

# **PRESS PACK**

## **World Trade Organization 3rd Ministerial Conference Seattle**

30 November to 3 December 1999

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## **NOTE**

These briefing notes describe the situation as it exists at the time of going to press  
(end of October 1999)

They are designed to help journalists and the public understand the key issues of the Seattle Ministerial Conference. While every effort has been made to ensure the contents are accurate, they are not legal interpretations of the WTO agreements, nor do they prejudice member governments' positions in the conference and in future negotiations.

### **FURTHER INFORMATION CAN BE FOUND IN VARIOUS WTO PUBLICATIONS, INCLUDING:**

*10 Benefits of the WTO*

*10 Common Misunderstandings about the WTO*

*The WTO in brief*

*Trading into the Future: Introduction to the WTO.* In booklet and interactive electronic versions, obtainable from WTO publications, downloadable from the WTO website <http://www.wto.org>

*Guide to the Uruguay Round Agreements.* By the WTO Secretariat, published jointly by the WTO and Kluwer Law International

*Focus magazine.* The WTO's monthly newsletter.

The WTO website: <http://www.wto.org>, including "About the WTO" at <http://www.wto.org/wto/about/about.htm>

The WTO Ministerial Conference website: <http://www.wto-ministerial.org>

Some of these, including these briefing notes, are also available on the CD-ROM included in the press pack.

**DIRECTOR-GENERAL'S MESSAGE****Seattle Ministerial Conference must deliver for the poorest, says Moore**

Mike Moore, World Trade Organization Director-General, has outlined his priorities and expectations for the Seattle Ministerial Conference, urging ministers to work towards an outcome which will deliver benefits for the world's citizens, especially those living in the poorest countries.

“Over the next few days, trade ministers representing over 130 of our member governments, will sit together and work towards developing the framework for the Global Trading System in the 21<sup>st</sup> century,” he said.

“In terms of the negotiations over the next week, it is important to keep in mind that much of our work here in Seattle will be dedicated to laying a foundation for future negotiations. We know for sure that there will be intensive negotiations on agriculture and services. These two sectors alone comprise more than two thirds of global output and new agreements to liberalize trade in these areas hold the prospect of great benefit for all our member governments, the modest as well as the mighty.

“Other sectors may be included for future negotiations as well, trade and environment, trade and competition, trade and investment and trade in textiles are just some of the areas where some of our member governments would like to see negotiations. Other governments may press for a continuation of exploratory work rather than begin negotiations. For many developing countries, a very important issue is the implementation of existing agreements. This means finding ways to assist developing countries as they try to put into place their often complicated WTO commitments.

“While these negotiations will not yield definitive outcomes for several years, there are areas where we may reach agreement at this Ministerial Conference. Certainly, it's conceivable we could reach framework agreements on transparency in government procurement and trade facilitation. Agreements in these areas would assure a “win-win” outcome for all member governments, not to mention taxpayers and consumers.

“A continuation of the moratorium on duties applied to electronic commerce transactions is also a possibility.”

Mr. Moore, who assumed office on 1 September 1999, said he has dedicated the vast majority of his time and effort the past three months, to the preparation of this conference. He reiterated that his priorities and duties as Director-General include:

- Facilitating and assisting countries to get the most balanced outcome from the negotiations at Seattle and beyond, an outcome which truly benefits the poorest economies.
- Advocating the advantages of a more open trading system for the powerful, the developing and the least developed economies. A more open trading system, he said, can increase living standards and lead to a more prosperous, safer world.
- Strengthening the WTO and its system and rules, building on and maintaining the organization's reputation for integrity and fairness and re-shaping the organization to reflect the new reality of its Membership and their needs.

“My own personal wish-list for the Seattle Ministerial Conference,” he said, “includes an agreement here on a package to assist the least developed countries. Taken together these nations account for only half of one percent of world trade. And yet, in many cases they face import barriers higher than those applied to products from the richest countries. The removal of **all** barriers to imports from the least-developed countries would extend the gift of opportunity to people who desperately need our help.

“I would also like to see the member governments agree to increase the amount of money we spend on technical assistance and training. It is in the interest of everyone to ensure that all of our member governments can participate in the upcoming negotiations. Without adequate preparation and assistance from the WTO, many least-developed countries’ governments will not have that chance. We are not asking for much, SF 10 million, and I am confident that governments will agree here to help us in this regard.

“Of course, all of these issues will be decided by member governments. Any agreements struck here or later in Geneva will have to be approved by cabinets and then ratified by Parliaments or Congresses before they can take effect. Moreover, there will be no agreements on any of these issues unless we have a consensus of all our member governments.

“My role in this process is to facilitate the negotiations and to strive for an outcome that is balanced, fair and equitable. With strong preparation, intensive work and good will I’m confident we can achieve that outcome.”

ENDS

## BACKGROUND

# The Seattle 'ministerial'

### What is the Seattle Ministerial Conference?

Officially, it's the Third WTO Ministerial Conference. The ministerial conference is the organization's highest-level decision-making body. It meets "at least once every two years", as required by the Marrakesh Agreement Establishing the World Trade Organization — the WTO's founding charter.

The Seattle ministerial will be the third since the WTO was created on 1 January 1995.

### What's special about this ministerial?

This ministerial will launch major new negotiations to further liberalize international trade and to review some current trade rules. It will also set in motion a work programme to look at other important issues.

The WTO's current agreements were the result of the 1986–94 Uruguay Round of negotiations. Although the outcome meant a major reform of world trade rules and a substantial reduction in trade barriers, many participants wanted to see further improvements in the trading system.

In particular, the agreements on services (the General Agreement on Trade in Services, GATS) and on agriculture state that new negotiations will resume by the beginning of 2000. These two subjects are definitely going to be in the new negotiations.

In addition, many WTO members have proposed including other issues in the negotiations.

The preparations kicked off at the Second Ministerial Conference in Geneva, in May 1998. They gathered pace in September 1998 in the General Council. Proposals for items to be negotiated were first tabled in March 1999. In September 1999, the General Council started to put the various ideas together in a draft declaration to be issued in Seattle. In other words, the declaration will include — among other things — the agenda for the negotiations.

By mid-September, more than 150 proposals had been tabled. The list of documents shows they cover tariffs, anti-dumping, subsidies, safeguards, investment measures, trade facilitation, electronic commerce, competition policy, fisheries, transparency in government procurement, technical assistance, capacity-building and other development issues, intellectual property protection, and many other subjects — in addition to agriculture and services.

Many of the proposals are not specifically for the negotiations, but for programmes of work on other important issues. Most of these have emerged as issues of concern for many countries over the last four years when the Uruguay Round results took effect or were implemented.

Which of these subjects (apart from agriculture and services) will be included in the negotiations, and which in the work programme, is something that WTO members have been working out in their discussions in the General Council in Geneva.

#### WTO ministerial conferences

**Singapore:**  
9–13 December 1996

**Geneva:**  
18 and 20 May 1998

**Seattle:**  
30 November–3 December 1999

There are also proposals for the Seattle meeting to produce a special deal to help least-developed countries gain easier access to richer countries' markets, and to develop further work on technical assistance to least-developed countries under an integrated framework set up by the WTO and a number of other organizations in 1997.

### **Seattle will only be the beginning**

It's important to be clear that the Seattle Ministerial Conference will only be the beginning of the negotiations, just as the seven-year Uruguay Round was launched at a ministerial meeting in Punta del Este in 1986 and the six-year Tokyo Round was launched in Tokyo in 1973.

After the launch in Seattle, the actual negotiations and work programmes will take place in Geneva, where the WTO is located. Many countries have suggested a deadline of three years for these new talks. The decision will be made by ministers in Seattle. Ministers will be aware that past experience has shown it is not always easy to complete large, complicated negotiations within the specified time.

### **Will the launch be the only 'result' of the Seattle meeting?**

Not necessarily. It's possible that some agreement will be reached on less difficult proposals. These could still be important for world trade. But it's also clear that the major issues are going to take several years to negotiate.

At the same time, a number of countries have said they want the Seattle meeting to look carefully at how the Uruguay Round results are being implemented. This is also an area where a wide range of countries have expressed a lot of interest.

Developing countries, for example, want to examine how the agreements on anti-dumping measures, subsidies and textiles and clothing have been implemented.

### **More information**

See the WTO website: <http://www.wto.org> and click on the ministerial homepage: <http://www.wto-ministerial.org>

ENDS

## **BUILT-IN AGENDA**

### **Work set out in existing agreements**

*Many of the accords agreed during the Uruguay Round specify future dates for continuing review or negotiations of specific sectors or subject areas. Below is a list of some of the most important dates and deadlines.*

#### **1998**

##### *Sanitary and Phytosanitary Measures (SPS)*

*Mandate:* review of the operation and implementation of the Agreement by 1998

*Outcome:* the report on the review was adopted in March 1999; in this report, the SPS Committee recalls that the review has not been exhaustive and that Members can at any time raise any issue for consideration by the Committee

##### *Technical Barriers to Trade (TBT)*

*Mandate:* first triennial review of the operation and implementation of the Agreement by 1998

*Outcome:* the review was completed in November 1997; no adjustment of the rights and obligations of the Agreement or amendments to its text were made; however, the Committee adopted a number of decisions, recommendations and arrangements aimed at better operation and implementation of the Agreement

##### *Dispute Settlement Understanding*

*Mandate:* full review of dispute settlement rules and procedures

*Outcome:* the legal mandate for the review expired on 31 July 1999 without a consensus but informal consultations are still taking place

#### **1999**

##### *Government Procurement*

*Mandate:* further negotiations starting by 1999, with a view to improving the Agreement and achieving the greatest possible extension of its coverage among all Parties on the basis of mutual reciprocity

*Outcome:* further negotiations started end 1998; the third WTO Ministerial is the target for the completion of the negotiations, at least on the simplification and improvement of the Agreement

##### *Trade Policy Review Body*

*Mandate:* appraisal of the operation of the policy review mechanism by 2000

*Outcome:* the appraisal took place in the course of 1999 and no change was made to the mechanism

## **2000**

### *Agriculture*

*Mandate:* negotiations for continuing the process of substantial progressive reductions in support and protection

### *Services*

*Mandate:* new negotiations starting in 2000 with a view to achieving a progressively higher level of liberalization

### *Intellectual Property Rights (TRIPS):*

*Mandate:* review of the implementation of the Agreement after 1 January 2000

### *Investment Measures (TRIMS)*

*Mandate:* review of the operation of the Agreement and discussion on whether provisions on investment policy and competition policy should be included in the Agreement

## **2001**

### *Textiles and Clothing*

*Mandate:* review of the implementation of the Agreement by 2001

## **2004**

### *Textiles and Clothing*

*Mandate:* review of the implementation of the Agreement by 2004

ENDS

## THE WTO AGREEMENTS AND DEVELOPING COUNTRIES

### Problems with implementation

*This briefing document looks at problems developing countries have encountered with the implementation of the Uruguay Round agreements, and with the provisions that allow them "special and differential" treatment.*

#### Introduction

The agreements that emerged from the 1986–94 Uruguay Round — the WTO's agreements — are now five years old and a new round of negotiations is about to be launched in Seattle. However, five years after the agreements took effect, developing countries still experience difficulties with their implementation.

On the one hand, developing countries lack the financial and human resources to fulfil their commitments such as the complex requirements of the intellectual property (TRIPS) agreement. On the other hand, they say developed countries have failed to implement the agreements in a way that would benefit developing countries' trade.

Special and differential (S&D) provisions are included in all the WTO agreements. There are two broad categories:

(a) more flexible terms within specified time limits: for example, longer transition periods, smaller commitments (for example the commitments on agriculture); and

(b) clauses which say in broad terms that developed countries should help developing countries in specific areas (such as technology transfer under intellectual property protection) but without defining exactly what action is needed.

#### "Special and Differential"

This term implies more than simply giving developing countries special treatment, i.e. preferential market access, and exemptions or longer time periods to implement certain provisions. It also includes the idea that the developing countries do not need to reciprocate.

In other words, the provisions are designed both to help developing countries implement the agreements and to accentuate the benefits they might enjoy. However, five years later, developing countries feel that these provisions have not served their purpose. They argue that the more specific S&D provisions of category (a) are usually insufficient and that the broader requirements of category (b) are too vague and often ignored.

For this reason, the issue of implementation promises to be prominent in Seattle. Developing countries are eager to see the Ministerial Declaration include language to correct perceived oversights in the Uruguay Round texts. Indeed, many developing countries argue that they are owed this redressal of the Uruguay Round's results before a new round can start.

#### Compliance with Uruguay Round requirements

In their proposals to the General Council (part of the process of drafting the Seattle Ministerial declaration), developing countries have identified several difficulties they face in implementing the WTO agreements. Most frequently mentioned are the following:

## **Intellectual property**

All developing countries, except the least developed, have to implement the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement by 1 January 2000. (Least-developed countries have until 1 January 2006.) For most, this means amended or new intellectual property legislation and new or more effective means of enforcement.

Many developing countries argue that five years is not enough for such a radical change and have proposed that this transition period be extended. Some say that the five year implementation period granted to them was chosen haphazardly rather than on the basis of their level of development. These countries say they should be allowed to apply different degrees of intellectual property protection, depending on the level of development.

Others envisage the inclusion in the TRIPS Agreement of additional commitments, for example in relation to the transfer of technology and the protection of geographical indications.

## **Trade-related investment measures**

The Trade-Related Investment Measures (TRIMS) Agreement deals with policies that are considered inconsistent with GATT. An illustrative list includes such measures as minimum local content and trade balancing requirements. Developing countries have to eliminate inconsistent measures by 1 January 2000, least-developed countries by 1 January 2002.

Again, developing countries say there is too little time for too many changes. They would also like to retain the flexibility to choose investment promotion policies that they consider necessary to fulfil their developmental needs, including some of those listed as inconsistent with GATT.

Furthermore, some developing countries say they missed the boat: they were unable to notify some of their investment measures in time (they had to do this immediately) and they cannot now apply these measures.

## **Sanitary and phytosanitary measures and technical barriers to trade**

Sanitary and phytosanitary (SPS) measures deal with animal and plant health and safety, and food safety. The Technical Barriers to Trade (TBT) Agreement deals with other technical standards. Both agreements say that members have to take into account the special needs of developing countries when they prepare these regulations. However, developing countries feel they are excluded from the creation of international standards and are often expected to comply with standards that go beyond their technical ability or financial capacity.

## **Improved market access for developing countries' exports**

Developing countries say market access has not met expectations for their exports in two areas: agriculture and textiles. They recognize that the letter of the agreements has not been violated, but they feel that the spirit of these agreements has not been honoured.

### *Agriculture*

Developing countries' complaints focus on some extremely high tariffs, tariff escalation (higher tariffs on processed goods than on raw materials, which penalizes processing in exporting countries), the difficulties in gaining access to markets through tariff quotas and the trade-distorting effects of subsidies. They are calling for lower barriers on agricultural goods that they export.

### *Textiles and Clothing*

The WTO's Agreement on Textiles and Clothing does two things. Over a 10-year period, it integrates the sector into GATT rules, and as part of that process it phases out quotas. Developing countries complain that although 33 per cent of trade has been integrated as committed, only a few quotas have actually been removed. They add that what little market access has resulted from the implementation of the agreement has been cancelled out by measures taken by the importing countries, such as transitional safeguards, anti-dumping actions and discriminatory rules of origin.

### **Possible outcome from Seattle**

Several developing countries have submitted specific wish-lists to the WTO General Council. These include:

- the creation of a working group to look at implementation issues
- converting all S&D provisions into concrete commitments
- tighter restrictions on the use of anti-dumping measures
- allowing developing countries more flexibility in applying food, animal and plant health and safety (SPS) measures to their products
- enabling developing countries to participate more in bodies which set food safety and technical standards
- speeding up the integration of textiles and clothing products into GATT rules
- allowing developing countries more time and greater flexibility to implement the agreements on investment measures (TRIMs) and intellectual property (TRIPS)
- allowing developing countries greater flexibility to subsidize agriculture
- tighter restrictions in the use of subsidies by developed countries in agriculture

These issues could be up for discussion in Seattle or in the negotiations that follow.

ENDS

## **LEAST-DEVELOPED COUNTRIES**

### **WTO DG Moore seeks package for poorest states**

The elimination of all barriers to imports from the least-developed countries (LDCs) is among the top priorities outlined for the Seattle Ministerial Conference by World Trade Organization Director-General Mike Moore.

Since his first day in office, 1 September 1999, Mr. Moore has called on WTO member governments to do away with tariffs and quotas on products from the LDCs.

“Taken together, least-developed countries constitute only half of one percent of world trade. Removing barriers to trade from these countries poses no serious threat to anyone, but it does provide some of the poorest people on earth with the gift of opportunity that is vital to their future growth and development,” Mr. Moore said.

Mr. Moore would like to see Ministers agree to eliminate barriers to LDC products as an opening move of importance at the Conference, which may launch a new round of trade negotiations which are expected to last several years.

The notion of removing barriers to imports from LDCs was previously introduced by former WTO Director-General Renato Ruggiero in July 1996 at the Group of Eight Summit in Lyon, France. In December of that year Ministers from Member Governments agreed at the first WTO Ministerial Conference in Singapore to adopt a Comprehensive and Integrated Plan of Action for LDCs.

One result of that initiative was a high-level meeting for LDCs in Geneva in October 1997. At that meeting, Canada, Egypt, the European Union, Mauritius, Switzerland, Turkey and the United States provided formal notification of their intention to improve access to their markets for the LDC imports. The meeting also led to the creation of the Integrated Framework for Trade-Related Technical Assistance for the LDCs.

