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ON TARIFFS AND TRADE**

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TRADE POLICY REVIEW MECHANISM

ZIMBABWE

MINUTES OF MEETING

Chairman: Dr. M. Zahran (Egypt)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN OF THE COUNCIL

1. The Chairman introduced the first review of Zimbabwe's trade policies and practices. He welcomed the Zimbabwean delegation headed by Mr. K. Nkomani, Permanent Secretary, Ministry of Industry and Commerce, members of the Council, and the discussants, Mr. A. Lecheheb and Miss A. Stoddart. As usual, the discussants would speak in their personal capacities.
2. The Chairman recalled the objectives of the Trade Policy Review Mechanism, as decided by the CONTRACTING PARTIES on 12 April 1989 (BISD 36S/403). The Council was to base its work on two reports, one submitted by the Government of Zimbabwe (C/RM/G/53) and the other by the GATT Secretariat (C/RM/S/53). He recalled the procedures for conducting reviews, introduced in May 1993 (document L/7208).
3. Australia, the European Union and the United States had given advance notice in writing of points they wished to raise during the meeting.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF ZIMBABWE

4. Mr. Chairman, I would like to thank you, and other delegations present here, for the warm welcome extended to my delegation on this very important occasion where my country's trade policies are being reviewed for the first time. I would also like to place on record my Government's appreciation of the rôle that the Trade Policy Review Mechanism plays, particularly in helping us to analyze and re-examine our domestic economic environment.

5. May I also add that the scrutiny of my country's trade policies is taking place at an opportune time for us, firstly because Zimbabwe is entering the fifth year of its structural adjustment programme and secondly because all of us are about to witness the beginning of a new era in global economic trade relations with the coming into force of the World Trade Organization (WTO).

6. Mr. Chairman, in order to appreciate Zimbabwe's trade policies and practices it is necessary to make reference to the country's far reaching Economic Structural Adjustment Programme (ESAP), launched in 1990. Before independence in 1980 Zimbabwe's economic policy was inward looking and characterized by extensive state intervention in almost every sector of the economy. There was heavy reliance on import substitution to cushion the negative effects of sanctions that had been imposed by the international community immediately after the Unilateral Declaration of Independence in 1965.

7. Although after independence some economic policy changes were made, it became very clear by the late 1980s that a bold and drastic policy change was needed to address the problems of low levels of investment, rising unemployment, declining exports and population growth which was outstripping GDP growth. To reverse this trend, the Government adopted a comprehensive Economic Structural Adjustment Programme (ESAP) whose objective was to create an open, competitive and market driven economy. The following major areas were specifically targeted for reform: trade policy, fiscal and monetary policy, and deregulation.

8. Mr. Chairman, let me begin with trade policy, where Government has committed itself to a phased process of trade liberalization through the removal of import controls and licensing, tariff reform and a supportive exchange rate policy.

9. Before the reform programme, all imports into the country required an import licence and were subject to foreign exchange rationing. With the launching of the programme there was a gradual move away from the import licensing and the foreign exchange allocation system to an open system of import sourcing. By 1 January 1994, all goods with the exception of a small number of items listed on the Negative List were imported without the need for a licence. By that same date, the system of allocating foreign exchange also ceased. With effect from 1 July 1994 all current account transactions are now being financed through the open market. Both the exchange rate as well as the demand and supply of foreign exchange is consequently market determined. However, to maintain stability the Reserve Bank of Zimbabwe may intervene through measures such as open market operations and the reserve ratio.

10. The tariff structure is currently undergoing rationalization with the objective of achieving greater uniformity and harmonization whilst with effect from July 1994 the import surcharge has been further reduced from 15 per cent to 10 per cent and should be eliminated by the end of 1995.

11. In the fiscal area, the Government has committed itself to reduce the budget deficit to 5 per cent of GDP by fiscal year 1994/95. However, experience so far indicates that it will be difficult to achieve this target. For example, in fiscal year 1992/93 the budget deficit was 11.2 per cent of GDP. This

was caused by a severe drought which necessitated heavy public expenditure in food imports. In fiscal year 1993/94 the budgeted deficit was 5.4 per cent but the out-turn was 7.9 per cent of GDP. It is clear therefore that Government has to take stringent measures to ensure that the 5 per cent target for 1994/95 is met. Among the actions that the Government is taking are: the commercialization of public enterprises, reduction of the size of the civil service and disposal of some of its assets.

12. It is recognized that inflation constitutes the biggest potential setback on the path to economic recovery and growth. In 1992, for example, inflation soared to 50 per cent but eased to some extent by January 1993 to 45 per cent and dropped markedly by December 1993 to 18.6 per cent. This trend was, however, reversed by May 1994 when the rate rose to 25 per cent. The current rate is approximately 22 per cent. It is the Government's intention to bring down the rate of inflation to single digit figures.

13. Regarding the last target for reform, deregulation, considerable progress had been made on a number of fronts. In the area of investment approvals a single window clearance agency known as the Zimbabwe Investment Centre (ZIC) has been established. The Centre has streamlined the procedures and criteria for project approvals and drastically reduced the project approval time to a maximum of 45 days.

14. Before the reform programme price controls were a common feature of the economy, but today an insignificant number of items are subject to price control. On the labour front, direct intervention in wage setting and dispute settlement has been replaced by free collective bargaining.

15. Mr. Chairman, although the reform programme has achieved a substantial number of its objectives, it is important to note that the poor and the vulnerable have been negatively affected by the adjustment process through changes in the provision of social services, particularly in the health and education sectors. Considerable progress had been achieved in these sectors since independence. In order to alleviate these hardships, the Government has, in parallel with the implementation of the reform programme, established a Social Dimension Fund Programme that provides appropriate compensation mechanisms for the affected groups.

16. A major setback to the reform process was the devastating drought of 1992 - the worst drought the country and the whole region ever experienced in their history. As a result, the two major productive sectors of our economy, agriculture and manufacturing, saw their outputs declining in real terms by 35 per cent and 30 per cent respectively, during that year. As I indicated earlier, inflation rose to its highest during the same year. In short, 1992 was a recession year for the country - with all the adverse implications for the reform targets and performance. However, with the return of normal rains since last year and hopefully this year, the country should get back on the recovery path.

17. The Government is resolutely pushing forward with the reform programme. A complementary external environment to our reforms was created by the parallel process of the Uruguay Round trade negotiations. My Government contributed to the multilateral trade negotiations by undertaking commitments in such areas as trade in goods and services, intellectual property rights and investment disciplines. The country's domestic trade legislation and environment will be reformed and adapted to reflect the requirements emanating from the Uruguay Round result. We therefore attach importance to the entry into force of the new World Trade Organization which will guarantee a firm foundation for an open, predictable and secure multilateral trading system. Zimbabwe is in this regard finalizing its ratification of the WTO Agreement so that we can become original members and thus ensure that our economy continues its process of integration into the global economy.

13. In conclusion, I would like to express my sincere gratitude to the GATT Secretariat for their valuable and detailed report on Zimbabwe's trade policy, as well as for their assistance rendered to my Government in preparing its report. I wish also to thank Mr. Abdelkader Lecheheb of Morocco and Miss Anne Stoddart of the United Kingdom for accepting to serve as discussants on my country's trade policy review.

III. STATEMENT BY THE FIRST DISCUSSANT

19. The first discussant (Mr. Lecheheb) viewed Zimbabwe's willingness to take part in the Trade Policy Review exercise as underlining Africa's contribution to the establishment of a multilateral trading system based, *inter alia*, on transparency. He noted that, from the standpoint of the GATT, Zimbabwe was both an old and a new country: old, since it was one of the original signatories, and new because it became independent only in 1980. This helped to understand Zimbabwe's economic policy and, in particular, the reforms implemented since 1991.

20. At independence, Zimbabwe had inherited a highly regulated economy with a very protected trade régime. These policies had been implemented since the 1960s and were in response to economic sanctions decreed by the United Nations following the minority government's 1965 Unilateral Declaration of Independence. Control extended to all economic activities, such as foreign trade, prices, foreign exchange, and investment. The economy was insular and nearly completely self-sufficient.

21. After independence, restrictive policies persisted and were justified, in the words of Minister Chidzero, "until we had the economy under control." But the continuation of such policies over a decade had disastrous results: the government deficit exploded, investment fell to a level of 13 per cent, and real per capita income stagnated. A change in direction became inevitable.

22. The Framework for Economic Reform (1991/95) was introduced in 1991 to revitalize the economy by reducing the fiscal deficit, decreasing state aid to public enterprises, liberalizing foreign trade, reducing investment distortions, eliminating price controls and deregulating the labour market. This programme has undoubtedly had important results in areas such as price controls, aid to public enterprises, import licensing, and the import surcharge. Investment, to some extent, had been facilitated, although there was no clear justification for discriminating (with regard to the repatriation of dividends) against investments made prior to 1993.

23. Against the progress of the programme, some of its limitations needed also to be mentioned. First, the budget deficit increased from 7.6 per cent of GDP in 1991-92 to 11.2 per cent in 1992-93. While this could be largely explained by the drought, the First Merchant Bank of Zimbabwe attributed part of the increase to the Government itself, which reportedly recruited 10,000 civil servants although it had announced a reduction in the number of state officials. Second, inflation remained too high, despite having been brought down to 28 per cent from as high as 48 per cent. This inflation limited investment, affected Zimbabwe's external competitiveness, and eroded the purchasing power of wage earners.

24. The discussant offered suggestions for Zimbabwe in four areas. First, the Zimbabwe economy had responded positively to the economic reforms, so the achievements of the reform programme should be consolidated and then further reforms pursued. Second, Zimbabwe should stress the permanent and irreversible nature of the reforms implemented so far, so as to improve certainty and predictability for both domestic and foreign firms. Statements such as that by Minister Chidzero that "the ESAP is the only way forward for the economy of Zimbabwe" helped in this manner. Third, because of the importance of agriculture to Zimbabwe the authorities should keep in mind appropriate policies in cases of drought. Finally, reform seemed to have been slow in sectors where Zimbabwe had a comparative advantage; the pace of reform in various sectors might need to be reconsidered.

