

# WTO members urge open markets as preparations start for 3rd Ministerial

## *E-commerce work programme adopted*

**W**TTO Members, in a special session of the General Council on 24-25 September, unanimously rejected trade protectionism as a response to the current financial turmoil, and urged that markets remain open to assist economic recovery.

The special session marked the start of preparations for the Third WTO Ministerial Conference which will be held in the United States late next year and the launching of a WTO work programme for electronic commerce, as mandated by the Second WTO Ministerial Conference held in Geneva last May.

The United States suggested that the Conference take place on 30 November to 3 December 1999. It said that it would propose a venue shortly.

### *Proposals for future negotiations*

A number of members proposed that trade negotiations to be launched at the Third Ministerial be a comprehensive one, which would cover not only those subjects in the "built-in" agenda—agriculture and services—but also other issues, such as further industrial tariff cuts. Some other countries stressed that the WTO should stick to dealing with implementation issues and those negotiating subjects already agreed to in the Uruguay Round. A number of other members said that they would be tabling their



*Director-General Renato Ruggiero and Chairman John Weekes at the Special Session launching preparations for the 1999 Ministerial. (Tania Tang/WTO)*

proposals after completing domestic consultations.

The European Communities said the danger of "beggar-they-neighbour" policies was growing rapidly as the impact of the financial crisis had spread. It underlined the need for a greater urgency in the WTO to ensure that the organization remained a bulwark against any protection-

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## **The financial crisis and the WTO**

**D**irector-General Renato Ruggiero, in an informal meeting of the General Council on 18 September, underlined that in the face of the world financial crisis "our shared responsibility is to see how the trading system can give a positive contribution towards our shared objective—returning the world economy to the path of sustainable growth." He stressed the following:

- Protectionism, especially under the present circumstances, would be a tragic mistake;
- Finalizing accession negotiations of some 30 applying states would be a powerful signal of confidence in the world economy; and
- As we prepare for the Third Ministerial Conference, we must show the world that we intend to keep our work programme firmly on track.

## Open markets urged

(Continued from page 1)

ist backsliding, and urged members to adopt an ambitious programme of further negotiations as their "collective contribution to the health of the international trading system". The EC proposed adding to the built-in agenda negotiations for substantial reductions of industrial tariffs across all sectors, and new rules in sectors such as competition policy and investment. It said that "comprehensive" negotiations meant that they reflect the interests of all members, adding that "further negotiations in the WTO will only be acceptable if the benefits of it are widely shared".

Japan supported comprehensive negotiations as the best approach to achieve overall balance of interests of all members. It said that the Geneva Ministerial Declaration provided a basis for negotiations in industrial tariffs, rules on investment and other new areas in addition to the built-in agenda.

The Czech Republic, speaking also on behalf of Bulgaria, Hungary, Poland, Romania, the Slovak Republic and Slovenia, called on members to show their ability to maintain open markets and sustain the momentum of liberalization amidst the current economic turmoil. It said that a comprehensive new round of trade negotiations corresponded better to the objective of stopping protectionism and maintaining liberalization momentum.

India said that Uruguay Round results in favour of developing countries, including special and differential clauses and meaningful market access in textiles and clothing, had not been implemented. It called for members to address what it viewed as imbalances against developing countries in various agreements, including on agriculture, SPS, TRIPS and the GATS. India said initiatives for a comprehensive new round were premature and warned against overloading the WTO agenda.

Indonesia, speaking on behalf of the ASEAN countries, said that the meeting was taking place against a backdrop of economic and financial crisis, and that while trade was not the cause of the problem, it had a role of play in its solution. It said that to win confidence, the WTO work programme should take into account the interests of developing countries and that ambitions should be pursued with an adequate dose of realism and pragmatism.

Egypt, speaking on behalf of African countries, said that a source of continuing concern was that despite the continued growth in world trade, the share of African merchandise exports in global trade had declined from 5.9% in 1980 to 2.3% in 1996. It stressed that the African countries expected practical steps in the WTO aimed at redressing this imbalance. Egypt said that obligations of developing countries have gone up after the Uruguay Round, thus their trading partners should not be overly ambitious with respect to future negotiations. It said that African countries was not ready to agree to a new round that would benefit mostly the developed and strong economies to the detriment of the poor and weaker economies.

Brazil said that the developed countries with larger shares in world markets are better equipped to provide trade-related answers to the financial crisis. With respect

General Council Meetings	
26-27 October 1998 - Informal	Discussion on issues and proposals related to paragraph 9(a) of the Ministerial Declaration (recommendations concerning: (i) the issues, including those brought forward by Members, relating to implementation of existing agreements and decisions; (ii) the negotiations already undertaken at Marrakesh, to ensure that such negotiations begin on schedule; (iii) future work already provided for under other existing agreements and decisions taken at Marrakesh.)
23-24 November 1998 - Informal	Discussion on issues and proposals related to paragraph 9(b)-9(d) of the Ministerial Declaration (b. Recommendations concerning other future work on the basis of the work programme initiated at Singapore; c. Recommendations on the follow-up to the High-Level Meeting on Least-Developed Countries; d. Recommendations arising from consideration of other matters proposed and agreed to by Members concerning their multilateral trade relations.)
14 and 16 December 1998 - Informal	Further discussion on issues and proposals under paragraph 9 and the schedule of future work
2-3 February 1999 - Formal	Special Session

to future negotiations, it said it could not envisage a sectoral approach as a way of proceeding.

The United States and Canada said consultations have started in their respective countries with respect to the future WTO negotiations. The United States cited President Clinton's address during the 50<sup>th</sup> Anniversary Commemoration, during which he stated that in the fast-moving global trading system, one could no longer afford to take seven years to finish a trade round or let decades pass between identifying acting on a trade barrier. Canada said that more and more elements of the civil society are concerned to ensure that their views are taken into account in developing Canadian positions in the WTO.

Venezuela said that world trade was an integral part of any solution to the current economic crisis, and that its liberalization would contribute to development and economic growth. With respect to future negotiations, it singled out market access as a particularly important issue for developing countries, adding that developed countries should understand the aspirations of the poorer countries in the trading system.

The Chairman, Ambassador John Weekes (Canada), said that the meeting had marked the start of the process aimed at ensuring full and faithful implementation of existing WTO agreement and preparing for the Third Ministerial, as the Geneva Ministerial Declaration had mandated. He said that from the discussions, he concluded that this General Council's task was even more important at the present time because of the deterioration in international economic conditions. He noted that many delegations had said that resisting protectionism, proceeding expeditiously with the full and faithful implementation of the WTO Agreements, and maintaining the momentum towards further trade liberalization which would be of benefit to all members, would be positive contributions to alleviating the crisis.

### **Programme of work**

The General Council agreed on a series of formal and informal meetings (*see box*) in the coming months, including the hold of another Special Session in February 1999.

