THE YEAR IN TRADE:

OPERATION OF THE TRADE AGREEMENTS PROGRAM DURING 1996

48th Report

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U.S. International Trade Commission

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List of Frequently Used Abbreviations and Acronyms

ACP	African, Caribbean, and Pacific
AD	Antidumping
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
ATPA	Andean Trade Preference Act
CBERA	Caribbean Basin Economic Recovery Act
CFTA	United States-Canada Free-Trade Agreement
CVD	Countervailing Duty
EU	European Union
FTA	Free-Trade Agreement
FTAA	Free Trade Area of the Americas
FY	Fiscal Year
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
HTS	Harmonized Tariff System
IMF	International Monetary Fund
IPR	Intellectual Property Rights
ITA	Information Technology Agreement
LTFV	Less Than Fair Value
MFA	Multifiber Arrangement
MFN	Most Favored Nation
NAFTA	North American Free-Trade Agreement
NTM	Nontariff Measure
OECD	Organization for Economic Cooperation and Development
OFAC	Office of Foreign Assets Control
SITC	Standard International Trade Classification
SMC	Singapore Ministerial Conference
TAA	Trade Adjustment Assistance
TRIMs	Trade-Related Investment Measures
TRIPs	Trade-Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
URA	Uruguay Round Agreements
URAA	Uruguay Round Agreements Act
USITA	International Trade Administration, U.S. Department of Commerce
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
WTO	World Trade Organization

CHAPTER 1
Introduction

Purpose and Organization of the Report

This report is the 48th in a series submitted to the U.S. Congress under section 163(b) of the Trade Act of 1974 and its predecessor legislation.[1] It is one of the principal means by which the U.S. International Trade Commission (USITC or the Commission) provides Congress with factual information on trade policy and its administration. The report also serves as a historical record of the major trade-related activities of the United States to be used as a general reference by Government officials and others with an interest in U.S. trade relations. The trade agreements program includes "all activities consisting of, or related to, the administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution" and congressional legislation.[2] Regional or other trade agreements activities without U.S. participation are not covered in this report.

Summary of 1996 Trade Agreements Activities

The World Trade Organization

This section summarizes major 1996 trade events (figure 1-1) described in this report. The World Trade Organization (WTO) completed its second full year of operation in 1996. During December 9-13, 1996, the organization held a Ministerial Conference in Singapore at which members reviewed the work of the WTO and made progress on several long-term initiatives. Agreement was reached to eliminate tariffs on trade in certain information technology products by the year 2001. At the conference, the WTO started an initiative that could lead to an agreement on transparency practices as part of an effort to fight corruption in government procurement. The ministerial declaration renewed commitments by members to observe internationally recognized

Figure 1-1
Selected trade agreements activities, 1996

JANUARY	
Jan. 16	United States partially suspends economic sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro).
Jan. 22	The United States and South Korea finalize an agreement reached in July 1995 on the liberalization of shelf-life rules on 207 food products including meat products, bottled, packaged and dried foods, butter, cheeses, and baby foods and formulas.
FEBRUARY	
Feb. 21	The United States appeals WTO dispute settlement panel decision that U.S. gasoline regulations violate international trade rules and do not qualify for exception under WTO natural resource conservation measures.
Feb. 28	The United States identifies six major drug-producing and transit countries not meeting the goals and objectives of the 1988 U.N. Convention on Drug Trafficking.
MARCH	
Mar. 11	USTR initiates section 301 investigation of Canadian practices affecting periodicals.
Mar. 12	President Clinton signs into law the Libertad (Helms-Burton) Act extending U.S. economic sanctions against Cuba.

Table continued on next page

Figure 1-1—*Continued*
Selected trade agreements activities, 1996

MAY	
May 7	Hungary accedes to the OECD.
May 8	On request of the United States and four Latin American countries, the WTO establishes a dispute settlement panel to examine the EU banana import regime.
May 20	WTO establishes dispute settlement panel to investigate U.S. complaint against the EU meat hormone ban.
May 29	United States and Canada conclude 5-year agreement on U.S. imports of softwood lumber from Canada.
May 31	The United States files WTO complaint against Korea's testing and inspection procedures for imported fruit and vegetables.
JUNE	
June 4	The United States rejects maritime liberalization package offered by 24 members of the WTO at the senior officials meeting in Geneva.
June 17	The United States and China reach agreement on protection of intellectual property rights in China thereby averting U.S. sanctions against China.
June 28	WTO talks on liberalizing maritime services are suspended until 2000.
JULY	
July 2	USITC makes an affirmative injury determination in investigations involving imports of broomcorn brooms conducted under the U.S. global and NAFTA bilateral safeguard laws, but reaches a negative injury determination in an investigation involving imports of fresh tomatoes and bell peppers conducted under the U.S. global safeguard law.
July 16	President Clinton suspends for 6 months the right to file claims under title III of the Helms-Burton Act.
July 22	The United States and the EU sign agreement compensating the United States for EU enlargement.
July 26	After an annual review of bilateral telecommunications agreements, the United States designates Korea as a "Priority Foreign Country" because of Korea's telecommunications procurement practices.
July 30	United States and Taiwan reach agreement on telecommunications market access in Taiwan.
AUGUST	
Aug. 2	United States and Japan agree on framework for monitoring and bilateral consultations on semiconductor market access in Japan.
Aug. 5	President Clinton signs into law the Iran and Libya Sanctions Act of 1996.
Aug. 20	President Clinton signs legislation that extends retroactively the U.S. Generalized System of Preferences program from July 31, 1995 to May 31, 1997.
SEPTEMBER	
Sept. 6	The United States applies triple charges against China for transshipment of textile exports to the United States.
Sept. 11	USITC makes an affirmative determination in its preliminary antidumping investigation on imports of vector supercomputers from Japan.
Sept. 18-19	United States and Japan hold bilateral consultations on implementation of the U.S.-Japan Automotive agreement.
Sept. 20	The United States announces intention to request WTO dispute settlement panel to investigate "systemic structural" barriers in Japan's market for photographic film.
OCTOBER	
Oct. 1	The United States announces intention to request WTO dispute settlement panel if Korea does not implement the agreement on shelf-life for imported meats finalized in January 1996.
Oct. 1	The United States announces agreement with Taiwan on market access for medical devices.
Oct. 28	The United States and Mexico sign a 5-year suspension agreement that establishes a minimum price for U.S. sales of fresh tomatoes imported from Mexico after Commerce makes a preliminary affirmative determination of LTFV imports in an antidumping investigation involving fresh tomatoes from Mexico.