25. With regard to trade policy itself, the near-elimination of import licences was very important, particularly since all imports required licences until 1990. The result was a very positive situation in which tariffs were the main remaining protectionist device; further, the authorities had confirmed that the 10 per cent surcharge would be eliminated in 1995. The main concern was the lack of tariff bindings, which accentuated the uncertainty of the Zimbabwe market and could constitute an obstacle to investment, to which Zimbabwe had given the key rôle in economic growth.

IV. STATEMENT BY THE SECOND DISCUSSANT

26. The second discussant (Miss Stoddart) welcomed the move to tariff-based protection in Zimbabwe and noted that tariff rates in effect were moderate, particularly when compared to other countries of a similar per capita income level. This was a dramatic change compared to the situation before 1990, when import licences were required for all imports.

27. Statutory tariff rates, however, greatly exceeded the applied rates, indicating that it remained possible to raise tariffs quickly. This situation was compounded by the relative lack of tariff bindings. Thus, there was only limited legal certainty underpinning the preset tariff régime, and the few new industrial product tariff bindings as a result of the Uruguay Round will not lead to a substantial improvement. She asked whether the Industrial Tariff Committee might consider the case for increasing the predictability of the tariff régime by increasing bindings.

28. Textiles and clothing products were to be removed from the Negative List and thus would become importable without licence. It would be helpful to learn when this important change would be made and to what extent tariffs would be increased. Was it intended that the new tariffs would have a trade-restricting effect equivalent to the import licences? Might the new tariffs be in the range of 20 to 30 per cent, which was the general objective for final consumer goods?

29. Import permits were required on many agricultural products. It would be helpful to know the criteria for granting permits and whether these were published, as well as to have information on the time limits for the validity of the permits. The discussant asked whether the government regularly monitored production and demand, and whether the information gained in such monitoring was used in the import permit approval process.

30. While it was clear that Zimbabwe was moving toward a more market-oriented agricultural sector, some commodities remained regulated. It was not clear whether the process would culminate in a free market in all commodities or, alternatively, whether the authorities considered that continued government regulation of some commodities, such as maize and cotton, was necessary. The Cotton Marketing Board's flexibility in setting cotton prices had been temporarily removed this year, leading to a return to the policy of subsidizing the domestic spinning industry at the expense of cotton producers. The discussant asked whether cotton marketing would be returned to a market-based pricing system.

31. When imports were directly controlled it mattered little that Zimbabwe had no safeguards legislation. It was not essential, or even advisable, that a country used every instrument that GATT allowed. However, in the case of Zimbabwe it now seemed important that a safety net be established based on GATT Article XIX. This would be more in keeping with Zimbabwe's commitment to a rule-based international system than was its present reliance on raising unbound tariffs.

32. The Republic of South Africa had become an especially important trading partner for Zimbabwe, and it was understandable that the trade agreement between the two countries, which dated from 1964, might need renegotiation. According to the report by the Government of Zimbabwe, the objective of this renegotiation was to make trade between the two countries much freer. The discussant asked whether the particular aim was to extend the coverage of the agreement or the extent of the preferential treatment. She also asked whether a goal for the completion of the negotiations had been set by the countries.

V. STATEMENTS BY MEMBERS OF THE COUNCIL

33. The representative of Australia congratulated Zimbabwe on the reforms it had implemented since 1991 and pointed out several of the areas in which reforms were being made, including: the foreign exchange control system and the July 1994 unification of the exchange rate régime; simplification of the foreign direct investment approval process; an easing of the restrictions on the repatriation of dividends; the near-elimination of import licensing and the move towards making tariffs the sole mechanism of industry protection; the elimination of export subsidies; and the reform of domestic marketing of agricultural products. She commended Zimbabwe for maintaining the reforms despite the effects of serious drought and urged Zimbabwe to continue to follow the path of reform, a path crucial to attaining the economic goals that Zimbabwe had set for itself.

34. Zimbabwe's review of its tariff structure, with the aim of reducing rates of protection, was viewed as a positive development; however, noting that statutory tariff rates had been raised in order to provide flexibility in cases of import surges, she asked whether Zimbabwe had considered the use of GATT Article XIX safeguards. She also noted that Zimbabwe's anti-dumping legislation had not been used and asked whether, if unfair trade existed, Zimbabwe would make use of this legislation rather than rely on increases in the m.f.n. tariff. While Zimbabwe granted m.f.n. treatment to imports from all countries, clarification was sought of a provision in Zimbabwe law that allowed the imposition of an additional duty of 15 per cent on such countries as might be specified. The representative of Australia was also interested in the extent to which tariffs in Zimbabwe were levied for the purpose of government revenue rather than for their protective effect, and whether this varied greatly across sectors.

35. A wide range of agricultural imports was subject to import permit requirements and, although these permits were normally granted routinely, substantial imports were not allowed when they would decrease domestic prices or when domestic production was sufficient. Clarification was sought as to the criteria for disapproval of agricultural import permit requests. She asked under what circumstances licenses were available for imports of those goods that remained subject to import licensing, and when these import restrictions would be eliminated.

36. Admiration and support for Zimbabwe's programme of reform was expressed by the representative of the United States, who commended Zimbabwe particularly for the virtual elimination of the import licensing system, the reform of the foreign exchange régime, and the reform of domestic agricultural marketing. He expressed concern, however, that these reforms did not yet have a firm legal basis, and encouraged Zimbabwe to increase the number of its tariff bindings. He requested an explanation for the increase in statutory tariffs that took place near the close of the Uruguay Round. In agriculture, the use of import permits and the influence of state-controlled marketing boards over export marketing were areas of concern, as were the above-average rates of tariff on imports of ready-to-eat cereals; he asked whether there were plans to reduce tariff rates for these products. The revision of government procurement rules, which now provided a margin of preference to local producers and construction contractors, was encouraged.

37. The representative of the European Union (EU) congratulated the Government of Zimbabwe for the progress achieved under the reform programme despite the severe drought that hit the country in 1992, and encouraged Zimbabwe to consolidate the progress already made and to continue its reforms. He noted that the EU was assisting Zimbabwe in the reform process by providing financial and other forms of assistance under the framework of the Lomé Convention. Increases in tariff bindings were seen as one way of consolidating the reforms and of preventing the use of increases in statutory tariffs as an instrument to address import problems. If the Government of Zimbabwe was concerned with

the possibility of import surges, it could then consider developing safeguard legislation in line with GATT Article XIX as this was a more appropriate instrument to deal with such situations. Some macroeconomic problems remained, partly owing to the severe drought of 1992: inflation, interest rates, and the budget deficit remained high. Noting that the elimination of the import surcharge would likely reduce government revenue, he asked how the Government of Zimbabwe intended to make up for this loss of revenue.

38. The persistence of Zimbabwe's ambitious reform programme in the face of severe drought was cited by the representative of Canada as deserving of congratulations. Although import procedures had been modernized and streamlined, clearance of imports was at times slow. An increase in the coverage of tariff bindings was urged, and it was noted that tariffs and import surcharges in some sectors may have been so high as to effectively prohibit imports. He pointed out that adoption of the Uruguay Round by Zimbabwe led to many new responsibilities, particularly because Zimbabwe was a signatory to only one Tokyo Round code. While the Agreement on Government Procurement was not part of the single undertaking, Canada was interested in whether Zimbabwe intended to adhere to that Code in the future. Clarification was sought on plans to institute a commission to investigate anti-competitive practices.

39. The representative of Hong Kong commended Zimbabwe for its market-oriented reforms and noted that the near-elimination of import licensing and the continuing phase-out of the import surcharge were two particularly remarkable elements of the reform programme. The possibility that the use of domestic resources might be a criterion in considering applications for direct investment was of concern, in light of the Uruguay Round agreement on trade-related investment measures.

40. Appreciation of Zimbabwe's commitment to the multilateral system and for its recent reforms, particularly the near-elimination of import licensing, was expressed by the representative of Japan. He welcomed Zimbabwe's relatively positive attitude toward improved rules in areas such as anti-dumping, customs valuation, safeguards and subsidies. The further paring of the import licensing list and the timely elimination of the import surcharge were urged.

41. The reaffirmation of Zimbabwe's commitment to liberal economic reform was welcomed by the representative of Egypt, who referred in particular to reforms in import licensing, the import surcharge, price controls, the foreign exchange régime, and foreign direct investment rules. It was noted that in 1991 some 29 per cent of Zimbabwe's merchandise imports originated in South Africa, while other African countries were the source of 2 per cent of imports. He asked whether the Government of Zimbabwe intended to further diversify its external trade relations with other African countries. He was also interested in whether any reconciliation was necessary between Zimbabwe's Uruguay Round commitments and the Abuja treaty, which was scheduled to lead to an African Common Market and the African Economic Community.

42. The representative of Cote d'Ivoire expressed support for the economic reforms Zimbabwe had undertaken and noted that during the Uruguay Round Zimbabwe had been active in revising the Customs Valuation Code. She asked what steps Zimbabwe had been taking to conform with the new provisions of that Code.

43. The representative of Norway, on behalf of the Nordic countries, noted that the Nordic countries have long followed the political and economic developments in Zimbabwe and that they supported Zimbabwe's dedication to economic reform. He expressed regret that Zimbabwe, because of uncontrollable circumstances, had been unable to harvest immediate and convincing results from its reforms. Noting the challenges that resulted from the current general economic environment, he encouraged Zimbabwe to maintain the reform process and urged it to show a multilateral commitment on its trade policy by binding a larger share of its tariff lines. Timely elimination of the import surcharge was also urged.