## Candidates for WTO post

*The General Council has started the process of appointing the next WTO Director-General. The current WTO head, Mr. Renato Ruggiero, whose term ends in May 1999, had recommended that the members agree on his successor "as soon as possible, and certainly before the end of the year". Members agreed to close nominations on 1 October, and work to identify the new Director-General through consensus by the end of November. The following have been officially nominated by their respective governments:*

**HASSAN ABOUYOUB, MOROCCO**

Mr. Hassan Abouyoub was born in 1952. After studying in Lyon (France), he was recruited by the Ministry of Commerce and Industry of Morocco and became Director of International Trade in 1980. In this position, Mr. Abouyoub conceived and implemented Morocco's trade policy reform. He led Morocco's accession to GATT and its trade negotiations with the European Community. He also participated in the Uruguay Round negotiations.

Between 1990 and 1993, Mr. Abouyoub became successively Minister of External Trade and of Foreign Investment and Tourism. He took part in the conclusion of the Uruguay Round and in the organization of the Marrakesh Ministerial Conference. Mr. Abouyoub was elected Member of Parliament in 1993 and appointed Ambassador to Saudi Arabia in 1994.

As Minister of Agriculture, from 1995 to 1997, Mr. Abouyoub implemented Morocco's WTO commitments on agriculture and negotiated with the European Union a fishing agreement and the Euro-Mediterranean agreement establishing a free trade zone with Morocco. Since 1998, Mr. Abouyoub is an Ambassador in charge of trade negotiations.

**RT HON MIKE MOORE MP, NEW ZEALAND**

Mike Moore was born in Whakatane, New Zealand, in 1949. After early experience as a printer, social worker, trade union researcher, in 1972 he became the youngest member of Parliament ever elected in New Zealand. Mr. Moore has served as New Zealand Minister of Overseas Trade and Marketing (1984-1990), Minister of Foreign Affairs (1990), Deputy Minister of Finance (1988-1990) and Prime Minister (1990). As Trade Minister, he was active in launching the Uruguay Round of GATT negotiations. He is currently Opposition Spokesperson on Foreign Affairs and Overseas Trade.

Mr. Moore is the longest serving member of the New Zealand Parliamentary Select Committee on Foreign Affairs and Trade. He represented New Zealand at the first APEC Ministerial Meeting in Canberra in 1989 and served as a board member of Asia 2000, a New Zealand body dedicated to fostering closer ties with Asian countries.

Mr. Moore holds a number of positions in community groups, such as Maori Welfare Committees and the anti-apartheid movement. He was appointed Constitutional Adviser to the Government of the Cook Islands in 1998. He is the author of eight books including *A Pacific Parliament* and *The Added Value Economy*.

**HON ROY MACLAREN, P.C., CANADA**

Roy MacLaren was born in Vancouver, Canada, in 1934. He holds Masters Degrees from both the University of Toronto and the University of Cambridge and he attended an Advanced Management Program from Harvard University.

Mr. MacLaren was a Member of Parliament from 1979-1984 and has gained professional experience in both the private and the public sectors. From 1974-1977 he was president of Oglivy Mather (Canada) Ltd and from 1984-1993 he held the position of Director at Deutsche Bank (Canada) Ltd. For ten years, he served in the Canadian Foreign Service and has held overseas posts at the UN in New York and Geneva where he was responsible for economic affairs in the Canadian Mission and a delegate to UNCTAD and ECOSOC.

As Minister of International Trade (1993-1996), Mr. MacLaren negotiated the final stages of NAFTA and of the Uruguay Round of the GATT. Since 1996, he has been the High Commissioner for Canada to the United Kingdom and Northern Ireland. From 1988-1993 he was Opposition Critic for Trade and Chairman of the Liberal Caucus Economic Policy Committee.

Mr. MacLaren is the author of 5 publications.

**H.E. DR. SUPACHAI PANITHPAKDI, THAILAND**

Dr. Supachai Panitchpakdi was born in Bangkok. He holds a Masters Degree in Econometrics and Development Planning and a Ph. D. in Economic Planning and Development from Erasmus University, Rotterdam. He was awarded an Honorary Degree (Ph.D.) in Economic Development from the National Institute of Development Administration in 1995.

Dr. Supachai has held a range of positions in former governments, including the position of Deputy Finance Minister of Thailand (1986-1988) and Deputy Prime Minister (1992-1995). In this capacity, he was directly in charge of Thailand's participation in the Uruguay Round of multi-lateral trade negotiations including its subsequent ratification and implementation.

Since 1997, Dr. Supachai has served as Deputy Prime Minister and Minister of Commerce of Thailand and has been actively involved in international trade, playing an instrumental role in the drafting of Thailand's major economic policies, including the national economic and social development plans. Dr. Supachai has also acquired professional experience in the private sector, holding the position of President of the Thai Military Bank (1988-1992) and Chairman of Nava Finance and Securities.

## WTO work programme on electronic commerce adopted

The General Council adopted a comprehensive work programme to examine all trade-related issues relating to global electronic commerce (*see box*). This was called for in the Ministerial Declaration on Electronic Commerce adopted last May. The Declaration provided for a standstill on tariff treatment of electronic transmissions, and required the General Council to report on the progress of its work in this area, with any recommendations for action, to the Third Ministerial Conference.

The United States said that other international agencies as well as the private sector could make important contributions to WTO's work in electronic commerce. It said that a major focus of the work should be the needs of the developing countries and in this regard, it announced that it would launch an Internet Economic Development Initiative, which would include development assistance to accelerate the role of the Internet in developing countries.

Japan suggested that the work programme should identify elements regarding electronic commerce that are absent from the WTO framework and develop options for the organization to pursue. It supported informal contacts between the WTO and the private sector in this area.

Indonesia, speaking on behalf of the ASEAN members, said that they expected the work programme to discuss is-

suues of importance to developing countries, such as human resources development, transfer of technology, access to the global infrastructure and the impact of electronic commerce on small and medium enterprises in developing countries.

Norway and Israel said that the adoption of the work programme demonstrated that the WTO acts quickly in responding to challenges posed by technological developments in world trade.

Peru, Cuba, India, Uruguay, Egypt, Argentina, Pakistan, Brazil and Colombia welcomed the work programme, and underlined the need to take account of the needs of developing countries.

Uganda cited the cost of infrastructure for electronic commerce as a possible barrier to export expansion that could result in an unlevel playing field for least-developed countries. It hoped that the WTO Sub-Committee on Least-developed countries would also examine this aspect.

Jamaica said that while the subject is not part of the work programme, it expected that WTO work on electronic commerce would also examine WTO plurilateral agreements, including the agreements on information technology and on government procurement.

