – given the measure's status of incompatibility with the WTO agreements – but effective market-opening sometimes obtains because the measures have been in place for years or even decades. The WTO's dispute settlement system is thus, by and large, successfully attaining the stated objective of preserving the rights and obligations of WTO Members, and thereby playing a key role in ensuring the integrity of the process of multilateral negotiation, agreement, and implementation, which contributes to the process of trade reform.

However, certain complaints that have completed the panel and Appellate Body process, and where action to implement was required of the respondent WTO Member, have yet to result in an effective resolution of the dispute. Eight requests for review under Article 21:5 of the DSU have been filed with the DSB because the complainant disagrees with the actions taken by the respondent to implement rulings and recommendations.²⁴ In such instances, the matter is referred to the original panel, which issues a report; four such reports have been issued to date. These may in turn be the subject of an appeal; two such appeals have been filed with the Appellate Body since 1995.

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 of trade diplomacy.²⁵ 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, which is granted unless the DSB decides by consensus to reject the request. Such suspension is, however, subject to rules to ensure that its level is not excessive, and arbitration is available to this end. Finally, the suspension is

²⁰The 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. The WTO Reference Centre programme is supported by donations from Hong Kong, China; the Netherlands; Norway; Poland; Sweden; and the United States.

²¹WTO (ongoing), "Overview of the State-of-play of WTO Disputes" [Online]. Available at: <http://www.wto.org> [31 October 2000].

²²To 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. A new development in 1999 is the establishment, in parallel with the Third Ministerial Conference of the WTO in Seattle, of the Advisory Centre on WTO Law (<http://www.itd.org>) to provide training and legal advice in WTO matters to its developing country Members and all least-developed countries. The Centre is expected to be fully operational in 2001.

²³Although Article 3:6 of the Dispute Settlement Understanding (DSU) states 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 portion of complaints that have not proceeded to the panel stage, indicating apparently dormant status.

²⁴EC – Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27), recourse by the EC (WT/DS27/40) and by Ecuador (WT/DS27/41); "Australia – Measures Affecting the Importation of Salmon" (WT/DS18), recourse by Canada (WT/DS18/14); "Australia – Subsidies Provided to Producers and Exporters of Automotive Leather" (WT/DS126), recourse by the United States (WT/DS128/8); "Brazil – Export Financing Programme for Aircraft" (WT/DS46), recourse by Canada (WT/DS46/13); "Canada – Measures Affecting the Export of Civil Aircraft" (WT/DS70), recourse by Brazil (WT/DS70/9); "United States – Anti-dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMs) of one megabit or above from Korea" (WT/DS99), recourse by Korea (WT/DS99/8); "United States – Import Prohibition of Certain Shrimp and Shrimp Products" (WT/DS58), recourse by Malaysia (WT/DS58/17); and "Mexico Anti-dumping Investigation of High-Fructose Corn Syrup (HFCS) from the United States" (WT/DS132), recourse by the United States (WT/DS132/6).

²⁵The clarification of the relationship between Articles 21:5 and 22 of the DSU is still outstanding in spite of the priority given to a solution by the General Council in 1999.

conceived as a temporary measure, in place only for as long as implementation is outstanding or a mutually satisfactory solution is not found.

Five instances of recourse to Article 22 of the DSU have been made, leading to authorization by the DSB of four instances of retaliation: 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; 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.²⁶

WTO Members need to fully consider the implications of the use of retaliation. The first is that it is the consumers of the retaliating country that bear the cost of higher duties on the products concerned or their unavailability. The second is that the economic impact goes well beyond the directly concerned producers, trading firms, distributors, with repercussion effects on all the links in the chain of production, trade, and distribution, and the workers that each link employs. Finally, with respect to the WTO Members involved, retaliation is a sign that alternative methods of resolving the dispute have failed. The multilateral trading system prospers by opening channels of trade, and WTO Members, prior to seeking authorization to retaliate, have the responsibility to explore to the utmost of their ability the available alternatives, such as compensation, which create rather than limit trade.

7. Accessions

The accessions of five new Members in 2000 – Albania, Croatia, Georgia, Jordan and Oman – in 2000 brought to 12 the number of Members that have acceded to the WTO since 1995.²⁷ Lithuania and Moldova are poised to join the WTO in 2001.

Two new accession working parties were established in 2000, for Cape Verde and Yemen. The other 25 working parties in process are those for: Algeria, Andorra, Armenia, Azerbaijan, Belarus, Bhutan, Bosnia-Herzegovina, Cambodia, China, Former Yugoslav Republic of Macedonia, Kazakhstan, Laos, Lebanon, Nepal, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Chinese Taipei, Tonga, Ukraine, Uzbekistan, Vanuatu, and Viet Nam. China entered the final stage of the working party process in 2000, and a number of other accession processes advanced.

Each accession has the same "win-win" quality for the WTO. The acceding party operates a more transparent and predictable trade regime, by assuming WTO obligations on goods, services, and intellectual property protection (possibly with transitional periods to full implementation). 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 the right to similar rights and terms of access on the markets of other WTO Members. 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 country, and of WTO Members.

Although each accession is significant in its own right, both for the new WTO Member concerned and the organization, there is no doubt that China's decision to join the WTO is particularly momentous. Opening its markets to foreign trade and investment will make China more prosperous, and committing China to world-trade rules will foster and consolidate market-based reforms. WTO Members stand to gain by better access to an economy of 1.3 billion consumers, which was growing at 8% in 2000. The significance of these benefits – both for China and for WTO Members – explain the efforts that are being made on all sides to bring to a conclusion the accession process.

Each accession follows the same pattern (Box III.1), starting with the submission of a request to the WTO and culminating with the General Council's adoption of a decision approving the accession, followed by domestic ratification. The pace of the accession process depends mainly on the state of readiness of the trade regime and the need to conclude bilateral negotiations with WTO Members, at their request. The Kyrgyz Republic, which joined the WTO in 1998, conducted the speediest accession to date, concluding in 2 years and 4 months, closely followed by Ecuador at 2 years and 8 months.²⁸ In contrast, China's accession process has been the longest to date, spanning both the WTO and GATT 1947. WTO Members have from time to time considered the time and effort required to complete the process of accession as an issue, notably for LDCs, of which nine are in the process of accession.²⁹

²⁴In "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 C\$11.3 million.

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.

Section 407 of the US Trade and Development Act of 2000 amends Section 306 of the Trade Act of 1974 to provide for the mandatory revision of the products on the retaliation list, in whole or in part, every 180 days. The USTR initiated the process of revision on 26 May 2000 for the retaliation lists affecting products of the European Union in connection with the beef and bananas cases, respectively, with the goal of announcing modifications on 19 June 2000 (USTR Press Release 00-41). The European Union has initiated a dispute settlement proceeding on the matter in "United States – Section 306 of the Trade Act of 1974 and Amendments Thereto" (WT/DS200/1).

An outstanding matter under Article 22:2 is "Brazil – Export Financing Programme for Aircraft" (WT/DS46), where the arbitrator found that a suspension by Canada of the application of WTO obligations to Brazil covering trade in a maximum amount of C\$344.2 million was appropriate.

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 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). The European Commission has stated its intention to publish a sanctions list on 17 November 2000.

²⁷Ecuador and Bulgaria acceded in 1996; Mongolia and Panama acceded in 1997; the Kyrgyz Republic acceded in 1998; and Latvia and Estonia acceded in 1999.

²⁸WT/ACC/7/Rev.2, Table 1, p.10.

²⁹Bhutan, Cambodia, Cape Verde, Laos, Nepal, Samoa, Sudan, Vanuatu, and Yemen.

Box III.1 Steps to acceding to the WTO

In accordance with the vocation of the WTO to have a global reach in its membership, the WTO Agreement invites applications from interested governments. According to Article XII of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), a government may accede to the Agreement "on terms to be agreed between it and 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 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.