VI. REPLIES BY THE REPRESENTATIVE OF ZIMBABWE AND ADDITIONAL COMMENTS

44. Replies by the representative of Zimbabwe were divided into three broad themes: the macroeconomic and structural environment; Zimbabwe's international trade system; and the external economic environment faced by Zimbabwe. Following replies under each area, the Chairman opened the floor to Council members for further comments and questions.

(1) Macroeconomic and Structural Environment

Replies by the representative of Zimbabwe

45. The representative of Zimbabwe reaffirmed his Government's commitment to the continuation of the reform programme. Reversion to the old system of controls and import licensing was simply not a viable option. Appropriate legislation was being put in place to assure the irreversibility of reforms.

46. Inflation had peaked at 50 per cent in 1992, and had since been reduced to 22 per cent. This figure was still considered excessive, and the Government of Zimbabwe believed that high inflation impacted negatively on investment and growth. It remained the Government's intention to reduce inflation to single digit figures. The Government also aimed to achieve the 5 per cent target for the government deficit by 1995, as envisaged in the reform programme. This would be accomplished through overall improved management of government finances, a reduction in the size of the civil service, and the disposal of public assets to raise revenue.

47. A major part of the Government's expenditure were subsidies to public enterprises. It was policy to commercialize and in some cases privatize these enterprises. A Cabinet Committee on Commercialization and Privatization had recently been established to oversee this process. It was expected that these measures would lead to a reduction in government expenditures, resulting in a corresponding reduction in the need for additional revenue. Revenue losses arising from the removal of the surcharge should be offset in this manner.

48. The primary sectors of agriculture and mining did not have the flexibility for growth and employment required to sustain the reform programme. This suggested that the diversification of the economic base through the development of the manufacturing sector should be pursued. Special emphasis was being placed by the Government on the promotion and growth of small- and medium-scale enterprises. It was believed that this would provide an enabling domestic environment for foreign investment and lead to the more efficient allocation of local resources, entrepreneurship and human skills. A Deregulation Committee had been established and was charged with identifying and phasing out those existing rules and regulations that impeded the growth of small- and medium-scale enterprises.

Additional comments

49. The first discussant welcomed the information that legislation was being put into place to assure the irreversibility of Zimbabwe's reforms. He sought clarification as to which reform measures had been deferred because of the drought. He asked about the terms of reference of the Committee on Commercialization and Privatization and whether the Government had determined which enterprises would be privatized.

50. The representative of Argentina, unable to intervene earlier, mentioned many of the areas in which reforms had been implemented in Zimbabwe and stated that reforms would likely strengthen Zimbabwean exports. Two questions were asked. First, how was revenue lost through the elimination of the import surcharge to be replaced? And second, were import permits in agriculture restrictive and, if so, was this policy compatible with the fact that the agriculture sector seemed to be internationally competitive and to have the ability to expand?

51. The representative of Madagascar, unable to be present earlier, congratulated Zimbabwe for its economic reforms and for its positive participation in the Uruguay Round.

52. The representative of Australia asked whether much public debate had preceded the adoption of Zimbabwe's reform programme in 1990-1991, and whether an independent statutory body existed in Zimbabwe that would analyze and review the reform process, taking into account comments from all sectors of the economy and from consumers.

53. Further concern over the progress of privatization was expressed by the representative of the EU, particularly with regard to the Grain Marketing Board and the Zimbabwe Steel Company.

54. The representative of Nigeria, not able to be present earlier, complimented Zimbabwe for its positive economic reforms and stated that his Government was watching the process of reform in Zimbabwe very closely because of similar reforms being undertaken in Nigeria. He asked whether the privatization process in Zimbabwe would be fully open to foreign investors, particularly those in Africa.

55. The representative of India, not able to be present earlier, commented on the importance of the agriculture sector in Zimbabwe and stated that the Government of Zimbabwe should not shift its attention away from that sector.

56. The representative of Zimbabwe responded that budget deficit reduction had been adversely affected by the drought. The terms of reference for the Committee on Commercialization and Privatization had not yet been established, but the broad objective was to commercialize enterprises, and to privatize them where it was felt to be necessary. Substantial debate had taken place within government and with the private sector prior to and during the reform process. No statutory body with review authority existed, but the Government consulted closely with the private sector. The dual role of the Grain Marketing Board (GMB), with a commercial role and a mandated food security role, was mentioned and it was noted that the level of stockholding requirements placed by the Government on the GMB were being examined. The Zimbabwe Steel Company was being prepared for privatization. This and other privatization exercises were expected to be open to foreign investors.

(2) Trade System

Replies by the representative of Zimbabwe

57. The binding of tariffs was an important element of Zimbabwe's obligations under the General Agreement. It was through bindings that contracting parties could be assured of the permanence of decisions taken on tariff levels and this assurance was important for investors. Because of the nature of the Zimbabwe reform programme it was difficult to take decisions on tariff bindings, but following a review and the subsequent restructuring of tariffs, the Government was expected to bind more tariffs.

58. Zimbabwe granted m.f.n. treatment to GATT and non-GATT members alike. This was done for administrative simplicity. The 15 per cent additional duty that could be imposed on goods from non-GATT members predated independence and had not been invoked since 1980. Nevertheless, this issue would be examined in the context of the overall tariff review. The Government firmly intended to eliminate the 10 per cent import surcharge by the end of 1995.

59. There were two main reasons why agricultural import permits were required. First, the Ministry of Agriculture monitored available grain stocks in the country, particularly maize and wheat, for food security purposes. Second, phytosanitary considerations on products such as beef, dairy and plants and live animals were important. Permits were normally issued within a day. Data on the number of permits issued were not immediately available but could be obtained from the Ministry of Agriculture. A response would be furnished later to the question regarding instances where permits might not be granted. Duties and surcharges on imports of ready-to-eat cereals would be addressed in the overall context of the tariff review.

60. Textiles and clothing articles would be withdrawn from the Negative List by June 1995. The exact levels of duty were still being determined, but were not expected to exceed 60 per cent. The Negative List had recently been shortened by removing pearls, precious and semi-precious stones, and aerated beverages.

61. Customs procedures were continuously under review with the objective of increasing efficiency in the processing of both imports and exports. The Department of Customs and Excise had installed an Automated System of Customs Data (ASYCUDA), and this had already improved efficiency considerably. Significant improvements had been made to the duty drawback and inward processing schemes; payments on duty drawback were now processed within 14 days of the submission of an application.

62. In anticipation of the review of the tariff structure, the Government felt it needed flexibility to adjust tariffs in response to import surges. This led to the December 1993 increase in statutory tariffs. The Government agreed that this was not the only way to deal with such developments, but felt it should be noted that applicable rates were much lower than statutory rates. With the existence at the time of import licensing and foreign exchange restrictions, use of the GATT safeguard provision was not considered. Following the removal of the licensing system it was clear that the use of the safeguard clause would now be more appropriate. Similarly, there had been no necessity to seek recourse to anti-dumping and countervailing measures. The Uruguay Round results required changes in domestic legislation to reflect the new environment. With regard to the Tokyo Round Codes, Zimbabwe had committed itself under the WTO Agreement to fulfil its obligations.

63. Local businesses received government procurement preferences and it was felt this encouraged their participation in the economy. In view of the outcome of the Uruguay Round, Zimbabwe would be examining its status in this Code.

64. The Government had progressed in its reform of the agricultural marketing boards. For example, the Dairy Marketing Board had been commercialized and dairy marketing had been opened to private individuals and firms. Registered private abattoirs could now engage in the domestic marketing and the export of beef. The Cotton Marketing Board had been transformed into the Cotton Company of Zimbabwe (CCZ) and given greater commercial flexibility. The CCZ's ability to set prices for lint had been temporarily removed earlier this year, and the price for lint reduced, because the spinning industry was in crisis. This was a 6-month relief measure and had ended two days earlier, on 30 November. The Government expected a return to a market based pricing system. The issue of

tariff exemptions for new commercial companies that were hitherto statutory bodies had not yet been addressed, but clearly needed attention.

65. The Government had already relaxed controls to allow private business to export yellow maize, subject to permits issued by the Ministry of Agriculture, and such exports had taken place this year. The GMB continued to have a monopoly on international trade of white maize because of the domestic strategic nature of the product. Domestic maize marketing, however, had been fully liberalized. When agricultural commodity prices were controlled, situations did arise where producers received less than world market prices; however, with prices becoming market-based, returns to farmers would reflect the true value of their commodities.

66. Price controls had virtually been eliminated. The Government aimed to eliminate subsidies, and this was being achieved through the commercialization of public enterprises. There was no intention to reinstate the 9 per cent export incentive scheme. However, to assist exporters Government now allowed exporting firms to access relatively cheap off-shore financing. This was in addition to existing schemes already mentioned.

67. The establishment of Export Processing Zones had been approved by Parliament. The concept of EPZ in the Zimbabwe context envisaged, on the one hand, geographic zones and, on the other, enterprises with an agreed share of exports in their production. Details would be a matter for the EPZ Authority, on the basis of applications by developers.

68. A detailed study had been carried out on monopolies and competition policy in Zimbabwe. One major recommendation was the establishment of a Monopolies and Mergers Commission. A bill establishing such a Commission had been drafted and was expected to come before Parliament during the first half of 1995.

Additional comments

69. The second discussant thanked the Zimbabwean delegation for its comprehensive responses. The commitments to address the question of further tariff bindings and to look at the general legislative framework in light of the move to a market-based economy were welcomed. She asked whether a particular timetable was in place regarding the tariff review.

70. The first discussant also welcomed the commitment to address the questions of additional tariff bindings, as well as the recent removal of some items from the import licensing list. He noted the similarity between import permits and import licenses and drew attention to the Uruguay Round process of tariffication of non-tariff measures for agricultural products. He was also interested in whether Zimbabwe had begun to examine how to take measures to deal with all results of the Uruguay Round.