Table continued on next page

Figure 1-1—*Continued*
Selected trade agreements activities, 1996

NOVEMBER	
Nov. 8-9	The United States and European Union hold Trans-Atlantic Business Dialogue meetings. Agreement reached on customs cooperation and progress made on concluding a Mutual Recognition Agreement covering pharmaceuticals.
Nov. 20	In response to a request by the EU, the WTO establishes a dispute settlement panel to examine the Helms-Burton Act.
Nov. 22	Poland accedes to the OECD.
Nov. 20-23	APEC ministerial held in Manila.
Nov. 28	President issues proclamation temporarily raising duties on imports of broomcorn brooms under U.S. global safeguard law.
Nov. 12	After completion of "out-of-cycle review" of protection of IPR in Taiwan, the United States removes Taiwan from designation under the Special 301.
DECEMBER	
Dec. 2	NAFTA dispute settlement panel rules against U.S. complaint on Canadian agriculture tariffs.
Dec. 3	The United States and Venezuela agree to a 15-month phase-out of U.S. regulations on reformulated gasoline.
Dec. 9-13	The WTO holds first biennial ministerial conference in Singapore.
Dec. 12	Korea accedes to the OECD.
Dec. 15	United States and Japan reach agreement on access to Japan's insurance market.

Source: Compiled by the staff of the U.S. International Trade Commission.

core labor standards, developed an action plan for least-developed countries, urged conclusion of ongoing negotiations to liberalize telecommunications and financial services activities, and agreed to meet time frames for future negotiations on agricultural market access. The Singapore Ministerial conference is summarized in chapter 2.

Major work of the WTO in 1996 centered on organizational work of committees, notifications by members, new accessions, and dispute settlement. Many committees observed that notifications by members, which are essential for assessing compliance with WTO obligations, continued to lag. During the year, 16 countries acceded to the organization and another 33 pursued membership at various stages of the accession process. WTO membership reached 128 by yearend. The WTO's dispute settlement mechanism was particularly active. Over 60 requests for consultations have been made to the dispute settlement body since its inception in January 1995, with seven disputes under consideration by panels and four final panel results under review by the WTO Appellate Body. Developments in the WTO are summarized in chapter 2.

NAFTA and other Regional Trade Agreements

NAFTA completed its third full year of operation in 1996. Major issues involving NAFTA partners included U.S. restrictions on the operation of Mexican trucking firms in border states, Canadian tariffs on agricultural products, and U.S. imports of wool suits from Canada. NAFTA groups on environmental and labor aspects of the agreement held consultations regarding the effect of NAFTA on environmental protection and on labor markets. Impediments in Mexico to imports of telecommunications equipment were the subject of two bilateral disputes in 1996. In April, the United States said that Mexico was not in compliance with NAFTA obligations to accept test data on telecommunications equipment. Negotiations occurred, but by yearend Mexico had not implemented the agreed plan of action for resolving the U.S. complaint. In addition, a bilateral dispute over Mexico's proposed product standards for telecommunications equipment was not resolved by yearend.

In the APEC forum, members focused on developing individual and collective initiatives to

fulfill commitments made in 1995 in the Osaka Action Agenda. These action plans include trade and investment liberalization, trade and investment facilitation, and economic and technical cooperation. At their ministerial meeting during November 20-23, 1996, APEC members agreed on the Manila Action Plan for APEC, which integrated ongoing initiatives into one package. For a discussion of U.S. developments in NAFTA, APEC, and other regional trade agreements in 1996, see chapter 3.

Bilateral Trade Relations

Disputes over bilateral trade issues in 1996 covered a wide variety of topics. A disagreement with Canada over interpretation of WTO and NAFTA obligations on agricultural trade measures was resolved on December 2, 1996. At issue was whether Canada should apply tariffs on certain agricultural imports, as part of its WTO obligations to convert nontariff measures in agriculture to tariffs, or eliminate those new tariffs pursuant to commitments under NAFTA by the United States and Canada to remove tariffs on bilateral trade. A NAFTA dispute settlement panel ruled against the U.S. complaint. On May 29, 1996, the United States and Canada concluded an agreement that set terms for Canadian exports of softwood lumber to the United States.

U.S.-EU bilateral trade relations largely took place in the context of the New Trans-Atlantic Agenda. Progress was made on mutual recognition agreements, customs cooperation, and the information technology agreement. Bilateral disputes continued over the EU hormone ban and the EU banana import regime.

The ongoing U.S. embargo on imports of tuna from Mexico continued to be a source of bilateral discussion in 1996. A bilateral effort to bring Mexico's tuna fishing practices into conformity with the "dolphin safe" provisions of the Marine Mammal Protection Act failed to resolve the dispute. On another issue, on April 1, 1996, U.S. tomato growers filed a petition with the U.S. Department of Commerce and the ITC alleging that a domestic industry is materially injured or threatened with material injury by reason of less than fair value (LTFV) imports of fresh tomatoes from Mexico. On October 28, 1996, following preliminary affirmative determinations of material injury by the Commission and LTFV imports by Commerce, the United States and Mexico signed a 5-year suspension agreement to establish reference prices for most tomato imports from Mexico, and the antidumping investigation was suspended.

Bilateral negotiations with Japan, China, Taiwan, and Korea concentrated on preserving or expanding market access on a wide range of products and services. In Japan, talks centered on U.S. access to Japan's market for semiconductors, autos and parts, insurance, film, paper, and services. In the case of supercomputers, the United States expressed concern about whether Japan was implementing market-opening aspects of the bilateral supercomputer agreement. In addition, a proposed purchase of a supercomputer from Japan by the National Science Foundation resulted in the initiation of a U.S. antidumping investigation of vector supercomputers. On June 17, 1996, the United States and China reached agreement on enforcement of IPR protection in China. China agreed to close 15 factories producing pirated CDs and take several other steps to boost enforcement of IPR. On September 6, 1996, the United States imposed sanctions against China for illegal transshipment of textiles and apparel products from China to the United States. The dispute was resolved in early 1997 when both sides renewed their bilateral textile agreement. On October 1, 1996, the United States and Taiwan reached agreement to preserve market access for U.S. medical devices in Taiwan. A dispute with Korea over its procurement practices for telecommunications equipment led the United States on July 26, 1996 to identify Korea as a "priority foreign country" pursuant to section 1374 of the Omnibus Trade and Competitiveness Act of 1988. By yearend, the two sides had not reached agreement over the dispute, which could result in U.S. sanctions against Korea. Disputes with Korea over automobile market access, shelf-life standards for imported meats, and import clearance of fruits continued in 1996.