For the first time, the Secretariats of the WTO, UNCTAD, the World Bank, the International Monetary Fund, the United Nations Development Programme and the International Trade Centre, combined forces to begin efforts aimed at bringing the LDCs in from the sidelines of the multilateral trading system. The idea of the Integrated Framework is to provide a needs-driven, coordinated response to the problems that LDCs have faced in taking full advantage of the global trading system.

To date, more than 40 LDC countries have submitted needs assessments and the six agencies have responded with co-ordinated responses for action. These needs range from addressing insufficient capacity for producing competitive products, to improvements in transportation and telecommunications infrastructure, to assistance in establishing the legal and institutional framework to better comply with WTO rules and obligations and maximize benefits that arise from participating in the global trading system.

While the Integrated Framework has brought the issue of LDC marginalization from the trading system to the attention of all WTO member governments, many such governments believe that the process requires a fresh political commitment if it is adequately to address the LDC concerns.

In December 1998, Amb. Iftekhar Ahmed Chowdhury of Bangladesh, speaking on behalf of the 29 LDC governments which are members of the WTO, proposed a Comprehensive New Plan of Action as a means of injecting momentum into efforts to assist the LDCs. In this proposal, Amb. Chowdhury

called for the improvement of certain WTO agreements including the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and for easier LDC access to the Dispute Settlement System.

He also called on Ministers in Seattle to:

- follow through on commitments made at the second WTO Ministerial Conference in Geneva in 1998 to “continue to improve market-access conditions for products exported by the Least Developed Countries on as broad and liberal a basis as possible”;
- accelerate accession procedures for LDC candidates for WTO membership;
- push for reductions in the LDC debt burden;
- work with other organizations to improve supply-side capacity in LDCs.

Several WTO member governments have proposed improving market access for LDCs as part of their list of proposals for the Seattle Ministerial Conference, including the European Union. Other member governments, including the United States, have taken steps to unilaterally reduce barriers to imports from these countries.

Mr. Moore has welcomed these efforts and called on Ministers to agree in Seattle to expand upon these and other programmes of support for the poorest countries. The Director-General is also seeking to have the WTO’s core budget for technical assistance expanded from SF 716,000 to SF 10 million over the next three years so that developing countries, and particularly the LDCs, can more effectively participate in the new negotiations. Currently, about 90% of WTO technical assistance activity is paid for through trust funds donated by member governments.

While acknowledging that trade and the WTO alone cannot provide all the answers to the deep economic difficulties of least developed countries, Mr. Moore said through closer coherence with other international organizations, including the five partner organizations of the Integrated Framework, the international community can and must make an important contribution to raising living standards of families in the world’s poorest countries.

ENDS

## AGRICULTURE

### The issues

*This briefing document focuses on the agricultural issues raised in the lead-up to the Seattle Ministerial Conference.*

- > *An outline of the WTO's Agriculture Agreement can be found in the section on agriculture in "Trading into the Future" (pages 17–19 in the printed version, or go to <http://www.wto.org/wto/about/agmnts3.htm> on the WTO website).*

#### Introduction

Up to 1995, GATT rules were largely ineffective in disciplining agricultural trade. In particular, export subsidies came to dominate many areas of world agricultural trade, while the disciplines on import restrictions were often flouted. The 1986–1994 Uruguay Round went a long way towards changing all that.

The trade is now firmly within the multilateral trading system. The Agriculture Agreement, together with individual countries' commitments to reduce export subsidies, domestic support and import barriers on agricultural products make up a comprehensive programme for reforming agricultural trade.

#### Numerical targets for cutting subsidies and protection

The reductions in agricultural subsidies and protection agreed in the Uruguay Round

	Developed countries 6 years: 1995–2000	Developing countries 10 years: 1995–2004
<b>Tariffs</b>		
average cut for all agricultural products	<b>-36%</b>	<b>-24%</b>
minimum cut per product	-15%	-10%
<b>Domestic support</b>		
cuts in total ("AMS") support for the sector	<b>-20%</b>	<b>-13%</b>
<b>Exports</b>		
value of subsidies (outlays)	<b>-36%</b>	<b>-24%</b>
subsidized quantities	<b>-21%</b>	<b>-14%</b>

**Notes:** Least-developed countries do not have to make commitments to reduce tariffs or subsidies. The base level for tariff cuts was the bound rate before 1 January 1995; or, for unbound tariffs, the actual rate charged in September 1986 when the Uruguay Round began.

Only the figures for cutting export subsidies appear in the agreement. The other figures were targets used to calculate countries' legally binding "schedules" of commitments.

The reform programme struck a balance between agricultural trade liberalization and governments' desire to pursue legitimate agricultural policy goals, including non-trade concerns (*see below*). The reform brought all agricultural products (as listed in the agreement) under multilateral disciplines, including "tariff bindings" — WTO members have bound themselves to maximum tariffs on nearly all agricultural products, while many industrial tariffs remain unbound.

WTO members also agreed (Article 20 of the Agriculture Agreement, *see below, on page 17*) to reopen negotiations in agriculture at the end of this year in order to continue the reform programme.

In the run up to the Seattle ministerial and the new negotiations, the following issues are among those that have been raised.

## Continuing reductions: the objective

Further substantial reductions in tariffs, domestic support and export subsidies can be expected to be the main focus of the negotiations. In addition, some countries say an important objective of the new negotiations should be to bring agricultural trade under the same rules and disciplines as trade in other goods. Some others, mainly developed countries, reject the idea for a number of reasons (*for example, see “non-trade concerns and multifunctionality”, below on page 16*).

## Market access: tariffs and tariff quotas

Nowadays, all agricultural products are protected only by tariffs.<sup>1</sup> All non-tariff barriers had to be eliminated or converted to tariffs as a result of the Uruguay Round (the conversion is known as “tariffication”). In some cases, the calculated equivalent tariff was too high to allow any real opportunity for imports. So a system of tariff-rate quotas was created to maintain existing import access levels, and to provide minimum access opportunities. This means lower tariffs within the quotas, and higher rates for quantities outside the quotas.

The discussion since the Uruguay Round has focused broadly on two issues: the high levels of tariffs outside the quotas (with some countries pressing for larger cuts on the higher tariffs), and the quotas themselves — their size and the way they have been administered.

Quota administration is a technical subject, but it has a real impact on trade — on whether a product exported from one country can gain access to the market of another country at the lower, within-quota tariff.

Methods used for giving exporters access to quotas include first-come, first-served allocations, import licensing according to historical shares and other criteria, administering through state trading enterprise, bilateral agreements, and auctioning. Exporters are sometimes concerned that their ability to take advantage of tariff quotas can be handicapped because of the way the quotas are administered.

Each method has advantages and disadvantages, and many WTO members acknowledge that it can be difficult to say conclusively whether one method is better than another. Several countries want the negotiations to deal with tariff quotas: to replace them with low tariffs, to increase their size, or to sort out what they consider to be restricting and non-transparent allocation methods.

## Market access: special agricultural safeguards

Safeguards are contingency restrictions on imports taken temporarily to deal with special circumstances such as a surge in imports. They normally come under the Safeguards Agreement, but the Agriculture Agreement has special provisions (Article 5) on safeguards.

The special safeguards provisions for agriculture differ from normal safeguards (*see details in “Trading into the Future”, pages 31–32*). In agriculture, unlike with normal safeguards:

- higher safeguards duties can be triggered automatically when import volumes rise above a certain level, or if prices fall below a certain level; and
- it is not necessary to demonstrate that serious injury is being caused to the domestic industry.

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<sup>1</sup> Except in certain circumstances when other WTO rules can apply, for example sanitary and phytosanitary measures, technical barriers to trade, balance-of-payments conditions, general safeguards, etc.

The special agricultural safeguard can only be used on products that were tariffed, but not on imports within the tariff quotas, and only if the government reserved the right to do so in its schedule of commitments on agriculture.

Proposals for the negotiations range from continuing with the provision in its current form, to its abolition, or its revision to prevent its use on products from developing countries. However, the right to use the special agricultural safeguard would lapse if there is no agreement in the negotiations after Seattle to continue the “reform process” initiated in the Uruguay Round.

### **Domestic support**

In WTO terminology, subsidies in general are identified by “boxes” which are given the colours of traffic lights: green (permitted), amber (slow down — i.e. be reduced), red (forbidden). In agriculture, things are, as usual, more complicated. The Agriculture Agreement has no red box, but there is a blue box for certain types of subsidies, and exemptions for developing countries (sometimes called an “S&D box”).

#### *The ‘amber box’*

For agriculture, all subsidies and other domestic support measures considered to distort production and trade (with some exceptions) fall into the amber box. The total value of these measures must be reduced.

#### *The ‘green box’*

In order to qualify for the “green box”, a subsidy must not distort trade, or at most cause minimal distortion. They have to be government-funded (not by charging consumers higher prices) and must not involve price support. They tend to be programmes that are not directed at particular products, and include direct income supports for farmers that are not related to (are “decoupled” from) production. “Green box” subsidies are therefore allowed without limits, provided they comply with relevant criteria (*for details, see Article 6 and Annex 2 of the Agriculture Agreement*).

Some countries say they would like to review the domestic subsidies listed in the green box because they believe that some of these, in certain circumstances, could have an influence on production or prices. Some others, including some major players advocating general agricultural trade liberalization, have said that the green box should not be changed because it is already satisfactory.

#### *The ‘blue box’*

The blue box is an exemption from the general rule that all subsidies linked to production must be reduced or kept within defined minimal (“*de minimis*”) levels. It covers payments directly linked to acreage or animal numbers, but under schemes which also limit production by imposing production quotas or requiring farmers to set aside part of their land. Countries using these subsidies say they distort trade less than alternative amber box subsidies.

At the moment, the blue box is a permanent provision of the agreement. Some countries want it scrapped because the payments are only partly decoupled from production. Others say it is an important tool for supporting and reforming agriculture, and for achieving certain “non-trade” objectives (*see below on page 16*).

## Export subsidies

Some countries are proposing the total elimination of export subsidies. Others reject the idea. In addition, some countries would like to examine the rules to prevent governments getting around (“circumventing”) their commitments — including the use of state trading enterprises and subsidized export credits.

## Developing countries

Developing countries reflect a range of interests in the debate on agriculture, and the distinctions are not always clear.

Most members of the Cairns Group — which favours much greater liberalization in agricultural trade — are developing countries. But like most WTO members, the Cairns Group would also like to see developing countries given “special and differential” treatment to take account of their needs.

Some countries say WTO arrangements should be more flexible so that developing countries can support and protect their agricultural and rural development and ensure the livelihoods of their large agrarian populations.

They argue, for example, that subsidies and protection are needed to ensure food security, to support small scale farming, to make up for a lack of capital, or to prevent the rural poor from migrating into already over-congested cities.

At the same time, some developing countries make a clear distinction between their needs and what they consider to be the desire of much richer countries to spend large amounts subsidizing agriculture at the expense of poorer countries.

Many developing countries complain that their exports still face high tariffs and other barriers in developed countries’ markets and that their attempts to develop processing industries are hampered by tariff escalation (higher import duties on processed products compared to raw materials). They want to see substantial cuts in these barriers.

WTO statistics show that developing countries as a whole have seen a significant increase in agricultural exports. Agricultural trade rose globally by nearly \$100bn between 1993 and 1998.<sup>2</sup> Of this, developing countries’ exports rose by around \$47bn — from \$120bn to \$167bn in the period. Their share of world agricultural exports increased from 40.1% to 42.4%. But within the group, some individual developing countries have seen their agricultural trade balance worsen — their imports have risen faster than their exports.

### Who can subsidize exports?

25 WTO members have export subsidy reduction commitments. Those without commitments cannot subsidize agricultural exports at all. Some among the 25 have decided to greatly reduce their subsidies or drop them completely.

Australia	Iceland	Romania
Brazil	Indonesia	Slovak Rep
Bulgaria	Israel	S Africa
Canada	Mexico	Switzerland
Colombia	New Zealand	Turkey
Cyprus	Norway	United States
Czech Rep	Panama	Uruguay
European Union	Poland	Venezuela
Hungary		

The agreement includes temporary exemptions for certain subsidies for developing countries (Art 9.4)

### The Cairns Group

Current membership: Australia, Argentina, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand, Uruguay.

<sup>2</sup> Excluding trade within the European Union.

## **Decision on net-food importing developing countries**

A number of developing countries which depend on imports for their food supply are also concerned about possible rises in world food prices as a result of reductions in richer countries' subsidies. Although they accepted that higher prices can benefit farmers and increase domestic production, they feel that their concerns about food imports need to be addressed more effectively.

The WTO agreements include a *Decision on the Possible Negative Effects of the Reform Programme on Least-Developed and Net-Food Importing Developing Countries*. As a result of this decision the Food Aid Convention was recently renegotiated and concluded in July 1999 in the International Grains Council. The WTO Committee on Agriculture also regularly reviews actions within the framework of the decision, in such areas as technical and financial assistance provided to least-developed and net-food importing countries to assist in improving their agricultural productivity and infrastructure.

## **'Non-trade' concerns and 'multifunctionality': agriculture can serve many purposes**

The Agriculture Agreement includes provisions for important "non-trade" concerns such as food security, the environment, structural adjustment (which can include rural development) and so on.

Most countries accept that agriculture is not only about producing food and fibre but also has other functions, including these non-trade objectives — although some dislike the buzzword "multifunctionality". The question debated in the WTO is whether "trade-distorting" subsidies, or subsidies outside the "green box", are needed in order to help agriculture perform its many roles.

Some countries say all the objectives can and should be achieved more effectively through "green box" subsidies which are targeted directly at these objectives. Examples include direct payments to producers, structural adjustment assistance, environmental programmes, and regional assistance programmes which do not stimulate agricultural production or affect prices. These countries say the onus is on the proponents of non-trade concerns and "multifunctionality" to show that the existing provisions, which were the subject of lengthy negotiations in the Uruguay Round, are inadequate for dealing with these concerns in targeted, non-trade distorting ways.

Other countries say the non-trade concerns are closely linked to production. They believe subsidies based on, or related to, production are needed for these purposes. For example, rice fields have to be promoted in order to prevent soil erosion, they say. A number of countries have produced studies to support their arguments, and these studies have also been debated.

Many exporting developing countries say multifunctionality is a form of special and differential treatment for rich countries. Several even argue that any economic activity — industry, services and so on — is equally multifunctional, and therefore if the WTO is to address this issue, it has to do so in all areas of the negotiations, not only agriculture. Some others say agriculture is special.

## **The peace clause**

Article 13 ("due restraint") of the Agriculture Agreement protects countries using subsidies which comply with the agreement from being challenged under other WTO agreements. Without this "peace clause", countries would have greater freedom to take action against each others' subsidies, under the Subsidies and Countervailing Measures Agreement and other provisions. The peace clause is due to expire at the end of 2003.

Some countries want it extended so that they can enjoy some degree of “legal security”, ensuring that they will not be challenged so long as they comply with their commitments under the Agriculture Agreement.

Others want it to lapse as part of their overall objective to see agriculture brought under general WTO disciplines, although they might be prepared to consider an extension, depending on what is agreed in other parts of the agriculture negotiation.

### **Fisheries and forestry**

The Agriculture Agreement does not include fishery and forestry products. Some WTO members would like to see specific disciplines negotiated for these products and have tabled proposals for Seattle.

In particular there are proposals for dealing with fisheries subsidies (both for fishing fleets and for fish farming) and their impact on fish stocks and the environment. The proposed rules and disciplines for forestry products would include the promotion of resource conservation and management, other environmental concerns, and disciplines on market access and export restrictions on logs.

The proposals would almost certainly not come under the Agriculture Agreement.

### **Article 20 and beyond**

Article 20 of the Agriculture Agreement says WTO members have to negotiate to continue the reform programme for agriculture.

Members generally accept that this should result in better market conditions, lower production distorting subsidies and reductions in export subsidies. However, there is no agreement about the depth of these reforms (how deep the cuts in subsidies and tariffs should go, and how far the quotas should be widened) or on how issues like some non-trade concerns should be addressed.

The forthcoming negotiations will be difficult but they will also contribute to further liberalization of agricultural trade.

This will benefit those countries which can compete on quality and price rather than on the size of their subsidies. This is particularly the case for many developing countries whose economies depend on an increasingly diverse range of primary and processed agricultural products.

#### **Article 20 of the Agriculture Agreement Continuation of the Reform Process**

Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

- (a) the experience to that date from implementing the reduction commitments;
- (b) the effects of the reduction commitments on world trade in agriculture;
- (c) non-trade concerns, special and differential treatment to developing-country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement; and
- (d) what further commitments are necessary to achieve the above mentioned long-term objectives.