C. Trade policy trends in WTO Members³⁰

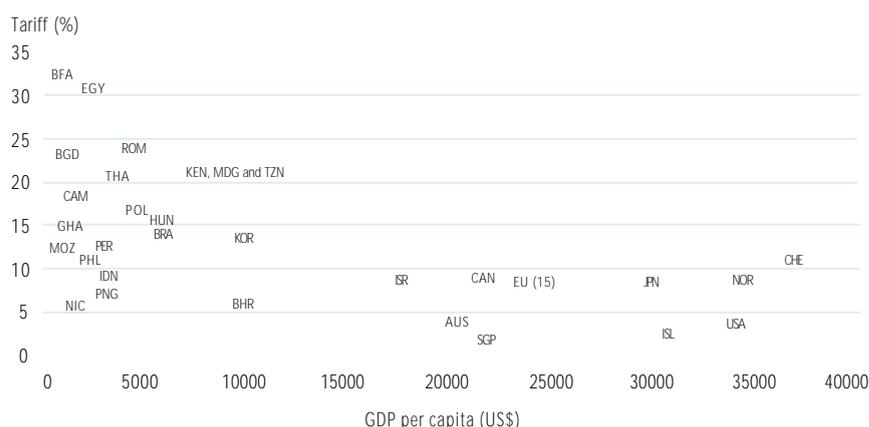
1. Market-access conditions for goods in selected markets

(a) Tariff policies

Average applied tariffs of WTO Members vary widely: with countries having higher per capita incomes tend to maintain, on balance, lower tariffs (Chart III.1).

Chart III.1

Simple average MFN tariff and GDP per capita for selected countries, 1999



Source: WTO Secretariat; IMF, IFS June 2000.

³ Based mainly on the information contained in Trade Policy Review documents (WT/TPR/G/, S/, M/) circulated between July 1999 and December 2000 for the reviews of Israel (58), the Philippines (59), Romania (60), Nicaragua (61), Papua New Guinea (62), Thailand (63), Kenya (64), Iceland (65), Tanzania (66), Singapore (67), Bangladesh (68), Peru (69), Norway (70), Poland (71), the European Union (72), Republic of Korea (73), Bahrain (74), Brazil (75), Japan (76) and Switzerland (77).

³ Article XXVIIIbis of GATT 1994 states that negotiations directed to the substantial reduction of tariffs can be sponsored from time to time.

Since the establishment of the WTO in 1995, tariff liberalization has proceeded through the implementation of Uruguay Round commitments, plus subsequent collective liberalization initiatives, notably on information technology products, as well as through autonomous action.³¹ In addition to tariff liberalization, a key aspect of the tariff regime is its degree of predictability. Experience has shown that the economic benefits associated with an open trade regime are more readily available if economic operators have confidence that policy reversals are contained. An anchor is provided by the commitment to bind tariffs in the WTO. This was required of WTO Members for tariffs on agricultural products, but the extent to which countries made use of this opportunity on other products varied widely, including with

respect to the gap between applied and bound rates. Greater predictability could be assured by achieving a more comprehensive coverage of bindings and bringing bound rates down to applied rates.

In this regard, the situation of WTO Members on which up-to-date information is available through Trade Policy Reviews is:

- all items are bound for the European Union, Norway, and Switzerland-Liechtenstein, and close to comprehensive coverage applies to Canada, Iceland, Japan, and the United States, and levels of applied tariffs are at or close to bound levels;
- Brazil, Nicaragua, Papua New Guinea, Peru, and Romania have a comprehensive coverage of bindings at ceiling rates, higher than levels currently applied;
- Bahrain, Israel, Republic of Korea, Philippines, Poland, Singapore, and Thailand have a less-than comprehensive coverage of bindings; and
- Bangladesh, Kenya, and Tanzania have a low coverage of bindings.

Most newly acceding countries to the WTO have made significant efforts to achieve a comprehensive scope of bindings and lock-in tariff liberalization. Ecuador, Mongolia, Bulgaria, Panama, Kyrgyz Republic, Latvia, and Estonia, which acceded between 1996 and 1999, bound virtually all lines, and the new Members of the WTO in 2000 – Jordan, Georgia, Albania, Oman and Croatia – have also each pledged comprehensive bindings.^{3,2} The average levels at which tariffs were bound were in double-digits for agricultural products, ranging from a high of 34.9% for Bulgaria to 10.6% for Albania. Average bound levels were much lower for non-agricultural products, ranging from a high of 20.1% for Ecuador to a low of 5% for Croatia.

Another key aspect of tariff policy is the extent of dispersion across sectors (notably “peaks”) or by degree of processing, which affects resource allocation, as well as the transparency and scope for rent-seeking in the tariff regime. Among the Quad, tariffs well above the average continue to protect a number of industries from imports, and tariff escalation is evident in a number of sectors. In Japan, tariff peaks affect footwear and headgear, and in Canada, the European Union, and the United States, tariff peaks affect the textiles and clothing sector, on which quotas also apply (see below). Tariffs on agricultural products are generally substantially higher than on other products (Table III.1), notably on temperate-zone products, and subsidies are an additional distortion affecting market-access conditions in the sector (see below).

Table III.1

Simple average applied tariffs of Canada, the European Union, Japan, and the United States, 2000

(per cent)

	Canada ^c	European Union ^d	Japan ^c	United States ^d
Total	7.2	6.9	6.5	5.7
WTO agriculture ^a	22.9	17.3	18.2	11.0
WTO non-agriculture ^b	4.4	4.5	4.0	4.7
Petroleum	2.6	2.9	6.5	2.3

^a Annex 1 of the WTO Agreement on Agriculture defines the scope of agriculture as HS Chapters 01 to 24 less fish and fish products (Chapter 3), plus selected items from Chapters 29, 33, 35, 38, 41, 43, 50, 51, 52 and 53.

^b Excluding petroleum.

^c 2000.

^d 1999.

Note: Simple average tariffs on WTO agriculture are estimated using the *ad valorem* equivalents (AVEs) of duties assessed on a non-*ad valorem* basis, and should be interpreted with caution.

Source: WTO Secretariat estimates, based on data provided by the authorities.

A number of developing countries have made efforts to achieve a more uniform tariff structure, and thereby remove or reduce distortionary effects on resource allocation. For the countries on which up-to-date information is available through Trade Policy Reviews, notable efforts in this regard were made by Bolivia, which adopted a uniform rate of 10% (with some exceptions), and a simplified multi-tier tariff structure was established by Bangladesh, Nicaragua, Peru, and Tanzania.

The scope of application of MFN tariffs by WTO Members is reduced, however, by preferences granted to partners in regional trade agreements (see below), agreements providing preferences on a non-reciprocal basis, or preferences granted to countries in transition and developing countries under the Generalized System of Preferences (GSP), with supplementary preferences for least-developed countries. The proliferation of regional trade agreements in recent years, and their prospective expansion, look set to further erode the scope of application of MFN tariffs. On GSP, an important development in the scheme operated by the European Union is the special incentive arrangement for countries demonstrating adherence to internationally recognized worker rights or environmental

³WT/ACC/7/Rev.2.

standards; eligibility under the US GSP programme requires a country to take or be taking steps to afford internationally recognized worker rights. Another important development is the extended scope of preferences for least-developed countries, granted by developed countries in the context of GSP, and granted autonomously by a rising number of developing countries.

Slow pace of elimination of quotas on textiles and clothing

Canada, the European Union, and the United States currently maintain quotas on textile and clothing imports from countries in transition and developing countries, under the WTO Agreement on Textiles and Clothing (ATC). These were carried over into the WTO from the long-standing Multi-Fibre Arrangement (MFA) in 1995, and are slated to be eliminated by 31 December 2004. The first two phases of the ATC product integration programme to bring this sector fully into GATT 1994 rules were completed in 1995 (not less than 16% of base line 1990 imports) and in 1998 (not less than 17%), respectively. Market access was also required to be improved in the first and second stages of integration, by quota growth rates of at least 16% and 25%, respectively.

For Canada, the EU, and the United States, the evidence strongly suggests that market access for textiles and clothing products has been improved under the ATC mainly by the application of quota growth rates in the first and second stages of the integration programme, since the elimination of quotas has, to date, been modest, with the exception of Norway. Preparations are being made for the third stage of integration on 1 January 2002 (not less than 18% of base line 1990 imports).