China and Taiwan continued to pursue membership in the WTO. The United States continued to insist that China accede to the WTO on "commercially viable" terms, in particular by conforming its trade regime to WTO obligations. WTO accession talks with Taiwan included U.S. requests for market access for automobiles, agriculture, tobacco, and alcoholic beverages. Bilateral trade relations with major U.S. trading partners in 1996 are discussed in chapter 4.

Administration of U.S. Trade Laws and Regulations

Administration of U.S. trade laws and regulations in 1996 are summarized in chapter 5. Developments in U.S. trade programs during the year included:

- The United States conducted investigations under its global and NAFTA bilateral safeguard

laws in 1996. In investigations of broomcorn broom imports, jointly conducted under both safeguard laws, the Commission made affirmative injury determinations on July 2, 1996. On the same day, in an investigation under its global safeguard law with regard to imports of fresh tomatoes and bell peppers, the Commission made a negative injury determination.

- Under the U.S. NAFTA-related trade adjustment assistance program, Department of Labor expenditures for FY 1996 reached $157.3 million, up slightly from 1995.

- Following final affirmative determinations by the Commission and the Department of Commerce, eight new antidumping and two new countervailing duty orders were issued in 1996. Under section 337, the Commission issued one general exclusion order following completion of an investigation, and three temporary limited exclusion orders.

- The United States Trade Representative (USTR) initiated nine section 301 investigations in 1996. These included investigations of Canadian practices affecting periodicals and practices affecting the automobile sector in Brazil and Indonesia.

- After a lapse of more than one year, the U.S. Generalized System of Preferences (GSP) program was extended retroactively in August 1996. In addition to extending the program to May 31, 1997, the legislation also amended the statute that authorizes the program in several respects, including the criteria used to determine the threshold for mandatory graduation of a country from the program.

- U.S. trade agreements activity in the textiles and apparel sector included U.S. implementation of new rules of origin for imports of textiles and apparel, as required by the Uruguay Round. In early 1997, the United States reached a new market access agreement with China, the largest supplier of U.S. imports of textiles and apparel products.

Trade Sanctions Activities

On March 12, 1996, the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 was signed into law. The law, also known as the Helms-Burton Act, was at the center of disputes with several U.S. trading partners during the year. The Libertad Act creates a private right of action in U.S. courts for U.S. nationals whose property was confiscated by the Cuban Government to sue Cuban governmental or foreign investors who profit from use of those properties. Several U.S. trading partners objected to the extraterritorial scope of the Act, noting that its provisions apply to an individual or company, regardless of nationality or country of residence. Canada and the EU, as well as Cuba, enacted legislation to block enforcement of the Libertad Act. The EU, after a series of consultations with the United States, formally requested establishment of a WTO dispute settlement panel to examine the Libertad Act. On November 20, 1996, the WTO Dispute Settlement Body agreed to establish the panel, whose members were named in January 1997. However, on April 11, 1997, the United States and the EU reached a settlement under which both sides agreed to work cooperatively to develop, by October 1997, binding disciplines on dealings in property confiscated in Cuba. As part of this settlement, the EU suspended the WTO panel—but retained the right to reinstate it.

The United States took a number of other actions in 1996 relating to trade and economic sanctions. On January 16, 1996, a portion of economic and trade sanctions against certain areas of the former Yugoslavia were lifted. An exception to sanctions on trade with Iraq came into force on December 10, 1996. The exception allows limited petroleum imports from Iraq and export of certain humanitarian items to that country. Actions were taken to reinforce economic sanctions against Cuba, Iran and Libya. For a discussion of the Helms-Burton Act and other major U.S. trade sanctions activity in 1996, see chapter 6.

The International Economic Environment and World Trade in 1996

International Economic Environment

World economic growth strengthened slightly in 1996. World real output is estimated to have grown by 3.8 percent in 1996 compared with 3.5 percent in 1995.[3] In the United States, Canada, and the EU inflation remained relatively low and stable albeit moderate rates of economic expansion largely prevailed. Table 1-1 shows economic indicators of the United States and selected U.S. trading partners.

Table 1-1
Comparative economic indicators of the United States and specified major trading partners, 1995-96

Country	Real GDP[1]		Inflation[1]		Unemployment[2]		Government budget balance[3]		Merchandse trade balance		Current account balance[3]	
	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996
	Percent change from previous period				*Percent*		*Percent*		*Billion dollars*		*Percent*	
G-7 countries												
United States	2.0	2.4	2.4	2.1	5.6	5.4	-2.0	-1.6	-173.4	-187.2	-2.0	-2.1
Canada	2.3	1.5	1.6	1.4	9.5	9.6	-4.1	-2.7	22.3	28.8	-1.5	0
Japan	0.9	3.6	-0.5	0	3.2	3.3	-3.3	-4.1	131.2	86.8	2.2	1.4
Germany	1.9	1.1	1.9	1.7	9.4	10.3	-3.5	-4.1	70.3	73.5	0.7	0.7
United Kingdom	2.4	2.4	2.6	2.6	8.2	7.6	-5.7	-4.8	-18.3	-21.2	-0.4	-0.1
France	2.2	1.3	1.6	1.8	11.7	12.4	-4.8	-4.1	10.8	18.9	1.1	1.3
Italy	3.0	0.8	5.7	4.2	12.0	12.2	-7.1	-6.7	44.0	60.2	2.5	3.5
European Union	2.5	1.6	3.0	2.6	11.2	11.4	-5.2	-4.6	136.8	165.9	0.7	1.0
Mexico	-6.9	4.0	39.1	35.0	6.3	6.0	n/a	n/a	7.1	7.4	-0.2	0
Total OECD	2.0	2.4	5.1	4.4	7.8	7.8	-3.5	-3.3	111.6	83.6	0	-0.1
China	10.2	9.5	14.8	6.5	n/a	n/a	n/a	n/a	n/a	n/a	0.3	-1.2
Taiwan	5.9	5.6	3.7	3.1	n/a	n/a	n/a	n/a	13.6	12.9	1.9	1.8
Korea	9.0	6.6	4.5	5.1	n/a	n/a	n/a	n/a	-4.7	-12.0	-2.5	-4.4
Hong Kong	4.6	4.5	8.7	6.8	n/a	n/a	n/a	n/a	-19.7	-20.9	-2.3	-2.4
Singapore	8.8	6.5	1.8	1.6	n/a	n/a	n/a	n/a	0.9	-2.0	15.2	13.3
Thailand	8.6	7.3	5.8	5.7	n/a	n/a	n/a	n/a	-10.1	-13.0	-8.2	-8.4
Malaysia	9.5	8.2	3.4	3.7	n/a	n/a	n/a	n/a	0.3	1.8	-8.0	-7.5

[1] Private consumption deflators percent change from previous year.
[2] Percent of total labor force.
[3] Financial balances as a percent of GDP.