### The potential trade gains from electronic commerce

The WTO Secretariat's study, *Electronic Commerce and the Role of the WTO*, examines the potential trade gains from the rapidly increasing use of the Internet for commercial purposes. The report, authored by a team of economists from the WTO Secretariat, outlines the complexities as well as the potential benefits of trade via the Internet.

Electronic commerce - the production, advertising, sale and distribution of products via telecommunication networks - can be divided into three broad categories for the purpose of policy discussion: i) the searching stage where producers and consumers, or buyers and sellers, first interact; ii) the ordering and payment stage once a transaction has been agreed upon; and iii) the delivery stage. Much of the discussion in the study relates to products that can be delivered electronically through the Internet (stage iii) transactions), as this is where the most significant policy questions arise.

The study was written as a means of providing background information for the 132 WTO Members who are now engaged in the process of developing policy responses to this new form of commerce, which is growing at a staggering rate. In 1991, there were less than 5 million Internet users. By the turn of the century, there are likely to be more than 300 million users. And the value of electronic commerce is predicted to reach US\$300 billion by that time.

The study emphasizes the extraordinary expansion of opportunities that electronic commerce offers, including for developing countries. But it notes that much remains to be done by way of improving access to the necessary infrastructure and user skills if these opportunities are to be realized.

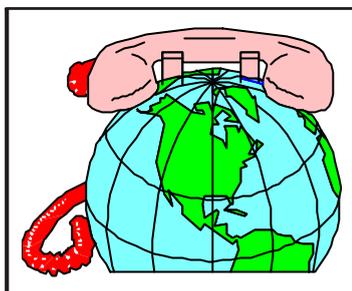
WTO members have begun to explore how the World Trade Organization should deal with the question of electronic commerce. Given the unique nature of this emerging mode of delivering products (goods and services), the authors say that many questions remain to be answered. Products which are bought and paid for over the Internet but are delivered physically would be subject to existing WTO rules on trade in goods. But the situation is more complicated for products that are delivered as digitalized information over the Internet, as a variety of issues arise relating to the appropriate policy regime. The authors say that both the supply of Internet access services and many of the products delivered over the Internet fall within the ambit of the General Agreement on Trade in Services, but they also acknowledge the need for clarification of how far particular activities are covered by the market access commitments of Members.

Among the policy issues identified in the study are the legal and regulatory framework for Internet transactions, security and privacy questions, taxation, access to the Internet, market access for suppliers over the Internet, trade facilitation, public procurement, intellectual property questions, and regulation of content. The study attempts to lay out the issues without pre-judging which of them should be taken up in the WTO, nor how they should be dealt with substantively. Copies of the study are available in English, French and Spanish (price Sfr 30.-) from WTO Publications.

**WORK PROGRAMME ON ELECTRONIC COMMERCE**

*Adopted by the General Council on 25 September 1998*

**1.1** The Declaration on Global Electronic Commerce adopted by Ministers at the second session of the Ministerial Conference urged the General Council to establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, taking into account the economic, financial, and development needs of developing countries, and to report on the progress of the work programme, with any recommendations for action, to the Third Session. The General Council therefore establishes the programme for the relevant WTO bodies as set out in paragraphs 2 to 5. Further issues may be taken up at the request of Members by any of these bodies. Other WTO bodies shall also inform the General Council of their activities relevant to electronic commerce.



**1.2** The General Council shall play a central role in the whole process and keep the work programme under continuous review through a standing item on its agenda. In addition, the General Council shall take up consideration of any trade-related issue of a cross-cutting nature. All aspects of the work programme concerning the imposition of customs duties on electronic transmission shall be examined in the General Council. The General Council will conduct an interim review of progress in the implementation of the work programme by 31 March, 1999. The bodies referred to in paragraphs 2 to 5 shall report or provide information to the General Council by 30 July 1999.

**1.3** Exclusively for the purposes of the work programme, and without prejudice to its outcome, the term "electronic commerce" is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means. The work programme will also include consideration of issues relating to the development of the infrastructure for electronic commerce.

**1.4** In undertaking their work, these bodies should take into account the work of other intergovernmental organizations. Consideration should be given to possible ways of obtaining information from relevant non-governmental organizations.

**Council for Trade in Services**

**2.1** The Council for Trade in Services shall examine and report on the treatment of electronic commerce in the GATS legal framework. The issues to be examined shall include:

- scope (including modes of supply) (Article I);
- MFN (Article II);
- transparency (Article III);
- increasing participation of developing countries (Article IV);
- domestic regulation, standards, and recognition (Articles VI and VII);
- competition (Articles VIII and IX);

- protection of privacy and public morals and the prevention of fraud (Article XIV);
- market-access commitments on electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI);
- national treatment (Article XVII);
- access to and use of public telecommunications transport networks and services (Annex on Telecommunications);
- customs duties;
- classification issues.

**Council for Trade in Goods**

**3.1** The Council for Trade in Goods shall examine and report on aspects of electronic commerce relevant to the provisions of GATT 1994, the multilateral trade agreements covered under Annex 1A of the WTO Agreement, and the approved work programme. The issues to be examined shall include:

- market access for and access to products related to electronic commerce;
- valuation issues arising from the application of the Agreement on Implementation of Article VII of the GATT 1994;
- issues arising from the application of the Agreement on Import Licensing Procedures;
- customs duties and other duties and charges as defined under Article II of GATT 1994;
- standards in relation to electronic commerce;
- rules of origin issues;
- classification issues.

**Council for TRIPS**

**4.1** The Council for TRIPS shall examine and report on the intellectual property issues arising in connection with electronic commerce. The issues to be examined shall include:

- protection and enforcement of copyright and related rights;
- protection and enforcement of trade marks;
- new technologies and access to technology.

**Committee for Trade and Development**

**5.1** The Committee on Trade and Development shall examine and report on the development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries. The issues to be examined shall include:

- effects of electronic commerce on the trade and economic prospects of developing countries, notably of their small- and medium-sized enterprises (SMEs), and means of maximizing possible benefits accruing to them;
- challenges to and ways of enhancing the participation of developing countries in electronic commerce, in particular as exporters of electronically delivered products: role of improved access to infrastructure and transfer of technology, and of movement of natural persons;
- use of information technology in the integration of developing countries in the multilateral trading system;
- implications for developing countries of the possible impact of electronic commerce on the traditional means of distribution of physical goods;
- financial implications of electronic commerce for developing countries.

## Panel set to examine EC's complaint against US tax treatment for FSCs

The Dispute Settlement Body, on 22 September, established a panel to examine the European Communities' complaint that the United States' tax treatment for "foreign sales corporations" or FSCs violated provisions of the WTO Agreements on Subsidies and Countervailing Measures and on Agriculture, and the GATT 1994.