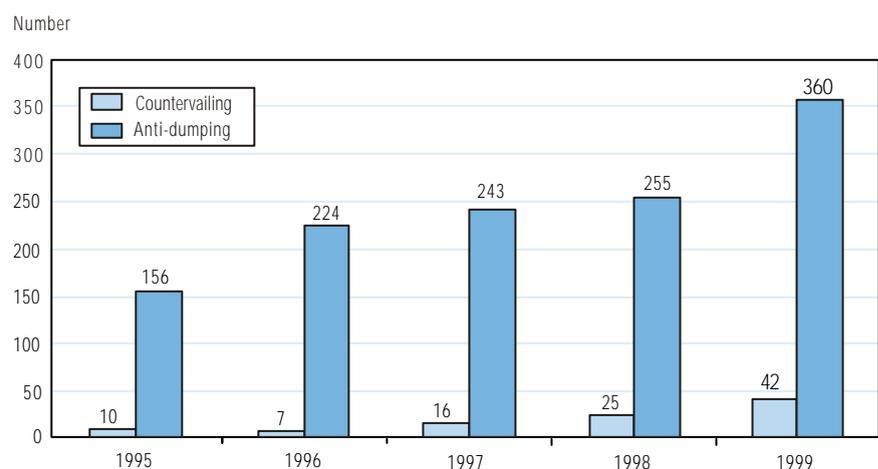
Outside the ATC, quotas on textiles and clothing products are also maintained by India under the balance-of-payments provisions of GATT 1994, for a transitional period ending in April 2001.³³ Pakistan maintains quotas on textiles and clothing products, as well as certain other products, also under the balance-of-payments provisions of GATT 1994.³⁴ Turkey's quotas on such products are subject to implementation of the results of the dispute settlement proceeding on the measures by February 2001.³⁵

Rising trend of anti-dumping and countervailing measures

WTO Members notified 360 initiations of anti-dumping investigations in 1999, up 42% over 1998 (Chart III.2). In 1999, the European Union and India each reported the highest number of initiations, at 68, followed by the United States with 45 initiations. Counted together, the European Union and its Member States were the WTO Members most affected by initiations of anti-dumping investigations (47), followed by the Republic of Korea (34) and Japan (23), although many other exporters were also affected, notably China.

Chart III.2

Initiations of anti-dumping and countervailing investigations, 1995-99



Source: WTO Secretariat.

³³ India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products”, complaint by the United States (WT/DS90/1).

³⁴ WT/BOP/R/51.

³⁵ Turkey – Restrictions on Imports of Textile and Clothing Products”, complaint by India (WT/DS34).

³⁶ Based on notifications for the period ending June 2000 (G/ADP/N/65/). The data should be interpreted with caution because the reports received for the earlier period are more comprehensive in coverage.

Available data for the first half of 2000, however, indicate that the trend is sharply down. Between mid-1999 and mid-2000, reports have been received of 235 investigations initiated, compared to 323 in the same year-earlier period.³⁶ Most WTO Members are reporting fewer initiations of investigations. The European Union continues to lead, with 49 initiations, followed by India and the United States, each reporting 27 initiations, and Argentina, with 23 initiations.

On average, about 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. Despite a sunset clause of five years under the WTO Anti-Dumping Agreement, the accumulated stock of anti-dumping measures is rising steadily. As of mid-2000, an estimated 1, 121 final anti-dumping measures were in place (Chapter IV), of which the United States had the most (300), followed by the European Union (190), South Africa (104), India (91), Canada (88) and Mexico (80). The European Union and its Member States, counted together, were the WTO Members most affected by final anti-dumping measures in place (16%), although exporters from China are the most affected on the whole (17%). Such measures are relatively common on chemical products and base metals, notably steel.

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, although also on a rising trend in 1999. As of mid-2000, an estimated 95 final countervailing measures were in place (Chapter IV), of which the United States had the most (46), mainly on steel products, followed by the European Union (13) and Mexico (10).

It should be noted that although a number of WTO Members have trade defence legislation in place, the procedures are either not used at all or very infrequently. Furthermore, some WTO Members do not use trade defence instruments as a matter of principle, notably Hong Kong, China.

Subsidies remain an issue, in particular support to agriculture, again on the rise

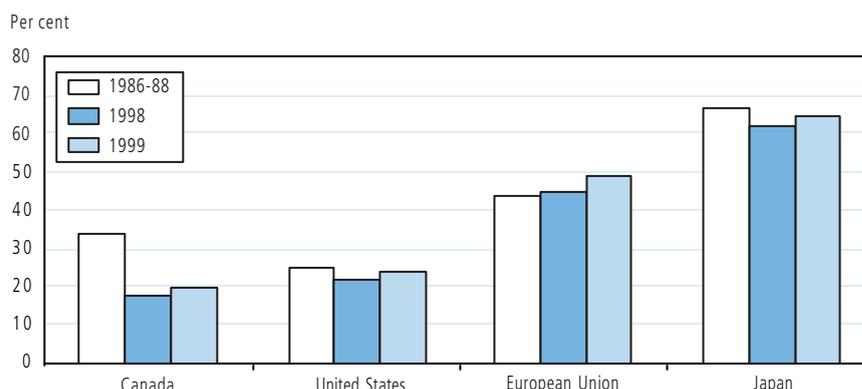
Another area of concern is subsidies. In 2000, support granted to aircraft manufacturers was of particular controversy, leading to dispute settlement procedures.³⁷ Some \$4 billion of subsidies to exporters was involved in the dispute settlement procedure on Foreign Sales Corporations (FSC) brought by the European Union against the United States; this was the largest sum ever involved in a dispute brought to the WTO.

In 1999, the OECD estimated total support to agriculture at f306 billion, up 5.6% over 1998, a rise explained by “low world commodity prices, and the resulting pressure they put on farm incomes, [which] led many OECD countries to introduce new measures or to provide additional support to farmers”.³⁸ Producer support granted in the area was estimated at f236.7 billion, of which the largest single share is accounted for by the European Union (45%), followed by Japan (23%) and the United States (21%); it should be noted that the OECD figures do not segregate less from more distorting measures of support, notably support in the 18 “green box” categories of Annex2 of the Agreement on Agriculture. The OECD notes that producer support levels have risen to match previous highs established a decade ago (Chart III.3), when the Uruguay Round was under way. In relation to the commitments of WTO Members under the Agreement on Agriculture, the OECD notes that:

The Uruguay Round Agreement on Agriculture (URAA), with its disciplines on market access, export subsidies and domestic support, provided a framework for opening up trade in agricultural products. Implementation of these commitments in 1999 – as in every year since the URAA went into effect in 1995 – has helped further integrate agriculture into the multilateral trading system. But many trade distortions remain.³⁹

Chart III.3

Producer Support Estimates (PSE) for Canada, the United States, the European Union and Japan, 1986-99



Source: OECD (2000), *Agricultural Policies in OECD Countries - Monitoring and Evaluation*, Paris.

³⁷ Brazil – Export Financing Programme for Aircraft”, complaint by Canada (WT/DS46); “Canada – Measures Affecting the Export of Civilian Aircraft”, complaint by Brazil (WT/DS70). The United States has also raised the matter of development support for the Airbus A3XX aircraft, to be produced by the consortium in the European Union, in the Committee on Trade in Civil Aircraft established under the plurilateral agreement.

³⁸ OECD (2000), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p.11. Figures are based on estimated support from all sources, both direct and indirect producer subsidies, including from consumers through higher prices.

³⁹ OECD (2000), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p.11.

Product regulations and standards may impede market access

Products placed on the markets of WTO Members, whether of domestic or imported origin, must comply with the relevant regulations, where they exist, to meet health, safety, and environmental objectives. Such measures may include outright bans, notably in the context of the implementation of multilateral environmental agreements such as the Montreal protocol, the Basel Convention or CITES. Also important are sanitary and phytosanitary measures, which are taken to protect human, animal or plant health. Apart from SPS measures, imports may be subject to product regulations and standards 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.

The WTO Agreements on Technical Barriers to Trade (TBT), and on Sanitary and Phytosanitary Measures (SPS) recognize and encourage activities at the international level designed to reduce barriers to trade resulting from product and product-related regulation, in particular, the development of international standards, guidelines, and recommendations. Such activities at the international level reduce potential market-access barriers for imports on the home market of each WTO Member, and reduce the potential barriers to its exports on third country markets. A new development, encouraged by the SPS and TBT Agreements, is the conclusion of mutual recognition agreements on the results of conformity assessment procedures, concluded between countries having established confidence in each other's testing entities and procedures. The trend to conclude such MRAs is confined – to date – to developed countries.⁴⁰

The significance of SPS measures appears to have expanded in recent years. Developed countries are heavy users of such measures, mainly to protect food safety, although developing countries are also using them with greater frequency. By October 2000, the United States had notified the WTO of the highest number of SPS measures (341), followed by the European Union and its Member States (170), Mexico (165), and Australia (120). The significance of TBT measures also appears to have expanded, rising from 365 notified measures in 1995 to 672 measures in 1999, in part due to the expanded use of such measures by developing countries (Table III.2).