Note.—1996 data projected by the OECD.

Source: *OECD Economic Outlook*, 60, December 1996.

In the United States, real output grew by an estimated 2.4 percent in 1996,[4] faster than the 2.0 percent growth rate realized in 1995. The growth was attributed to increased consumer spending in the first half of the year, rising investment spending, particularly on computers and information-processing machines, and both relatively lower long-term interest rates and subdued inflation. Inflation registered 2.1 percent.[5] Fixed investment was boosted by a moderation in unit labor costs based on a surge in labor productivity.[6] The Federal budget deficit was estimated by the Congressional Budget Office to have declined to $116 billion in 1996 from $164 billion in 1995.[7]

In major U.S. trade partners, output generally grew slower than in the United States. In Canada, economic growth slowed to 1.5 percent in 1996 compared to 2.3 percent in 1995. In the EU, with the exception of the United Kingdom, output growth was weak with relatively high unemployment. A slowdown in domestic and public investment spending weakened economic growth in several member countries. Monetary stability has been achieved although at lower levels of domestic growth. In 1996, foreign exchange rates returned to levels consistent with balanced growth following the market turbulence during the spring of 1995. In Japan, the economy recovered moderately, boosted by a rise in domestic demand largely induced by intensive public sector investment and expanding housing construction.[8]

Growth in developing and emerging economies in 1996 was mixed. In Latin America (including Mexico and the countries of the Caribbean, Central America, and South America), aggregate GDP grew in 1996 by 2.7 percent. In the Pacific Rim, economic activity continued to expand in 1996, particularly in China, Korea, Taiwan, Singapore and Thailand.

U.S. Balance of Payments Position

The U.S. current account deficit grew to about $165.1 billion in 1996 (see table 1-2). The deficits on the merchandise trade and investment income were partially offset by an increase in the surplus on services. The U.S. deficit on income from foreign investment grew in 1996 as payments on foreign assets in the United States increased to about $205.3 billion, whereas receipts from U.S. assets abroad increased to about $196.6 billion. Net inflows of foreign capital into the United States increased in 1996 to $218.3 billion. Both U.S. purchases of foreign assets and securities and foreign purchases of U.S. assets and securities expanded. The surplus on services trade rose to about $73.5 billion. The U.S. deficit on goods and services was about $114.2 billion.[9]

U.S. Trade in 1996

U.S. merchandise exports reached $612 billion in 1996, up from $576 billion in 1995. Imports rose to $800 billion, up from $749 billion in 1995. The U.S. merchandise trade deficit with the world rose from $173 billion in 1995 to $188 billion in 1996. The majority of U.S. exports consisted of manufactured goods, which accounted for 68.4 percent of U.S.

Table 1-2
U.S. trade and current account balances, 1995-96
(Billion dollars)

	1995	1996
Merchandise exports	575.9	611.7
Merchandise imports	-749.4	-799.3
Balance on merchandise trade	-173.4	-187.7
Balance on services	68.4	73.5
Balance on goods and services	-105.1	-114.2
Balance on investment income	-8.0	-8.4
Balance on goods, services, and income	-113.1	-122.6
Unilateral transfers	-35.1	-42.5
Balance on current account	-148.1	-165.1
U.S. assets abroad, net, outflow (-)	-307.9	-306.8
Foreign assets in the U.S., net, inflow (+)	424.5	525.1
Net capital inflows (+), outflows (-)	116.6	218.3
Income receipts on U.S. assets abroad	182.7	196.6
Income payments on foreign assets in the United States	-190.7	-205.3

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *U.S. International Transactions, fourth quarter and year 1996*, BEA 97-06.

exports in 1996 (figure 1-2). Chemicals accounted for 10.6 percent of exports, followed by food (9.3 percent), fuel and raw materials (7.5 percent) and all other goods (.4.2 percent). The majority of U.S. imports were manufactured goods (73.9 percent), followed by fuel and raw materials (12.1 percent), chemicals (5.8 percent), food (4.6 percent), and all other goods (3.6 percent).

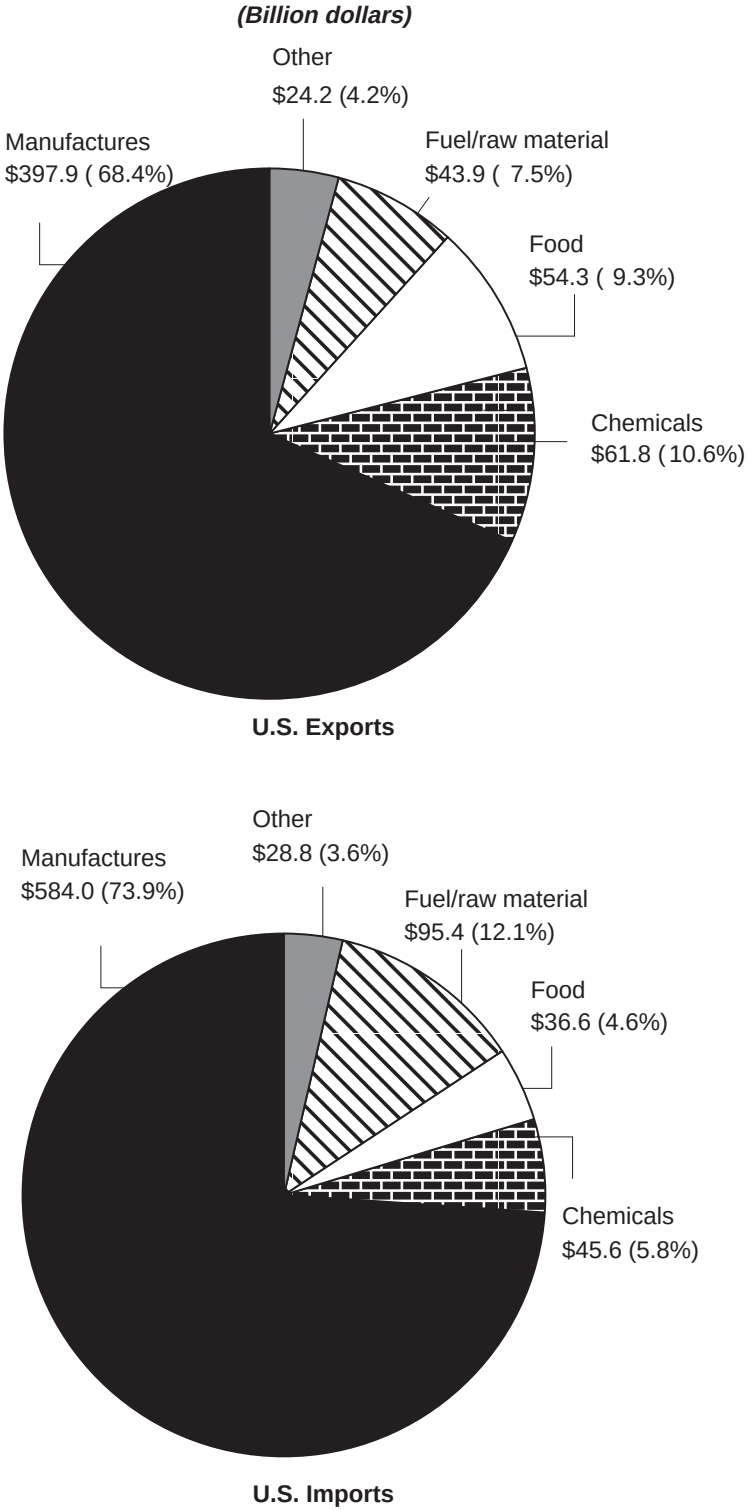
Figure 1-3 lists U.S. exports, imports, and trade balances with major trading partners in 1996. Trade with NAFTA countries accounted for about 30 percent of total U.S. imports and exports. Of the $208 billion trade deficit in 1996, Japan accounted for $51 billion, followed by China ($39 billion), Canada ($37 billion), the EU ($22 billion), Mexico ($19 billion), and Taiwan ($13 billion). The United States registered a trade surplus of $3 billion with Korea in 1996.