**World trade in agricultural products, 1998**

<b>Value \$bn</b>	<b>553</b>
<b>Annual change %</b>	
1980-85	-2
1985-90	9
1990-98	4
1996	3
1997	-2
1998	-5
<b>Share in world merchandise trade %</b>	<b>10.5</b>
<b>Share in world exports of primary products %</b>	<b>52.4</b>

Source: WTO Annual Report 1999, table IV.3, includes intra-EU trade

**Top 15 agricultural exporters and importers, 1998**

	Value \$bn	Share in world %		Value \$bn	Share in world %
<b>Exporters</b>			<b>Importers</b>		
United States	69.85	12.6	United States	62.40	10.6
France	41.06	7.4	Japan	56.59	9.6
Netherlands	34.74	6.3	Germany	48.89	8.3
Canada	30.02	5.4	United Kingdom	35.29	6.0
Germany	29.64	5.4	France	33.18	5.6
Belgium-Luxembourg	20.53	3.7	Italy	32.06	5.4
United Kingdom	19.49	3.5	Netherlands	21.22	3.6
Spain	17.47	3.2	Belgium-Luxembourg	20.45	3.5
Italy	17.08	3.1	Spain	18.12	3.1
Brazil	17.07	3.1	Russian Fed. <sup>a</sup>	14.50	2.5
Australia	14.97	2.7	Canada <sup>b</sup>	13.99	2.4
China	14.31	2.6	Hong Kong, China	12.70	-
Argentina	13.51	2.4	retained imports	6.92	1.2
Denmark	12.12	2.2	China	12.61	2.1
Thailand	11.46	2.1	Mexico <sup>b</sup>	9.57	1.6
			Korea, Rep. of	9.31	1.6
Above 15	363.30	65.7	Above 15	395.08	66.9

Source: WTO Annual Report 1999 table IV.7, includes intra-EU trade

<sup>a</sup> Includes WTO Secretariat estimates.

<sup>b</sup> Imports are valued f.o.b.

**Agricultural products' share in trade, by region, 1998**

	Exports	Imports		Exports	Imports
Share in total <b>merchandise</b> trade, %			Share in <b>primary products</b> trade, %		
World	10.5	10.5	World	52.4	52.4
North America	11.1	6.6	North America	65.8	43.7
Latin America	23.8	10.8	Latin America	56.5	59.4
Western Europe	10.1	11.3	Western Europe	66.1	58.3
C./E. Europe/Baltic States/CIS	11.7	13.2	C./E. Europe/Baltic States/CIS	29.7	49.8
Africa	19.5	17.0	Africa	31.8	67.5
Middle East	4.3	13.1	Middle East	6.1	70.5
Asia	7.7	11.3	Asia	54.4	44.7

Source: WTO Annual Report 1999, table IV.5, includes intra-EU trade

ENDS

## SANITARY AND PHYTOSANITARY (SPS) MEASURES

### Food safety, etc

*This briefing document focuses on the SPS issues raised in the lead-up to the Seattle Ministerial Conference. They will not necessarily be included in the post-Seattle negotiations.*

- > *An outline of member countries' obligations under the WTO's SPS Agreement can be found in the section on agriculture in "Trading into the Future" (page 19 in the printed version, or go to <http://www.wto.org/wto/about/about.htm> on the WTO website).*
- > *More details can be found in the WTO booklet on the SPS Agreement or on the WTO website at <http://www.wto.org/wto/goods/spsund.htm> and <http://www.wto.org/wto/goods/sps.htm>.*

Sanitary and phytosanitary measures deal with food safety and animal and plant health standards. The WTO does not set the standards. The WTO's SPS Agreement encourages member countries to use standards set by international organizations (*see box*), but it also allows countries to set their own standards.

These standards can be higher than the internationally agreed ones, but the agreement says they should be based on scientific evidence, should not discriminate between countries, and should not be a disguised restriction to trade.

The provisions strike a balance between two equally important objectives: helping governments protect consumers, and animal and plant health against known dangers and potential hazards; and avoiding the use of health and safety regulations as protectionism in disguise.

The following issues are among those raised in the lead up to the ministerial conference. It remains to be seen whether they will be accepted for further work, or if they will be included in negotiations. These issues could be considered "implementation" of the existing agreement, or be studied by a working party without necessarily leading to negotiations to revise the SPS Agreement. Countries may decide they would prefer not to re-open the SPS Agreement.

#### Clarification of 'vague' provisions

A number of members, developing countries in particular, say they want to see the wording of the agreement tightened, and some voluntary commitments turned into mandatory ones.

For example: Article 2 refers to equal treatment for countries "where identical or similar conditions prevail". Some developing countries complain that their products are not being given equal treatment because the "identical or similar conditions" are being overlooked. They would like the term to be clarified. Some countries would also like to see more developing countries included in agreements where governments recognize each others' SPS measures as equivalent, including inspection and certification procedures.

#### The 'three sisters'

The SPS Agreement identifies three standard-setting organizations:

- the FAO-WHO Codex Alimentarius Commission — *for food safety*
- the International Office for Epizootics — *for animal health*
- the FAO's Secretariat of the International Plant Protection Convention — *for plant health*

It also says governments can agree to refer to any other international organizations or agreements whose membership is open to all WTO members.

The SPS Agreement uses phrases such as “a reasonable” period of time in provisions on giving advance warning of new regulations, or on allowing developing countries an opportunity to adapt their exports to developed countries’ higher standards.

Proposals range from: a simple call for the relevant time-period to be clarified, to specifying “at least 12 months” for developing countries to adapt to new regulations. Several countries want the whole of Article 10, which deals with special and differential treatment for developing countries, to be mandatory.

Some countries see the clarification as part of improving the implementation of the SPS Agreement. Others say it involves interpreting or modifying the agreement and therefore it should be included in the new negotiations. Some also say implementation issues have already been discussed in the SPS Committee during the review of the agreement’s operation and implementation (which took place in 1998), and the committee should continue to be the forum for these issues.

### **Other developing countries’ concerns**

In addition to seeking clarification on the above issues, a number of developing countries have expressed concern about their lack of resources for implementing the agreement. Among the burdens are:

- the obligation to keep fellow members informed, through the WTO’s SPS Committee, about their regulations (“notification”)
- monitoring new regulations in their export markets
- the difficulty of demonstrating sufficient scientific evidence to justify their own measures or challenge those of others

These countries are calling for both technical assistance, and more time to comply.

### **Risk and precaution**

The recent debate surrounding some food safety and animal health issues — including disputes in the WTO over the use of hormones in beef production and over regulations for salmon — raises the question of whether the SPS Agreement’s preference for scientific evidence goes far enough in dealing with possible risks for consumers and producers.

A phrase that has emerged in the debate is the “precautionary principle”, a kind of “safety first” approach to deal with scientific uncertainty. To some extent, Article 5.7 of the SPS Agreement addresses this, but some governments have said outside the WTO that they would like the principle strengthened. However, at the time of writing no proposal had been received. It is also unclear whether this would be handled under the SPS Agreement or through some other means.

#### **Article 5, paragraph 7** of the SPS Agreement:

“In cases where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, including that from the relevant international organizations as well as from sanitary or phytosanitary measures applied by other Members. In such circumstances, Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.”

### **Genetically modified organisms and biotechnology**

These issues possibly span several WTO agreements, including SPS, Agriculture, Intellectual Property (TRIPS) and Technical Barriers to Trade (TBT). They have also been discussed in the Trade and Environment Committee.

Among the proposals are suggestions for a new working party or “examination group” to be set up to consider how adequate and effective existing WTO rules are for dealing with genetically modified organisms, biotechnology and other new subjects (from Canada in document WT/GC/W/359, Japan in WT/GC/W/365).

ENDS

## SERVICES

### Rules for growth and investment

Ministers at Seattle are expected to launch negotiations to further liberalize international trade in services. Governments are already mandated to start these negotiations in 2000 according to the WTO's General Agreement on Trade in Services (GATS).

The GATS is the first ever agreement of multilateral, legally-enforceable rules covering international trade in services. It was negotiated in the Uruguay Round. GATS has three elements: the main text containing general obligations and disciplines; annexes dealing with rules for specific sectors; and individual countries' specific commitments to provide access to their markets, including indications of where countries are temporarily not applying the "most-favoured-nation" principle of non-discrimination. These commitments — like tariff schedules for trade in goods — are an integral part of the agreement. So are the temporary withdrawals of most-favoured-nation treatment.

#### General Obligations and Disciplines

##### *Total coverage*

The agreement covers all internationally-traded services – for example, banking, telecommunications, tourism, professional services, etc. The agreement also defines four ways of trading services:

- services supplied from one country to another (e.g. international telephone calls), officially known as "cross-border supply"
- consumers or firms making use of a service in another country (e.g. tourism), officially known as "consumption abroad"
- a foreign company setting up subsidiaries or branches to provide services in another country (e.g. foreign banks setting up operations in a country), officially "commercial presence"
- individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially "presence of natural persons"

##### *Most-favoured-nation (MFN) treatment*

Favour one, favour all. MFN means treating one's trading partners equally on the principle of non-discrimination. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO.)

MFN applies to all services, but some special temporary exemptions have been allowed. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups. WTO members felt it was necessary to maintain these preferences temporarily. They gave themselves the right to continue giving more favourable treatment to particular countries in particular services activities by listing "MFN exemptions" alongside their first sets of commitments. In order to protect the general MFN principle, the exemptions could only be made once; nothing can be added to the lists. They will be reviewed in 2000, and will normally last no more than 10 years.

### *Commitments on market access and national treatment*

Individual countries' commitments to open markets in specific sectors – and how open those markets will be – are the outcome of negotiations. The commitments appear in “schedules” that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies). So, for example, if a government commits itself to allow foreign banks to operate in its domestic market, that is a market access commitment. And if the government limits the number of licences it will issue, then that is a market access limitation. If it also says foreign banks are only allowed one branch while domestic banks are allowed numerous branches, that is an exception to the national treatment principle.

These clearly defined commitments are “bound”: like bound tariffs for trade in goods, they can only be modified after negotiations with affected countries. Because “unbinding” is difficult, the commitments are virtually guaranteed conditions for foreign exporters and importers of services and investors in the sector to do business.

### *Transparency*

GATS says governments must publish all relevant laws and regulations. Within two years (by the end of 1997) they have to set up inquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. And they have to notify the WTO of any changes in regulations that apply to the services that come under specific commitments.

### *Regulations: objective and reasonable*

Since domestic regulations are the most significant means of exercising influence or control over services trade, the agreement says governments should regulate services reasonably, objectively and impartially. When a government makes an administrative decisions that affect a service, it should also provide an impartial means for reviewing the decision (for example a tribunal).

### *Recognition*

When two (or more) governments have agreements recognizing each other's qualifications (for example, the licensing or certification of service suppliers), GATS says other members must also be given a chance to negotiate comparable pacts. The recognition of other countries' qualifications must not be discriminatory, and it must not amount to protectionism in disguise. These recognition agreements have to be notified to the WTO.

### *International payments and transfers*

Once a government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied (“current transactions”) in that sector. The only exception is when there are balance-of-payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

### *Progressive liberalization*

The Uruguay Round was only the beginning. GATS requires more negotiations, the first to begin within five years. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

## **The annexes: services are not all the same**

International trade in goods is a relatively simple idea to grasp: a product is transported from one country to another. Trade in services is much more diverse. Telephone companies, banks, airlines and accountancy firms provide their services in quite different ways. The GATS annexes reflect some of the diversity.

### *Movement of natural persons*

This annex deals with negotiations on individuals' rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residence or permanent employment.

### *Financial services*

Instability in the banking system affects the whole economy. The financial services annex says governments have the right to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. It also excludes from the agreement services provided when a government is exercising its authority over the financial system, for example central banks' services. Negotiations on specific commitments in financial services continued after the end of the Uruguay Round and ended in late 1997.

### *Telecommunications*

The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says governments must ensure that foreign service suppliers are given access to the public telecommunications networks without discrimination. Negotiations on specific commitments in telecommunications resumed after the end of the Uruguay Round. This led to a new liberalization package agreed in February 1997.

### *Air transport services*

Under this annex, traffic rights and directly related activities are excluded from GATS's coverage. They are handled by other bilateral agreements. However, the annex establishes that the GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer-reservation services.

## **On-going work: even before the next round**

At the end of the Uruguay Round governments agreed to continue negotiations in four areas: basic telecommunications, maritime transport, movement of natural persons, and financial services. Some commitments in some of these sectors had been made in the Uruguay Round agreements. The objective of continuing with the negotiations was to improve the package.

### *Basic telecommunications*

This was an area where governments did not offer commitments during the Uruguay Round — essentially because the privatization of government monopolies was a complex issues in many countries. Sophisticated value-added telecommunications services, which are more commonly provided on a private basis, were, however, included in many of the original GATS schedules. The negotiations on

basic telecommunications ended in February 1997 with new national commitments due to take effect from January 1998.

### *Maritime transport*

Maritime transport negotiations were originally scheduled to end in June 1996, but participants failed to agree on a package of commitments. The talks will resume with the new services round due to start no later than 2000. Some commitments are already included in some countries' schedules covering the three main areas in this sector: access to and use of port facilities; auxiliary services; and ocean transport.

### *Movement of natural persons*

"Movement of natural persons" refers to the entry and temporary stay of persons for the purpose of providing a service. It does not relate to persons seeking permanent employment or permanent residence in a country. Some commitments are already included in the schedules but it was agreed that negotiations to improve commitments would take place in the six months after the WTO came into force. These only achieved modest results.

### *Financial services*

Financial services is another area where further negotiations were scheduled to improve on the commitments included in the initial Uruguay Round schedules. Officially the first set of talks ended in July 1995, but the governments decided that more could be achieved if further talks could be held. These latest negotiations ended in December 1997.

### *Other issues*

GATS identifies several more issues for future negotiation. One set of negotiations would create rules that are not yet included in GATS: rules dealing with subsidies, government procurement and safeguard measures.

Another set of negotiations would seek rules on the requirements foreign service providers have to meet in order to operate in a market. The objective is to prevent these requirements being used as unnecessary barriers to trade. The focus is on: qualification requirements and procedures, technical standards and licensing requirements.

As part of this task, governments tackled the accountancy sector first. The result of these discussions emerged in December 1998 when the Services Council adopted disciplines on domestic regulations for the accountancy sector. The disciplines do not have legal effect yet. Governments are continuing their work to develop general disciplines for all professional services and, where necessary, additional sectoral disciplines. All the disciplines developed by the governments will be integrated into the GATS and become legally binding before the end of the forthcoming round of services negotiations.

#### **After the Uruguay Round**

GATS talks that resumed after the round: a full new services round will start in 2000 at the latest.

**Basic telecommunications:**  
completed February 1997

**Financial services:**  
completed late 1997

**Maritime transport:**  
suspended

**Movement of natural persons:**  
completed July 1995

**Other issues for future negotiation:**  
subsidies, government procurement, safeguards, qualifications, technical standards, licensing

ENDS

## INTELLECTUAL PROPERTY (TRIPS) Negotiations, implementation and TRIPS Council work

*This briefing document focuses on the TRIPS issues raised in the lead-up to the Seattle Ministerial Conference. They will not necessarily be included in the post-Seattle negotiations.*

- > An outline of the WTO's TRIPS Agreement can be found in the section on intellectual property in "Trading into the Future" (page 25 in the printed version, or go to <http://www.wto.org/wto/about/agmnts6.htm> on the WTO website).
- > More details can be found on the WTO website at <http://www.wto.org/wto/intellect/intellect.htm>.

In the months leading up to the Seattle Ministerial Conference, the TRIPS Council, which oversees the operation and implementation of the TRIPS Agreement has been discussing a number of issues which could lead to changes to the agreement.

These include issues related to geographical indications, intellectual property protection for biotechnological inventions and plant varieties and the possibility that one country could take legal action under the TRIPS Agreement even if the agreement has not specifically been violated ("non-violation" cases).

In addition, 2000 sees two major developments in TRIPS: developing countries (excluding the least developed) have to conform with the TRIPS Agreement on 1 January 2000, and the TRIPS Council is due to review the agreement's implementation — although a "review" does not necessarily lead to renegotiation or any other action.

These issues have been discussed or are due to be handled in the TRIPS Council. However, members have also raised them in the WTO General Council's preparations for the Seattle Ministerial Conference.

There are a number of proposals for the Seattle meeting to mandate negotiations or other work on these subjects after Seattle. Some members see some of them as "implementation" issues to be settled in advance.

### Geographical indications

Simply put, geographical indications are place names (or words associated with a place) used to identify products (for example, "Champagne", "Tequila" or "Roquefort") which have a particular quality, reputation or other characteristic because they come from that place. The TRIPS Agreement provides a higher level of protection for geographical indications for wines and spirits (i.e., subject to a number of exceptions, they have to be protected even if misuse would not cause the public to be misled).

#### 'TRIPS'

= "trade-related aspects of intellectual property rights"

#### What the TRIPS Agreement covers

- copyright and related rights
- trademarks, including service marks
- geographical indications
- industrial designs
- patents
- layout designs (topographies) of integrated circuits
- undisclosed information, including trade secrets

#### The agreement's main principles

- minimum levels of protection for each of the above
- effective procedures and remedies for enforcing intellectual property rights
- non-discrimination (national and most-favoured nation treatment)
- enforcement through WTO dispute settlement

Information that members have supplied during a fact-finding exercise shows that countries employ a wide variety of legal means to protect geographical indications: ranging from specific geographical indications laws to trademark law, consumer protection law, or common law. The TRIPS Agreement and current TRIPS work in the WTO takes account of that diversity.

The agreement calls for negotiations on two aspects of geographical indication protection, although it does not say when these should take place:

- the creation of a multilateral system for notifying and registering geographical indications for wines (the 1996 Singapore Ministerial Conference also called for preliminary work on “spirits”) (Article 23.4)
- increasing protection for individual geographical indications. (Article 24)

Proposals for a system for notifying and registering geographical indications for wines (and spirits) have already been submitted to the TRIPS Council and discussions are due to continue in 2000. In all cases, participation in the system would be voluntary. One group of proposals sees the system as a database: members would report the geographical indications that they protect, and other members would take the information into account when they provide their own protection. Another group includes obligations — subject to certain conditions — for WTO members to protect the names listed in the register.