71. The representative of Zimbabwe stated that the study of the tariff structure was expected to be initiated early in 1995 and that implementation of Zimbabwe's new responsibilities as a result of the Uruguay Round was under study within the Government. The questions of import permits and tariffication would be covered in a later written submission along with other questions on import permits.

(3) External Environment

Replies by the representative of Zimbabwe

72. The success of Zimbabwe's economic reforms, in particular the trade liberalization and investment promotion components, depended on a supportive and enabling external environment. The effective implementation of the Uruguay Round results by all participants offered Zimbabwe new challenges and opportunities for product and market diversification. Zimbabwe would benefit, in particular, in such export sectors as agriculture and mining, where it had a competitive advantage. The expected reductions in Lomé margins of preferences would serve to stimulate and challenge Zimbabwe in its search for new markets and non-traditional exports.

73. The Zimbabwe-South Africa trade agreement was currently being renegotiated in order to extend product coverage, simplify the agreement, and achieve a freer trading arrangement. Negotiations at the technical level began in September 1994. However, it was not possible to say when negotiations would be completed. On Zimbabwe's trade with the rest of Africa, it was pointed out that Zimbabwe was a member of COMESA, which encompassed countries in both Eastern and Southern Africa. Because of the existence of a trade preference régime in this Treaty, it was expected that Zimbabwe's trade with the other member countries would increase over time. Zimbabwe viewed COMESA as a building block towards the all African trade arrangement envisaged under the Abuja Treaty.

Additional comments

74. The first discussant welcomed the very positive spirit shown by Zimbabwe regarding the erosion of preferential margins as a result of the Uruguay Round. He stated his belief that tariff preferences did not in fact represent a trade advantage for the preference-receiving country, and cited the example of bananas under the Lomé agreement.

75. The second discussant stated that she too was impressed by the positive response of Zimbabwe to challenges that would result from the implementation of the Uruguay Round.

76. The representative of the EU asked Zimbabwe's opinion regarding a recent proposal that the PTA be divided into two parts, one for SADC countries and the other for the northern African countries. Would this give the SADC a role in trade that it does not presently have? Might Zimbabwe join countries of the Southern African Customs Union and perhaps establish a common external tariff with those countries?

77. Zimbabwe was encouraged to continue its reform process, and to put into effect recommendations stemming from this Trade Policy Review, by the representative of Cameroon.

78. The representative of the United States thanked Zimbabwe for its comprehensive responses to the questions that had been raised. He asked for Zimbabwe's comments on its policies providing margins of preference to local producers and construction contractors in bidding for government procurement contracts.

79. The representative of Zimbabwe noted that regional economic relations in Africa were currently under negotiation among many countries and would not be addressed here. He stated that questions regarding government procurement could not be fully answered now but would be raised for consideration by his government.

VII. CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

80. In concluding this first Trade Policy Review of Zimbabwe, I should like to identify salient features of Zimbabwe's trade policies and practices that have emerged from the discussion. These remarks are, as usual, on my own responsibility and do not substitute for the Council's collective appreciation. The full debate will be reflected in the Minutes of this meeting.

81. Following the opening statement by Zimbabwe, the Council's discussion focused on three main themes:

(a) The macroeconomic and structural environment

82. Members of the Council congratulated Zimbabwe for its steadfast pursuit of the economic reform programme introduced in 1991 and its determination to play a full rôle in the multilateral trading system. Several members noted that greater certainty on the continuity of reforms would assist Zimbabwe in attracting investment. The uncertainty of the macroeconomic environment, in particular the rate of inflation and the government budget deficit, which had exceeded forecasts, gave rise to questions. One member asked how government revenue lost through the intended elimination of the import surcharge was to be replaced. Some members requested clarification on the legal basis and practice for direct foreign investment approval, particularly with respect to the use of local resources. Progress regarding privatization, including access for foreign investment, and efforts at industrial diversification were other issues of interest.

83. In reply, the representative of Zimbabwe noted that legislation was being put in place to assure the irreversibility of reform. Inflation had already been sharply reduced and the Government intended to lower it further, to under 10 per cent. The budget deficit would be reduced to 5 per cent of GDP, mainly through expenditure cuts, which would come in part from the privatization of public enterprises; this would also offset revenue losses from the surcharge elimination. The recent drought had slowed, but not reversed, economic progress. Diversification of manufacturing would sustain the reform, and was being promoted by an enabling environment for investment and deregulation which should help small and medium enterprises. The new Privatization Committee was just beginning its work with the aim of commercializing and privatizing some state enterprises. Discussion of the reform process was taking place in the country, although no independent statutory review body was in existence or currently envisaged.

(b) The international trade system

84. Council members were complimentary of Zimbabwe's trade policy reforms. They noted the virtual elimination of import licensing, the opening of the foreign exchange régime, the rationalization of the tariff structure, and the reduction in the rate of import surcharge, among other positive developments. The tariff had now become the main instrument of protection and the average rate was moderate. No variable levies or minimum import prices were applied and Zimbabwe had not used balance of payments restrictions.

85. There were five particular areas of concern related to import policies. First, the low level of tariff bindings, even after the Uruguay Round, contributed to uncertainty with regard to the stability of reforms. Second, members asked whether the import surcharge would be eliminated as scheduled by the end of 1995. Third, some members emphasized the need for transparency in granting import permits for agricultural goods and were concerned that this permit system operated as *de facto* non-automatic licensing. In this regard a concern was expressed about cumulative duties on imports

of ready-to-eat cereals. Fourth, the negative list remained long; Zimbabwe was asked when textiles and clothing would be removed from the list and whether the tariffs that would be introduced at that time would have an equivalent trade-restricting effect. Finally, while noting that Zimbabwe currently gave m.f.n. treatment to imports from all countries, some members expressed concern that the government could, under law, increase tariffs by 15 percentage points on imports originating from non-GATT members.

86. Members encouraged Zimbabwe to continue to simplify and modernize its customs procedures, where some difficulties remained despite recent streamlining. Several members urged Zimbabwe to introduce Article XIX-type safeguards, rather than using the flexibility provided by unbound tariff rates, for import relief; in this regard, members sought clarification of the rationale for the increases in statutory tariff rates, and questions were also raised as to why Zimbabwe had never used its anti-dumping legislation. Noting that Zimbabwe had not signed most Tokyo Round codes, members asked how it would apply the new disciplines of the WTO single undertaking. Preferences for domestic firms in government procurement contracts were questioned; members asked whether Zimbabwe intended to adhere to the Agreement on Government Procurement. Trade distortions introduced by state marketing boards in agriculture, particularly in maize and cotton, were of concern to some members. The liberalization of domestic price controls and state subsidies was welcomed, and clarification was sought on the outlook for continued reform in these areas. Finally, some members stressed the importance of domestic control over restrictive business practices, and noted Zimbabwe's progress in creating a government commission to promote competition.

87. The representative of Zimbabwe recognized that tariff bindings were an important element of his country's GATT obligations. After a tariff review, which would begin early in 1995, the Government would bind more tariffs. The review would also look into the 15 percentage point additional duty that could be imposed on imports from non-GATT members - which had, until now, never been used - and would address the cumulative duties on ready-to-eat cereals. He confirmed that the target was to eliminate the 10 per cent surcharge by the end of 1995. Agricultural import permits were used to keep track of available grain stocks and for phytosanitary reasons; written answers to detailed questions would be provided later. Textiles and clothing would be withdrawn from the negative list by June 1995; tariffs on such imports would not exceed 60 per cent.

88. On customs procedures Zimbabwe had installed an automated system (ASYCUDA), which had considerably improved efficiency. On safeguards, the Government had raised statutory rates in late 1993 to deal with import surges. However, with the removal of import licensing and exchange restrictions, it was clear that the use of the safeguard clause might be more appropriate; similarly with respect to anti-dumping and countervailing measures. On the Tokyo Round codes, Zimbabwe was committed to carrying out its obligations under the WTO. Preferences on government procurement were given to encourage local participation, but they would be reviewed and Zimbabwe would consider becoming a member of the Agreement. On deregulation of marketing boards, the Government had made significant strides. A recent lowering of the cotton lint price below its market level had been necessary because the spinning industry was in crisis; however, the measure had been removed on 30 November 1994. Domestic maize marketing was fully liberalized, but the Grain Marketing Board continued to have a monopoly on exports and imports of white maize because of its strategic nature; however, with prices becoming market-based, returns to farmers would reflect the value of their output. Finally, as part of the reform programme, a Monopolies and Mergers Commission had been proposed and a bill to this effect would come before Parliament in the first half of 1995.

(c) The outlook for the external environment

89. Several issues were raised on Zimbabwe's external trading environment. Members asked whether Zimbabwe had taken any action to assist domestic firms in taking advantage of new opportunities arising from the Uruguay Round. Diversification of export markets was encouraged. Noting the importance of regional trading relationships for Zimbabwe, members emphasized the need for such arrangements to remain consistent with GATT principles. Zimbabwe was also asked about the renegotiation of its trade agreement with South Africa.

90. The representative of Zimbabwe noted that the implementation of the Uruguay Round would offer Zimbabwe opportunities for product and market diversification. Zimbabwe should gain in such sectors as agriculture and mining, where it had a competitive advantage. The reduction in margins of Lomé preferences would stimulate a search for new markets and non-traditional exports. Zimbabwe's trade agreement with South Africa was being renegotiated to simplify it, extend its coverage, and achieve freer trade. Zimbabwe was a member of COMESA and, as a result, expected its regional trade to increase over time.

Conclusions

91. In conclusion, the Council has been very encouraged by the determined, resolute steps taken by Zimbabwe to pursue macro-economic stabilization, reform trade policies, and assume its Uruguay Round commitments. We look forward, in particular, to a successful conclusion of the tariff review and a resultant increase in the scope of bindings, as well as a continuing reduction in the negative list. This would ensure the stability and continuity of the reforms and encourage trade and investment in the region and with the world. Zimbabwe's trading partners should support its reform by opening their markets.