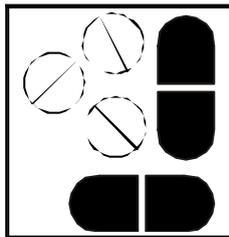
The EC, in reiterating a panel request first made at the previous DSB meeting, claimed that the measure in question was an instrument designed to assist US exports. It said that the taxation system granted export subsidies it resulted in profits of US parent companies being exempted from taxes.

The United States said that the EC had raised a matter that it had considered resolved. It viewed the EC panel request as legally unwarranted and commercially unjustified action, and was confident its arguments would prevail in the panel process.

Canada reserved third-party rights to participate in the panel proceedings.

### Panel report adopted

The DSB considered a panel report, circulated on 24 August, on the EC's complaint against India's patent protection for pharmaceutical and agricultural products. The panel found that India had not complied with its obligations under Article 70.8(a) of the TRIPS Agreement by failing to establish a legal basis that adequately preserves novelty and priority in respect of applications for product patents for pharmaceutical and agricultural chemical inventions, and was also not in compliance with Article 70.9 of the TRIPS Agreement by failing to establish a system for the grant of exclusive marketing rights.



The EC welcomed the report as confirming its views in this dispute. It requested the adoption of the report.

India said it was prepared to join a possible consensus for the adoption of the report. However, it believed that the aspects of the report had raised certain systemic issues, including its concerns over the initiation by the EC of panel proceedings on a matter that had already been examined by a panel (upon a complaint by the United States), and where the EC had participated as a third party. India stressed that it recognized its obligations under the TRIPS Agreement, and had established the required "mail box" for product patents when the WTO entered into force. It said that its differences with the EC in this regard concerned certain legal issues.

The DSB adopted the panel report.

The EC presented its fifth status report on the implementation of the DSB recommendations on the periodicals dispute. It said that it was working for legislative changes that would enable it to comply fully with the recommendations by 30 October, including the revocation of excise taxes on foreign periodicals and changes to the postal subsidy programme.



Canada presented its second status report on the implementation of the DSB recommendations concerning its banana regime. It said that it had adopted a regulation that partially implemented the recommendations, and that it had begun negotiations with substantial suppliers with regard to the allocation of shares in the EC banana tariff-rate quotas.

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Under a separate item in the agenda, the United States, also speaking on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama, expressed concerns over what it said was the EC's failure to comply with the DSB's recommendations regarding its regime for the importation, sale and distribution of bananas. It expressed regret that the EC had refused their proposal for the reconvening of the original panel to examine the consistency of the revised EC measures. The United States believed that the EC's measures to comply with the DSB recommendations were inconsistent with WTO provisions because the

state contracts to companies that do business in or with Myanmar. They contended that this measure violated provisions of the plurilateral Agreement on Government Procurement.

### Implementation of DSB recommendations

The United States expressed regret about the panel requests, citing its common interest with the EC and Japan in improving the human rights situation in Myanmar. It said that with the assistance of Massachusetts officials, it would continue efforts to reach a mutually-agreed solution with the EC and Japan, and thus was not in a position to agree to a panel at that meeting.

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market allocation for the ACP and Latin American countries was almost the same, and the new criteria for distributing import licenses appeared to be discriminatory. In its view, if the EC believed that its measures were WTO-consistent, it should welcome the opportunity to prove this before the original panel.

The EC stressed that its implementation of the DSB recommendations was on schedule, and that the time-period for doing so had not yet expired. It said that a panel could not be established to examine the proposed EC measures because these were not yet final. The EC said it would not object to the original panel examining its final measures.

Many delegations said that the WTO Dispute Settlement Understanding was not completely clear and precise on the procedures in the implementation stage of the dispute-settlement process.

#### **“Other business”**

- Korea said that it had withdrawn its request for a panel to examine its complaint against the United States’ imposition of anti-dumping duties on imports of colour

TVs from Korea. It said this was in response to a final determination by the United States, in August, to revoke the anti-dumping duty order on Samsung Electronics.

- The EC expressed concern over a request by Indonesia to implement the DSB recommendations regarding measures affecting the automobile industry over a 15-month period, which it viewed as excessively long. The two other complainants in this case, Japan and the United States, expressed the hope that agreement with Indonesia over implementation would be reached soon. Indonesia emphasized that it would comply fully with the DSB recommendations. However, it requested a maximum period of time to do so in the lights of its critical economic situation. Indonesia said that a transitional period was needed to phase out the automobile programme in question so as not to further exacerbate the unemployment problem. It said that the government had revoked import duty and luxury tax exemption subsidies to the producers of the National Car, and that it would take further measures to implement the DSB recommendations.

## **DSB establishes 4 panels, adopts reports on Indonesian auto and EC poultry measures**

The DSB, on 23 July, established four panels. Two of them are set to examine EC’s complaints against safeguard measures taken, respectively, by Korea (on dairy products) and Argentina (on footwear). The other panels involve complaints against aircraft measures, by Canada against Brazil and vice-versa.

### **Safeguard measures**

The EC reiterated its request for a panel to examine its complaint against Korea’s definitive safeguard measure on imports of certain dairy products. It claimed that measure violated the Safeguards Agreement by causal link not being supported by sufficient evidence, the absence of price analysis, in correct calculation of the quota, delay in consultations and inadequate WTO notifications.

Korea maintained that the measure was in conformity with its obligations, adding that it was prepared to defend it before the panel.

The DSB established a panel to examine the EC complaint against Korea with standard terms of reference. The United States reserved its third-party rights to participate in the panel proceedings.

The EC also reiterated a panel request directed against Argentina’s safeguard measures on imports of footwear. It claimed that Argentina’s findings of serious injury caused by increased imports was not supported by sufficient evidence, and that the country’s footwear imports had decreased in recent years.

Argentina said that the measures had been taken in conformity with the provisions of the Safeguards Agreement.



It expressed regret that the EC had decided to bring a case that involved a very small volume of trade as footwear represented only 0.4 per cent of Argentina’s total imports. Argentina maintained that footwear imports had risen by 157 per cent over the period in question.

The DSB established a panel to examine the EC complaint against Argentina with standard terms of reference. Brazil, Indonesia, Paraguay, the United States and Uruguay reserved their third-party rights to participate in the panel proceedings.

### **Aircraft measures**

Canada and Brazil told the DSB that they have been holding bilateral consultations during the past two years regarding each other’s measures on civil aircraft, and that last January, the Prime Minister of Canada and the President of Brazil had appointed special envoys to establish a bilateral accord on this matter. However, both countries reported that the consultations had not produced a mutually-acceptable solution.

Canada complained that Brazil, under the PROEX (Programa de Financiamento às Exportações), Brazil had been providing below-market financing rates for its aircraft, thereby reducing the financial cost by more than \$2 million per aircraft. It claimed that this constituted an export subsidy in violation of the WTO. Canada said that the damage caused by PROEX to its aerospace industry had been increasing.