U.S. exports and imports with the world grew by nearly 7 percent in 1996. With the exception of Mexico, where U.S. exports grew by over 22 percent, U.S. exports to major trading partners grew relatively slowly in 1996, and U.S. exports to Taiwan fell by 11 percent. U.S. imports from Mexico grew by 20 percent, and imports from China grew by 12 percent. U.S. imports from Japan fell by 7 percent while imports from Korea fell by 8 percent.

World Trade

The United States ranked as the world's largest merchandise exporter in 1996 followed by Germany and Japan. World trade in goods and services grew at a faster rate than world output in 1996 according to IMF forecasts.[10] World trade volume is estimated to have grown by 6.7 percent in 1996, down from the 8.9 percent growth in the previous year. Trade growth in 1996, however, was above the average annual gains of the previous ten years, and exceeded the 3.8 percent growth in world output.

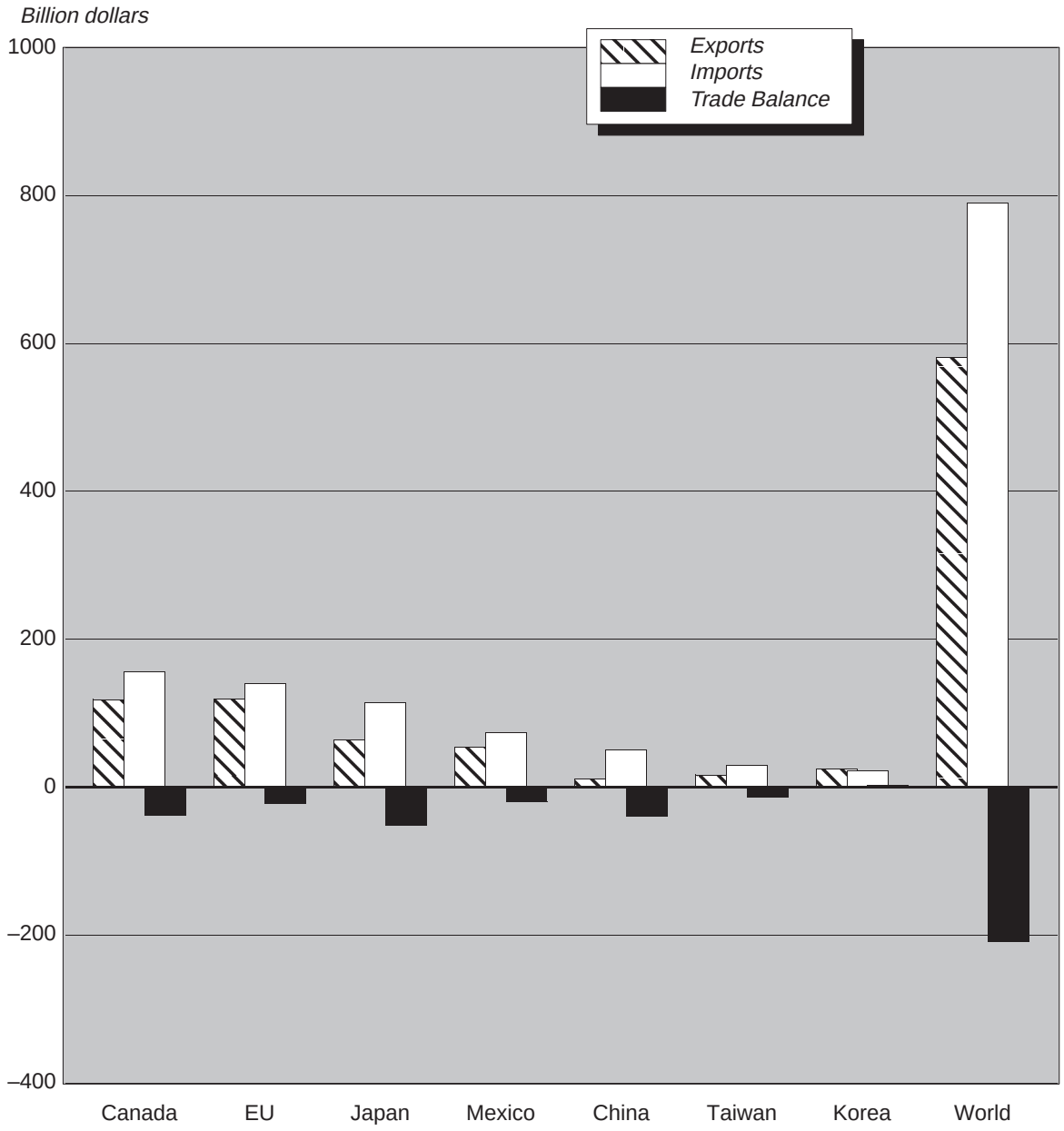
Figure 1-2
U.S. merchandise trade with the world, by product sectors, 1996



Note.—Because of rounding figures may not add up to the totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Figure 1-3
U.S. merchandise exports, imports, and trade balance (customs value basis) with major trading partners, 1996



Major trading partners	*Exports*	*Imports*	*Trade balance*
Canada	$119	$156	$-37
EU	120	141	-22
Japan	64	115	-51
Mexico	55	74	-19
China	12	51	-39
Taiwan	17	30	-13
Korea	25	23	3
World	582	790	-208

Source: Compiled from official statistics of the U.S. Department of Commerce.