GW/13
4 January 1995

THE WORLD TRADE ORGANIZATION IS LAUNCHED WITH 81 MEMBERS

The new World Trade Organization (WTO) came into force on 1 January 1995 with 81 member countries and territories from all regions of the globe representing over 90 per cent of international trade in goods and services. Almost 50 other countries are in a position to join the WTO in the near future.

The 81 members comprise 53 developing or least-developed economies, 25 developed countries and 3 economies in transition. Of the 49 countries which are currently in the process of joining, 11 have accepted the WTO and are due to become members as soon as they have completed the verification of their market access commitments; 38 are completing their domestic ratification procedures for accepting the WTO; and Algeria and China whose terms of membership are still to be finalized.

WTO MEMBERSHIP AS AT 1 JANUARY 1995 (81)

| | | |
|----------------------|-------------|--------------------------------|
| Antigua and Barbuda | Greece | Nigeria |
| Argentina | Guyana | Norway |
| Australia | Honduras | Pakistan |
| Austria | Hong Kong | Paraguay |
| Bahrain | Hungary | Peru |
| Bangladesh | Iceland | Philippines |
| Barbados | India | Portugal |
| Belgium | Indonesia | Romania |
| Belize | Ireland | St. Lucia |
| Botswana | Italy | St. Vincent and the Grenadines |
| Brazil | Japan | Senegal |
| Brunei Darussalam | Kenya | Singapore |
| Canada | Korea | Slovak Republic |
| Chile | Kuwait | South Africa |
| Colombia | Lesotho | Spain |
| Costa Rica | Luxembourg | Sri Lanka |
| Côte d'Ivoire | Macau | Suriname |
| Czech Republic | Malawi | Swaziland |
| Denmark | Malaysia | Sweden |
| Dominica | Malta | Tanzania |
| European Communities | Mauritania | Thailand |
| Finland | Mauritius | Uganda |
| France | Mexico | United Kingdom |
| Gabon | Morocco | United States |
| Germany | Myanmar | Uruguay |
| Ghana | Namibia | Venezuela |
| | Netherlands | Zambia |
| | New Zealand | |

PARTICIPANTS WHO HAVE ACCEPTED THE WTO AND WHOSE SCHEDULES ARE BEING VERIFIED (9)

| | | |
|--------------------------|---------------|------------------|
| Central African Republic | Guinea Bissau | Mozambique |
| Chad | Maldives | Papua New Guinea |
| Grenada | Mali | Qatar |

PARTICIPANTS IN THE PROCESS OF DOMESTIC RATIFICATION (38)

| | | |
|--------------------|-------------|----------------------|
| Angola | Fiji | Sierra Leone |
| Benin | Gambia | Slovenia |
| Bolivia | Guatemala | Solomon Islands |
| Burkina Faso | Guinea | St. Kitts and Nevis |
| Burundi | Haiti | Switzerland |
| Cameroon | Israel | Togo |
| Congo | Jamaica | Trinidad and Tobago |
| Cuba | Lichenstein | Tunisia |
| Cyprus | Madagascar | Turkey |
| Djibouti | Nicaragua | United Arab Emirates |
| Dominican Republic | Niger | Zaire |
| Egypt | Poland | Zimbabwe |
| El Salvador | Rwanda | |

Algeria and China: their terms of membership are still to be finalized.

END

TE 011
6 January 1995

Sub-Committee completes preparatory work on trade-environment issues

Can trade liberalization assist the protection of the environment? And how will new environmental measures affect exports of developing countries? These were the main questions examined by the Sub-Committee on Trade and Environment at its final meeting held on 23-24 November 1994.

Many members pointed out that trade-distorting practices have led to environmental degradation. For instance, massive subsidies on agricultural production and falling commodity prices have encouraged over-exploitation of farming lands. Tariff escalation (low duties on raw materials but much higher rates on finished goods) on wood products has impeded sustainable forest management. Members welcomed the Uruguay Round results as a major step in promoting efficient use of national resources. Higher incomes through expanding trade should also result in more public funds available for controlling pollution.

Developing countries warned that they faced higher burdens compared to other countries in complying with new environmental standards imposed on imports. Extended time limits for compliance as well as enhanced technical and financial assistance were suggested by some members as possible ways of assisting developing countries in this regard.

At its first meeting in 1995, the WTO Committee on Trade and Environment will focus on another issue with development implications - that of exports of domestically-prohibited goods. These are products whose sale and use are restricted in the domestic market - such as hazardous waste and chemicals - but which are nevertheless exported to other countries.

A detailed report on the final meeting of the Sub-Committee, as well as on its previous meeting held on 26-27 October 1994 on how should the WTO deal with trade measures taken under multilateral environmental agreements, follows.

The Sub-Committee on Trade and Environment has continued its first round of discussions on three items from its work programme that it has decided should receive initial attention. At its meeting on 26-27 October it addressed the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements, and on 23-24 November, at its last meeting of the year, it took up the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions.

There was agreement to extend observer status to seven more intergovernmental organizations (UNEP, FAO, ITC, UNDP, OECD, EFTA and the Commission on Sustainable Development). As was noted by several delegations, these organizations are directly interested and active in the subjects covered by the WTO work programme and they join the existing four (IMF, UN, UNCTAD, and the World Bank) which were accepted as observers in September. Further requests from inter-governmental organizations for observer status will be taken up on a case-by-case basis with reference to general criteria and conditions for observer status in the WTO. Consultations on appropriate arrangements for relations with non-governmental organisations have not been completed and therefore will continue next year.

The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements

The relationship between the provisions of the multilateral trading system and the use of trade measures pursuant to multilateral environmental agreements (MEAs) has already received attention in GATT in the Group on Environmental Measures and International Trade (a summary of those discussions, in GATT document L/7402, is available upon request from the GATT Secretariat). A prescriptive stage of work on this issue has not yet been reached and many delegations said they are still considering all options with open minds.

Several delegations took up the issue of trade measures applied outside the context of an MEA, saying that unilateral trade measures aimed at achieving environmental objectives which lie outside the jurisdiction of the country imposing them or at correcting environmental damage which does not impact on that country's territory must be avoided. Principle 12 of the Rio Declaration was referred to as requiring that every possible effort must be made to ensure that environmental measures addressing transboundary or global environmental problems are based on international consensus. Some added that resort to unilateral measures in this context ran the risk of arbitrary discrimination and disguised protectionism which would damage the trading system and could threaten broad support for the international environmental agenda.

Austria said that governments were inclined to resort to trade measures outside the context of an MEA if there was strong demand from their citizens to achieve an environmental goal. Governments might then take on the role of a catalyst for action if the underlying environmental goal or preference was not universally or widely shared, there was no agreement on the evaluation of the scientific evidence available, or if the negotiating process to conclude an MEA was perceived to be slow or being obstructed. Austria noted, however, that the chances of a country succeeding as a catalyst were directly proportional to its political and economic power.

The United States cautioned that unilateralism could take many forms and said care would be needed in thinking through the issues involved. Multilateral approaches to resolving transboundary and global environmental problems were clearly preferable and ways would have to be found for the WTO could facilitate them, but it was important to be mindful of the limitations of MEAs: they took time to negotiate, sometimes short-term interest prevailed over long-term imperatives, and they might for a variety of rea-

sons be vague on the use of trade measures. Consequently countries had in the past and might again in the future find it necessary to take actions, including using trade measures, without the cover of an MEA. The multilateral trading system should allow for the use of trade measures where these enforced or implemented a prevailing scientifically-based environmental or conservation norm which had a degree of international legitimacy. This, in the United States' view, could help lead to subsequent MEAs.

Several other delegations said they could not accept the use of trade measures by one country alone to apply environmental programmes or standards extra-territorially simply because there were difficulties involved in negotiating MEAs; the difficulties should not detract from the desirability of reaching consensus on the use of trade measures. Also, they questioned why trade measures would be necessary to enforce or implement an international environmental norm and why an MEA would not be a more appropriate vehicle for any trade action that might be envisaged. In their view, the WTO was not the right forum to look for authority to use trade penalties when there was no agreement on the environmental problem concerned; that would cast it in the role of deciding on and acting as arbitrator in matters relating to environmental policy. Unilateral trade measures of this kind created many problems for the multilateral trading system, and proposing them was not viewed as helping progress to be made on consideration of the use of trade measures in MEAs.

The use of trade measures pursuant to multilateral environmental agreements

Several delegations said that the dimensions of the problem under examination in this area should not be exaggerated. Noting that trade provisions had been included in only a small number of MEAs and that none has ever been subject to a legal challenge under the GATT, they pointed to the broad scope that exists for negotiators of MEAs to achieve their environmental objectives in a manner fully compatible with the multilateral trade rules, especially when account is taken of the ability of the GATT to accommodate certain overriding public policy objectives through its general exception provisions in Article XX. It should not always nor even often, they said, be necessary to further exempt trade measures taken under MEAs from WTO rules. Some doubted anything more needed to be done, and said the WTO dispute settlement provisions provided adequate means of addressing conflicts in this area, if and when one arose, case-by-case.

A number of delegations said that the GATT rules should not be allowed to act as an arbitrary impediment to the use of trade measures in MEAs, but that before proceeding to review whether there was a need to increase WTO flexibility in this area the necessity and effectiveness of including trade measures in MEAs, notably discriminatory trade measures for use against non-parties, should be examined. Several felt there were other, equally effective means available, such as financial and technological assistance, which would secure the environmental objective better than trade measures and prove more effective in securing support for a coordinated, global response. The United States said analysis of this issue would require a clearer understanding of the background to MEAs, in particular the process of decision-making that went into them. When they involved a decision on the necessity and expected effectiveness of trade measures to achieve environmental objectives, that decision should be respected.