A number of countries have proposed extending the higher level of protection beyond wines and spirits to other products, including handicrafts, agricultural products and other beverages. Some members oppose the extension.

### Plant varieties: Article 27.3(b)

Article 27 of the TRIPS Agreement defines the types of inventions which have to be eligible for patent protection and those which can be exempt. These include both products and processes, and they cover all fields of technology.

It is part (b) (i.e. **Article 27.3(b)**) which is under review — as required by the TRIPS Agreement — and is also the subject of proposals for Seattle.

#### **‘Patentable inventions’**

In general, inventions eligible for patenting must be **new**, involve an **inventive step** (or be **non-obvious**) and be **capable of industrial application** (or be **useful**).

Article 27 also lists inventions which governments do not have to make eligible for patent protection.

Broadly speaking, Article 27.3(b) allows governments to exclude plants, animals and “essentially” biological processes (but micro-organisms, and non-biological and microbiological processes have to be eligible for patents). However, plant *varieties* have to be eligible either for patent protection or through a system created specifically for the purpose (“*sui generis*”), or a combination of the two. For example, countries could enact a plant varieties protection law based on a model of the International Union for the Protection of New Varieties of Plants (UPOV).

The review of Article 27.3(b) began in 1999 as required by the TRIPS Agreement. The topics raised include: the pros and cons of various types of protection (patents, UPOV, etc); how to handle moral and ethical issues (e.g. whether invented life forms should be eligible for protection); how to deal with traditional knowledge and the rights of the communities where genetic material originates; and whether there is a conflict between the TRIPS Agreement and the international Biodiversity Convention (CBD). Countries have expressed a range of opinions on all these subjects, and some are seeking clarification on issues such as the meaning of the term “micro-organism” and the difference between “biological” and “microbiological” processes.

Some developing countries want to make sure that the TRIPS Agreement takes account of more specific concerns such as allowing their farmers to continue to save and exchange seeds that they have harvested, and preventing anti-competitive practices which threaten developing countries' "food sovereignty".

Whether the subject stays under review in the TRIPS Council or becomes a negotiation topic remains to be seen.

### **Non-violation cases (Article 64.2)**

In principle, disputes in the WTO involve allegations that a country has violated an agreement or broken a commitment.

Under the goods (GATT) and services (GATS) agreements, countries can complain to the Dispute Settlement Body if they can show that they have been deprived of an expected benefit because of some governmental action (for example a new production subsidy on an item on which a tariff concession has been made) — even if it does not violate one of these agreements. The purpose of allowing these "non-violation" cases is to preserve the balance of market access opportunities struck during multilateral negotiations.

The TRIPS Agreement has a temporary ban on non-violation disputes (Article 64.2) — disputes can only be brought under the TRIPS Agreement if the accused country is specifically alleged to have violated a provision. Article 64.2 says non-violation complaints cannot be brought to the WTO dispute settlement procedure during the first five years of the WTO Agreement (i.e. 1995–99).

A number of countries want the ban to continue, at least until the implications have been more fully examined. They argue that TRIPS is unlike GATT and GATS because it sets minimum standards and not the rules for market access or schedules of commitments. At least one country says non-violation cases should be allowed in order to discourage members from engaging in "creative legislative activity" that would allow them to get around their TRIPS commitments.

### **Developing countries' compliance**

On 1 January 2000, developing countries have to comply with the TRIPS Agreement. (Least-developed countries have until 1 January 2006.) Several developing countries are asking for more time in order to deal with the large legislative and administrative burden of complying.

### **Technology transfer**

The proposals for the Seattle meeting include strengthening technology transfer provisions in general (Articles 7 and 8), and tightening obligations for developed countries to provide incentives for their enterprises and institutions to transfer technology to least-developed countries (Article 66.2)

### **Pharmaceuticals**

Some members are proposing that the World Health Organization's list of essential drugs be exempt from patentability. Alternatively, they say developing countries should be able to issue compulsory licences for these drugs (i.e. force the patent holder to license other manufacturers, subject to appropriate conditions such as fees) so that the drugs can be supplied at "reasonable" prices.

**Review of the TRIPS Agreement**

The review is required in 2000, under Article 71.1. The TRIPS Council is due to take this issue up at its first meeting in 2000 (currently scheduled to be held in March). What the review will involve depends on the outcome of the Seattle Ministerial Conference and informal consultations between members and the council's chairman.

Among the topics on the table for Seattle are: ensuring that the TRIPS Agreement responds effectively and neutrally to new technological development and practices; incorporating new trade-related intellectual property treaties adopted outside the WTO; and streamlining administrative aspects such as harmonizing some aspects of the way governments process patent applications. Many of these proposals come from developed countries.

ENDS

## TEXTILES AND CLOTHING

### Half-way point of agreement's implementation

At the end of the Uruguay Round, developing countries considered the Agreement on Textiles and Clothing (ATC), which provides for the gradual dismantling of bilateral import quotas over a ten-year period, to have been a major result in their favour. Today — at the halfway point of ATC implementation — many developing countries are calling for a Seattle decision that would accelerate trade liberalization in this sector and redress what they consider to be an imbalance in the implementation of the Uruguay Round results.

Developing countries look at textiles and clothing — exports of which amounted to \$331 billion last year representing 8.3% of world trade in manufactures — as one major manufacturing sector in which they have competitive advantage. They also believe that trade success in this area would be an important step up in the industrial development ladder.

In the old GATT, the Multifibre Arrangement (MFA) governed a large portion of the exports of textiles and clothing from developing countries, to the main developed countries. Under the MFA (1974-94), developed countries were able to establish quotas on textiles and clothing outside normal GATT rules.

The ATC requires members to liberalize trade in textiles and clothing in two ways. Members must progressively bring (“integrate”) all textiles and clothing products under normal WTO rules in four steps (16% in the first stage beginning in 1995, a further 17 per cent at the second stage in 1998, a further 18 per cent in the third stage in 2003 and the remaining 49% in the final stage on 1 January 2005). Members that maintain quota restrictions (Canada, the European Union, Norway and the United States), must progressively enlarge the quotas by increasing the annual growth rates by a set percentage at each stage. When the products subject to quotas are integrated, the quotas are removed.

A special safeguard mechanism protects members from damaging surges in imports during this transitional period. A quasi-judicial body — the Textiles Monitoring Body (TMB) — supervises the implementation of the ATC, including the examination of disputes.

At the review of the first stage of integration and in the current preparations for Seattle, developing country textile exporters have voiced serious concerns over what they view as lack of meaningful commercial benefits for them as the major importers have opted to integrate products of less export interest to developing countries with few quotas being removed. They have also criticized new restrictions imposed by a major importer through the use of the ATC safeguards as well as other measures taken by importing countries such as anti-dumping actions and changes in country-of-origin rules.

There is also the fear that with most of the quotas being kept for the final stage, the major importers might not be able to meet their obligations. A group of developing-country exporters<sup>1</sup> has suggested that in Seattle, Ministers secure liberalization of the sector by requiring major importers, among other things, to remove half of the existing quotas by the beginning of the year 2002.

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<sup>1</sup> The International Textiles and Clothing Bureau: Argentina, Bangladesh, Brazil, China (observer in WTO), Colombia, Costa Rica, Egypt, El Salvador, Guatemala, Honduras, India, Indonesia, Korea, Macau, Maldives, Mexico, Pakistan, Paraguay, Peru, Sri Lanka, Thailand, Uruguay and Hong Kong, China.

The major importing members maintain that they have been observing scrupulously the requirements of the Agreement. In turn, they have criticized a lack of market-access improvements in other members in this sector as well as cases of quota circumvention through misdeclaration at customs of where the products come from.

**Leading traders in clothing, 1998 (US\$ billions)**

Exporters		Importers	
1. China	30.05	1. United States	55.72
2. Hong Kong, China	22.16	2. Germany	22.35
domestic exports	9.67		
re-exports	12.50		
3. Italy	14.74	3. Japan	14.72
4. United States	8.79	4. Hong Kong, China	14.30
		retained imports	1.80
		re-exports	12.50
5. Germany	7.68	5. United Kingdom	11.98
6. Turkey	7.06	6. France	11.64
7. Mexico	6.60	7. Italy	5.86
8. France	5.75	8. Belgium-Luxembourg	5.30
9. United Kingdom	4.92	9. Netherlands	5.27
10. Korea	4.65	10. Mexico	3.75

ENDS

## **INFORMATION TECHNOLOGY PRODUCTS**

### **Free trade dawns for a dynamic trade sector**

A WTO agreement is helping push the information technology revolution forward. Beginning in 2000, most of the world trade in information technology products (worth \$680 billion last year for office and telecom equipment, a large part of which are IT products) will be completely free of tariffs under the WTO Information Technology Agreement (ITA), which has been reducing customs duties on IT products such as computers and telecom equipment since 1997, and benefiting offices and consumers across the globe through lower prices.

From the 29 participants that negotiated the ITA during WTO's first Ministerial Conference in Singapore in December 1996, membership has now risen to 51 that account for 93% of world trade in IT products. The new participants include many developing countries, transition economies and even governments currently negotiating their WTO membership. At an IT symposium organized by the WTO Secretariat in July, several industry representatives attested to the dynamic role of information technology in promoting economic growth in developing countries.

Participation in the ITA means that the country must eliminate tariffs and all other duties and charges on covered IT imports from all WTO members by 1 January 2000. Some participants have been granted longer implementation periods for a few products. The agreement lists in two annexes the products covered, which can be grouped into the following six categories: computers, software, telecom equipment, semiconductors, semiconductor manufacturing equipment and scientific instruments.

Talks on expanding the product coverage (or "ITA II") began in 1997 when participants began proposing additional IT products for tariff elimination. Negotiations intensified in 1998 when some participants tabled a joint ITA II list. The talks, however, failed to produce an ITA II list acceptable to all participants. One point of contention was the proposed addition of certain electronic consumer goods that are also used with computer products.

Consultations among delegations on ITA II continued informally this year although there had been no formal discussions on this subject in the ITA Committee. Several participants — in the preparatory process for the Ministerial Conference — have proposed concluding an ITA II deal in Seattle.

The current ITA deals only with the elimination of tariffs and not with other trade barriers. At the IT symposium, industry representatives complained that different national safety standards and import licensing requirements have resulted in additional shipment costs — through delays and additional paperwork — that have reduced the benefits of ITA tariff cuts. In the ITA Committee, participants have agreed to examine non-tariff barriers.

**Leading traders in office and telecom equipment, 1998**  
(US\$ billions)

Exporters		Importers	
1. United States	113.89	1. United States	155.91
2. Japan	86.03	2. United Kingdom	47.44
3. Singapore	57.60	3. Germany	45.82
4. United Kingdom	43.25	4. Hong Kong, China	43.03
5. Chinese Taipei	38.44	5. Singapore	37.21
6. Hong Kong, China	36.63	6. Japan	36.55
7. Malaysia	34.61	7. Netherlands	31.73
8. Germany	34.21	8. France	30.93
9. Korea	31.82	9. Chinese Taipei	23.79
10. Netherlands	30.36	10. Canada	22.69

ENDS

## TRADE AND ENVIRONMENT

### Work of the Trade and Environment Committee

When Ministers approved the results of the Uruguay Round negotiations in Marrakesh in April 1994, they took a decision to begin a comprehensive work programme (see below) on trade and environment in the WTO. During the past five years, this work programme has provided the focus of discussions in the Committee on Trade and Environment (CTE). The CTE's main aim is to build a constructive relationship between trade and environmental concerns.

The CTE has a two-fold mandate:

- “to identify the relationship between trade measures and environmental measures in order to promote sustainable development”;
- “to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system.”

This broad-based mandate covers goods, services, and intellectual property rights and builds on work carried out in the previous GATT Group on Environmental Measures and International Trade. Since 1997, the CTE has adopted a thematic approach to its work to broaden and deepen the discussions and to allow all items of the work programme to be addressed in a systematic manner. Discussions of the items on the work programme have been clustered into two main areas: issues relevant to market access and issues related to the linkages between the multilateral environment and trade agendas.

As directed by the Marrakesh Ministerial Decision, the CTE submitted a report on the progress on all items of its work programme to the 1996 Ministerial Conference in Singapore and the 1998 Ministerial Conference in Geneva. The CTE adopted its report for work undertaken in 1999, which will be submitted to the Ministerial Conference in Seattle.

Several WTO symposia have been held with representatives of civil society in recent years on the trade and environment interface. The most recent was the High-Level Symposium on Trade and Environment held in March 1999 at which more than 130 non-governmental and inter-governmental organizations participated. Participation also included senior-level representatives from trade, environment, and development ministries as well as other government agencies of WTO Members which deal with matters related to sustainable development. This meeting provided a forum for a useful exchange of views and information between the trade and environment communities.

A recent WTO Secretariat report argues that international economic integration and growth reinforce the need for sound environmental policies at the national and international levels. International cooperation is particularly important in addressing transboundary and global environmental challenges beyond the control of any individual nations. This would be true even if nations did not trade with one another.<sup>1</sup>

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<sup>1</sup> The report, published in the *Special Studies* series of the WTO, is authored by Hakan Nordstrom of the Economic Research and Analysis Division of the WTO and Scott Vaughan, formerly with the United Nations Environmental Program (UNEP), and currently with the NAFTA Commission for Environmental Cooperation. See WTO Press Release No. 140, 8 October 1999.

### **Important parameters**

The Committee on Trade and Environment (CTE) has brought environmental and sustainable development issues into the mainstream of the WTO's work. There are several important parameters which have guided the CTE's work.

- The first parameter is that WTO competency for policy coordination in this area is limited to trade and those trade-related aspects of environmental policies which may result in significant trade effects for its Members. In other words, it is not intended that the WTO should become an environmental agency. Nor should it get involved in reviewing national environmental priorities, setting environmental standards or developing global policies on the environment. That will continue to be the task of national governments and of other intergovernmental organizations better suited to the task.
- The second parameter is that increased national coordination as well as multilateral cooperation is necessary to address environmental concerns.
- The third parameter is that secure market access opportunities are essential to help developing countries work towards sustainable development.

The contribution which the WTO could make to environmental protection was recognized at the United Nations Conference on Environment and Development (UNCED — the Earth Summit) in 1992, which stated that an open, equitable and non-discriminatory multilateral trading system has a key contribution to make to national and international efforts to better protect and conserve environmental resources and promote sustainable development. Among the most important recommendations of the UNCED to the GATT at the time was to implement the results of the Uruguay Round.

In its first report in 1996, the CTE recognized that trade and environment are both important areas of policy-making and that they should be mutually supportive in order to promote sustainable development. The report noted that the multilateral trading system has the capacity to further integrate environmental considerations and enhance its contribution to the promotion of sustainable development without undermining its open, equitable and non-discriminatory character.

To raise awareness of the linkages between trade, environment and sustainable development and to enhance the dialogue between policy makers from Ministries of both trade and environment in WTO Member Governments, the WTO Secretariat has organized a series of regional seminars on trade and environment for government officials from developing and least-developed countries and countries with economies in transition.

At its most recent meeting in October 1999, the CTE agreed to hold three meetings in 2000 and to continue to deepen the analysis of all items on the work programme based on the thematic clusters of market access and the linkages between the multilateral environment and trade agendas with the objective of fulfilling the mandate of the CTE.

Some of the main points of discussion of the CTE's work programme include the following:

### **Trade measures applied pursuant to MEAs**

Throughout the discussions on this issue in the WTO, it has become clear that the preferred approach for governments to take in tackling transboundary or global environmental problems is through cooperative, multilateral action under an MEA. While some MEAs contain trade provisions, trade restrictions are not the only nor necessarily the most effective policy instrument to use in MEAs. In certain

cases they can play an important role. It has also been stated that the WTO already provides broad and valuable scope for trade measures to be applied pursuant to MEAs in a WTO-consistent manner.

As in the past few years, in June 1999 the CTE held an Information Session with Secretariats of MEAs relevant to the work of the CTE to discuss the trade-related developments in these agreements. At the June Session, presentations and papers were provided by the Convention on the International Trade in Endangered Species of Wild Fauna and Flora; the Montreal Protocol on Substances that Deplete the Ozone Layer; the United Nations Framework Convention on Climate Change; the Intergovernmental Forum on Forests; and the International Tropical Timber Organization. This meeting illustrated how trade-related measures function in MEAs and helped to deepen the understanding of the relationship between MEAs and the multilateral trading system.

### **Dispute settlement**

A related item concerns the appropriate forum for the settlement of potential disputes that may arise over the use of trade measures pursuant to MEAs. Should such disputes be addressed in the WTO or to the dispute settlement procedures that exist in the MEAs themselves? There is general agreement that in the event a dispute arises between WTO Members who are also signatories to an MEA, they should try first to resolve it through the dispute settlement mechanisms available under that MEA. Were a dispute to arise with a non-party to an MEA, but with another WTO Member, the WTO would provide the only possible forum for resolving the dispute.

The CTE agrees that better policy coordination between trade and environmental policy officials at the national level can help prevent situations from arising in which the use of trade measures applied pursuant to the MEAs could become subject to disputes. Furthermore, it is unlikely that problems would arise in the WTO over trade measures agreed and applied among parties to an MEA. In the event of a dispute, however, WTO Members are confident that the WTO dispute settlement provisions would be able to tackle any problems which arise in this area, including those cases requiring input from environmental experts.