Brazil expressed confidence that the panel would find the PROEX programme fully consistent with its WTO ob-



## DISPUTE SETTLEMENT

li gations. It said that de vel op ing coun tries were at a se ri ous ad vantage in air craft pro duc tion as de vel op ed coun tries con tin ued to sub si dize the de vel op ment and pro duc tion of high-tech nology prod ucts.

The DSB es ta blished a panel to ex amine Can ada's com plaint against Brazil un der the ac cel er ated pro ce dures of the Agree ment on Sub si dies and Coun ter vail ing Mea sures for al leged pro hib ited sub si dies. The United States re served its third-party rights.

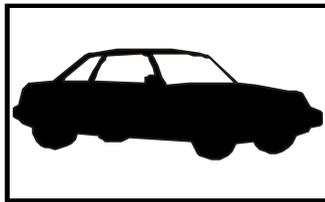
Brazil com plained that Can ada main tained an ex ten sive ar ray of sub si dies to its civil air craft in dus try that was in con sis tent with the pro vi sions of the Sub si dies Agree ment. It said these sub si dies, which in cluded fi nanc ing and loan guar an tees pro vided by the Ex port De vel op ment Cor por a tion, had been es ti mated by econ om ists to ex ceed \$5 bil lion in re cent years. Brazil said EMBRAER, a pri vate Bra zil ian air craft man u fac turer, had been fac ing dif fi cul ties be cause of Can ada's mea sures.

Can ada said that Brazil's panel re quest was a di rect re sponse to its panel re quest on PROEX, and did not be lieve the re quest to be found ed on any ev i dence of the WTO in consistency of Can adian pro gram mes. It was con fi dent that the panel would find its pro gram mes to be con sis tent with the Sub si dies Agree ment.

The DSB es tab lished a panel to ex amine Brazil's com plaint against Can ada in ac cor dance with the ac cel er ated pro ce dures of the Sub si dies Agree ment. The United States re served its third-party rights.

### **Panel report on Indonesia's automobile mea sures adopted**

The DSB con sidered the panel re port re gard ing com plaints by the EC, Ja pan and the United States against cer tain mea sures by In done sia affect ing the au to mo bile in dus try. The panel had con cluded that In done sia's cus toms duty and sales tax ben efits linked to lo cal con tent re quire ments for im ported parts and com po nents in au to mo biles were not con sis tent with its WTO ob li gations.



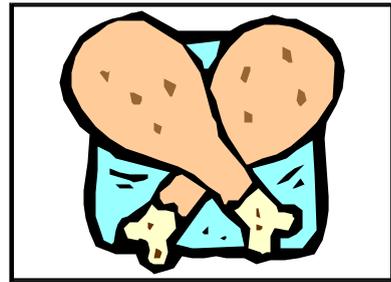
In done sia said that al though it dis agreed with cer tain con clu sions of the panel, it would not be ap peal ing the re port in the lights of its IMF com mit ments and the sub se quent ter mi na tion of its Na tional Car Pro gram me. It said it in tended to com ply fully with its ob li gations to im ple ment the panel's re com men da tions.

Ja pan, the EC and the United States said they looked for ward to In done sia's sub mis sion of its im ple men ta tion plans.

### **Ap pel late Body and panel re ports on EC-Brazil poul try dis pute adopted**

The panel re port, cir cu lated to mem bers last March, found that Brazil had not dem on strated that the Eu ro pean Com mu ni ties had failed to im ple ment and ad min is ter the tar iff rate quota for poul try in line with its WTO ob li gations. Brazil filed an ap peal the fol low ing month. The Ap pel late Body, in a re port cir cu lated to mem bers in July, up held

most of the panel's find ings and re com men da tions but re versed the panel's find ings that the EC had acted in consistency with Ar ti cle 5.1(b) of the Agri cul ture Agree ment. How ever, it con cluded that the EC had acted in consistency with Ar ti cle 5.5 of that agree ment.



How ever, it con cluded that the EC had acted in consistency with Ar ti cle 5.5 of that agree ment.

Brazil said that it had brought this case to dis pute set tle ment be cause the dis pute orig i nated in ne go ti a tions re lated to com pen sa tion and con cerned ma jor Bra zil ian ex ports, namely oil seeds and poul try meat. It said that the panel and the Ap pel late Body had re jected all but two of Bra zil ian claims: one re lated to the lack of EC no ti fi ca tion of its in-quota im ports of poul try meat, and the other re lated to the rep re sen ta tive price used by the EC in con nec tion with the ap pli ca tion of the spe cial safe guard for poul try prod ucts. Brazil ex pected the EC to submit promptly these no ti fi ca tions.

The EC wel comed the Ap pel late Body and panel re ports, and de scribed the li censing mat ter as a tech ni cal omis sion be cause it had com mu ni cated full in for ma tion to the Com mit tee on Agri cul ture.

The DSB adopted the Ap pel late Body re port and the panel re port as mod i fied by the Ap pel late Body re port.

### **ACTIVE PANELS**

(23 September 1998)

Com plainant	Sub ject of the com plaint	Date es tab lished
European Com mu ni ties	Ar gen tina - Mea sures affect ing tex tiles and cloth ing	16.10.1997
EC	Taxes on al co holic be ver ages	25.03.1998
United States	In dia - Quan ti ta tive re stric tions on im ports of ag ri cul tural, tex tile and in dus trial prod ucts	18.11.1998
US	Ja pan - Mea sures affect ing ag ri cul tural prod ucts	18.11.1998
New Zealand	EC - Mea sures affect ing but ter prod ucts	18.11.1998
Korea	US - Anti-dumping duty on dy namic ran dom ac cess mem ory semi con duc tors (DRAMs) of one mega bit or above from Korea	16.01.1998
India	Tur key - Re stric tions on im ports of tex tile and cloth ing prod ucts	13.03.1998
New Zealand, US	Can ada - Mea sures affect ing dairy prod ucts	25.03.1998
US	Aus tra lia - Sub si dies pro vided to pro duc ers and ex porters of au to mo tive leather	11.06.1998
EC	Ko rea - De fin i tive safe guard mea sure on im ports of cer tain dairy prod ucts	23.07.1998
Canada	Brazil - Ex port fi nanc ing for air craft	23.07.1998
EC	Ar gen tina - Safe guard mea sures on im ports of foot wear	03.04.1998
EC	US - Tax treat ment for "For eign Sales Cor po ra tions"	22.09.1998

NIGERIA

## Reforms needed to fulfill potential as a major economic power in Africa

*The Trade Policy Review Body (TPRB) concluded its second review of Nigeria's trade policies on 23 and 24 June 1998. Excerpts from Chairperson's concluding remarks:*

Members welcomed the progress made since 1995 in restoring macro-economic stability, under an extensive programme for private sector-led growth, encompassing the liberalization of foreign investment and a reform of the capital market. However, they noted that development remained uneven and social indicators were not improving. Noting that the economy remained dependent on oil export revenues, members asked about future economic prospects in the context of weak oil prices. They emphasized that integration of the informal sector into the economy could increase tax revenue and provide a more stable basis for trade.