To the extent a common understanding emerges among WTO Members that on occasion it may be necessary to use trade measures in MEAs that are inconsistent with existing WTO provisions, even if only as a last resort, two lines of enquiry into their relationship with the multilateral trading system have been suggested. One would rely primarily upon recourse on a case-by-case basis to the waiver provisions of the WTO - the so-called *ex post* approach. The other - an *ex ante* approach - would involve the negotiation of a collective interpretation or an amendment to existing WTO provisions to deal specifically with this issue. Both approaches began to be explored in the GATT EMIT Group, and the broad outlines of

each approach, along with a summary of the views of delegations on their respective pros and cons, can be found in the Report of the Chairman of the EMIT Group of February 1994 (L/7402).

In the October meeting of the Sub-Committee, delegations referred back extensively to their previous discussions on this issue and introduced a number of new elements to the debate.

Several focused on criteria that might be established if trade measures taken in pursuance of an MEA were to benefit under an *ex ante* approach from greater flexibility than exists at present under WTO rules. Sweden, speaking on behalf of the Nordic countries, said there was no intention to create a blank cheque in this regard and that the criteria which could determine whether an MEA would be eligible for an exception under the WTO should include its level of representation, the extent of participation of countries concerned with the specific environmental problem, the openness of the MEA for accession by all governments, and the extent to which the use of trade measures is specified in an MEA and the trade measures are established to be necessary and linked directly to the environmental problem. Criteria relating to the trade measures themselves such as least-trade restrictiveness and effectiveness would provide additional guidance for the negotiators of MEAs and national governments when implementing them. Another delegation added that great care should be taken not to open an ecological window through which short-term protectionist measures could enter, and said the criteria should include non-discrimination, national treatment, the need for a measure and its scientific basis, transparency, proportionality, effectiveness, and least trade-restrictiveness.

The European Communities recalled suggestions it had made earlier on the need to define what constitutes a "genuine" MEA for WTO purposes, to consider whether trade measures taken pursuant to MEAs should be subject to different treatment when they are not specifically provided for in an MEA, and what kind of trade measures might be foreseen. On this last point, the EC recognized a legitimate concern to avoid the application of trade measures vis-à-vis non-parties to MEAs on products which had no connection with the environmental damage being addressed. It felt, however, that the WTO should acknowledge that trade provisions against non-parties could provide for restrictions on products which were environmentally damaging and that MEAs might also need to include measures against non-parties based on processes and production methods (PPMs) where product standards were insufficient to tackle the environmental problem. In the case of PPM-based measures, however, the EC felt a cautious approach was warranted; for instance, there could be requirements that a clear causal link exists between the PPM and the environmental damage which the MEA aims to redress and that parties to the MEA have explicitly determined that other forms of trade control are insufficient. Canada said that an import restriction based on non-product-related PPMs might be considered for inclusion in an MEA where the environmental effects of production externalities were global or transboundary, but it was not a first best solution and its effectiveness would depend upon most if not all countries concerned applying the same measures relating to the production externality.

Argentina suggested combining the advantages of the *ex-post* and *ex-ante* approaches by defining criteria which would, *prima facie*, make the trade measures adopted within the context of an MEA compatible with the GATT and then examining for each MEA whether the criteria were met. The criteria would cover the conceptual scope and characteristics of MEAs and justification for and the characteristics of the trade measures they contained. Argentina proposed four basic criteria: the term "multi-lateral" should be considered in terms of the minimum number of countries in the geographical region covered by an MEA which would have to be party to it and the need for MEAs to be open to participation by any WTO Member irrespective of its level of development, market characteristics or geographic location; the term "environmental" should cover any agreement having an environmental protection objective, even if this was not its only objective; trade measures included in an MEA should be shown to be indispensable to meeting its environmental objectives; and trade measures should be the least trade restrictive in each particular case. The criteria could be reflected in a collective interpretation of Article

XX, and a procedure similar to that provided for in the GATT waiver provisions could be used to examine them case-by-case. This combined approach would, in Argentina's view, make it possible to deal with two major concerns: the need to admit legally, in the GATT, the possibility of applying trade restrictions pursuant to MEAs while maintaining liberal trading conditions and respecting the laws of each contracting party in the course of dealing with environmental problems.

Another delegation suggested there might be merit in exploring a menu approach similar to that contained in GATT Article XX(h) and its Interpretative Note which concerns measures taken pursuant to obligations under intergovernmental commodity agreements. This provides for three different means of accommodating such measures: if the measures are under agreements which conform to a set of principles approved by the UN Economic and Social Council; if the measures are under agreements which conform to criteria submitted to the GATT CONTRACTING PARTIES and are not disapproved by them; or if the measures are contained in individual agreements that are submitted to the CONTRACTING PARTIES and are not disapproved by them. The attraction of this approach was described as its use of generic criteria to cover some situations with provision for case-by-case examination in others.

Other possible approaches were also referred to. Austria, for example, suggested that an understanding could be elaborated obliging WTO Members not to create unnecessary barriers to trade and to apply measures in the least trade distortive manner, a "trumping clause" covering existing, unchallenged MEAs could be modelled on the approach adopted in this area in the NAFTA, or the burden of proof could be shifted so that trade measures based on MEAs would be presumed not to create unnecessary barriers to trade and be least trade distortive and least inconsistent with WTO rules. Also, Austria suggested, WTO Members might ask for a non-binding legal opinion from the WTO legal service or Appellate Body on whether the trade measures envisaged in an MEA could be regarded as compatible with WTO rules. If parties to an MEA decided not to accept this opinion, they should be encouraged to demonstrate to the WTO Council why the trade measures had to be included in the MEA to fulfil its environmental objective or to apply for a special *ex-ante* environmental waiver

Several delegations addressed specifically the situation of non-parties to MEAs. One said that discriminatory trade measures taken against non-parties were not always effective and in some cases could even prove counter-productive to environmental protection. If an MEA had broad enough participation, non-discriminatory measures should serve the environmental purpose satisfactorily. Several delegations said that merely not being a party to an MEA should not make a country more vulnerable for punitive action, and added that developing countries, non-party to an MEA, would be considerably more vulnerable to the threat of trade sanctions than would developed countries. One delegation said it was not the function of the WTO to serve as a mechanism for putting pressure on a country to sign MEAs. Any so-called new "environmental window" should be designed to protect the interests of WTO Members from the possibility of trade measures being used in ways incompatible with the WTO; trade measures could be permitted if they were provided for in MEAs, but only between parties. The European Communities called for respect for the judgement of environmental experts who negotiated MEAs that trade measures against non-parties to an MEA were necessary to achieve its aims. However, the EC said, there was no reason to use trade measures against non-parties if they met the level of environmental protection dictated by the MEA; that was already taken into account in the headnote language to GATT Article XX that measures must not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevailed.

A number of delegations felt it important to take account of the particular problems of developing countries' participation in MEAs. One said that any difficulties developing countries had in complying with the provisions of global MEAs should be mitigated by compensatory measures and mechanisms as well as transition periods as existed already in the Climate Change Convention, the Montreal Protocol and the Biodiversity Convention. Any trade measure in new MEAs or in new Protocols to existing ones

would have to take account of transition periods granted to developing countries for reaching certain objectives, and it was therefore important to define the relation between the stage of development of a country and its capacity to improve its environmental standards. Another added that technology and resource transfers would be necessary to allow developing countries to adopt environmentally sound production methods, and until those transfers were made there should be specific provisions to maintain a balance between the capabilities of developing and developed countries.

The effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions

Many delegations noted that issues of market access cut across virtually all items of the trade and environment work programme and that the effect of environmental measures on market access was already being taken up, particularly in the context of environmental taxes, charges, technical regulations and standards.

Several said that this particular item permitted a focused examination of the environmental benefits of removing trade restrictions and distortions. The background for further work should be that trade liberalization was a prerequisite for environmental protection. When the price of a product reflected the real cost of the factors involved in its production and distribution, resources would be allocated efficiently, but if real cost was lower than reproduction cost there would be price distortion which could lead to over-exploitation of resources and, possibly, their premature depletion.

Argentina said a key question was which distortions in price formation could have a negative effect on the environment. In the case of commodities, which came at the top of the production chain and were therefore particularly sensitive to failure to internalize environmental costs, the most obvious distortion was caused by subsidies. Not all subsidies that affected commodities necessarily have negative environmental externalities, nor are subsidies the only distortion in price formation to obstruct the internalization of environmental costs. However, dealing seriously with the trade and environment relationship meant not overlooking the adverse environmental impact of the massive sums of money allocated each year to subsidizing agriculture in industrialized countries as well as other commodity sectors such as fishery.

Subsidies could affect the environment of other countries in several ways. They discouraged efficient resource allocation and forced overseas producers to over-exploit their own environmental resources if they were to avoid being excluded from the market. Commodity prices were distorted by failure to internalize environmental costs, so the environmental impact generated by the production of a product was often inversely proportional to its price. A case in point was organic foods, whose price was usually higher than the price of products produced with intensive use of fertilizers, pesticides and inputs to improve their appearance. Also, restrictions on market access and the associated loss of earnings forced overseas producers to resort to practices that were harmful to the environment, such as abandoning crop rotation systems, incorporating marginal land into production and resorting to intensive cropping practices, and left them unable to afford environmentally friendly practices. Raising the income of efficient agricultural producers was not enough to guarantee better environmental practices but it was a prerequisite for implementing policies that encouraged ecologically sustainable farming practices. The obvious and indispensable first step was to agree on a framework to eliminate those subsidies that had negative environmental externalities in the process of commodity production. Neither the difficulties of eliminating subsidies and improving market access, nor what was already being done in terms of "set aside" and the correction of many agricultural protection measures, could be overlooked. However,

subsidies distorted world trade in agriculture and at the same time caused serious environmental harm, making two good reasons for stepping up efforts to eliminate them.