Table III.2

Notifications of technical regulations and standards to the WTO, 1995-99

	1995	1996	1997	1998	1999
Argentina	0	1	0	1	16
Australia	20	18	26	12	35
Brazil	1	9	35	43	17
Canada	29	20	30	115	24
Czech Republic	12	14	1	6	28
European Union ^a	123	123	437	276	185
Japan	50	41	35	28	30
Korea, Rep.	13	9	14	8	22
Malaysia	1	19	12	28	98
Mexico	29	27	29	35	34
Switzerland	4	12	21	7	22
Thailand	7	13	22	34	22
United States	33	40	33	35	49
Total	365	460	796	648	672

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

Source: WTO Secretariat.

2. Market-access conditions for services

The services sector, as is well known, plays a dominant role in the economies of most WTO Members, both in providing consumer benefits directly through health, education, and leisure services, and as a support to business activities, through finance, communications, and transportation.⁴¹ Services is the leading sector of economic activity in all high-income countries, its importance is less in lower-income countries, with some exceptions. The importance of the services sector in the world economy greatly exceeds its share in world trade, which was estimated at one fifth in 1999, mainly because these statistics only count cross-border transactions and not services provided through affiliates.⁴² Furthermore, the same basic policy prescriptions as in the goods sector also apply, such as ensuring that policies encourage rather than impede competition and that economic operators have some

⁴⁰ For example, the European Union has concluded mutual recognition agreements (MRAs) for the results of conformity assessment with Australia, Canada, New Zealand, Switzerland, and the United States.

⁴¹ WT/S/C/W/26 and Add.1.

⁴² WT/S/C/W/27.

certainty regarding 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.

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

Although the GATS commitments are of relatively recent vintage, a number of WTO Members have actively pursued privatization and deregulation, 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. A compounding factor in the telecommunications sector is the rapid rate of technological change, notably with respect to wireless communications, which is leading regulation.⁴³ These developments in the sector underline the significance of meaningful progress on expanding the scope of commitments in the negotiations currently engaged under Article XIX of the GATS, and boosting investor confidence by making better use of the GATS framework to lock-in reforms.

A more comprehensive approach to GATS sectoral commitments has been taken by newly acceding Members of the WTO, although the limitations on market access and national treatment for the four modes of supply, as well as MFN exemptions, are similar to those of original Members.⁴⁴ The 12 most recently acceded Members – Albania, Bulgaria, Croatia, Ecuador, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Mongolia, Oman and Panama – have undertaken commitments in professional services (mostly accounting, legal, taxation, architecture, and engineering), business services (a very wide range), communication services (but the coverage of basic telecom is uneven), financial services (in some cases with important exclusions), construction services and distribution services. Coverage is most comprehensive in construction, distribution, and financial services. Eleven Members have undertaken commitments in environmental, tourism, and transport services, ten Members in health and social services, and in education services, nine Members in recreational services, and five in audio-visual services.

Major developments in the service sector were noted for the WTO Members on which up-to-date information is available through Trade Policy Reviews:

- Bahrain made commitments under the GATS and the Fifth Protocol only on certain financial services, binding the existing regime in banking services, while the current regime on insurance services is more liberal than the GATS commitments;

⁴³World Telecommunications Standardization Assembly, Opening Address by the Secretary-General of the International Telecommunications Union, 27 September 2000, Montreal [Online]. Available at: <http://www.itu.org> [31 October 2000].

⁴⁴WT/ACC/7/Rev.2, Annex 4.

Table III.3

Sectoral coverage of schedules, 2000

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: WT/S/C/W/94.

- Bangladesh has pursued privatization of basic infrastructural services such as telecommunications, power generation, and transport, the inefficient provision of which constitute a major impediment to the country's economic development by raising the cost of doing business;
- Brazil has reduced state involvement in services through privatization, opened the market for financial services to foreign banks in 1996, eliminated the monopoly of the state-owned telecommunications operator and opened the market to competition;
- the European Union opened the telecommunications market to competition in 1998 under the Internal Market programme, reinforcing and extending the resulting access to foreign services providers under the Fourth Protocol to the GATS, and made progress on the Internal Market for financial services, also extending the "single passport" to foreign service providers under the Fifth Protocol;
- Iceland's open regime for the provision of services in all sectors by foreign suppliers (except by mode 4) was bound in the GATS;
- Israel, which retains a state-owned telecoms operator, has opened the mobile telephony market and the international calls segment of the fixed-line market to competition by private investors, with foreign equity participation;
- Japan has pursued financial sector liberalization since 1997 and, in accordance with the Financial System Reform Law, liberalized the setting of brokerage commissions in 1999 and eliminated the compartmentalization of securities business;
- Kenya has begun to open the domestic telecoms market to competition, proposing to privatize the state-owned telecoms operator (foreign stakes would be subject to a 30% ceiling);
- the Republic of Korea opened its services sector to foreign investment, notably financial, telecom, broadcasting, maritime and air transportation services, and made commitments under the Fourth and Fifth Protocols to the GATS which improved conditions of market access for foreign providers of financial and telecom services;
- Liechtenstein has decided to privatize the incumbent operator in 2001, and has licensed alternative providers of international telephony services and mobile telephony;
- Nicaragua eliminated the state monopolies in insurance and postal services in 1996, has scaled back state involvement in banking, and decided the privatization of the state-owned telecoms operator in 1998, also opening up segments of the telecoms market to competition;
- Norway opened financial services to foreign competition, with conditions on commercial presence, and fully liberalized telecommunications in 1998, eliminating the monopoly rights of the state-owned operator;
- Papua New Guinea has begun to open the domestic telecoms market to competition, planning for the state-owned telecoms operator to lose its monopoly in 2002, when foreign suppliers will be allowed entry;
- Peru dramatically reduced or eliminated state involvement in financial, transport, power generation, and telecom services through privatization, and encouraged foreign investment in these sectors, including by commitments under the GATS;
- the Philippines has reduced state intervention in the services sector through privatization, and has liberalized foreign equity participation in financial services;
- Poland has opened the mobile telephony market and on fixed line services, removed the state monopoly on long-distance and local telephone calls in 1999, for domestic telex and telegraphic services in 2000, and is to remove the monopoly on long-distance calls in 2003;
- Romania has dramatically reduced or eliminated state involvement in services through privatization, adopted a policy of open non-discriminatory access for the establishment of banks (subject to prudential regulations), and on telecoms, opened the market for mobile telephony and is to open basic services to competition in 2003;
- Singapore has removed foreign ownership restrictions in banking services and advanced to April 2000, by two years, the full opening of the telecoms sector, removing all restrictions on foreign investment;
- Switzerland has opened the telecoms sector to competition by providing for the incumbent to retain the monopoly for fixed-line universal services until 2002, licensing of other suppliers for international and local calls, and licensing of mobile suppliers;
- Tanzania has dramatically reduced or eliminated state involvement in services through privatization, and opened services to competition, notably in telecoms and financial services;
- Thailand made use of the Fifth Protocol to the GATS to open financial services to competition, as a key aspect of its action to overcome the effects of the crisis that began in mid-1997, and increased competition in telecom services, which are to be opened in 2006.

3. Intellectual property protection

The WTO TRIPS Agreement establishes a framework of rules on minimum levels of protection for intellectual property rights (IPRs) and the means to ensure their enforcement. 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 five years, and least-developed countries had 11 years. Thus, as of 1 January 2000, developing countries were required to have implemented the TRIPS Agreement, and the TRIPS Council has been receiving notifications to this effect and established a schedule for the post-2000 review of legislation (Chapter IV). Implementation of the TRIPS Agreement has also been at issue in several dispute settlement proceedings.