Some Members stressed that the Nigerian economy had suffered from persistent political and institutional uncertainty. They emphasized that democracy, good governance and the rule of law were fundamental to economic development and urged the new Government to continue the reform programme, including the transition to democratic civilian rule. Members stressed the need for clarification regarding the new Government's plans to adopt well-defined constitutional arrangements.

While welcoming the reduction in tariff levels and dispersion since 1995, participants noted that duties on consumer products remained high and that Nigeria's tariffs were subject to frequent changes; they called for a simplification of the system by removal of annual duty rebates and import surcharges. Predictability would also be enhanced by increasing tariff bindings on industrial products, and closing the gap between applied and bound rates.

Members noted that import procedures were cumbersome and lengthy; reference prices were still in use; the pre-shipment inspection scheme appeared to be expensive, discriminatory and inefficient; and Customs frequently re-evaluated upwards payable duty as assessed by the PSI companies.

Members welcomed proposals submitted to the Nigerian Government to phase out all remaining import prohibitions by the year 2000. Meanwhile, some Members regretted the maintenance of import prohibitions and sought clarification on their WTO justification in the absence of WTO-consistent domestic legislation on safeguard measures.

The representative of Nigeria replied that Nigeria's import and export regimes had undergone several reforms since 1991 to establish a more stable framework for trade. The overall objective of the Nigerian tariff structure was to encourage efficiency by reducing tariffs on consumer goods relative to those on raw materials and intermediate products.

Customs clearance procedures were being reformed to implement fully the Kyoto Convention. Pre-shipment in-

Go to Chart I.5

specification was being applied across-the-board without discrimination. Documentation requirements had been drastically reduced through the introduction of a Single Goods Declaration, which was a first step towards implementation of the ASYCUDA scheme. The objective was to allow importers to clear goods within 48 hours. Nigeria had also produced a draft Customs code that was already approved by the World Customs Organization; this code, and answers to the WTO customs valuation questionnaire, would be forwarded to the Secretariat for comment.

The representative restated that prohibitions falling under balance-of-payments provisions would be phased out by 1 January 2000; and in this regard, a notification would be submitted very soon. In addition, his Government was studying a proposal to address all remaining items on the Import Prohibition List with a view to their eventual phase out. Licensing had been abolished except for prohibited items allowed as part of foreign investment contracts, on which a 100% duty was imposed.

Nigeria was reviewing its laws on intellectual property to make them WTO consistent.

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In conclusion, let me say that in this review, most Members have recognized the progress made by Nigeria in macroeconomic and trade policies in recent years. However, at the same time, Members have pinpointed, in a clear and frank manner, a large number of governance, structural and policy-related issues that still inhibit the development of Nigeria's economy and trade.

As Chairman, I welcome the frankness of the discussion and of the replies made by the Nigerian delegation. I hope that Nigeria's transition to a democratic regime—clearly signalled by the Delegation—will resolve many of the serious concerns expressed in this meeting regarding governance, stability and predictability of policies. I welcome Nigeria's identification of technical assistance needs, the indications that have been given as to where such assistance can be found, and hope that the dialogue initiated in the last two days can be continued. I also trust that the questions and points raised by delegations will be taken seriously into consideration by the new administration in Abuja, and translated into a positive programme of ongoing economic reform that can enable Nigeria and all its people in all economic sectors to fulfil their considerable potential as a major economic power in Africa.

HUNGARY

## Remarkable changes under difficult conditions

*The TPRB conducted its second review of Hungary's trade policies on 7 and 8 July. Excerpts from Chairperson's concluding remarks:*

Members congratulated Hungary on the remarkable changes that had been achieved, during the short period since the previous TPR in 1991, in its transition to a market-oriented economy. It was recognized that these changes had taken place under difficult economic and social conditions, including the collapse of trade with the CMEA, the bankruptcy of a large number of companies and the consequent temporary loss of jobs. Members welcomed the fact that, despite these circumstances, Hungary had pursued its liberalization process and continued to make an important contribution to the WTO.

Members recognized that the move toward EU accession had been a major element in Hungary's liberalization process. However, questions were raised on possible trade diversion stemming from preferences, and there was a considerable debate on this issue and its systemic implications. In response, the representative of Hungary stressed that WTO rules and commitments had been, and would be, thoroughly observed during the whole process of integration into the European Union. He rejected allegations that European integration had diverted trade to the disadvantage of third countries; on the one hand, trade flows had moved in favour of western markets, following the collapse of the CMEA, and before the introduction of EU preferences; on the other, imports from non-European trade partners, both in North America and in the Pacific region, had grown faster than those from EU sources.

Members raised concerns over the scope of unbound tariffs on a number of items, such as some fish products, footwear, precious stones, transportation equipment and agricultural products, and on the average levels of bound and applied tariffs in some areas. In response, the Hungarian representative noted that 95.7% of tariff lines were bound and that the data on bound and applied items in the Secretariat report reflected averaging of bound and unbound items.

While welcoming the phase-out of the global quota on consumer goods, Members raised questions concerning its allocation and the reasons for its under-utilization. Members also sought clarification of the Government's future import and export licensing policies. In response, the Hungarian representative said that details of the operation of the quota had already been notified to the WTO. The reasons for the under-utilization of some subquotas was that the yearly 10% increase of the quota in many cases exceeds the actual demands.

On agriculture, food and beverages, Members raised various questions referring in particular to land ownership; tariffs; plant certification; SPS measures; the nature and value of various types of support; and export restrictions and subsidies. The Hungarian agricultural tariff regime was, as shown in its WTO Schedule, one of the most

liberal among WTO Members. The increase in tariff dispersion was the consequence of tariffication, which reflected the variable effects of previous agricultural NTMs. SPS standards were becoming internationalized under the 1995 Food Law. As regards export subsidies, the

Go to Chart L2

*Hungary's trade is veering West.*

representative reaffirmed Hungary's strict adherence to the terms and conditions laid down in the WTO waiver.

On motor vehicles, the representative of Hungary rejected allegations by Members that preferential tariffs and quotas related to regional trade agreements adversely affected third parties, citing the success of a Korean company in increasing exports to the Hungarian market during the period 1992-96. He added that the restriction on importation of used cars over four years old was designed to prevent Hungary becoming a "garbage cemetery" for used cars.

On services, Members welcomed Hungary's high level of commitments in the GATS.

### Conclusions

Hungary's participation in this review has reflected its strong commitment to the WTO process, as well as the positive effects of its transition to a market economy. The statements made on Tuesday, and again this morning, have indeed been helpful to Members.