ENDNOTES

[1] Section 163(b) of the Trade Act of 1974 (Public Law 93-618, 88 Stat. 1978) states that "the International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program."

[2] Executive Order No. 11846, Mar. 27, 1975.

[3] International Monetary Fund (IMF), *World Economic Outlook*, Oct. 1996.

[4] According to the Federal Reserve Board forecast.

[5] BEA, *U.S. Department of Commerce News*, BEA 96-05, Gross Domestic Product 1996 (Advance), and *Federal Reserve Bulletin*, Jan. 1997.

[6] U.S. Department of Labor, Bureau of Labor Statistics.

[7] *Economic Report of the President*, February 1997.

[8] *OECD Economic Outlook*, 60, December 1996.

[9] BEA, *U.S. International Transactions: Fourth Quarter and Year 1995, Current Account*, BEA-96-07.

[10] *IMF World Economic Outlook*, October 1996 and WTO/GATT Press Release, Mar. 22, 1997.

CHAPTER 2
Trade Activities in the WTO and the OECD in 1996

Singapore Ministerial Conference

This chapter reviews activities of the World Trade Organization (WTO) in 1996. It also describes the trade-related activities of the Organization for Economic Cooperation and Development (OECD) for that year. The WTO is the principal body for negotiation, implementation, and dispute settlement of international trade agreements. WTO activities reviewed in this chapter include the Singapore Ministerial Conference (SMC) and regular WTO committee activity. The SMC, the first biennial gathering of WTO trade ministers, took stock of activities of the organization during its first two years of operation and set an agenda for future WTO work. Throughout the year, actions by standing WTO committees concentrated on implementation of WTO commitments by members as well as organizational issues. The OECD provides a forum for consultation and policy coordination on economic and trade issues of interest to members. In 1996, OECD activities included discussions on so-called new trade agenda issues on the links and interaction between trade policy and a number of areas traditionally considered domestic policy issues, including environmental policies, investment, competition policy, and labor.

The World Trade Organization

The WTO provides a permanent forum for member governments to address their multilateral trade relations as well as facilitate the implementation of the trade agreements negotiated during the Uruguay Round. Figure 2-1 displays the organizational structure of the WTO. The following sections describe 1996 activities of the main WTO elements. In particular, activities of the General Council (including the Singapore Ministerial Conference, Multilateral Trade Agreements, and Plurilateral Trade Agreements) are summarized below.

General Council

The highest authority in the WTO structure is the Ministerial Conference, which is composed of representatives of all WTO members and is required to meet at the Ministerial level at least every two years. The General Council is the highest authority when a Ministerial conference is not in session, and thus directs the daily work of the WTO. The General Council also convenes in the following forms when carrying out tasks assigned to those areas—

- Dispute Settlement Body (DSB)
- DSB Appellate Body
- Trade Policy Review Body

The following major committees report directly to the General Council—

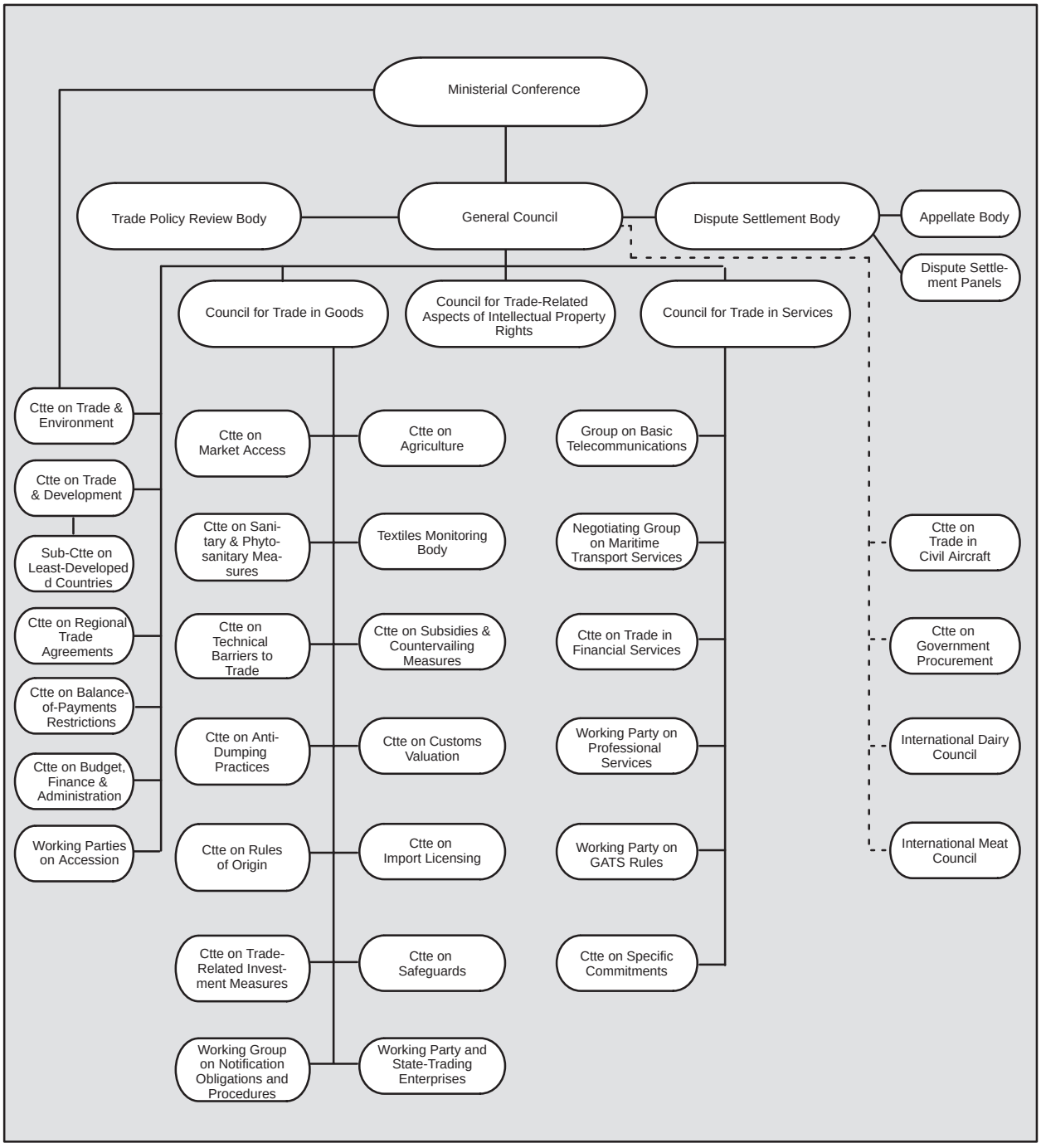
- Committee on Trade and Environment[1]
- Committee on Trade and Development[2]
- Committee on Regional Trade Agreements
- Committee on Balance-of-Payments Restrictions
- Committee on Budget, Finance, and Administration
- Working Parties on Accession