Major developments in the area of intellectual property rights were noted for the countries that were the subject of Trade Policy Reviews during the period covered by this Report:

- Bahrain is in the process of updating its national legislation to reflect TRIPS obligations, including on patents, trade marks and industrial designs, and has made efforts to step up enforcement, especially with regard to copyright protection;
- Bangladesh (a least-developed country) is updating its intellectual property right laws with a view to bringing them into line with the provisions of the TRIPS Agreement by 2006;
- Brazil has passed revised copyright, patent, and trade mark legislation since 1996, and appears to have made considerable gains on enforcement of Brazilian laws against video and software piracy, and foreign and domestic copyright holders have successfully used the domestic legal system to pursue their rights (although the deterrent value of fines eroded by inflation is an issue);
- the European Union has taken new harmonization initiatives for the legal protection of biotechnological inventions and of designs, plans to do so for the patentability of computer programs, and intends to establish new unitary rights through a "Community design" and a "Community patent";
- Iceland amended its patent and copyright legislation to achieve compatibility with the TRIPS Agreement in 1996, notably granting full protection to pharmaceutical products;
- Israel has been amending its laws to comply with the TRIPS Agreement by 2000, and has a special police unit dedicated to enforcement since May 1999;
- Japan amended the Patent Law in 1998 to provide additional measures against patent infringements, and in 1999 to shorten the period for requesting patent examination from seven years to three years, improve the registration system for patent term extension as well as reduce patent fees, and also amended the Copyright Law in June 1999 to comply with 1996 WIPO treaties;
- Kenya has been amending its laws to comply with the TRIPS Agreement by 2000;
- 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, trade marks and designs in 1998, and enhancing enforcement by raising the ceiling on fines by 150%;
- Nicaragua, under the terms of a bilateral agreement with the United States, enacted a level of IPR protection that exceeds commitments under the TRIPS Agreement and advanced its implementation date by six months, to mid-1999;
- Norway issued new regulations on copyright in 1997 to implement the obligations to foreign right holders stemming from the various international treaties to which Norway is party, and provisions on IPR protection at the border in 1996;
- Papua New Guinea intends to adopt legislation on IPRs (which currently covers only trade marks);
- Peru enacted laws on industrial property and copyright in 1996, and seeks to promote the protection, at the international level, of the traditional knowledge of local and indigenous communities;
- the Philippines enacted the Intellectual Property Code in 1998, and also established a Bureau to which complaints on IPR-related cases may be addressed, as an alternative to judicial avenues;
- Poland introduced new legislation on industrial property protection along with amendments to copyright laws effective from 1 January 2000, aimed at meeting TRIPS commitments and harmonization with the European Union;
- Romania revised its legislation to meet commitments under the TRIPS Agreement and harmonize with the European Union, notably by new laws on copyright in 1996, the provisional protection of patents, new plant varieties, and the protection of trade marks and geographical indications in 1998, notifying its legislation for review to the WTO before the end of the transitional period;
- Singapore introduced a new patents law in 1995, copyright protection for computer programs and sound recordings in 1998, a new Trademarks Act in 1998, and a new Geographical Indications Act in 1998, notifying its legislation for review to the WTO before the end of the transitional period, and has a special police unit dedicated to enforcement;

- Tanzania (a least-developed country) introduced the Copyright Act in 1999 and intends to comply with the TRIPS Agreement by 2006; and
- Thailand introduced a new Patent Act in 1999, amended its Trademarks Act, notifying its legislation to the WTO before the end of the transitional period, and established a judicial instance to hear complaints on IPR infringements in 1996.

4. Regional trade agreements⁴⁵

A rising trend for 2000

As of mid-2000, the WTO Secretariat had enumerated 114 regional trade agreements (RTAs) in effect and notified to the WTO by one or more WTO Members.⁴⁶ Virtually all WTO Members were partners in at least one RTA, and many were partners in two or more; only Hong Kong, China; Japan; Macau, China; and Mongolia are not currently partners in a RTA (Table III.4).⁴⁷ The highest number of agreements concerned the European Union, whose network of preferential trade agreements encompasses Europe, Africa, the Middle East, Asia and, as of 2000, reached Latin America; cross-regional trade agreements are also increasingly a priority for other WTO Members. The free-trade area was the most common form of RTA, with few customs unions, which require the partners to maintain a common external trade policy, in addition to free trade with each other.

In the western hemisphere, NAFTA links Canada, Mexico, and the United States since 1994. In recent years, Canada has concluded a free-trade agreement with Chile, the negotiations with EFTA are in the final stages, talks with Costa Rica and with MERCOSUR are under way, and the possibility of such negotiations with Singapore is being explored. Mexico and the European Union concluded a free-trade agreement, which entered into force in July 2000 and secures NAFTA-like treatment for European enterprises on the Mexican market. The United States concluded a free-trade agreement with Jordan in 2000 (which contains, as an integral part of the FTA, provisions on internationally recognized worker rights and environmental standards)⁴⁸, and negotiating authority exists for free-trade agreements with Chile, the Republic of Korea, Singapore, and Turkey.

In the Caribbean, the 15-member CARICOM concluded free-trade agreements with the Dominican Republic and Cuba. Other customs union agreements are in place in Central and Latin America, such as the CACM, the Andean Community, and MERCOSUR. An initiative to link each of these customs unions with MERCOSUR and with each other was launched in August 2000. For the western hemisphere as a whole, the goal of a Free Trade Area of the Americas (FTAA) by 2005 remains in place, with work continuing in 2000 on non-tariff barriers to trade.⁴⁹

In 2000, the pace of conclusion of RTAs in Central and Latin America continued to be very rapid. CACM is negotiating an agreement with Chile, the Andean Community is negotiating an agreement with Brazil, and MERCOSUR is negotiating an agreement with Panama. Mexico, which already has agreements with Bolivia, Costa Rica, and Nicaragua, concluded agreements with El Salvador, Honduras, and Guatemala, started negotiations on a free-trade agreement with MERCOSUR, and has numerous bilateral agreements under negotiation, notably with Brazil, Ecuador, Peru, and Uruguay.

In Europe, the European Union is linked by bilateral free-trade agreements to the countries in Central and Eastern Europe, a group of which are linked by CEFTA, while another group is linked by the Baltic Free-Trade Area. Each of these countries is engaged in accession negotiations with the EU, and are therefore concluding free-trade agreements with partners to parallel those concluded by the EU. For its part, the EU is considering in 2000 the institutional changes needed to accommodate enlargement to the east.

The EU is negotiating second-generation bilateral free-trade agreements based on a reciprocal exchange of preferences with partners in the Mediterranean and North Africa, as part of the process of establishing a Euro-Med free-trade area by 2010. The EU also concluded a free-trade agreement with South Africa, which entered into force in 2000. Following its strategy of concluding free-trade agreements with dynamic emerging market economies, the EU began discussions on an agreement with MERCOSUR, in March 2000. The EU has also proceeded with discussions with the Gulf Cooperation Council (GCC).

Also in Europe, the remaining members of EFTA are linked to the EU by free-trade agreements, complemented by the EEA or bilateral agreements in the case of Switzerland. EFTA itself has concluded free-trade agreements with a number of countries in parallel to those concluded by the EC. Currently, EFTA is pursuing free-trade agreements with extra-regional trade partners, notably Canada and Mexico.

A number of recent RTAs in Europe and Central Asia concern the integration of countries of the former USSR, as well as with their neighbours. In 1994, the CIS States agreed to create a free-trade area linking Azerbaijan, Armenia, Belarus, Georgia, Moldova, Kazakhstan, the Russian Federation, Ukraine, Uzbekistan, Tajikistan, and the Kyrgyz Republic. A customs union agreement between the Kyrgyz Republic, the Russian Federation, Belarus, and

⁴⁶Based mainly on WT/REG/W/39, notifications by WTO Members, and Trade Policy Reviews.

⁴⁷GATT Article XXIV; Enabling Clause; GATS Article VI.

⁴⁸Regional 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/>).

⁴⁹USTR Press Release 00-75 [Online]. Available at: <http://www.ustr.gov> [31 October 2000].

⁴⁵<http://www.ftaa-alca.org>

Table III.4

Parties to regional trade agreements notified to the WTO under Article XXIV and in force, July 2000