I would agree with the view expressed by several delegations that Members have much to learn from Hungary's process of transition to a market economy and the role of trade and investment liberalization in this process. There has also been quite a lively debate, in this connection, on systemic issues related to regionalism and its effects in terms of possible trade creation and diversion; these issues will, no doubt, be followed appropriately in the CRTA.

Finally, I should like to thank the delegation of Hungary, led by Dr. Balás, for their clear statements yesterday and today, and its positive participation in the review; and also thank our two expert discussants, Dr. Raby and Mr. Mukerji, for their very useful opening remarks yesterday and follow-up comments today. The overall success of this review has also largely depended on the full participation of other delegations, to whom I express my gratitude.

AUSTRALIA

## Committed to open markets during Asian crisis

*The TPRB concluded its third review of Australia's trade policies on 30 June and 2 July 1998. Excerpts from the Chairperson's concluding remarks:*

Members welcomed Australia's strong and active participation in the multilateral trading system. They commended the high degree of transparency in the conduct of Australia's trade and investment policies. Members also recognized that Australia's unilateral approach to trade liberalization, which complemented internal structural and regulatory reforms, had greatly improved the country's overall economic performance, leading to high rates of growth in output and productivity together with low inflation since the last Trade Policy Review, and contributing to a substantial fall in unemployment from a peak of 11% in 1992/93 to near 8% at present.

Some Members noted that a slow down in the process of liberalization had occurred in recent months. They pointed to an increase in export assistance, slower unilateral reduction in tariff peaks, an increasing threat of contingency measures and a more active industrial policy as symptoms of the slow down. In this connection, they expressed concern about the likely impact of the continuing Asian crisis on Australia's economic growth rate and current account deficit, sought reassurance concerning the Government's policy response, and encouraged Australia to continue to open and regulate its markets.

In response, the representative of Australia emphasized that economic projections of 3% growth in 1998/99 remained valid, although caution was required in the light of the continuing Asian crisis. The current account deficit did not so much reflect trade imbalances, as payments for previous borrowings, and would therefore be addressed by fiscal consolidation, not by trade measures. Delegates were assured of the Australian Government's commitment to keeping its markets open and continuing to pursue overall economic reform, while taking into account the legitimate needs of individual sectors for assistance in adjusting to the challenges of globalization.

The representative reiterated the Government's determination to push ahead with autonomous, gradual and predictable MFN trade liberalization under its WTO and APEC commitments. In the latter context, it remained committed to the achievement of free trade by 2010, including in textiles, clothing, footwear and motor vehicles.

Delegations expressed concern that Australia might be moving to a more interventionist industry policy. The representative of Australia stressed that the Government was not attempting to pick winners. Instead, policy focused on improving the business environment through a sound macroeconomic stance and the vigorous pursuit of microeconomic reforms, including the pursuit of more labour market flexibility, tax reforms and competition policy in key sectors like telecommunications, energy and transport.

Members raised a number of questions regarding agri-

### Go to Chart 1.6

*About 60 per cent of Australia's trade is with the Asia-Pacific region.*

cultural trade, in particular relating to levels of protection as reflected in AMS and PSE data, and the role of federal and State marketing boards.

In reply, the representative of Australia emphasized that whatever measure was used, Australian agricultural support was low. In addition, Australia did not use export subsidies and domestic support measured only one third of the level to which Australia was entitled.

The Government had continued the reform agenda to make Australia's state-trading enterprises more commercially focused, more responsive to international markets and more accountable to their stakeholders.

The representative expressed his appreciation of the acknowledgments, made by many delegations, of the liberalization in Australia's services sector. He stressed that progressive liberalization would continue to be a main pillar of Australian trade policy and Australia would press its trading partners to do the same in the next round of trade negotiations.

### Conclusions

Australia's participation in this review has reflected its commitment to the WTO process. The statements made on Tuesday, and again this morning, have indeed been transparent and helpful to Members. I am sure that Members will also be greatly assisted by the very full written answers provided by Australia to questions.

I would agree with Ambassador Krirk-Krai that many WTO members have much to learn from Australia's process of reform and liberalization. I believe members can be reassured by the Australian Government's replies regarding the status of the "pause" in tariff reductions in a few sectors and the clear liberalization objectives set out up to the year 2010.

## WTO and WIPO join forces to help developing countries meet year-2000 commitments on intellectual property

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) have agreed on a joint initiative to provide technical cooperation for developing countries.

The purpose is to help developing countries which are members of the WTO meet the 1 January 2000 deadline—less than a year and a half away—for conforming with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

This process involves bringing their laws on copyright, patents, trademarks and other areas of intellectual property into line with the agreement, and providing for effective enforcement of these laws in order to deal with piracy, counterfeit goods and other forms of intellectual property infringements.

The Directors General of the two organizations, Mr Renato Ruggiero of the WTO and Dr Kamil Idris of WIPO, are sending joint communications to the ministers of each of the developing countries concerned to inform them of the initiative. The communication will underscore the two organizations' commitment to help developing countries comply with the TRIPS Agreement on time.

The aim is for WIPO and the WTO, together with the countries requesting assistance, and (where appropriate) donor countries, to maximize use of available resources in the coming critical period by improved planning and coordination of technical cooperation activities.

The forms of technical cooperation that are available include assistance in preparing legislation, training, institution-building, and modernizing intellectual property systems and enforcement.

The task of conforming with the TRIPS Agreement is

seen as a challenge for developing countries because of the complexities of intellectual property laws and their enforcement. But it also provides an opportunity to use intellectual property protection to accelerate economic, social and cultural development.

At the same time, the two organizations stress that assistance given to other countries—in particular least developed countries, which do not have to meet the year-2000 deadline—will not suffer. The WTO and WIPO renew their commitment to continue to provide technical cooperation to these countries.

The joint initiative will build on the existing cooperation between the two organizations, which has been established since the signing of the WIPO-WTO Agreement in 1995. This provides, among other things, for cooperation in providing legal technical assistance and technical cooperation related to the TRIPS Agreement for developing country members of either of the two organizations.

### MEETINGS

#### October 1998

12-13	Trade Policy Review: Turkey
12-14	Textiles Monitoring Body
14	GENERAL COUNCIL
15	Council for Trade in Services
16	Committee on Rules of Origin Committee on Specific Commitments
19	ITA Committee
19-22	Trade Policy Review: Burkina Faso, Mali, Guinea & Togo
20	Committee on Customs Valuation
21	Dispute Settlement Body
22	Working Party on Professional Services
23	Committee on Safe guards Working Party on Croatia
26-28	Committee on Trade and Environment
26-27	Committee on Anti-Dumping: Ad hoc Group
27	Working Party on Lithuania
28	Committee on Anti-Dumping: Informal Group on Anti-Circumvention
29-30	Committee on Anti-Dumping Practices
29-30	Trade Policy Review: Jamaica

### WTO FOCUS

Newsletter published by the Information and Media Relations Division of the WTO.