Many countries supported and reiterated what had been said by Argentina with regard to the potential environmental benefits of removing trade-distorting and restricting subsidies, particularly for agriculture and other sectors of primary commodity production. Some added that subsidies also diverted resources which would be better allocated to alternative uses related to internalizing environmental costs and promoting sustainable development in developing countries.

One delegation said that the WTO Agreement on Agriculture was an important first step towards correcting problems but major trade distortions remained and there was considerable further scope to realize the contribution which agricultural trade liberalization could make to promoting sustainable development. While a reduction in agricultural trade distortions should have direct environmental benefits, in many other sectors the effects might be more indirect but were still important. More liberal trading conditions for natural resource based products could support efforts to promote sustainable management of those resources and to internalize the environmental costs of their use. In addition, reduced tariff escalation for processed products and improved trading opportunities for a wide range of industrial products could assist countries seeking to diversify their economies and lessen their dependence on environmentally-sensitive commodity production. The extent to which members of the multilateral trading system worked together to minimize unwarranted effects of environmental measures on market access and seriously responded to the need to remove trade restrictions and distortions would be an important test of the commitment to finding equitable and cooperative solutions to advancing environmental goals and the objective of sustainable development.

The European Communities said that insofar as negative environmental effects did result from trade-distorting subsidies, in particular in the field of agriculture, it could not be underlined enough that a great step forward was already being made through the market access improvements of the Uruguay Round. These provided enhanced possibilities for production to take place in countries with the environmental capacity to carry it out in an environmentally efficient manner and at the same time allowed increased market access for developing countries. Trade liberalization might well bring environmental benefits provided that countries applied appropriate environmental policies which took account of the environmental impact of agriculture. However, several countries, including developing countries, applied non-tariff measures on a number of products in the natural resource and raw materials sectors which provided an artificial competitive advantage to domestic producers vis-a-vis foreign competitors. The measures could be grouped into three categories: the supply of raw materials to local producers at lower than world market prices, export restrictions on raw materials, and differential export taxes applied to raw materials and to processed products. In certain cases these policies could impact negatively on the environment through inefficient allocation of resources and over-exploitation of resources by local producers. In any discussion of the environmental benefits of removing trade restrictions and distortions, this issue should also be taken into account.

The United States, commenting preliminarily, said economic theory held that trade liberalization produced greater efficiencies and higher standards of living, which in turn could be expected to produce environmental benefits in the form of more efficient utilization of scarce resources. Also evidence suggested that as per capita income increased countries would be more able and willing to devote resources to controlling pollution. However, trade *per se* did not always carry positive environmental consequences; much depended on the context in which trade liberalization occurred. Without adequate attention to the utilization of scarce resources and to environmental considerations in promoting growth and development, increased trade could result in amplifying environmentally damaging production and unsustainable development. The effects of environmental compliance costs were relatively small in comparison to those of other factors of production, and even where they implied significant investment out-

lays some might produce not only environmental but also economic benefits in the long term, especially where standards encouraged more efficient processes. The Uruguay Round should result in important economic advantages for developed and developing countries, which would contribute positively from the environmental perspective, but concerns remained. For example, tariff escalation might promote inefficient production or false efficiencies, a phenomenon of particular concern to natural resource sectors such as wood products. Efforts to eliminate tariff escalation in that sector in the Uruguay Round had been thwarted and effective rates of tariff protection still were close to 30 per cent. This was a serious disappointment, not least because it decreased the value of forest resources and impeded efforts to invest in sustainable forest management.

One delegation said the effects of trade liberalisation in stimulating economic growth could be argued to have negative environmental consequences where it resulted in more pollution, but it was important in this regard to consider what appropriate environmental policies might be used to offset any such adverse effects. Economic growth could equally enable governments to tax and raise resources for a variety of objectives, including the abatement of pollution and the general protection of the environment, and it may also increase awareness of the environment. A second aspect was that a reduction of tariffs and non-tariff barriers would favour the development of and allow producers to meet the growing market for environmental goods and services. Third, the reduction of subsidies, especially in the agricultural sector, may lead in the medium and long term to more environmental friendly agricultural production. In all of these respects, however, trade liberalisation would not be sufficient if it was not accompanied by proper environmental policies and measures; the effect of the reduction and elimination of trade barriers depended largely on each country's entire policy framework and priorities.

Several delegations felt there was a high risk that environmental conservation and trade protectionism would go hand in hand. Experience of the past few years, they said, indicated that environmental protection was being used increasingly as a barrier to impede developing countries' access to developed countries' markets and protect commercial interests rather than to achieve environmental goals. Even where environmental measures were not a direct outcome of commercial interests, they transferred unwarranted environmental standards to developing countries. The effects of environmental measures on market access and trading opportunities of developing countries should be looked at from two perspectives: the effects of developing countries' own environmental measures on the competitiveness of their exports, and the impact of environmental policies in developed countries on the trade prospects of developing countries.

One delegation said the ability of developing country producers to pass on internalized environmental costs in the prices of their exports to consumers in developed country markets was limited by several factors. One was that the typical commodity composition of exports of developing countries was relatively undifferentiated. Also, a great deal of world trade was dominated by intra-firm transactions which often took place at transfer prices, and this pointed to the importance of restrictive business practices on the process of concentrating internalized environmental costs in developing countries. The way in which protection of intellectual property rights limited the access of developing countries to new, environmentally friendly technologies was another contributing factor, as was the power of the media in influencing consumption patterns in developed countries, often in ways that disadvantaged products exported from developing countries.

Regarding the impact of environmental measures in developed countries on the trade prospects of developing countries, empirical studies by UNCTAD showed that when developing countries had to adjust their production processes in response to changing environmental requirements in developed countries, a higher burden was placed on these countries; the impact was especially serious on small producers. Small scale exporters from developing countries competed internationally on the basis of price rather than non-price factors such as environmental product and PPM characteristics, and could often

not obtain price premiums for making environmental improvements. Three categories of costs were shown to be important by these studies: transaction costs, because regulations between different markets may be substantially different; market access barriers created by environmental measures, which were likely to rise and to compound other risks associated with export; and fixed costs related to process or design modifications which may be particularly difficult for developing countries to afford.

One delegation said the interrelationships between environmental measures and market access were complex, often indirect and uncertain for a number of reasons and the interlinkages were in need of further study. On a preliminary basis, however, market access could be influenced by increased costs of complying with environmental standards, competitiveness effects, and changing consumer preferences. For developing countries this could add up to reduced trade opportunities because of the higher costs involved, although they might stand to gain if changes in aggregate demand led to a replacement of chemical or synthetic products by natural products. As for the environmental benefits of removing trade restrictions and distortions, the effects were more direct and causal. Trade restrictions and distortions, such as subsidies affecting trade in agriculture and tropical products, had had disastrous environmental consequences in many countries, and Africa contained tragic examples. Declining world prices of primary products, caused largely although not exclusively by trade distortions, particularly subsidies, led to over-exploitation of natural resources with severe environmental consequences such as deforestation and desertification. For the environment to continue to provide the basis for trade expansion, product prices must reflect full environmental costs of protection.

Brazil recalled that "Promoting sustainable development through trade liberalisation" had been a key theme of the UNCED results, and that Agenda 21 called for an expansion of market access in favour of developing countries. Trade liberalization increased development opportunities, and gains in allocative efficiency reduced over-exploitation and wasteful use of natural resources. It was important to improve the terms of commodity trade, which was vital for so many developing countries and which had a direct relationship to the natural environment. In this respect at least three issues were GATT-related: access, distortions, and diversification. In the access area, besides the problem of border measures which had been the subject of the Uruguay Round negotiations, it was important to examine internal taxation of tropical commodities which, even if formally in conformity with GATT provisions, distorted competition and was equivalent to an import tariff. In the area of distortions, agricultural subsidies depressed world prices and caused general over-exploitation of resources in developing countries. Support for diversification efforts was needed to reduce dependence on a restricted number of commodities and help avoid their over-exploitation due to price falls. The same logic favoured vertical diversification, since processed products were less subject to price fluctuation, and reducing tariff escalation in developing countries' main export markets was important in this regard.

The European Communities said Principles 2, 4, 6, 11 and 12 of the Rio Declaration were relevant to this item of the work programme. As far as environment and development were concerned, a major task was to render compatible and supportive the right to environmental protection at a high level with the right of all countries, particularly less and least developed countries, to benefit from trade through agreed market access. In both respects the WTO would make a significant contribution, recognizing the right of WTO members to adopt a high level of domestic environmental protection and allowing in the framework of the non-discriminatory trading system more favourable treatment to developing countries, especially the least developed, taking account of their special needs and specific problems. The GATT/WTO system allowed a certain degree of flexibility to developing countries in complying with the trade rules. When dealing with the inter-relationships between environmental protection, market access and development, a similar approach could be pursued. Developed countries, for instance, when introducing environmental measures affecting in particular market access for developing countries could consider the possibility of using a differentiated schedule for compliance, such as time-limited excep-

tions from complying with the relevant obligations or other forms of phase-in or phase-out periods. However, time-limited exceptions should not create a risk of undermining the environmental objective of a measure. Another option could be to grant special treatment to developing countries in terms of market access for products whose characteristics or whose method of production had been internationally recognized as environmentally friendly. Also, technical and financial assistance might be granted on concessional terms to developing countries in order to help them comply with new environmental regulations.

Several delegations stressed the importance of transparency, and especially *ex ante* transparency, for all members of the trading system, and said that disseminating more information about national environmental measures, policies and standards, especially those with likely trade implications could avoid adverse trade effects and also assist in avoiding disputes. Canada noted that recent UNCTAD studies had concluded that the most significant problem that exporters from developing countries faced was lack of sufficient, up-to-date information on trade-related environmental measures, some of which were not subject to formal notification requirements under GATT.