Antigua and Barbuda/Bahamas/Barbados/Belize/Dominica/ Grenada/Guyana/Haiti/Jamaica/Montserrat/Trinidad and Tobago/St. Kitts and Nevis/St. Lucia/St. Vincent and the Grenadines/Suriname – Caribbean Community and Common Market (CARICOM)	Bulgaria/Czech Republic/Hungary/Poland/Romania/ Slovak Republic/Slovenia – Central European Free Trade Area (CEFTA)	Kyrgyz Republic/Kazakhstan
Austria/Belgium/Denmark/Finland/France/Germany/ Greece/Ireland/Italy/Luxembourg/Netherlands/Portugal/ Spain/Sweden/United Kingdom – European Communities (EC)	Bulgaria/Former Yugoslav Republic of Macedonia	Kyrgyz Republic/Moldova
EC/Algeria	Canada/Chile	Kyrgyz Republic/Russian Fed.
EC/Andorra	Canada/Israel	Kyrgyz Republic/Ukraine
EC/Bulgaria	Canada/Mexico/United States – North American Free Trade Agreement (NAFTA)	Kyrgyz Republic/Uzbekistan
EC/Cyprus	Costa Rica/El Salvador/Guatemala/Honduras/Nicaragua – Central American Common Market (CACM)	Poland/Faroe Islands
EC/Czech Republic	Croatia/Slovenia	Poland/Israel
EC/Egypt	Czech Republic/Estonia	Poland/Latvia
EC/Estonia	Czech Republic/Israel	Poland/Lithuania
EC/Faroe Islands	Czech Republic/Latvia	Romania/Moldova
EC/Hungary	Czech Republic/Lithuania	Slovak Republic/Estonia
EC/Iceland	Czech Republic/Slovak Republic	Slovak Republic/Israel
EC/Israel	Estonia/Faroe Islands	Slovak Republic/Latvia
EC/Jordan	Estonia/Latvia/Lithuania	Slovak Republic/Lithuania
EC/Latvia	Faroe Islands/Iceland	Slovenia/Estonia
EC/Lebanon	Faroe Islands/Norway	Slovenia/Israel
EC/Lithuania	Faroe Islands/Switzerland	Slovenia/Latvia
EC/Malta	Hungary/Israel	Slovenia/Lithuania
EC/Morocco	Hungary/Latvia	Slovenia/Former Yugoslav Republic of Macedonia
EC/Norway	Hungary/Lithuania	Turkey/Bulgaria
EC/Palestinian Authority	Iceland/Norway/Switzerland/Liechtenstein – European Free Trade Association (EFTA)	Turkey/Czech Republic
EC/Poland	EFTA/Bulgaria	Turkey/Estonia
EC/Certain Overseas Countries and Territories (OCT/ PTOM II)	EFTA/Czech Republic	Turkey/Hungary
EC/Romania	EFTA/Slovak Republic	Turkey/Israel
EC/Slovak Republic	EFTA/Estonia	Turkey/Lithuania
EC/Slovenia	EFTA/Hungary	Turkey/Poland
EC/Switzerland and Liechtenstein	EFTA/Israel	Turkey/Romania
EC/Syria	EFTA/Latvia	Turkey/Slovak Republic
EC/Tunisia	EFTA/Lithuania	United States/Israel
EC/Turkey	EFTA/Morocco	
Australia/Papua New Guinea (PATCRA)	EFTA/Palestinian Authority	
Australia/New Zealand – Closer Economic Relations Trade Agreement (ANZCERTA)	EFTA/Poland	
Azerbaijan/Armenia/Belarus/Georgia/Moldova/Kazakhstan/ Russian Fed./Ukraine/Uzbekistan/ Tajikistan/Kyrgyz Republic	EFTA/Romania	
Belarus/Kazakhstan/Kyrgyz Republic/Russian Federation – Interim Agreements for the establishment of a Customs Union	EFTA/Slovenia	

Kazakhstan entered into force in 1997 and is to be fully completed by 2003. A large number of bilateral agreements have also been concluded, notably among the Kyrgyz Republic, Kazakhstan, Moldova, the Russian Federation, Ukraine, and Uzbekistan.

In Asia, the members of ASEAN – Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam – met to agree the final phase of tariff liberalization to establish a free-trade area by 2005.⁵⁰ Singapore and New Zealand have concluded a free-trade agreement. Also in Asia, Japan has shifted its long-standing policy of multilateral-only trade liberalization to consider the conclusion of bilateral agreements to deepen trade and investment interdependence with Singapore and the Republic of Korea, as well as other trade partners, and to meet the challenge of the trend to regional integration in other regions and between regions.⁵¹ The Republic of Korea, which began negotiations on a bilateral free-trade agreement with Chile in 1998, is now considering regional and bilateral trade agreements as a useful means of securing greater market access for Korea's exports in response to the recent financial crisis and growing regionalism elsewhere. Sri Lanka and India agreed to implement their free-trade agreement concluded in 1998.

In Africa, certain members of the Economic Community of West African States (ECOWAS) – Benin, Burkina Faso, Ghana, Mali, Niger, Nigeria, and Togo – agreed to establish a common external tariff by 2001 and took steps to liberalize the movement of natural persons. The Southern African Development Community (SADC) treaty has been ratified by ten countries – Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Tanzania, South Africa, Swaziland, and Zimbabwe – and aims to achieve a free-trade area by 2004.⁵² The 20 members of the Common Market for Eastern and Southern Africa (COMESA) agreed to launch a free-trade area by October 2000, supported by closer monetary cooperation.⁵³ The Economic and Monetary Community of Central Africa (CEMAC), which is composed of Cameroon, the Central African Republic, the Congo, Gabon, Equatorial Guinea, and Chad, aims to progress towards economic union. The members of the Union économique et monétaire de l'Afrique de l'Ouest (UEMOA) established their customs union on schedule at the start of 2000.⁵⁴

In the Middle East, the Gulf Cooperation Council (GCC), which is composed of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates, agreed in November 1999 to establish common external tariffs by 2005, fulfilling the Council's long-standing ambition to achieve a customs union. The members of the GCC are also part of the effort launched by the Arab League (in addition to GCC members, Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Syria, and Tunisia) to establish a common market by 2007.

Regional and multilateral integration: complements or substitutes?

On the basis of these developments, there is no doubt that the trend to the conclusion of RTAs, which took off in the 1990s, continued to be very strong in 2000; indeed, perhaps the term "regional" is increasingly superfluous to describe the plethora of new agreements linking countries around the globe.⁵⁵ The motivation behind the trend is that such agreements permit the partners to accelerate and deepen trade and investment liberalization on a bilateral or plurilateral basis, as well as address other issues of commercial significance in economic relations, notably investment, intellectual property protection, cooperation on competition policy, assessment of conformity to technical standards and regulations and access to government procurement. In doing so, participants reap the advantages of closer economic integration and their growth prospects are correspondingly strengthened, of wider benefit to trading partners. On the negative side, regional trade agreements comprise aspects of preferential treatment, notably with respect to trade in goods, that result in trade diversion to the detriment of third parties and undermine the bedrock principle of the most-favoured-nation. On balance, however, experience has shown that most WTO Members combine the twin-track approach of regional and multilateral liberalization, which are not viewed as contradictory.

In the wake of Seattle, it has been argued that the trend to regional integration could strengthen, if disappointment with the multilateral trading system is allowed to take hold.⁵⁶ Although it is too early to draw any conclusions on this issue (noting the forward agenda of the WTO, described in previous sections), certain aspects of the interface between regional and multilateral integration need to be emphasized. A first aspect is that preferential access remains of abiding commercial interest in areas where tariffs remain high, leading WTO Members to continue to be attracted to the regional option – just like developing countries value preferential market access through GSP or similar programmes. At the same time, one country's preference is a third party's discrimination, including through rules of origin, of particular concern at a time of rapid proliferation of RTAs, leading to trade diversion. A second aspect is that many countries seeking to achieve the gains of economic integration consider the regional option to yield quicker results than when a multilateral consensus needs to be secured, although many also consider that regional integration prepares the ground for a multilateral process. A third aspect is that negotiation of multiple RTAs burdens

⁵⁰ AFTA provides for tariffs to be cut to between 0 and 5% by 2002. Malaysia has postponed to 2005 the liberalization of car tariffs originally scheduled for the start of 2003, subject to negotiations on compensation with principally affected suppliers.

⁵¹ On 28 September 2000, the joint study group of the Governments of Japan and Singapore completed its work, recommending the initiation of negotiations on an "Agreement on a New Age Partnership".

⁵² Botswana, Lesotho, Namibia, South Africa, and Swaziland are members of the Southern African Customs Union (SACU).

⁵³ Angola, Burundi, Comoros, Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

⁵⁴ Benin, Burkina Faso, Guinea-Bissau, Côte d'Ivoire, Mali, Niger, Senegal, and Togo.

⁵⁵ GATT (1994), *Regional integration and the world trading system* Geneva.

⁵⁶ World Bank (2000), *Trade Blocs*, Oxford University Press, p. 115.

the already scarce negotiating resources of developing countries, while multilateral negotiations provide scope for more concentrated action and results in this regard.

More generally, the WTO, with its large and growing membership, framework of rules enforced by effective dispute settlement procedures, is still the leading forum for wide-ranging market-access agreements or for a universal framework of rules on trade measures. Thus, the protection of intellectual property rights is more valuable on a global basis than on a bilateral or plurilateral basis. Achieving the reform of policies in certain issues – notably support policies to agricultural producers – has proved more feasible at the multilateral level. Furthermore, securing open markets for goods and services on a global basis is more appropriate to the commercial strategies of enterprises in globalized markets than the regional option. Hence, even as WTO Members explore the regional option, significant forces also favour the multilateral trading system.