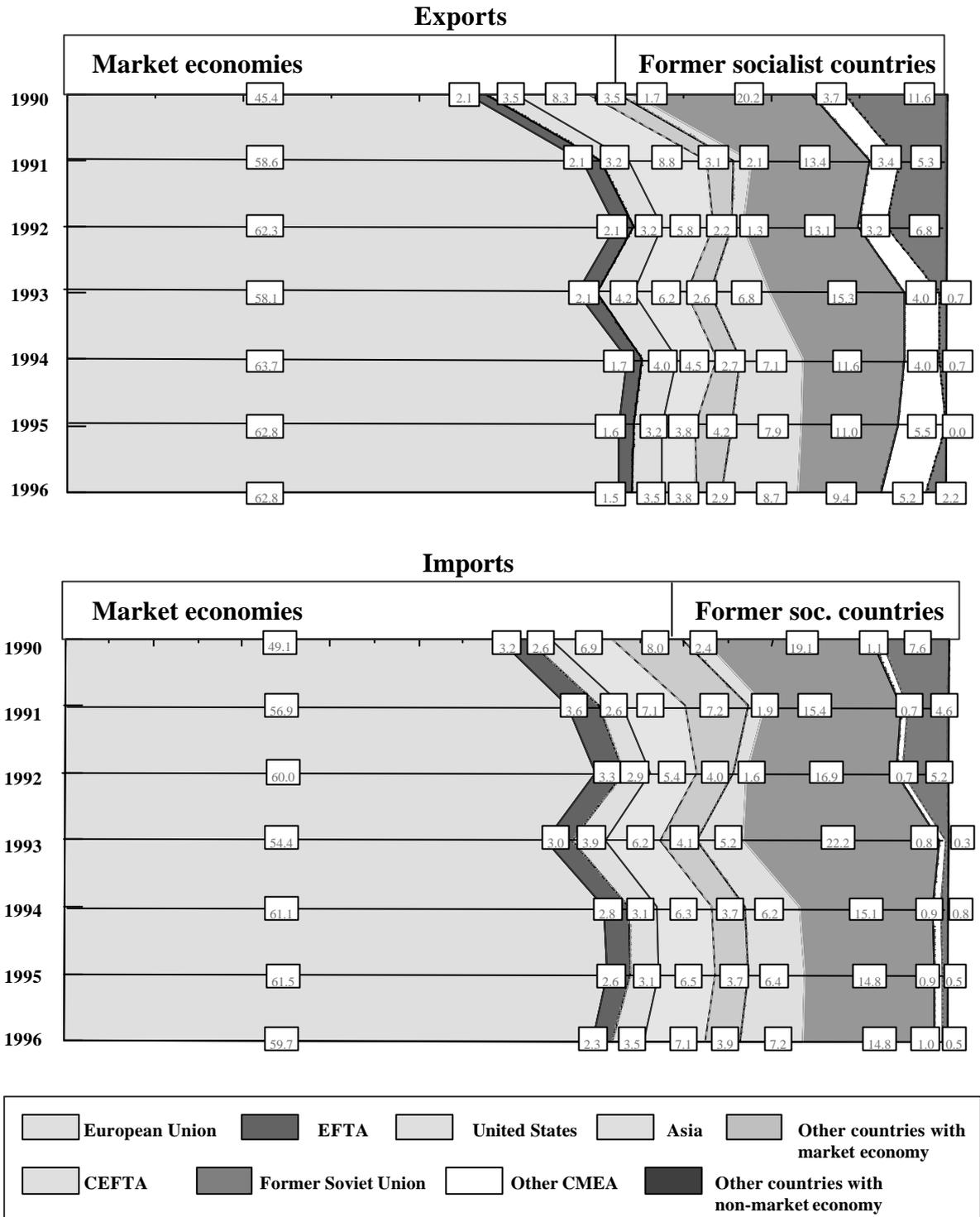
Centre William Rappard, 154 rue de Lausanne, 1211

*Mr. Charles R. Carlisle, GATT Deputy Director-General (1987-1993) during the Uruguay Round negotiations, died in Mas sa chu setts on 26 July. He will be sadly missed by his colleagues, friends and delegates to the WTO.*

**Chart I.2**

**Changes in direction of exports and imports of Hungary, 1990-96**

(Per cent)

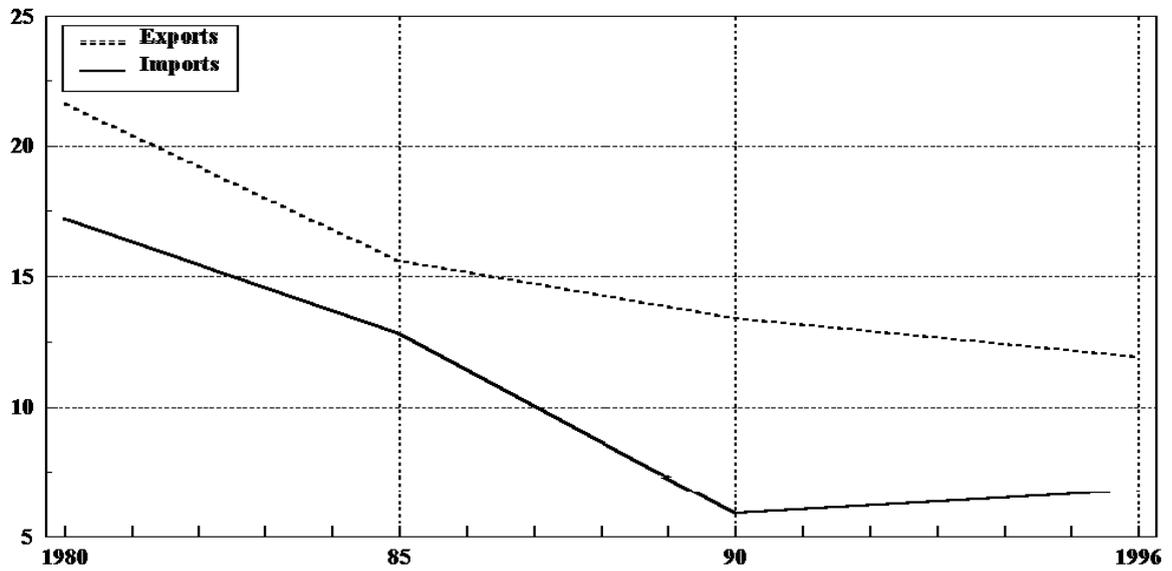


Source: UNSD, Comtrade database.



### Chart I.5 Nigeria's share in Africa's merchandise trade, 1980-96

Percentage of Africa's total exports and imports



Source: WTO (1997), *Annual Report 1997*, Table III.51.