### **Eco-labelling**

Eco-labelling programmes are important environmental policy instruments. Eco-labelling was discussed extensively in the GATT, and provided the basis in the CTE for a detailed examination of related issues. The key requirement from the WTO's point of view is that environmental measures that incorporate trade provisions or that affect trade significantly, should not discriminate between home-produced goods and imports, nor between imports from or exports to different trading partners. Non-discrimination is the cornerstone of secure and predictable market access and undistorted competition: consumers are guaranteed a wider choice and producers better access to the full range of market opportunities. Subject to that requirement being met, WTO rules place essentially no constraints on the policy choices available to a country to protect its own environment against damage either from domestic production or from the consumption of domestically produced or imported products.

The CTE has acknowledged that well-designed, eco-labelling programmes can be effective instruments of environmental policy. It notes that in certain cases such programmes have raised significant concerns about possible trade effects. An important starting point for addressing some of these trade effects is to ensure adequate transparency in the preparation, adoption and application of eco-labelling programmes. Interested parties from other countries should also be allowed to voice their concerns. Discussion is continuing on how the use in eco-labelling programmes of criteria based on non-product-related processes and production methods should be treated under the rules of the WTO Agreement on Technical Barriers to Trade.

### **WTO transparency provisions**

The WTO transparency provisions fulfil an important role in ensuring the proper functioning of the multilateral trading system. They help to prevent unnecessary trade restrictions and distortions and ensure that WTO Members provide information about changes in their regulations. They can also provide a valuable first step in ensuring that trade and environment policies are developed and implemented in a mutually supportive way. Trade-related environmental measures should not be required to meet more onerous transparency requirements than other measures that affect trade. The CTE has stated that no modifications to WTO rules are needed to ensure adequate transparency for trade-related environmental measures. In 1998, the CTE also established a WTO Environmental Database which can be accessed electronically by WTO Members. The WTO Secretariat will up-date this database annually by reviewing all the environment-related notifications. The Environmental Database is seen as an important step towards increasing the transparency of trade-related environmental measures notified by WTO Members.

### **Export of domestically prohibited goods**

During the mid-1980's, concerns were raised by a number of developing country GATT Contracting Parties that they were importing certain hazardous or toxic products without knowing the full environmental or public health dangers such products could pose. In the late 1980's, a GATT Working Party examined ways of treating trade in goods which are severely restricted or banned for sale on the domestic market of an exporting country. A key consideration was that the importing country should be fully informed about the products it was receiving and have the right to reject them if it felt such products caused environmental or public health problems.

Several MEAs have been negotiated in the last few years to deal with problems of trade in environmentally hazardous products (e.g. the Basel Convention and London Guidelines). The WTO does not intend to duplicate work that has already been accomplished elsewhere in the area of domestically prohibited goods. WTO Members, in the context of the CTE, have agreed to support the efforts of the specialized inter-governmental environmental organizations that are helping to resolve such problems. However, they have noted that there may be a complementary role for the WTO to play in this area.

### **Trade liberalization and sustainable development**

Further liberalization of international trade, both in goods and services, has a key role to play in advancing economic policy objectives in Member countries. In that respect, WTO Members have already made an important contribution to sustainable development and better environmental protection world-wide by concluding the Uruguay Round negotiations. This contribution will steadily increase as the results of the Round move towards full implementation. The UN Conference on Environment and Development (the "Earth Summit") also recognized an open, non-discriminatory trading system to be a prerequisite for effective action to protect the environment and to generate sustainable development. This is based on the perspective that countries, particularly developing countries, are dependent on trade as the main source of continued growth and prosperity.

The CTE is continuing to tackle this item of its work programme in the context of the built-in agenda for further trade liberalization initiatives contained in the results of the Uruguay Round negotiations. The CTE has noted that the removal of trade restrictions and distortions, in particular high tariffs, tariff escalation, export restrictions, subsidies and non-tariff barriers, has the potential to yield benefits for both the multilateral trading system and the environment. Discussions in 1999 included the sectors of agriculture and fisheries, energy, forestry, non-ferrous metals, textiles and clothing, leather and environmental services. The discussions highlighted areas where the removal of trade restrictions and distortions can be beneficial for the environment, trade and development, providing "win-win-win" opportunities.

**Trade in services and TRIPS**

The CTE also is to examine the role of the WTO in relation to the links between environmental measures and the new trade agreements reached in the Uruguay Round negotiations on services and intellectual property. Discussion on these two items of the work programme have broken new ground since there was very little understanding of how the rules of the trading system might affect or be affected by environmental policies in these areas.

With respect to the General Agreement on Trade in Services (GATS) and the environment, the CTE has noted that its discussions so far have not led to the identification of any measures that Members feel may be applied for environmental purposes to services trade which are not already adequately covered by GATS provisions. In the case of intellectual property rights, WTO Members have acknowledged that the Agreement on Trade-related Intellectual Property Rights (TRIPS) plays an essential role in facilitating access to and the transfer of environmentally-sound technology and products. However, further work is required in this area, including clarifying the relationship between the TRIPS Agreement and the Convention on Biological Diversity.

ENDS

## **TRADE AND INVESTMENT**

### **Negotiate, or continue to study?**

Since 1997, WTO members have been engaged in analysis and debate about the relationship between international trade and investment, and its implications for economic growth and development. In the Working Group on the Relationship between Trade and Investment, members have examined a range of international investment instruments and existing agreements, and have debated the possible pros and cons of negotiating a multilateral framework of investment rules in the WTO. UNCTAD has played an important role in this analytical process, particularly in helping WTO delegations better understand the development dimension of this subject.

In the preparatory process leading up to the Ministerial Conference, eight separate, and very similar, proposals have been tabled by 29 WTO members recommending that a decision be taken by Ministers in Seattle to begin negotiating a WTO agreement on foreign direct investment (FDI).

These members have made it clear that the agreement they are proposing to negotiate in the WTO bears no relationship to the OECD's Multilateral Agreement on Investment — in the WTO, negotiations would start from a blank sheet of paper. Their proposals have attracted support from a number of other WTO members, both developed and developing.

At the same time, some other WTO members — developed and developing — have made it clear that they are opposed to a negotiation on this subject in the WTO, at least for the time being. They prefer to continue with the analysis and debate that was begun in 1997.

The key elements of the proposals tabled so far are that:

- Negotiations would cover FDI only;
- Development provisions would be central to the framework of rules and disciplines, which otherwise would be based on similar WTO principles such as transparency and non-discrimination;
- The ability of host governments to regulate the activity of investors should be respected;
- Trade-distorting and investment-distorting policies and practices should be addressed, through suitable disciplines;
- Commitments on access to investment opportunities in host countries should be negotiated “bottom-up” (similar to the approach used in the General Agreement on Trade in Services); and
- WTO dispute settlement rules should apply, but only to government-to-government disputes.

The question of how to treat investors' responsibilities, and investment protection, has also been placed on the table for consideration in a negotiation, if one is launched.

ENDS

## **TRADE FACILITATION**

### **Cutting red tape at the border**

The issue of trade facilitation brings the WTO right to the customs' gate. Traders from both developing and developed countries have long pointed to the vast amount of red tape that still exists in moving goods across borders. Documentation requirements often lack transparency and are vastly duplicative in many places, a problem often compounded by a lack of cooperation between traders and official agencies. Despite advances in information technology, automatic data submission is still not commonplace.

UNCTAD estimates that the average customs transaction involves 20–30 different parties, 40 documents, 200 data elements (30 of which are repeated at least 30 times) and the re-keying of 60–70% of all data at least once. With the lowering of tariffs across the globe, the cost of complying with customs formalities has been reported to exceed in many instances the cost of duties to be paid. In the modern business environment of just-in-time production and delivery, traders need fast and predictable release of goods. An APEC study estimated that trade facilitation programs would generate gains of about 0.26 percent of real GDP to APEC, almost double the expected gains from tariff liberalization, and that the savings in import prices would be between 1–2% of import prices for developing countries in the region.

Analysts point out that the reason why many small and medium size enterprises — who as a whole account in many economies for up to 60% of GDP creation — are not active players in international trade, has more to do with red tape rather than tariff barriers. The administrative barriers for enterprises who do not regularly ship large quantities are often simply too high to make foreign markets appear attractive.

For developing country economies, inefficiencies in areas such as customs and transport can be roadblocks to the integration into the global economy and may severely impair export competitiveness or inflow of foreign direct investment. Trade facilitation will not only benefit importers and consumers who face higher prices caused by the red tape in their own import administration, but exporters as well. Developing country exporters are increasingly interested in removing administrative barriers in other developing countries, which today account for 40% of their trade in manufactured goods.

WTO rules comprise a variety of provisions that aim to enhance transparency and set minimum procedural standards in aspects of trade administration, such as Articles VIII and X of the GATT 1994, and the Agreements on Import Licensing, Technical Barriers to Trade, or SPS. Yet the WTO has no specific provisions on customs and border-crossing procedures, except in the Agreement on Customs Valuation. Article VIII of the GATT 1994 merely recognizes the need for minimizing the incidence and complexity of import and export formalities and related documentation requirements.

Trade facilitation was added to the WTO agenda at the Singapore Ministerial Conference in 1996, when Ministers requested the Council for Trade in Goods to undertake a work programme to assess the scope for WTO rules concerning the simplification of trade procedures.

In the Goods Council, delegations agree that simplification of trade procedures can result in considerable savings in time, money and human resources that would benefit each and every economy. Some delegations have emphasized that automation and the use of information technology would not only cut down on paperwork but also increase the efficiency of customs administrations. One member reported that its introduction of an automated customs clearance system had reduced clearance times for sea cargo from an average of 26.1 hours to 5.6 hours, and for air cargo from 2.3 to 0.7 hours. Another

member reported that allowing importers to fill in customs papers electronically had reduced the completion time of all information requirements to within 15–30 minutes.

A number of delegations favour a WTO agreement on trade facilitation aimed at reducing administrative barriers on import and export transactions in order to expedite the passage and release of goods. They say such an agreement would back up customs reform and modernization efforts of members and ensure that the same principles are applied all over the world. The EC, US, Korea and Switzerland have in fact proposed the launching, in Seattle, of negotiations towards such an agreement.

While agreeing on the benefits of trade facilitation, a number of other delegations question the need for a binding WTO agreement in this area subject to dispute-settlement rules. They say that such an agreement will add further to implementation burdens of developing countries, which lack resources to modernize customs facilities. Instead, they have called for a comprehensive technical assistance programme in trade facilitation, and encourage ongoing work in this area in various WTO bodies — such as the completion of the harmonisation negotiations in rules of origin — and in other international organizations, such as the World Customs Organization.

ENDS

## **TRADE AND COMPETITION POLICY**

### **Working group set up by Singapore ministerial**

As government barriers to trade and investment have been reduced, there have been increasing concerns that the gains from such liberalization may be thwarted by private anti-competitive practices. There is also a growing realization that mutually supportive trade and competition policies can contribute to sound economic development, and that effective competition policies help to ensure that the benefits of liberalization and market-based reforms flow through to all citizens.

Approximately 80 WTO Member countries, including some 50 developing and transition countries, have adopted competition laws, also known as “antitrust” or “anti-monopoly” laws. Typically, these laws provide remedies to deal with a range of anti-competitive practices, including price fixing and other cartel arrangements, abuses of a dominant position or monopolization, mergers that limit competition, and agreements between suppliers and distributors (“vertical agreements”) that foreclose markets to new competitors. The concept of competition “policy” includes competition laws in addition to other measures aimed at promoting competition in the national economy, such as sectoral regulations and privatization policies.

The WTO Working Group on the Interaction between Trade and Competition Policy (WGTCP) was established at the Singapore Ministerial Conference in December 1996 to consider issues raised by Members relating to the interaction of these two policy fields. Since its initial meeting in July 1997, the Group has examined a wide range of such issues. The approximately 125 submissions received by the Working Group from Members thus far attest to the keen interest that has been shown by Members in the subject.

In 1997 and 1998, the work of the WTO Working Group was organized around a Checklist of Issues Suggested For Study which was developed at the first meeting of the Group. In particular, the work focused on the following main elements of the Checklist:

- ◆ The relationship between the objectives, principles, concepts, scope and instruments of trade and competition policy; and their relationship to development and economic growth.
- ◆ Stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policy, including of experience with their application.
- ◆ The interaction between trade and competition policy, including consideration of the following sub-elements:
  - the impact of anti-competitive practices of enterprises and associations on international trade;
  - the impact of state monopolies, exclusive rights and regulatory policies on competition and international trade;
  - the relationship between the trade-related aspects of intellectual property rights and competition policy;
  - the relationship between investment and competition policy;
  - the impact of trade policy on competition.

A detailed Report on the Group’s deliberations on the above matters was issued in December 1998. The Report documents views expressed by Members regarding matters such as the mutually supportive relationship between trade liberalization and competition policy, the categories of anti-

competitive practices that can impact adversely on international trade and investment and the potential contributions of competition policies to economic development. In addition, since 1997 the WTO has organized, in cooperation with UNCTAD and the World Bank, four Symposia on issues related to the work of the Working Group.

Pursuant to a decision by the General Council of the WTO, the Working Group examined in 1999 three further topics:

- (i) the relevance of the fundamental WTO principles of national treatment, transparency, and most-favoured-nation treatment to competition policy and vice versa;
- (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and
- (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade.

While the relevance of WTO principles to competition policy and the need for enhanced cooperation among Members in addressing anti-competitive practices were affirmed by a number of Members, views differed as to the need for action at the level of the WTO to enhance the relevance of competition policy to the multilateral trading system. In particular, while a number of Members expressed support for the development of a multilateral framework on competition policy in the WTO, to support the implementation of effective competition policies by Member countries and reduce the potential for conflicts in this area, others questioned the desirability of such a framework and favoured bilateral and/or regional approaches to cooperation in this field.

The question of the desirability of developing a multilateral framework on competition policy will now be taken up at the Seattle Ministerial Conference. In the preparations for the Conference, a number of Members have renewed the call for a WTO framework to support the implementation of effective national competition policies by Members and enhance the overall contribution of competition policy to the multilateral trading system while other Members have expressed continuing objections to negotiations on this matter.

ENDS

## **TRANSPARENCY IN GOVERNMENT PROCUREMENT**

### **Applying a fundamental WTO principle on how governments buy goods and services**

For the last two-and-a-half years the WTO has actively pursued a work programme on the subject of transparency in government procurement. This has been based on a mandate adopted by Ministers at the WTO Singapore Ministerial Conference held in December 1996 to: “establish a working group to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement”.

With the upcoming Ministerial Conference, this work is now entering a critical phase. There are a number of proposals regarding the way in which the WTO work in this area might be pursued in future. One option is the conclusion of a multilateral transparency agreement in the context of a new round, another being the continuation of the work in the Working Group. Moreover, a number of WTO Members have tabled draft agreements and are engaged in intensive consultations with their WTO partners with a view to preparing an agreement on transparency in government procurement that could be adopted by Ministers at Seattle.

The Singapore mandate reflects the heavy emphasis placed throughout the WTO system of rules and practices on transparency. Transparency is often referred to as one of the three fundamental principles of the WTO, the others being most-favoured-nation and national treatment. The role of transparency is perhaps of greatest importance in situations where the extent to which rules of general application determine trading conditions is limited and the scope for discretionary decision-making is greatest. Government procurement is a notable example. The GATT and now the WTO have for a long time had a plurilateral Agreement, presently with 26 Parties<sup>1</sup> out of the 135 WTO Members, with detailed requirements in respect of transparency in government procurement. The object of the transparency provisions in this Agreement is not only to ensure that adequate information on procurement opportunities is made available and that decisions are fairly taken, but also to facilitate monitoring of the commitments made under that Agreement not to discriminate against suppliers and supplies from other Parties.

The focus of the multilateral work presently under way on transparency in government procurement is somewhat different. First, as indicated, this work is multilateral in nature and aimed at drawing up an agreement to which all 135 WTO Members will be parties. Second, the focus is on transparency as such, rather than on transparency as a vehicle for monitoring market-access commitments. It is understood among WTO Members that the work presently under way on transparency in government procurement does not seek to regulate the extent to which governments provide preferences to domestic supplies or suppliers, provided of course that such preferences are transparent. However, some Members have indicated that they would wish future negotiations to keep the door open also to addressing obstacles to market access on a multilateral basis.

The WTO Working Group on Transparency in Government Procurement, since its first meeting in May 1997, has met nine times. The Working Group initiated its work by hearing presentations from

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<sup>1</sup> Canada, the EU and its Member States, Hong Kong, China, Israel, Japan, Korea, Liechtenstein, Netherlands with respect to Aruba, Norway, Singapore, Switzerland, United States.

other intergovernmental organizations which have international instruments and activities relevant to transparency in government procurement, notably the United Nations Commission for International Trade Law (UNCITRAL) and the World Bank. It then considered a WTO comparative study of the transparency-related provisions in existing international instruments on government procurement procedures as well as in national practices. This covered the procedures under the plurilateral WTO Agreement on Government Procurement, the UNCITRAL Model Law and the World Bank Guidelines, as well as available material on national practices.

The next stage in the work of the Working Group was the systematic study of 12 issues that were identified as important in relation to transparency in government procurement. These are: definition and scope of government procurement; procurement methods; publication of information on national legislation and procedures; information on procurement opportunities, tendering and qualification procedures; time-periods; transparency of decisions on qualification; transparency of decisions on contract awards; domestic review procedures; other matters related to transparency; maintenance of records of proceedings; information technology; language; fight against bribery and corruption; information to be provided to other governments (notification); WTO dispute settlement procedures; and technical cooperation and special and differential treatment for developing countries. Written contributions on national practices, on issues meriting study and setting out ideas for action have been presented by many members to the Working Group.