However, the WTO does not have rules and procedures for examining RTAs that function adequately. To date, 220 RTAs have been notified to the GATT/WTO, and the Committee on Regional Trade Agreements has proceeded to the examination of notified agreements, with a total of 86 RTAs still under examination at the end of 2000. The Committee has completed the factual examination of 60 RTAs, whose draft examination reports are in various stages of consultation and finalization. In addition to facing a heavy backlog of agreements under examination, the Committee has been unable to finalize any reports due to a lack of consensus among the WTO Members, demonstrating that the unsatisfactory experience of the GATT process on examining RTAs continues to be the same in the WTO.

D. Integrating LDCs in the world trading system

1. Overview

A declining share of world trade

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.⁵⁷ 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 was down to 0.4% in 1999, from 0.7% in 1980, while these countries accounted for 10.4% 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.⁵⁸

Trade openness and growth are positively related

Alan Winters, in a recently published WTO Secretariat study, noted that "trade liberalization is generally a strongly positive contributor to poverty alleviation – it allows people to exploit their productive potential, assists economic growth, curtails arbitrary policy interventions and helps to insulate against shocks".⁵⁹ This conclusion is backed by empirical research. Openness of the economy has proved to be a major factor in economic growth, strongly associated with per capita income growth. In a study of 122 countries for 1970-90, "open" economies outperformed "closed" economies on economic growth, avoidance of extreme macroeconomic crisis, and structural change: growth rates of "open" economies averaged 4.5% between 1970 and 1990, compared to just 0.7% for "closed" economies.⁶⁰ This concurs with a new study from the World Bank which, using data from 80 countries over four decades, confirms that openness boosts economic growth and that the incomes of the poor rise one-for-one with overall growth.⁶¹

The World Bank recently noted that:

As countries become richer, on average the incidence of poverty falls. Other indicators of well-being, such as average levels of education and health tend to improve as well. For these reasons, economic growth is a powerful force for poverty reduction. This observation is not the end of the story, for it raises the questions of what causes economic growth and why countries with similar rates of economic growth can have very different rates of poverty reduction.⁶²

The World Bank goes on to note that the poverty-reducing effects of economic growth are enhanced by policies to promote social development, such as education and institution-building, and therefore economic growth and social development have to be viewed together, and not in a sequence.

Based on these studies, least-developed countries seeking to improve their growth prospects are encouraged to, inter alia, open their trade regimes and implement appropriately sequenced outward-oriented reforms that will permit trade diversification and expansion. The World Bank has underlined that, in addition to the growth-promoting policies

⁵⁷WTO Members are Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, 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 Príncipe, Somalia, and Tuvalu.

⁵⁸WT/COMTD/W/65. Exceptions are: Bangladesh, Cambodia, Haiti, Laos, Madagascar, and Myanmar.

⁵⁹Winters, L.A. (2000), "Trade and Poverty: Is there a Connection", in Trade, Income Disparity and Poverty, WTO, Geneva.

⁶⁰Sachs and Warner (1995). A "closed" economy had combined protection through tariffs and non-tariff barriers of 40% or more, a black market exchange rate premium of 20% or more, state monopoly on major exports, or a planned economy.

⁶¹D.Dollar and A.Kraay (2000), "Growth Is Good for the Poor" [Online]. Available at: <http://www.worldbank.org/research> [31October 2000].

⁶²World Bank (2000), World Development Report 2000/2001: Attacking Poverty, p.45 [Online]. Available at: <http://www.worldbank.org> [1October 2000].

that can be adopted, poverty reduction requires appropriate policies of support, notably education and institution-building.

Supportive external action is needed

In addition to the efforts to be made by countries and the communities within them, global actions are also needed. Thus, the WTO has established a Plan of Action for LDCs, to remove market-access barriers and support trade development through technical assistance. At UNCTAD X, a proposal for a Plan of Action for LDCs was agreed with a view to the Third United Nations Conference on the Least-developed Countries (UNLDC III), which is to be held in May 2001.⁶³ Furthermore, the IMF-World Bank initiative for Heavily Indebted Poor Countries (HIPC) makes available debt relief for the 42 heavily indebted LDCs.⁶⁴ In all cases, increasing attention is being paid to bringing together reforms and capacity-building programmes in various areas of policy in a comprehensive and multi-faceted development strategy.

The WTO's Plan of Action for LDCs was adopted at the First WTO Ministerial Meeting, held in Singapore in 1996. The "Declaration for a Plan of Action" asked WTO member countries to provide enhanced market access for LDC exports and asked multilateral institutions – WTO, WB, IMF, UNDP, UNCTAD and ITC – to provide an integrated framework for trade-related assistance. This was followed up with the High-Level Meeting (HLM) on Integrated Initiatives for Least-Developed Countries Trade Development held on 27-28 October 1997, which established the Integrated Framework.

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 elimination 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, which are addressed through the Integrated Framework.⁶⁵

2. WTO Plan of Action: Market-access improvements and Integrated Framework

Market-access improvements

A number of WTO Members have taken steps since the HLM to improve market access for LDCs on a preferential basis. At the HLM, several Members provided details on existing or planned measures of enhanced market access for LDCs – Australia, Bulgaria, Canada, Chile, Egypt, the European Union, Hungary, India, Indonesia, Japan, Republic of Korea, Malaysia, Mauritius, Morocco, Norway, Singapore, Switzerland, Thailand, Turkey, and the United States.⁶⁶ Notifications of improvements were made to the WTO by the European Communities⁶⁷, Switzerland⁶⁸, Republic of Korea⁶⁹, Turkey⁷⁰, Egypt⁷¹, Mauritius⁷² and the United States⁷³. Singapore had notified improvements at the HLM.⁷⁴

At the Third Ministerial Conference in Seattle in November 1999, the European Union and Japan announced their intention to open their markets to virtually 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, New Zealand, Poland and Slovenia.⁷⁵ The WTO was also informed by HongKong, China that it grants duty-free and quota-free access to imports from all sources, including the LDCs, and by Hungary and the Slovak Republic, that unconditional duty-free and quota-free access is granted to imports from LDCs. Notifications of improvements or proposed amendments were made to the WTO by Canada,⁷⁶ Japan,⁷⁷ New Zealand,⁷⁸ Norway,⁷⁹ and the United States.⁸⁰

Major developments in the market-access conditions for LDCs in the Quad, in 2000, include:

- Canada extended the scope of its Generalized Preferential Tariff (GPT) scheme to encompass 550 additional items for which duty-free access is granted for imports from LDCs as of 1 September 2000, raising to 90% the share of duty-free lines for LDCs⁸¹;

- the European Union and the ACP States (one third are LDCs) concluded a Partnership Agreement to succeed the Fourth Lomé Convention, which contains the pledge to implement duty-free treatment for the LDCs by 2005⁸²; and the European Union amended its GSP programme to grant duty-free and quota-free access for "everything but arms" exported by LDCs on 5 March 2001⁸³;

⁶³ Reference.

⁶⁴ IMF, "Debt Initiative for the Heavily Indebted Poor Countries (HIPC)" [Online]. Available at: <http://www.imf.org/external/np/hipc/hipc.htm> [6 October 2000].

⁶⁵ WT/COMTD/W/11 and Rev.1.

⁶⁶ WT/LDCHL/M/1.

⁶⁷ WT/COMTD/W/41.

⁶⁸ WT/COMTD/N/7. (The coverage of the Swiss scheme was also considerably extended to other developing countries, particularly in agriculture.)

⁶⁹ WT/COMTD/N/12/Rev.1. This is the first notification of preferences made under the waiver adopted in 1999 (WT/L/304) to permit preferences from developing countries to least-developed countries. The notification concerns measures announced by the Republic of Korea at the HLM (WT/COMTD/12).

⁷⁰ WT/COMTD/W/39 and Corr.1.

⁷¹ WT/COMTD/W/47.

⁷² WT/COMTD/W/53.

⁷³ WT/COMTD/N/1/Add.2.

⁷⁴ Annex I of WT/LDCHL/M/1.

⁷⁵ WT/GC/M/55.

⁷⁶ WT/COMTD/N/15.

⁷⁷ WT/COMTD/29 and WT/LDC/SWG/IF/12.

⁷⁸ WT/COMTD/27 and WT/GC/36.

⁷⁹ WT/COMTD/N/6/Add.2.

⁸⁰ WT/COMTD/N/1/Add.3.