Multilateral Trade Agreements

Three subsidiary councils covering the WTO multilateral trade agreements answer to the General Council—

- Council for Trade in Goods
- Council for Trade in Services
- Council for Trade-Related Aspects of Intellectual Property Rights

Figure 2-1
WTO structure



Source: The World Trade Organization.

Council for Trade in Goods

The Council for Trade in Goods oversees the multilateral agreements on trade in goods (found in Annex 1A of the WTO Agreement[3]). The following agreements each have a committee or other body that answers to the Council for Trade in Goods concerning its respective agreement—

- General Agreement on Tariffs and Trade 1994 (GATT 1994)[4];
- Agreement on Agriculture;
- Agreement on the Application of Sanitary and Phytosanitary Measures;
- Agreement on Textiles and Clothing;
- Agreement on Technical Barriers to Trade;
- Agreement on Trade-Related Investment Measures;
- Agreement on Implementation of Article VI of the GATT 1994[5];
- Agreement on Implementation of Article VII of the GATT 1994[6];
- Agreement on Preshipment Inspection;
- Agreement on Rules of Origin;
- Agreement on Import Licensing Procedures;
- Agreement on Subsidies and Countervailing Measures; and
- Agreement on Safeguards

In addition, the following working parties also report to the Council for Trade in Goods—

- Working Group on Notification Obligations and Procedures, and
- Working Party on State-Trading Enterprises.

Council for Trade in Services

The Council for Trade in Services oversees the General Agreement on Trade in Services (or GATS, found in Annex 1B of the WTO Agreement). A number of committees, groups, and working parties report to the Council for Trade in Services concerning various aspects of services trade and ongoing negotiations—

- Committee on Trade in Financial Services;
- Committee on Specific Commitments;
- Group on Basic Telecommunications;
- Negotiating Group on Maritime Transport Services;
- Working Party on Financial Services; and
- Working Party on GATS Rules.

Council for Trade-Related Aspects of Intellectual Property Rights

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPs Council) oversees the Agreement by the same name (the so-called TRIPs Agreement, found in Annex 1C of the WTO Agreement). Each of the three WTO subsidiary councils (goods, services, and intellectual property) may designate additional bodies to help it carry out its task, although the TRIPS Council at present conducts business under the TRIPs Agreement without further breakdown.

Plurilateral Trade Agreements

In addition to committees directing the multilateral trade agreements, four plurilateral trade agreements were carried forward into the WTO from the previous regime under GATT 1947. The following plurilateral agreements have oversight committees or councils that are also required to report to the General Council—

- Agreement on Trade in Civil Aircraft;
- Agreement on Government Procurement;
- International Dairy Agreement; and
- International Bovine Meat Agreement.

The WTO Ministerial Conference

Introduction

The WTO held its inaugural Ministerial Conference in Singapore from December 9-13, 1996. The Conference's aim was to review the state of the multilateral trading system and to chart its future direction. More than 120 current or prospective WTO members attended the Singapore Ministerial Conference (SMC). Trade, Foreign, Finance, Agriculture, and other Ministers participated in the plenary and various multilateral, plurilateral and bilateral business sessions.[7]

Preparatory discussions during 1996 helped narrow some of the 40 informal proposals about what should be placed on the Singapore agenda. These proposals fell largely into five categories—Uruguay Round implementation, the built-in agenda, additional liberalization, least developed countries, and new issues. Figure 2-2 outlines the basic features of these Ministerial agenda items.

Figure 2-2
Agenda of the Singapore Ministerial Conference

Uruguay Round implementation

- Numerous reporting requirements for far-reaching and technically complex disciplines have made it difficult for many countries to comply both administratively as well as substantively with the up to 22 agreements that comprise the Uruguay Round Agreements (URA). The ministers' foremost priority at Singapore was to review the considerable backlog of notifications and consider what improvements could be made to help existing URA mechanisms work better to ensure full compliance with current obligations.

Built in agenda

- Services negotiations continued after the Dec. 1993 Uruguay Round conclusion in the areas of financial services, movement of natural persons, basic telecommunications, and maritime transport, and were scheduled to conclude respectively by June 1995, June 1995, April 1996, and June 1996. These sectoral negotiations have been extended for the most part due to inadequate concessions in the never-before-negotiated area of services. Ministers hoped that the SMC would reinvigorate these talks, especially those on basic telecommunications rescheduled to conclude in February 1997.

- In addition, the current URA contain provisions that already call for either new negotiations at specified future dates (agriculture, services by 2000) or for periodic reviews at various times of virtually every major agreement (e.g. textiles, subsidies, antitdumping, intellectual property, dispute settlement, the U.S. "Jones" Act) that set in motion implementation discussions that in effect amount to much the same thing.

- The Committee on Trade and Environment, established by the April 1994 Marrakesh Ministerial Conference, presented its initial findings to the SMC.

Tariff initiatives

- Australia and Canada proposed that the SMC act as catalyst to liberalize market access over and above that in the existing URA and "built-in" agenda negotiations, both calling formally for new tariff cuts on industrial products to be put on the WTO agenda.

- The EU and the United States advanced sectoral tariff elimination in pharmaceuticals and information technology—the latter leading to the Information Technology Agreement (ITA) presently set to enter into force on July 1, 1997 for completion by 2000.

Least developed countries

- Least developed countries (LLDCs) have not integrated themselves into the world economy over the past decade to the degree that developing countries have. Studies by the World Bank and others have concluded that some reforms in the URA could result in a worsening of the terms of trade for LLDCs. The WTO Director-General and several key developed country participants urged that the SMC highlight the plight of such countries and adopt measures to address this problem.

New issues

- Proposals for launching additional WTO work on "new" issues were put forward by various participants, with intense discussions of possible new issues for WTO consideration held before the SMC. Mentions of labor standards, regionalism, competition policy, investment, and government procurement reached the final declaration, whereas other issues were also discussed such as a review of WTO rules in light of the spread of regional trading blocs and the increased "globalization" of the world economy.