The work has shown a high degree of common thinking on many of the issues referred to above. The main questions on which further work is required include the scope of the transactions that would be covered by a transparency agreement, the treatment of single tendering practices, which are inherently less transparent, domestic review or challenge procedures and the applicability of WTO procedures for settling disputes between governments concerning allegations of non-compliance with the rules of a transparency agreement.

ENDS

## **TRADE AND LABOUR STANDARDS**

### **Subject of intense debate**

For several years the issue of trade and core labour standards has been the subject of intense debate among and within some World Trade Organization member governments.

Currently, labour standards are not subject to WTO rules and disciplines. But some WTO member governments in Europe and North America believe that the issue must be taken up by the WTO in some form if public confidence in the WTO and the global trading system is to be strengthened. These member governments argue that the rights such as: the freedom to bargain collectively, freedom of association, elimination of discrimination in the workplace and the elimination workplace abuse (including forced labour and certain types of child labour), are matters for consideration in the WTO. Several member governments have suggested that the issue be brought into the WTO through the formation of a working group to study the issue of trade and core labour standards. Bringing the matter to the WTO, these member governments believe, will provide incentives for WTO member governments to improve conditions for workers around the world.

This proposal is among the most controversial currently before the WTO.

Most developing countries and many developed nations believe the issue of core labour standards does not belong in the WTO. These member governments see the issue of trade and labour standards as a guise for protectionism in developed-country markets. Developing-country officials have said that efforts to bring labour standards into the WTO represent a smokescreen for undermining the comparative advantage of lower-wage developing countries.

Many officials in developing countries argue that better working conditions and improved labour rights arise through economic growth. They say that if the issue of core labour standards became enforceable under WTO rules, any sanctions imposed against countries with lower labour standards would merely perpetuate poverty and delay improvements in workplace standards.

The issue of trade and labour standards has been with the WTO since its birth. At the Ministerial Conference of the General Agreement on Tariffs and Trade held in Marrakesh in April 1994 to sign the treaty that formed the WTO, nearly all ministers expressed a point of view on the issue. The Chairman of that conference concluded there was no consensus among member governments at the time, and thus no basis for agreement on the issue.

At the first WTO Ministerial Conference in Singapore in December 1996 the issue was taken up and addressed in the Ministerial Declaration. At Singapore, Ministers stated:

“We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.”

Since taking office in September 1999, WTO Director-General Mike Moore, has met twice with ILO Director-General Juan Somavia. Mr. Moore has said he looks forward to co-operating with Mr. So-

mavia and other officials from the ILO. He has also been clear that the WTO will be guided by Ministers on the issue of trade and core labour standards.

Existing collaboration between the WTO and the ILO includes participation by the WTO in meetings of ILO bodies, the exchange of documentation and informal cooperation between the ILO and WTO Secretariats.

Since the Singapore Ministerial Conference, the ILO has taken two significant steps in addressing the issue of workers' rights. In 1998, ILO member governments adopted the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. Under this declaration, ILO member governments endorsed some basic principles which are included in the core ILO Conventions. (These conventions are the fundamental workplace rights including: freedom of association and recognition of the right to collective bargaining; elimination of all forms of forced labour; the effective abolition of child labour and the elimination of discrimination in hiring and employment practices.)

ILO Member Governments agreed to respect and promote these Core Conventions even if they have not ratified all of them. As a follow-up, the ILO will issue annual reports<sup>1</sup> in which ILO officials will obtain information from governments which have not ratified all of the conventions on any changes that may have taken place in national laws or regulations and which may impact these fundamental labour rights.

In 1999, ILO member governments agreed to prohibit and eliminate the worst forms of child labour. Member governments defined the worst forms of child labour as all forms of slavery, child prostitution and pornography, the use of children to traffic in drugs and work which is likely to harm the health, safety or morals of children.

ILO member governments said they recognized that child labour is largely a function of poverty and that the long-term solution to elimination of exploitative and harmful child labour is through sustained economic growth.

A recent World Bank study estimated that less than 5% of child workers in the developing world are involved in export related activities.

ENDS

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<sup>1</sup> The Follow-Up to the ILO Declaration provides for two things: (1) annual reports, which will contain the sort of information described in the above paragraph and (2) the Global Report which is designed to provide, every four years, "a dynamic global picture relating to each category of fundamental principles and rights ..." The purpose of the Global Report is to help provide assessment of the need for technical co-operation in improving labour standards.

## DISPUTES

### Review of the dispute settlement understanding

*This briefing paper focuses on issues raised in the recent review of the WTO's dispute settlement rules, and a possible ministerial decision in Seattle*

- > A more detailed account of the dispute settlement procedure can be found in "Trading into the Future" (page 38 in the printed version) and on the WTO website in the section on dispute settlement: <http://www.wto.org/wto/dispute/dispute.htm>.

#### Overview

The **Dispute Settlement Understanding (DSU)** is the legal text that spells out the rules and procedures for settling disputes in the WTO. It contains 27 articles, is a legally binding negotiated agreement among all the WTO member governments, and is the ultimate means of enforcing the WTO's trade rules. That makes it the backbone of the multilateral trading system.

#### Dispute facts

- **Disputes brought to WTO:** over 180 since 1995

Of these:

- **Resolved in initial consultation stage:** about half
- **Still in initial consultation stage:** about 30
- **Examined by panels/Appellate Body:** almost 70

#### More facts and stats

- *see end of this chapter*

Ministers at Seattle are expected to take a decision whether to continue, modify or terminate the DSU, although termination is not considered a likely option. The decision will be based on the **review** of how the DSU has operated during the period January 1995-July 1999. The review has been conducted by the **WTO Dispute Settlement**

**Body (DSB)** which is made up of all WTO member governments and handles all disputes.

#### Present situation: the dispute settlement process

Disputes in the WTO arise when one government (sometimes joined by fellow-members) accuses another of violating an agreement or being in breach of its commitments. Briefly, the dispute settlement system has three stages, with rules, procedures and strict timeframes for each stage.

- **First: consultations** between the governments involved in the dispute. They have 60 days to reach a mutually agreed settlement. If they don't, the complaining government that initiated the dispute can move the dispute to the next stage.
- **Second: the legal stage** where the case is examined by an independent **panel** of three legal/technical experts. The panel has between six to nine months to complete its examination and to produce a detailed report with its findings based on written and oral statements by the governments involved.

#### Some terms

**DSB** — Dispute Settlement Body (consists of all WTO members)

**DSU** — Dispute Settlement Understanding: the WTO agreement on settling disputes

**panel** — three legal or technical experts appointed to examine a case

**Appellate Body** — standing body of legal experts which hears appeals

**implementation** — a government which loses a case has a "reasonable period" of time to bring its actions into conformity with WTO rules

**"reasonable period"** — for implementation: varies, but often about 15 months from adoption of appeals and panel reports.

If the panel report is appealed, a standing **Appellate Body** has between two to three months to examine the appeal and produce a detailed report with its findings. The DSB then considers whether to adopt both the panel and the Appellate Body reports. Normally the reports are adopted because the rules say they can only be rejected by consensus.

If the DSB rules that the accused country is innocent, the case stops there. But if the accused country is found to have violated an agreement or commitment, the dispute moves into its final stage.

- **Third: implementation.** The government concerned is given a reasonable period of time to implement the DSB's ruling. Throughout this reasonable period of time, the DSB monitors how the government concerned is implementing the ruling, to ensure full compliance.

## The review

The review has covered many aspects of the Dispute Settlement Understanding. Among the issues governments have highlighted are the following:

### *Implementation*

The Dispute Settlement Understanding does not spell out clear procedures for handling a possible disagreement on whether the accused government has implemented correctly the DSB's ruling. If the accused government concedes that it has not implemented correctly by the end of the reasonable period of time for implementation, members generally agree that the complaining government can then seek compensation or authorization to retaliate (as in the "Beef-Hormone" case). Authorization is given by the DSB.

Sometimes the two sides disagree about whether the accused government has implemented correctly. Again, members agree in principle that it is first necessary to determine whether there has been proper implementation before moving to the questions of compensation and retaliation. They also agree that the judgement has to be made within the WTO system and not unilaterally.

The main difference of opinion appears to be over the amount of time needed to determine whether the accused government has implemented correctly, which in turn depends on the procedures to be followed to reach a decision.

For example, do the two sides have to try to settle this new disagreement by consulting each other, and if so, for how long? Must the DSB meet — and if so, how many times — to refer the matter to the panel or Appellate Body for a judgement?

Should the panel make the judgement with the possibility of an appeal? Or should it only be made by the Appellate Body if the original matter had been appealed, or by the panel if it had not?

Must the DSB adopt the judgement automatically or must there be a consensus to adopt? How quickly can authority to retaliate be requested? And if the amount of retaliation is challenged, how long should the arbitration take?

### *Transparency and access to the dispute settlement system*

Panel and Appellate Body reports (and all other WTO documents relating to specific disputes) are published on the WTO website immediately after distribution to the member governments. However, panel and appeals deliberations are confidential, and there have been complaints, particularly by non-

governmental organizations (NGOs), that the proceedings of the dispute settlement system lack transparency.

Some governments say the WTO system is exclusively intergovernmental in nature. In their view, if an NGO wants to make an argument to a panel it should convince one of the governments involved in the dispute to present that argument to the panel. Other governments hold the view that the credibility of the system would be enhanced if it were more open and that openness would have no significant disadvantages.

It should be noted that the Appellate Body ruled (in the “Shrimp/Turtle” case) that panels have the right to accept submissions that they have not requested from sources other than governments involved in the dispute (such as NGOs). It should also be noted that Article 18.2 of the DSU states:

“... Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the panel or the Appellate Body which that Member has designated as confidential. A party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.”

#### *Developing countries and dispute settlement*

Developing countries have made greater use of the WTO dispute settlement system than they made of the system under GATT (i.e. before 1995). To date, they have brought more than 40 disputes to the WTO system.

The DSU provides special treatment for developing countries in a number of respects. For example, it provides the possibility of a speedier process (Art.3.12), that special consideration should be given to developing countries in consultations (Arts.4.10, 12.10) and in the panel process (Arts.8.10, 12.10, 12.11) and that account should be taken of developing country interests in the surveillance stage (Arts.21.2, 21.7, 21.8). There are also special provisions for least-developed countries (Art.24).

One of the developing countries’ major concerns expressed in the DSU review has been their shortage of resources for participating in the dispute settlement system. For the moment, the DSU addresses this concern by requiring the WTO Secretariat to provide legal assistance to such countries. The Secretariat also conducts a number of special training courses on dispute settlement for officials from such countries.

## Disputes facts and stats

*Situation as at 18 October 1999*

To date, **183** disputes, regarding **142** distinct matters, have been brought to the WTO, of which:

- 29** were withdrawn following consultations;
- 86** are under consultations;
- 24** are being examined by panels;
- 7** subject of panel reports which have been appealed;
- 20** are in implementation stage following adoption by DSB of panel & appellate reports;
- 8** implemented;
- 7** closed without the need for implementation;
- 2** authority for panel elapsed.

### Countries involved in disputes

Disputes involving	as complainant	as respondent	with developing countries	
			US/EC/Japan as complainant	US/EC/Japan as Respondent
United States	60	38	22	14
EC	47	28	21	11
Japan	7	12	3	0
Developing countries	44	61	-	-

### WTO agreements cited in the disputes

SPS/TBT	Agriculture	Textiles	TRIMS	TRIPS	GATS
26	25	11	15	20	9

## WTO Members involved in disputes

	as complainant (case nos.)	total	as respondent (case nos.)	total
<b>Argentina</b>	35, 111	<b>2</b>	56, 77, 121, 123, 145, 155, 157, 164, 171	<b>9</b>
<b>Australia</b>	35, 91, 169, 178	<b>4</b>	18, 21, 57, 106, 119, 126	<b>6</b>
<b>Belgium</b>			80, 127	<b>2</b>
<b>Brazil</b>	4, 69, 70, 71, 112, 154	<b>6</b>	22, 30, 46, 51, 52, 65, 81, 116, 183	<b>9</b>
<b>Canada</b>	7, 9, 10, 18, 20, 35, 46, 48, 92, 135, 137, 144, 153, 167, 180	<b>15</b>	31, 103, 113, 114, 117, 139, 142, 170	<b>8</b>
<b>Chile</b>	14, 97	<b>2</b>	87, 109, 110	<b>3</b>
<b>Colombia</b>	78	<b>1</b>	181	<b>1</b>
<b>Costa Rica</b>	24	<b>1</b>		
<b>Czech Rep</b>	159	<b>1</b>	148	<b>1</b>
<b>Denmark</b>			83	<b>1</b>
<b>Ecuador</b>	27	<b>1</b>	182	<b>1</b>
<b>European Communities</b>	8, 15, 38, 39, 40, 42, 53, 54, 63, 66, 73, 75, 77, 79, 81, 85, 87, 88, 96, 98, 100, 107, 108, 110, 114, 116, 117, 118, 120, 121, 136, 138, 142, 145, 146, 147, 149, 150, 151, 152, 155, 157, 160, 165, 166, 176, 183	<b>47</b>	7, 9, 12, 13, 14, 16, 17, 25, 26, 27, 48, 62, 69, 72, 104, 105, 115, 124, 134, 135, 137, 140, 141, 153, 154, 158, 172, 174	<b>28</b>
<b>France</b>			131, 173	<b>2</b>
<b>Greece</b>			125, 128	<b>2</b>
<b>Guatemala</b>	16, 27, 158	<b>3</b>	60, 156	<b>2</b>
<b>Honduras</b>	16, 27, 158	<b>3</b>		
<b>Hong Kong, China</b>	29	<b>1</b>		
<b>Hungary</b>	143, 148	<b>2</b>	35, 159	<b>2</b>
<b>India</b>	19, 32, 33, 34, 58, 134, 140, 141, 168	<b>9</b>	50, 79, 90, 91, 92, 93, 94, 96, 120, 146, 149, 150, 175	<b>13</b>
<b>Indonesia</b>	123	<b>1</b>	54, 55, 59, 64	<b>4</b>
<b>Ireland</b>			68, 82, 129	<b>3</b>
<b>Japan</b>	6, 51, 55, 64, 95, 139, 162	<b>7</b>	8, 10, 11, 15, 28, 42, 44, 45, 66, 73, 76, 147	<b>12</b>
<b>Korea</b>	89, 99, 179	<b>3</b>	3, 5, 20, 40, 41, 75, 84, 98, 161, 163, 169	<b>11</b>
<b>Malaysia</b>	58	<b>1</b>	1	<b>1</b>
<b>Mexico</b>	16, 27, 49, 60, 156, 158, 182	<b>7</b>	53, 101, 132	<b>3</b>
<b>Netherlands</b>			130	<b>1</b>
<b>New Zealand</b>	35, 72, 93, 113, 177	<b>5</b>		
<b>Pakistan</b>	58	<b>1</b>	36, 107	<b>2</b>
<b>Panama</b>	105, 158	<b>2</b>		
<b>Peru</b>	12	<b>1</b>	112	<b>1</b>
<b>Philippines</b>	22, 61	<b>2</b>	74, 102	<b>2</b>
<b>Poland</b>	122	<b>1</b>	19	<b>1</b>
<b>Portugal</b>			37	<b>1</b>
<b>Singapore</b>	1	<b>1</b>		
<b>Slovak Rep</b>			133, 143	<b>2</b>
<b>South Africa</b>			168	<b>1</b>
<b>Sri Lanka</b>	30	<b>1</b>		
<b>Sweden</b>			86	<b>1</b>
<b>Switzerland</b>	94, 119, 133	<b>3</b>		
<b>Thailand</b>	17, 35, 47, 58, 181	<b>5</b>	122	<b>1</b>
<b>Turkey</b>			29, 34, 43, 47	<b>4</b>
<b>United Kingdom</b>			67	<b>1</b>
<b>United States</b>	3, 5, 11, 13, 16, 21, 26, 27, 28, 31, 35, 36, 37, 41, 43, 44, 45, 50, 52, 56, 57, 59, 62, 65, 67, 68, 74, 76, 80, 82, 83, 84, 86, 90, 101, 102, 103, 104, 106, 109, 115, 124, 125, 126, 127, 128, 129, 130, 131, 132, 158, 161, 163, 164, 170, 171, 172, 173, 174, 175	<b>60</b>	2, 4, 6, 24, 32, 33, 38, 39, 49, 58, 61, 63, 78, 85, 88, 89, 95, 97, 99, 100, 108, 111, 118, 136, 138, 144, 151, 152, 160, 162, 165, 166, 167, 176, 177, 178, 179, 180	<b>38</b>
<b>Uruguay</b>	25	<b>1</b>		
<b>Venezuela</b>	2	<b>1</b>	23	<b>1</b>

## Annual tally of disputes

<b>1995</b>		<b>25 cases filed</b>	
			<b>Dispute Nos: 1–25</b>
settled officially in consultations stage:	9		Nos: 1, 5, 6, 7, 12, 14, 19, 20, 23
still inactive in consultations stage:	6		Nos: 3, 13, 15, 16, 17, 25
went to panel or beyond:	10		Nos: 2, 4, 8, 9, 10, 11, 18, 21, 22, 24
<b>1996</b>		<b>39 cases filed</b>	
			<b>Dispute Nos: 26–64</b>
settled officially in consultations stage:	7		Nos: 28, 32, 36, 37, 40, 42, 43
still inactive in consultations stage:	13		Nos: 29, 30, 39, 41, 45, 47, 49, 51, 52, 53, 57, 61, 63
went to panel or beyond:	19		Nos: 26, 27, 31, 33, 34, 35, 38, 44, 46, 48, 50, 54, 55, 56, 58, 59, 60, 62, 64
<b>1997</b>		<b>47 cases filed</b>	
			<b>Dispute Nos: 65–111</b>
settled officially in consultations stage:	12		Nos: 73, 74, 85, 86, 89, 91, 92, 93, 94, 96, 102, 106)
still inactive in consultations stage:	16		Nos: 65, 66, 71, 78, 80, 81, 82, 83, 97, 100, 101, 104, 105, 107, 109, 111
went to panel or beyond:	19		Nos: 67, 68, 69, 70, 72, 75, 76, 77, 79, 84, 87, 88, 90, 95, 98, 99, 103, 108, 110
<b>1998</b>		<b>44 cases filed</b>	
			<b>Dispute Nos: 112–155</b>
settled officially in consultations stage:	1		No: 119
inactive more than 12 months in consultations stage:	18		Nos: 112, 115, 116, 117, 118, 120, 122, 123, 124, 125, 127, 128, 129, 130, 131, 133, 134, 137
inactive 6–12 months in consultations stage:	14		Nos: 140, 141, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154
went to panel or beyond:	11		Nos: 113, 114, 121, 126, 132, 135, 136, 138, 139, 142, 155
<b>1999 (1 Jan–18 Oct)</b>		<b>28 cases filed</b>	
			<b>Dispute Nos: 156–183</b>
settled officially in consultations stage:	0		
in consultations stage more than 6 months:	6		Nos: 157, 158, 159, 167, 168, 169
in consultations stage 3–6 months:	7		Nos: 171, 172, 173, 174, 175, 176, 177
in consultations stage less than 3 months:	6		Nos: 178, 179, 180, 181, 182, 183
went to panel or beyond:	9		Nos: 156, 160, 161, 162, 163, 164, 165, 166, 170

ENDS

## **ELECTRONIC COMMERCE**

### **Work programme reflects growing importance**

The growing importance of electronic commerce in global trade led the Members of the WTO to adopt a declaration on global electronic commerce on 20 May 1998 at their second Ministerial Conference in Geneva, Switzerland. The declaration directed the General Council of the WTO to establish a comprehensive work programme to examine all trade-related issues arising from electronic commerce, and to present a report on the progress of the work programme at the third Ministerial Conference of the WTO.