One delegation said that as environmental policies, particularly in developed countries, became more stringent and comprehensive, their potential effects on market access and on competitiveness, especially for developing countries, would become more important. Those effects could be analyzed along five lines. First with regard to the type of policy instrument used, even if it was non-discriminatory, transparent and proportional, developing countries might face specific problems. Adaptation to and compliance with new technical regulations could be difficult and costly, particularly where these required access to environmentally sound technologies. Second, the export-orientation of many developing countries' economies and their concentration in certain sectors could make them more vulnerable to environmental measures in their overseas markets. Third, developing countries tended to have greater concentrations of small firms than developed countries, and small firms might be less easily able to adapt to meet new environmental requirements. Fourth, unilaterally applied environmental measures could prove more difficult for developing country producers to meet than measures applied by many countries pursuant to an MEA. Lastly, trade-related measures applied by developed countries for tackling strictly local environmental problems or even regional problems might cause difficulties for developing countries and force them to devote more resources to certain environmental improvements rather than choosing on the basis of their own environmental and developmental priorities. MEA-based measures addressing global environmental problems, which contained transitional periods and specific financing mechanisms for developing countries, would prove less onerous in this regard. Given the complexity of each of these factors, more case studies of the trade effects of specific environmental measures for developing countries would be useful.

Sweden, speaking on behalf of the Nordic countries, said small, developed countries shared many of the concerns of developing countries that environmental protection could be misused as a means for hidden protectionism. However, this aspect should not be exaggerated and the North-South dimension of the issue must not be used as a pretext for delaying the introduction of higher environmental standards. Transparency and access to information was of vital importance in ensuring that environmental measures would not become an unnecessary obstacle to trade, and in this respect eco-labelling schemes provided an opportunity to enhance market access for developing countries by promoting environmentally friendly products. To improve market access possibilities, it was important that environmentally sound technologies were made available to as many countries as possible. The TRIPs Agreement would facilitate that, but there was need to go further through work on trade and investment and its impact on market access, technology transfer and the environment. The impact of trade-distorting and restricting subsidies in general on market access of developing countries as well as on the environment in exper-

ting and importing countries needed to be examined, as did the impact of tariffication on the environment.

Austria said analysis should take adequate account of the possibility that side-effects of environmental measures on market access could be a consequence of or a necessity for the attainment of the environmental objective of an environmental measure and *prima facie* should neither be avoided nor desired. Aspects such as the environmental effectiveness of a measure, its structure, contents and the underlying environmental objective, should not be forgotten. Products from developing countries could be more environmentally friendly than competing goods from developed countries because of the raw materials incorporated in them or because they were less intensive in terms of environmental resource use. If it were possible to enable producers from developing countries to effectively communicate the environmental advantages of their products to consumers in developed countries, producers from developing countries would equally be in position to benefit from consumers' preference for "green products" and their willingness to acknowledge environmental efforts on the producer side.

Environmental taxes, charges, technical regulations and standards

Canada picked up the discussion from the Sub-Committee's September meeting on environmental taxes and charges (See *Trade and Environment Bulletin No. 010*). Noting that the effectiveness of eco-taxes aimed at addressing local environmental impacts of products at the consumption or disposal stage were enhanced if they were applied to imports as well as domestically produced goods (although not of course exports), Canada said that in the case of measures aimed at local environmental impacts at the production stage there did not appear to be any clearly useful purpose served by imposing PPM requirements on imports. The two main motivations advanced for adjusting PPM-based taxes and regulations at the border were to encourage a change in environmental behaviour by foreign producers and to respond to concerns of domestic producers who incurred additional environmental costs that they were not disadvantaged vis-à-vis foreign producers. Many viewed the first of these as an expression of extraterritorial imposition of domestic standards that had been clearly rejected in GATT and in Principle 11 of the Rio Declaration. The debate therefore came down to competitiveness concerns, and for several reasons Canada was not convinced this was an appropriate reason for extending domestic PPM measures to imports. In most cases, it was not clear that higher environmental standards accounted for a sufficiently significant element of the cost of production that they alone would have a critical impact on competitiveness. Second, in many areas conforming to higher standards could actually improve the appeal of products and therefore enhance their competitiveness. Third, there were many other costs of production that accounted for much greater differences in competitiveness, including ones that also reflected national values and choices. Why should environmental costs be adjusted at the border when, for example, more significant social programme costs were not? In addition, Canada pointed to practical problems of developing an objective basis for calculating a PPM-based border tax, for instance where overseas suppliers had standards that were different but equally stringent in their own way.

Where the competitive position of a domestic industry could indeed be significantly affected by higher production standards, Canada said other alternatives should be considered. If a transboundary or global environmental problem was at issue, efforts would be needed to find common approaches on a multilateral basis. If the environmental problem was entirely local, the possibility of adjustment assistance could be considered and in that regard the WTO Agreement on Subsidies and Countervailing Measures would allow financial assistance to firms that had to meet mandatory new environmental requirements.

Canada added that another form of international cooperation in this area was the development of what the ISO had called "environmental management standards". These would be an agreed means of measuring the sustainability of various production practices. Voluntary standards, accompanied by an agreed and verifiable certification system, would provide consumers with the information needed to

make environmentally sound purchasing decisions. A prime example of a sector in which this could be a promising approach was forestry. One advantage was that the development of international environmental management standards involved private sector business and environmental interests directly.

The United States presented a paper on eco-labelling. Noting that eco-labelling could be a valuable tool to provide market information and to facilitate environmental improvements, the paper also outlined certain concerns. These related to whether the information provided was complete and adequately informed consumers of various environmental impacts, and whether they influenced consumer and producer behaviour in ways that led to improved environmental aspects of covered products. There were also concerns about whether a multiplicity of different eco-labels affected their credibility and effectiveness, potential problems of market segmentation and potential conflicts between regulatory requirements and the criteria of eco-labels.

The paper described various types of existing programmes. For example, some information disclosure schemes rely on life cycle assessment to provide information for reporting key environmental impacts. Some involve life cycle assessment even if they are not seal of approval type schemes. There are also hybrids; for example, information-disclosure or report-card type schemes could involve overall environmental assessment as well. Other schemes have a series of assessments or marks for different impact areas, such as on water, air, or solid waste disposal, and do not attempt to draw overall conclusions but rather rank the impacts in each category. Each could raise different issues or concerns, but one thread that was common to all was the question of what information was being provided. Was it quantifiable and verifiable, or was it an attempt to draw judgements on the overall environmental merits of one product versus another? The answer could lead in different directions in assessing the impact of an eco-labelling programme both in environmental and economic terms.

The paper also discussed the quality of the information provided and laid out a number of different perspectives and concerns with regard to life cycle assessment and its role in eco-labelling. It touched on what environmental impact was the eco-label addressing, what stages in the product's life cycle were important, were criteria based on local, regional, or national environmental priorities or endowments or was there an attempt to create some broadly-based international criteria, were the criteria applied to domestic products and imported products, and what were the possibilities for mutual recognition among labelling schemes.

The paper raised a number of issues about eco-labelling from the perspective of the multilateral trading system. One was the coverage of the trade rules and whether this was affected by the degree of government involvement. It also addressed the issue of discrimination, the adverse trade effects and transparency issues (i.e. access to labels) and cost and competitiveness issues. The paper also raised questions from an environmental perspective, including whether further flexibility was needed in the multilateral trading system to allow eco-labelling to be effective. The question of how to structure eco-labelling so as to accentuate the potential for improved environmental protection and technological development was addressed, as were various considerations of how eco-labelling could be a tool for environmental cost internalization and for addressing concerns of the effects of trade and trade liberalization on the environment and sustainable development. Finally, the paper addressed how, from an environmental and trade perspective, the effectiveness and acceptability of eco-labelling could be enhanced.

Brazil presented a preliminary analysis of how eco-labelling schemes were covered by the WTO Agreement on Technical Barriers to Trade (TBT) and what the level of obligation might be for different kinds of eco-labelling schemes. It was clear from the definitions contained in the TBT Agreement that labelling in general was covered, and that eco-labelling involved a conformity assessment procedure which was also covered. Brazil noted fears that if eco-labelling schemes based on unincorporated PPMs (those not reflected in final product characteristics) were considered to be covered by the notification

obligations of the TBT Agreement there was a risk this would be interpreted as meaning that GATT recognized and permitted the use of import restrictions based on unincorporated PPMs. That would undermine the guarantees provided by GATT rules for market access to products, independent of their PPMs. Standards and technical regulations based on PPMs related to product characteristics had been included in the coverage of the TBT Agreement so that these were now subject to TBT disciplines, and bodies which created eco-labelling schemes based on that criterion should be considered standardizing bodies. The fact that the Agreement did not regulate what went beyond the product reflected the preoccupation of not interfering with each country's prerogative to establish the PPM standards it considered appropriate for its domestic conditions, including the level of risk acceptable. The unacceptability of differentiating products at the border on the basis of unincorporated PPMs was a counterpart to this prerogative.

With regard to the level of disciplines, Brazil said the TBT Agreement tried to reduce the difference between levels of obligations for central government, local government and non-government bodies, as well as in the area of notifications between mandatory and voluntary standards, and to reinforce the responsibility of signatories for the implementation of disciplines at all levels. Eco-labelling schemes were normally voluntary and in most cases non-governmental, but governments had an important participatory role in their implementation and promotion and therefore an obligation to take reasonable measures to ensure the schemes complied with basic disciplines such as non-discrimination and on access to and the functioning of conformity assessment procedures. Also, although not subject to the same notification requirements as technical regulations, standards were subject to transparency requirements, including making information available through enquiry points. Some doubts might arise in relation to voluntary conformity assessment procedures, but a voluntary eco-labelling scheme implemented by a central governmental body was subject to all transparency obligations, including notification.

Overall, however, the WTO TBT Agreement was not tailored with eco-labelling schemes in mind, and in Brazil's view discussion should continue on the possibility of complementing it in the eco-labelling area. Meanwhile, governments should ensure that the present disciplines were strictly observed. ■