⁸¹ WT/COMTD/N/15.

⁸² WT/C/187/Rev.3.

- Japan in December 2000, announced its “Ninety-nine per cent initiative on Industrial tariffs” and is establishing a new, special preferential system for LDCs⁸⁴; and
- the United States enacted the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Trade Partnership Act (CBTPA), which grant preferential treatment on covered items from beneficiary countries meeting the eligibility conditions under the respective Acts.⁸⁵

These actions, combined with existing programmes and MFN tariffs, make access duty-free for approximately 75% of LDC exports to their 30 main markets, leaving 25% subject to tariffs.⁸⁶ However, tariff peaks remain a significant impediment to market access. Tariffs are often above-average by virtue of the “sensitive” nature of the underlying product (notably textiles and clothing, and agricultural products). Other tariff barriers to trade development include tariff escalation, according to which the level of the tariff rises with the stage of processing, discouraging more intensive manufacturing. LDCs have also called attention to quantitative restrictions on textiles and clothing items, and agricultural products, and to other non-tariff barriers, such as non-automatic import licensing, prior authorization, state trading, other administrative restrictions, standards and SPS restrictions, etc. affecting products such as fish and fish products, frozen foods, meat, hides and skins, and leather.

Integrated Framework to build capacity

The Integrated Framework (IF) is the institutional mechanism for the delivery of trade-related technical assistance to LDCs by six agencies – ITC, IMF, UNCTAD, UNDP, World Bank and WTO. The IF has been in operation since October 1997 when it was “endorsed” at the WTO High Level Meeting on Integrated Initiatives for Least-Developed Countries’ Trade Development. The objective of the IF is to increase the benefits that LDCs derive from the trade-related technical assistance available from the six IF agencies, with a view to assisting them to enhance their trade opportunities, to respond to market demands and to integrate into the multilateral trading system. The IF was structured on the basis of five main steps: (i) Needs Assessment by individual LDCs; (ii) Integrated Responses by the six agencies; (iii) preparation of a multi-year country programme and the holding of a Round Table meeting; (iv) implementation and monitoring of trade-related technical assistance activities; and (v) regular evaluation by the staff of the six agencies and officials of the LDCs.

The IF was able to achieve modest accomplishments between October 1997 and November 1999, when a review process started. Out of the 48 LDCs then concerned, 40 had submitted their Needs Assessments for trade-related technical assistance, including physical infrastructures, human and institutional capacity-building. The needs typically ranged from training in information technology and assistance to improve customs administration, through transport and storage infrastructures, to issues such as telecommunications, and electrical power. Another major need was trade analysis and policy expertise for export promotion, for the implementation of WTO Agreements, and to build capacity to participate more effectively in the WTO. The six agencies formulated Integrated Responses to all the needs assessments prepared, and delivered trade-related technical assistance within their competence and mandate, either individually or jointly, on the basis of the Integrated Responses.⁸⁷

Five Round Tables were organized in Bangladesh, The Gambia, Haiti, Tanzania and Uganda, in the context of the IF between December 1998 and March 2000. The results of the Round Tables were disappointing, except in the case of Uganda, where resources were generated, principally because Uganda had been able to “mainstream” trade into its overall national development plan.⁸⁸ The reasons for the disappointing results from the IF were thoroughly reviewed in the Report on the IF Review. The reasons included, inter alia, the need to enhance ownership, mainstream trade into development architecture and resource difficulties for the priorities identified. Furthermore, governance and management were amongst some of the main elements in the improvements suggested under the IF review.

The review of the IF, as mandated in the Framework document⁸⁹, was initiated in November 1999 by the six core Agencies, in consultation with LDCs and their development partners. To precede consideration by the Agencies, an independent review team was appointed to make its own assessment. The independent review⁹⁰ found that the IF was generally viewed as an important exercise by all stakeholders – LDCs, donors, and the six agencies – but that the anticipated results in terms of capacity-building had fallen short of expectations, while recognizing that the process of creating capacity is lengthy. However, there were “different perceptions regarding the objectives of the IF between LDCs and donors: LDCs expected additional funding; donors expected the IF to realize greater efficiency and effectiveness by coordinating trade-related TA” ... and “coordination was found more complex than anticipated between the LDCs and donors, among donors, and between the six agencies themselves”. Another problem identified was that the IF has been a generally under-funded mandate, with varying degrees of priority being given to the IF by different donors and agencies.

⁸³

<http://europa.eu.int/comm/trade/miti/devel/eba.htm> [5 March 2001].

⁸⁴ WT/COMTD/29 and WT/LDC/SWG/IF/12.

⁸⁵ The product coverage is listed in WT/COMTD/N/1/Add.3.

⁸⁶ WT/LDC/SWG/IF/14 and Add.1.

⁸⁷ An illustrative list of the activities that were carried out by the six agencies, on the basis of the Integrated Responses, typically included: (i) specialized assistance to review and update customs legislation and rationalize import tariffs by IMF; (ii) focus on trade information support and assistance to enterprises in product and market development by ITC; (iii) policy dialogue with LDCs and national or regional programmes and activities by UNDP; UNCTAD studies and policy dialogue and assistance in trade and development; (iv) credit and advisory services, trade-related infrastructure and institutional building projects by the World Bank; human and institutional capacity building assistance by WTO including national/regional seminars and workshops, special three week trade policy courses for LDCs and technical missions to assist in implementation of WTO agreements. Joint activities included: (i) work on modernization-computerization of customs systems by IMF, UNCTAD and UNDP; (ii) World Bank-WTO Joint Regional Seminars on the multilateral trading system and how to use trade as a tool for development; and (iii) the design and implementation of projects by ITC, UNCTAD and the WTO under the Joint Integrated Technical Assistance Programme (JITAP) in four African LDCs.

⁸⁸ See Annex 6 of the Report of the Review of the IF, as contained in WTO document WT/LDC/SWG/IF/1.

⁸⁹ WTO document WT/LDC/HL/Rev.1

The review culminated in the meeting of the Heads and representatives of the six agencies on 6 July 2000, where they took decisions to improve the implementation of the IF. The four major decisions, as contained in the Joint Statement issued by the Heads of Agency, are as follows:

- First, assist the efforts of LDCs to mainstream trade and trade-related technical assistance into national development plans and poverty reduction strategies, such as Poverty Reduction Strategy Papers (PRSPs) and the United Nations Development Assistance Framework (UNDAF), with the World Bank taking the lead;
- Second, expand the meeting of the Heads of the agencies to include representatives of donor countries and LDCs in a new governance body – an IF Steering Committee – which would provide policy oversight;
- Third, fold the Administrative Unit, formerly located at ITC, into the WTO, which would continue to chair the Inter-Agency Working Group; and,
- Fourth, seek the establishment of an IF Trust Fund, and contributions to it, with an initial funding objective of US\$20 million, which would be administered by the UNDP, in cooperation with the other agencies on agreed terms.

Following the decisions by the Heads of Agency, consultations amongst Members, and between Members and the agencies, it was agreed to proceed with the implementation of the IF on a pilot basis.⁹¹ The implementation of the IF Pilot Scheme is now led by the World Bank on the basis of which trade integration strategy chapters will be mainstreamed into country development plans and poverty reduction strategies, as outlined in the IF Pilot Phase Work Programme. The trade integration strategy will encompass analysis of both external and internal constraints to trade, and will include an elaborated programme of prioritized and sequenced trade-related technical assistance projects to be considered for funding at World Bank Consultative Groups (CGs) and/or UNDP Round Tables.

The IF Pilot Scheme also established an Integrated Framework Trust Fund, to which contributions would be sought from donors on a voluntary basis. Also established was an Integrated Framework Steering Committee (IFSC) which would be composed of representatives of the 6 core Agencies, 6 LDCs, and all donors, and would be chaired by a donor country, with an LDC, as Vice-Chair. Its value is its tripartite configuration of donors, LDCs and agencies. This new governance structure has improved transparency, ensured ownership, responsibility and involvement amongst the key stakeholders.

The IF Pilot Programme will be reviewed by donors, LDCs and agencies by the 4th WTO Ministerial Conference. At that time, the approach in the pilot will be considered for extension to other LDCs, once positive results are attained in the pilots.

⁹⁰The report of the IF Review is contained in WTO document WT/LDC/SWG/IF/1.

⁹¹The proposal for an IF Pilot Scheme was adopted by the Sub-Committee on Least-Developed Countries on 12 February 2001. The proposal is contained in WTO document WT/LDC/SWG/IF/13.