The declaration setting up the work programme included the statement that “Members will continue their current practice of not imposing customs duties on electronic commerce”. A work programme on electronic commerce was adopted by the General Council on 25 September 1998 under which issues related to electronic commerce would be examined by the Council for Trade in Services, the Council for Trade in Goods, the Council for TRIPS and the Committee on Trade and Development.

Each of these bodies produced a report for the General Council at the end of July 1999. The following is a summary of the main points which emerge from the reports to the General Council:

- ◆ WTO Members Governments identified three types of transactions on the Internet:
  - Transactions for a service which is completed entirely on the Internet from selection to purchase and delivery.
  - Transactions involving “distribution services” in which a product, whether a good or a service, is selected and purchased on-line but delivered by conventional means.
  - Transactions involving the telecommunication transport function, including provision of Internet services.
- ◆ The general view of Member Governments of the WTO is that the vast majority of transactions on the Internet are services which are covered by the General Agreement on Trade in Services (GATS).
- ◆ WTO Member Governments hold the general view that the GATS does not distinguish between technological means of delivery.
- ◆ The general view of Member Governments is that all the provisions of the GATS apply to trade in services through electronic means.
- ◆ There is a disagreement on the classification of a small number of products made available on the Internet, as to whether or not they are services or goods. This disagreement is on products such as books and software. Whereas a printed book delivered through conventional means is classified as a good, there are Member Governments of the WTO who hold the view that the digital version of the text of such a book is a service which should be covered by the GATS. Other Member Governments hold the view that such a product remains a good which is subject to customs duties and other provisions of the GATT Agreement. There are also those who think that such a product constitutes a third category of products which are neither goods nor services and for which special provisions need to be devised.

- ◆ Questions are raised about how the Telecommunications annex of the GATS should relate to access to and use of Internet access services. Many Internet service providers (ISPs) and services may benefit from the Annex provisions ensuring fair and reasonable access to the leased circuits they obtain from public telecom operators. But some Member Governments wonder if, or to what extent, ISPs themselves should be obliged by the Annex to offer such access to others.

Reports to the General Council by the Council for Trade in Services, the Council for Trade in Goods, the Council for TRIPS and the Committee on Trade and Development are available from the “Electronic Commerce” section of the WTO Internet site <http://www.wto.org> in English, French and Spanish.

ENDS

## **MEMBERS AND ACCESSIONS**

### **Becoming a member of the WTO**

Any state or customs territory having full autonomy in the conduct of its trade policies is eligible to accede to the WTO on terms agreed between it and WTO Members (Article XII of the WTO Agreement).

The accession process commences with the submission of a formal written request for accession pursuant to Article XII of the WTO Agreement. This request is considered by the General Council which establishes a Working Party to examine the accession request and to submit recommendations to the General Council which may include a Protocol of Accession. The Working Party is open to all Members of the WTO.

Established procedures require the applicant government to present to Working Party members a memorandum covering all aspects of its trade and legal regime. This memorandum forms the basis for detailed fact finding by the Working Party. After examining all aspects of the existing trade and legal regimes of the acceding government, the Working Party goes into the substantive part of the multilateral negotiations involved in accessions, i.e. determining the terms and conditions of entry. These terms and conditions, involving commitments to observe WTO rules and disciplines upon accession, and transitional periods if any, are finally incorporated in the Draft Report of the Working Party and the Protocol of Accession.

At the same time, the applicant government engages in bilateral negotiations with interested Working Party members on concessions and commitments on market access for goods and services. This bilateral process determines the specific benefits for WTO Members in permitting the applicant to accede to the WTO.

Once both the Working Party's Draft Report and Protocol of Accession and the market-access commitments in goods and services are completed to the satisfaction of members of the Working Party, the "accession package" is presented to the General Council or the Ministerial Conference for adoption. Once approved, the applicant is then free to sign the Protocol. Thirty days after the applicant government notifies the WTO Secretariat that it has completed its ratification procedures, the applicant government becomes a Member of the WTO.

Questions are often raised as to when a WTO applicant can accede to the WTO and whether it joins the WTO as a developing or a developed country. These questions are an inherent part of each WTO accession negotiation. Basically, this involves the granting of certain flexibilities in the implementation of WTO rules and disciplines — a matter determined in the negotiation process. While accession processes vary in length and can take several years to complete, much depends on the speed with which the applicant government is able to adjust its trade and legal regime to the requirements of WTO rules and disciplines.

Because each accession Working Party takes decisions by consensus, WTO Members must be in agreement that their individual concerns have been met and that all outstanding issues have been resolved in the course of their deliberations.

Since the WTO was established on 1 January 1995, seven countries have become WTO Members. These are: Ecuador, Estonia, Latvia, Kyrgyz Republic, Mongolia and Panama. The WTO is awaiting notification of ratification from Georgia.

With 31 governments still in the queue for membership to the WTO, accessions will remain a major challenge for WTO Members in the years ahead.

### **Applicants**

The following 31 governments have requested to join the WTO. Their applications are currently being considered by WTO accession working parties. Each of the governments listed below has WTO observer status.

Albania  
Algeria  
Andorra  
Armenia  
Azerbaijan  
Belarus  
Bosnia Herzegovina  
Bhutan  
Cambodia  
People's Republic of China  
Croatia  
Jordan  
Kazakhstan  
Lao People's Democratic Republic  
Lebanon  
Lithuania  
Former Yugoslav Republic of Macedonia  
Moldova  
Nepal  
Oman, Sultanate of  
Russian Federation  
Samoa  
Saudi Arabia  
Seychelles  
Sudan  
Chinese Taipei  
Tonga  
Ukraine  
Uzbekistan  
Vanuatu  
Vietnam

**Note:** *The WTO is waiting for confirmation of ratification from Georgia. It will become the 136th Member of the WTO 30 days after the WTO receives confirmation of ratification.*

**Membership of the World Trade Organization***135 governments as of 13 November 1999*

<b>Member</b>	<b>Date of membership</b>
Angola	1 December 1996
Antigua and Barbuda	1 January 1995
Argentina	1 January 1995
Australia	1 January 1995
Austria	1 January 1995
Bahrain	1 January 1995
Bangladesh	1 January 1995
Barbados	1 January 1995
Belgium	1 January 1995
Belize	1 January 1995
Benin	22 February 1996
Bolivia	13 September 1995
Botswana	31 May 1995
Brazil	1 January 1995
Brunei Darussalam	1 January 1995
Bulgaria	1 December 1996
Burkina Faso	3 June 1995
Burundi	23 July 1995
Cameroon	13 December 1995
Canada	1 January 1995
Central African Republic	31 May 1995
Chad	19 October 1996
Chile	1 January 1995
Colombia	30 April 1995
Congo	27 March 1997
Costa Rica	1 January 1995
Côte d'Ivoire	1 January 1995
Cuba	20 April 1995
Cyprus	30 July 1995
Czech Republic	1 January 1995
Democratic Republic of the Congo	1 January 1997
Denmark	1 January 1995
Djibouti	31 May 1995
Dominica	1 January 1995
Dominican Republic	9 March 1995
Ecuador	21 January 1996
Egypt	30 June 1995
El Salvador	7 May 1995
Estonia	13 November 1999
European Communities	1 January 1995
Fiji	14 January 1996
Finland	1 January 1995

<b>Member</b>	<b>Date of membership</b>
France	1 January 1995
Gabon	1 January 1995
Gambia	23 October 1996
Germany	1 January 1995
Ghana	1 January 1995
Greece	1 January 1995
Grenada	22 February 1996
Guatemala	21 July 1995
Guinea Bissau	31 May 1995
Guinea	25 October 1995
Guyana	1 January 1995
Haiti	30 January 1996
Honduras	1 January 1995
Hong Kong, China	1 January 1995
Hungary	1 January 1995
Iceland	1 January 1995
India	1 January 1995
Indonesia	1 January 1995
Ireland	1 January 1995
Israel	21 April 1995
Italy	1 January 1995
Jamaica	9 March 1995
Japan	1 January 1995
Kenya	1 January 1995
Korea	1 January 1995
Kuwait	1 January 1995
Kyrgyz Republic	20 December 1998
Latvia	10 February 1999
Lesotho	31 May 1995
Liechtenstein	1 September 1995
Luxembourg	1 January 1995
Macau	1 January 1995
Madagascar	17 November 1995
Malawi	31 May 1995
Malaysia	1 January 1995
Maldives	31 May 1995
Mali	31 May 1995
Malta	1 January 1995
Mauritania	31 May 1995
Mauritius	1 January 1995
Mexico	1 January 1995
Mongolia	29 January 1997
Morocco	1 January 1995
Mozambique	26 August 1995
Myanmar	1 January 1995
Namibia	1 January 1995
Netherlands — including Netherlands Antilles	1 January 1995
New Zealand	1 January 1995
Nicaragua	3 September 1995
Niger	13 December 1996
Nigeria	1 January 1995

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<b>Member</b>	<b>Date of membership</b>
Norway	1 January 1995
Pakistan	1 January 1995
Panama	6 September 1997
Papua New Guinea	9 June 1996
Paraguay	1 January 1995
Peru	1 January 1995
Philippines	1 January 1995
Poland	1 July 1995
Portugal	1 January 1995
Qatar	13 January 1996
Romania	1 January 1995
Rwanda	22 May 1996
Saint Kitts and Nevis	21 February 1996
Saint Lucia	1 January 1995
Saint Vincent & the Grenadines	1 January 1995
Senegal	1 January 1995
Sierra Leone	23 July 1995
Singapore	1 January 1995
Slovak Republic	1 January 1995
Slovenia	30 July 1995
Solomon Islands	26 July 1996
South Africa	1 January 1995
Spain	1 January 1995
Sri Lanka	1 January 1995
Suriname	1 January 1995
Swaziland	1 January 1995
Sweden	1 January 1995
Switzerland	1 July 1995
Tanzania	1 January 1995
Thailand	1 January 1995
Togo	31 May 1995
Trinidad and Tobago	1 March 1995
Tunisia	29 March 1995
Turkey	26 March 1995
Uganda	1 January 1995
United Arab Emirates	10 April 1996
United Kingdom	1 January 1995
United States	1 January 1995
Uruguay	1 January 1995
Venezuela	1 January 1995
Zambia	1 January 1995
Zimbabwe	3 March 1995

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ENDS

## SOME FACTS AND FIGURES

### Stats for Seattle

*(All figures from the WTO unless source specified.)*

#### 50 years of GATT/WTO 1948-1998

- Merchandise trade grew by **6%** annually, or **18 fold**.
- Merchandise output grew by **3.9%** annually, or **8 fold**.
- The share of world GDP represented by merchandise trade grew from **under 7%** to **17.4%**.
- Aggregate world trade in **1998** was **\$6.6 trillion**, of which **\$5.3 trillion** (80%) was merchandise and **\$1.3 trillion** (20%) was commercial services. (Merchandise trade in **1948** was **\$58 billion**.)
- GDP per capita grew by **1.9%** annually.
- On average, per capita income is **2.5 times** higher in 1998 than in 1948.

#### FDI flows and global integration

- Global FDI flows grew **27 fold** (or **14%** annually) between 1973 and 1998.
- Global FDI flows reached **\$645 billion** in 1998 (**\$24 billion** in 1973, **\$60 billion** in 1985).
- Global FDI stock rose **8 fold** since 1980 or **12.5%** annually.
- Global FDI stock stood at **\$4,100 billion** in 1998.
- Cross-border mergers & acquisitions topped **\$544 billion** in 1998, more than three times the average of **\$145 billion** during 1990-94.
- The ratio of FDI inward stock to GDP more than doubled between 1980 and 1997 globally, from **5.0%** to **11.7%**.
- For developing countries, the corresponding ratio almost tripled from **5.9%** to **16.6%**.
- For least-developed countries, the ratio rose from **2.2%** in 1980 to **5.7%** in 1997.

#### Duty-free treatment for imports from least-developed countries

- In 1998, US imports from the 48 least-developed countries (LDCs) amounted to **\$6.3 billion** or **0.7%** of total US merchandise imports.
- If US granted duty-free treatment to imports from LDCs, the US tariff revenue loss would be **\$123 million** out of a total US tariff revenue of **\$17,500 million**.

#### Trade benefits for US workers and consumers

*(Figures from USTR website)*

- Full implementation of WTO agreements (by 2005) will boost US GDP by **\$125–250 billion** per year.
- The annual effect will be equivalent to an increase of **\$1500–\$3000** in purchasing power for the average American family of four.
- Between 1994 and 1998, **1.3 million** new jobs supported by exports were created in the US.

- Over the same period, total US employment increased by **11.7 million** jobs, and the unemployment rate declined from **6.1%** to **4.5%**.
- Nearly **12 million** jobs in the US (or almost 10% of all US jobs) depend on US exports.
- Jobs in the US supported by goods exports pay **13–16%** above the average wage.
- Over 60% of the US economy and 80% of US jobs are accounted for by the services sector.
- The US is the world's largest exporter of services totalling over **\$264 billion** annually.

### Global benefits from 40% cuts in trade protection

(Figures from World Bank conference paper "Agriculture & Non-Agricultural Liberalization in the Millennium Round", Oct 1999)

Estimated global gains as a result of **40%** cuts in protection by 2005 in the following areas:

- Agricultural subsidies & market price support **\$69.3 billion**
- Tariffs on manufactures & mining products **\$69.6 billion**
- Business, finance & construction services **\$21.6 billion**
- Trade, transport & government services **\$332.6 billion**

### GATT/WTO: 50 years of tariff reductions

MFN tariff reduction of industrial countries for industrial products, excluding petroleum

Implementation period	Round covered	Weighted tariff reduction of all duties
1948–63	First five GATT rounds (1947–62) <sup>a</sup>	-36
1968–72	Kennedy Round (1964–67) <sup>b</sup>	-37
1980–87	Tokyo Round (1973–1979) <sup>c</sup>	-33
1995–99	Uruguay Round (1986–94) <sup>d</sup>	-38

NOTE: Tariff reductions for the first five trade rounds refer to US only

a Source: US Tariff Commission, Operations of the Trade Agreements Program, 1st to 13th report covering June 1934 to June 1960

b refers to four markets: US, Japan, EC(6), and UK.  
Source: Ernest H Preeg, *Traders and Diplomats*, Tables 13-1 to 13-4 and WTO calculations based on 1964 import values

c refers to eight markets: US, EU(9), Japan, Austria, Finland, Norway, Sweden, Switzerland  
Source: GATT, COM.TD/W/315, 4.7.1980, p.20–21 and WTO calculations

d refers to eight markets: US, EU(12), Japan, Austria, Finland, Norway, Sweden, Switzerland  
Source: GATT, *The Results of the Uruguay Round of Multilateral Trade Negotiations*, November 1994, Appendix Table 5 and WTO calculations.

## World Trade and Output

### Selected Indicators, 1948-98

	1948	1950	1973	1990	1998	Average annual change			
						1948-73	1973-98	1948-98	1990-98
<b>World merchandise exports</b>									
Billion current \$	58	61	579	3,438	5,235	9.7	9.2	9.4	5.4
Billion constant 1990\$	304	376	1797	3,438	5,683	7.4	4.7	6.0	6.5
Exports per capita, 1990\$	123	149	466	651	951	5.5	2.9	4.2	4.9
<b>World exports of manufactures</b>									
Billion current \$	22	23	348	2,390	3,995	11.7	10.3	11.0	6.6
Billion constant 1990\$	93	112	955	2,390	4,015	9.8	5.9	7.8	6.7
Exports per capita, 1990\$	38	44	247	452	672	7.8	4.1	5.9	5.1
<b>World output</b> (Indices, 1990=100)									
Commodity output	17	19	65	100	116	5.5	2.4	3.9	1.9
Manufacturing output	11	13	60	100	117	7.1	2.7	4.9	2.0
GDP (Billion, 1990\$)	3,935	4,285	13,408	22,490	27,615	4.9	2.9	4.0	2.6
GDP per capita (1990\$)	1,591	1,700	3,420	4,217	4,623	2.9	0.4	2.2	-1.4
GDP (current \$, market rate)	...	...	4,908	22,490	29,236	...	7.4	...	3.3
<b>World population (million)</b>									
	2,473	2,521	3,920	5,266	5,973	1.8	1.7	1.8	1.6
Memorandum items:									
Exports of goods and services, to GDP, at constant 1987 prices	...	8.0	14.9	19.7	26.4	...	...	...	...

ENDS

**GLOSSARY OF TERMS****An informal press guide to 'WTO speak'****Contents**

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**GENERAL**

**GATT** General Agreement on Tariffs and Trade, which has been superseded as an international organization by the WTO. An updated General Agreement is now one of the WTO's agreements.

**GATT 1947** The old (pre-1994) version of the GATT.

**GATT 1994** The new version of the General Agreement, incorporated into the WTO, which governs trade in goods.

**Members** WTO governments (first letter capitalized, in WTO style).

**MFN** Most-favoured-nation treatment (GATT Article I, GATS Article II and TRIPS Article 4), the principle of not discriminating between one's trading partners.

**national treatment** The principle of giving others the same treatment as one's own nationals. GATT Article III requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article XVII and TRIPS Article 3 also deal with national treatment for services and intellectual property protection.

**TPRB, TPRM** The **Trade Policy Review Body** is General Council operating under special procedures for meetings to review trade policies and practices of individual WTO members under the **Trade Policy Review Mechanism**.

**transparency** Degree to which trade policies and practices, and the process by which they are established, are open and predictable.

**Uruguay Round** Multilateral trade negotiations launched at Punta del Este, Uruguay in September 1986 and concluded in Geneva in December 1993. Signed by Ministers in Marrakesh, Morocco, in April 1994.

## TARIFFS

**binding, bound** see “tariff binding”

**electronic commerce** The production, advertising, sale and distribution of products via telecommunications networks.

**free-rider** A casual term used to infer that a country which does not make any trade concessions, profits, nonetheless, from tariff cuts and concessions made by other countries in negotiations under the most-favoured-nation principle.

**Harmonized System** An international nomenclature developed by the World Customs Organization, which is arranged in six digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six digit level, countries are free to introduce national distinctions for tariffs and many other purposes.

**ITA** Information Technology Agreement, or formally the Ministerial-Declaration on Trade in Information Technology Products, under which participants will remove tariffs on IT products by the year 2000.

**ITA II** Negotiations aimed at expanding ITA’s product coverage.

**nuisance tariff** Tariff so low that it costs the government more to collect it than the revenue it generates.

**schedule of concessions** List of bound tariff rates.

**tariff binding** Commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.

**tariff escalation** Higher import duties on semi-processed products than on raw materials, and higher still on finished products. This practice protects domestic processing industries and discourages the development of processing activity in the countries where raw materials originate.

**tariff peaks** Relatively high tariffs, usually on “sensitive” products, amidst generally low tariff levels. For industrialized countries, tariffs of 15 per cent and above are generally recognized as “tariff peaks”.

**tariffs** Customs duties on merchandise imports. Levied either on an ad valorem basis (percentage of value) or on a specific basis (e.g. \$7 per 100 kgs.). Tariffs give price advantage to similar locally-produced goods and raise revenues for the government.

**WCO** World Customs Organization, a multilateral body located in Brussels through which participating countries seek to simplify and rationalize customs procedures.

## NON-TARIFF MEASURES

**anti-dumping duties** Article VI of the GATT 1994 permits the imposition of anti-dumping duties against dumped goods, equal to the difference between their export price and their normal value, if dumping causes injury to producers of competing products in the importing country.

**circumvention** Measures taken by exporters to evade anti-dumping or countervailing duties.

**countervailing measures** Action taken by the importing country, usually in the form of increased duties to offset subsidies given to producers or exporters in the exporting country.

**dumping** Occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost.

**NTMs** Non-tariff measures such as quotas, import licensing systems, sanitary regulations, prohibitions, etc.

**price undertaking** Undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty.

**PSI** Preshipment inspection — the practice of employing specialized private companies to check shipment details of goods ordered overseas — i.e. price, quantity, quality, etc.

**QRs** Quantitative restrictions — specific limits on the quantity or value of goods that can be imported (or exported) during a specific time period.

**rules of origin** Laws, regulations and administrative procedures which determine a product's country of origin. A decision by a customs authority on origin can determine whether a shipment falls within a quota limitation, qualifies for a tariff preference or is affected by an anti-dumping duty. These rules can vary from country to country.

**safeguard measures** Action taken to protect a specific industry from an unexpected build-up of imports — governed by Article XIX of the GATT 1994.

**subsidy** There are two general types of subsidies: export and domestic. An export subsidy is a benefit conferred on a firm by the government that is contingent on exports. A domestic subsidy is a benefit not directly linked to exports.

**tariffication** Procedures relating to the agricultural market-access provision in which all non-tariff measures are converted into tariffs.

**trade facilitation** Removing obstacles to the movement of goods across borders (e.g. simplification of customs procedures).

**VRA, VER, OMA** Voluntary restraint arrangement, voluntary export restraint, orderly marketing arrangement. Bilateral arrangements whereby an exporting country (government or industry) agrees to reduce or restrict exports without the importing country having to make use of quotas, tariffs or other import controls.

## TEXTILES AND CLOTHING

**ATC** The WTO Agreement on Textiles and Clothing which integrates trade in this sector back to GATT rules within a ten-year period.

**carry forward** When an exporting country uses part of the following year's quota during the current year.

**carry over** When an exporting country utilizes the previous year's unutilized quota.

- circumvention** Avoiding quotas and other restrictions by altering the country of origin of a product.
- CTG** Council for Trade in Goods — oversees WTO agreements on goods, including the ATC.
- integration programme** The phasing out of MFA restrictions in four stages starting on 1 January 1995 and ending on 1 January 2005.
- ITCB** International Textiles and Clothing Bureau — Geneva-based group of some 20 developing country exporters of textiles and clothing.
- MFA** Multifibre Arrangement (1974-94) under which countries whose markets are disrupted by increased imports of textiles and clothing from another country were able to negotiate quota restrictions.
- swing** When an exporting country transfers part of a quota from one product to another restrained product.
- TMB** The Textiles Monitoring Body, consisting of a chairman plus ten members acting in a personal capacity, oversees the implementation of ATC commitments.
- transitional safeguard mechanism** Allows members to impose restrictions against individual exporting countries if the importing country can show that both overall imports of a product and imports from the individual countries are entering the country in such increased quantities as to cause — or threaten — serious damage to the relevant domestic industry.

#### **AGRICULTURE/SPS**

- Agenda 2000** EC's financial reform plans for 2000–06 aimed at strengthening the union with a view to receiving new members. Includes reform of the CAP (see below).
- border protection** Any measure which acts to restrain imports at point of entry.
- BSE** Bovine spongiform encephalopathy, or “mad cow disease”.
- box** Category of domestic support. **Green box:** supports considered not to distort trade and therefore permitted with no limits. **Blue box:** permitted supports linked to production, but subject to production limits and therefore minimally trade-distorting. **Amber box:** supports considered to distort trade and therefore subject to reduction commitments.
- Cairns Group** Group of agricultural exporting nations lobbying for agricultural trade liberalization. It was formed in 1986 in Cairns, Australia just before the beginning of the Uruguay Round. Current membership: Australia, Argentina, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.
- CAP** Common Agricultural Policy — The EU's comprehensive system of production targets and marketing mechanisms designed to manage agricultural trade within the EU and with the rest of the world.
- Codex Alimentarius** FAO/WHO commission that deals with international standards on food safety.
- distortion** When prices and production are higher or lower than levels that would usually exist in a competitive market.

**deficiency payment** Paid by governments to producers of certain commodities and based on the difference between a target price and the domestic market price or loan rate, whichever is the less.

**EEP** Export enhancement programme — programme of US export subsidies given generally to compete with subsidized agricultural exports from the EU on certain export markets.

**food security** Concept which discourages opening the domestic market to foreign agricultural products on the principle that a country must be as self-sufficient as possible for its basic dietary needs.

**internal support** Encompasses any measure which acts to maintain producer prices at levels above those prevailing in international trade; direct payments to producers, including deficiency payments, and input and marketing cost reduction measures available only for agricultural production.

**International Office of Epizootics** Deals with international standards concerning animal health.

**multifunctionality** idea that agriculture has many functions in addition to producing food and fibre, e.g. environmental protection, landscape preservation, rural employment, etc.

**peace clause** Provision in Article 13 of the Agriculture Agreement says agricultural subsidies committed under the agreement cannot be challenged under other WTO agreements, in particular the Subsidies Agreement and GATT. Expires at the end of 2003.

**reform programme** Programme for reducing subsidies and protection and other reforms under the Agriculture Agreement.

**SPS regulations** Sanitary and Phytosanitary regulations — government standards to protect human, animal and plant life and health, to help ensure that food is safe for consumption.

**variable levy** Customs duty rate which varies in response to domestic price criterion.

## INTELLECTUAL PROPERTY

**Berne Convention** Treaty, administered by WIPO, for the protection of the rights of authors in their literary and artistic works.

**CBD** Convention on Biological Diversity

**counterfeit** Unauthorized representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser into believing that he/she is buying the original goods.

**geographical indications** Place names (or words associated with a place) used to identify products (for example, “Champagne”, “Tequila” or “Roquefort”) which have a particular quality, reputation or other characteristic because they come from that place

**intellectual property rights** Ownership of ideas, including literary and artistic works (protected by copyright), inventions (protected by patents), signs for distinguishing goods of an enterprise (protected by trademarks) and other elements of industrial property.

**IPRs** Intellectual property rights.

**Lisbon Agreement** Treaty, administered by WIPO, for the protection of geographical indications and their international registration.

**Madrid Agreement** Treaty, administered by WIPO, for the repression of false or deceptive indications of source on goods.

**mailbox** Refers to the requirement of the TRIPS Agreement applying to WTO Members which do not yet provide product patent protection for pharmaceuticals and for agricultural chemicals. Since 1 January 1995, when the WTO agreements entered into force, these countries have to establish a means by which applications of patents for these products can be filed. (An additional requirement says they must also put in place a system for granting “exclusive marketing rights” for the products whose patent applications have been filed.)

**Paris Convention** Treaty, administered by WIPO, for the protection of industrial intellectual property, i.e. patents, utility models, industrial designs, etc.

**piracy** Unauthorized copying of copyright materials for commercial purposes and unauthorized commercial dealing in copied materials.

**Rome Convention** Treaty, administered by WIPO, UNESCO and ILO, for the protection of the works of performers, broadcasting organizations and producers of phonograms.

**TRIPS** Trade-Related Aspects of Intellectual Property Rights.

**UPOV** International Union for the Protection of New Varieties of Plants (Union internationale pour la protection des obtentions végétales)

**Washington Treaty** Treaty for the protection of intellectual property in respect of lay-out designs of integrated circuits.

**WIPO** World Intellectual Property Organization.

## INVESTMENT

**export-performance measure** Requirement that a certain quantity of production must be exported.

**FDI** Foreign direct investment.

**local-content measure** Requirement that the investor purchase a certain amount of local materials for incorporation in the investor’s product.

**product-mandating** Requirement that the investor export to certain countries or region.

**trade-balancing measure** Requirement that the investor use earnings from exports to pay for imports.

**TRIMS** Trade-related investment measures.

## DISPUTE SETTLEMENT

**Appellate Body** An independent seven-person body that, upon request by one or more parties to the dispute, reviews findings in panel reports.

**automaticity** The “automatic” chronological progression for settling trade disputes in regard to panel establishment, terms of reference, composition and adoption procedures.

**DSB** Dispute Settlement Body — when the WTO General Council meets to settle trade disputes.

**DSU** The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes.

**nullification and impairment** Damage to a country’s benefits and expectations from its WTO membership through another country’s change in its trade regime or failure to carry out its WTO obligations.

**panel** Consisting of three experts, this independent body is established by the DSB to examine and issue recommendations on a particular dispute in the light of WTO provisions.

## SERVICES

**accounting rate** In telecoms, the charge made by one country’s telephone network operator for calls originating in another country.

**commercial presence** Having an office, branch, or subsidiary in a foreign country.

**GATS** The WTO’s General Agreement on Trade in Services.

**general obligations** Obligations which should be applied to all services sector at the entry into force of the agreement.

**Initial commitments** Trade liberalizing commitments in services which members are prepared to make early on.

**modes of delivery** How international trade in services is supplied and consumed. Mode 1: cross border supply; mode 2: consumption abroad; mode 3: foreign commercial presence; and mode 4: movement of natural persons.

**multi-modal** Transportation using more than one mode. In the GATS negotiations, essentially door-to-door services that include international shipping.

**national schedules** The equivalent of tariff schedules in GATT, laying down the commitments accepted — voluntarily or through negotiation — by WTO members.

**natural persons** People, as distinct from juridical persons such as companies and organizations.

**offer** A country’s proposal for further liberalization.

**protocols** Additional agreements attached to the GATS. The Second Protocol deals with the 1995 commitments on financial services. The Third Protocol deals with movement of natural persons.

**prudence, prudential** In financial services, terms used to describe an objective of market regulation by authorities to protect investors and depositors, to avoid instability or crises.

**schedule** “Schedule of Specific Commitments” — A WTO member’s list of commitments regarding market access and bindings regarding national treatment.

**specific commitments** See “schedule”.

## REGIONALISM/TRADE AND DEVELOPMENT

**ACP** African, Caribbean and Pacific countries. Group of 71 countries with preferential trading relation with the EU under the Lomé Treaty.

**Andean Community** Bolivia, Colombia, Ecuador, Peru and Venezuela.

**APEC** Asia Pacific Economic Cooperation forum.

**ASEAN** Association of Southeast Asian Nations. The seven ASEAN members of the WTO — Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore and Thailand — often speak in the WTO as one group on general issues. The other ASEAN members are Laos and Vietnam.

**Caricom** The Caribbean Community and Common Market comprises 15 countries.

**CTD** The WTO Committee on Trade and Development

**Customs union** Members apply a common external tariff (e.g. the EC).

**EC** European Communities (official name of the European Union in the WTO).

**EFTA** European Free Trade Association.

**free trade area** Trade within the group is duty free but members set own tariffs on imports from non-members (e.g. NAFTA).

**G15** Group of 15 developing countries acting as the main political organ for the Non-Aligned Movement.

**G77** Group of developing countries set up in 1964 at the end of the first UNCTAD (originally 77, but now more than 130 countries).

**G7** Group of seven leading industrial countries: Canada, France, Germany, Italy, Japan, United Kingdom, United States.

**GRULAC** Informal group of Latin-American members of the WTO.

**GSP** Generalized System of Preferences — programmes by developed countries granting preferential tariffs to imports from developing countries.

**HLM** WTO High-Level Meeting for LDCs, held in October 1997 in Geneva.

**ITC** The International Trade Centre, originally established by the old GATT and is now operated jointly by the WTO and the UN, the latter acting through UNCTAD. Focal point for technical co-operation on trade promotion of developing countries.

**LDCs** Least-developed countries.

**Mercosur** Argentina, Brazil, Paraguay and Uruguay.

**NAFTA** North American Free Trade Agreement of Canada, Mexico and the US.

**Quad** Canada, EC, Japan and the United States.

**SACU** Southern African Customs Union comprising Botswana, Lesotho, Namibia, South Africa and Swaziland.

**S&D** “Special and differential treatment” provisions for developing countries. Contained in several WTO agreements.

**UNCITRAL** United Nations Centre for International Trade Law, drafts model laws such as the one on government procurement.

**UNCTAD** The UN Conference on Trade and Development.

## TRADE AND ENVIRONMENT

**Agenda 21** The Agenda for the 21st Century — a declaration from the 1992 Earth Summit (UN Conference on the Environment and Development) held in Rio de Janeiro.

**Article XX** GATT Article listing allowed “exceptions” to the trade rules.

**Basel Convention** An MEA dealing with hazardous waste.

**BTA** Border tax adjustment

**CITES** Convention on International Trade in Endangered Species. An MEA.

**CTE** The WTO Committee on Trade and Environment.

**EST** Environmentally-sound technology.

**EST&P** EST and products.

**ex ante, ex post** Before and after a measure is applied.

**LCA** Life cycle analysis — a method of assessing whether a good or service is environmentally friendly.

**MEA** Multilateral environmental agreement.

**Montreal Protocol** An MEA dealing with the depletion of the earth’s ozone layer.

**PPM** Process and production method.

**TBT** The WTO Agreement on Technical Barriers to Trade.

**waiver** Permission granted by WTO members allowing a WTO member not to comply with normal commitments. Waivers have time limits and extensions have to be justified.

ENDS