The United States sought commitments to further liberalize trade in information technology products, basic telecommunications, and financial services; to continue agricultural reform; to advance observance of internationally recognized core labor standards; to balance trade and environmental concerns; and to tackle such new topics as transparency in government procurement.[8] Another U.S. objective was that the meeting set a business-like tone for future Ministerials and demonstrate the WTO's credibility as a forum for meaningful consultation and continuous liberalization.[9]

According to Acting USTR Charlene Barshefsky, the SMC resulted in some important advances on a number of U.S. objectives, particularly with respect to information technology, government procurement, labor rights, basic telecom, and agriculture.[10]

In the Singapore Ministerial Declaration, the SMC's final outcome, WTO members committed themselves to an open, rules-based trading system and to observe internationally recognized core labor standards. The declaration stressed members' resolve to fully implement Uruguay Round rulemaking, liberalization, and notification commitments as well as those on settlement of disputes; called for completion of the so-called built-in agenda of the Uruguay Round, including outstanding negotiations on basic telecommunications and financial services; recognizes efforts to further lower tariffs; and launched exploration of WTO work into areas of investment, competition policy, transparency in public procurement, and trade facilitation.

Ministers from 28 current and prospective WTO members also issued a Declaration on trade in information technology products.[11] The Declaration, also known as the Information Technology Agreement (ITA), had been sought by the United States. The declaration calls for the elimination of tariffs on certain information technology products.

The Singapore Ministerial Declaration

The Ministerial Conference reached consensus on a Declaration by the concluding session on December 13, 1996. The Singapore Ministerial Declaration,[12] which will shape the work of the WTO over the coming 2 years, covers—

- Trade and economic issues, including the importance of trade to economic growth, sustainable growth and development, and topics of concern to developing and least-developed countries;

- Multilateral trading issues, including the challenges posed by growing integration among national economies, regional trade agreements, services negotiations, tariff elimination on information technology and pharmaceutical products;

- WTO institutional issues, including implementation, accession, and the primacy of WTO dispute settlement in the conduct of trade relations and settlement of disputes; and

- Other issues, including core labor standards, textiles and clothing, trade and the environment, and future work.

Uruguay Round Implementation

Many WTO members, including the United States, felt strongly that existing provisions such as implementation and the built-in agenda should be the principal focus of Ministers' attention at the SMC.[13] While noting the existence of dissatisfaction with certain aspects at Singapore, Ministers termed overall progress in implementation "generally satisfactory."[14] Compliance with notification requirements, a critical part of proper URA implementation, "has not been fully satisfactory," the Ministers said. Ministers urged countries to renew their efforts to become current in their notification obligations while supporting efforts by relevant bodies to simplify the notification process.[15]

Ministers also recognized the importance of integrating developing countries into the world trading system, and the significant new commitments made by developing countries in the Uruguay Round. They pledged to improve technical assistance to such members in making needed legislative changes and preparing required notifications.[16]

One major concern to developing countries has been implementation of the Agreement on Textiles and Clothing (ATC), which mandates integration of textiles and apparel trade into multilateral trade rules and phases out the use of import quotas on textiles and apparel.[17] Exporting countries, represented largely by the International Textiles and Clothing Bureau (ITCB), raised a number of concerns that they felt deserved Ministerial attention. These concerns included

complaints about integration programs that have postponed liberalization of trade in most commercially meaningful items,[18] perceived abuses of the agreement's special safeguard measures, changes in rules of origin by the United States that have negatively affected their trade, and a lack of transparency in decisionmaking by the WTO Textiles Monitoring Body, which oversees the ATC.

Importers said they had fully met agreed commitments and complained that sufficient account was not being taken of the gradual liberalization already taking place via required increases in quota levels. They had their own implementation concerns, namely that developing countries had neither taken steps to improve market access and to maintain fair and equitable trading for textiles, as called for in Art. 7 of the ATC, nor had they taken sufficient steps to prevent quota circumvention. Regarding special safeguards, it was noted that the United States has only applied one new measure since mid-1995.[19]

The Singapore Ministerial Declaration confirms member commitments to full and faithful implementation of the ATC, stresses the desirability of progressive integration of textiles and apparel trade into multilateral trade rules, states that use of safeguard measures should be "as sparing as possible," and notes concerns raised regarding trade distortive measures and circumvention.[20]

The Built-In Agenda

The URA commits WTO members to undertake additional negotiations and review existing disciplines. This so-called built-in agenda includes negotiations on specialized services industries and an examination of whether and how the trading system can better support environmental objectives (see table 2-1). At Singapore, Ministers reviewed the status of recently launched work on the environment, committed to conclude ongoing negotiations on services, and agreed to a program of analysis and information exchange in advance of scheduled negotiations on agriculture and other topics.

Environment

In response to growing concern over conflicts between environmental and trade policy objectives, the 1994 Marrakesh Ministerial directed the WTO to establish a Committee on Trade and Environment (CTE)[21] to examine the relationship between trade and environmental measures and to recommend modifications to the multilateral system that promote the goal of "sustainable development."

The CTE reported to Ministers on the status of its discussions on eight separate work items and made several recommendations.[22] The principal recommendation was that the work of the Committee continue under its existing terms of reference. The CTE report also encourages multilateral solutions to environmental problems of a transboundary or global nature, notes the benefit of improved coordination between national trade and environmental policy makers, encourages continued cooperation between the WTO Secretariat and the Secretariats of multilateral environmental agreements (MEAs), and urges members of MEAs to first seek resolution of any dispute arising from imposition of a trade measure pursuant to the MEA under the MEA's dispute resolution mechanism.

The United States joined a consensus to adopt the report and appears to support its caution in certain areas, such as with respect to whether the WTO should be formally amended to take into account MEAs.[23] The positive elements cited by the United States included recognition in the report that trade measures may be needed to achieve environmental objectives, and that, subject to important conditions, the exceptions contained in Art. XX of GATT 1994 already allow a WTO member legitimately to place its public health and safety and national environmental goals ahead of its general obligation not to raise trade restrictions or apply discriminatory trade measures.[24] While noting the controversial issue of whether all ecolabeling programs[25] are covered by the WTO Agreement on Technical Barriers to Trade, the CTE stressed the importance of following its procedural requirements, including those on transparency, and of ensuring that foreign producers have fair access to ecolabeling schemes.[26] The United States registered disappointment, however, that "the CTE has not significantly advanced the understanding of environmental concerns" and that the Committee was as yet unwilling "to state that $WTO rules should not hamper the ability of MEAs to achieve their environmental objectives."[27]

At Singapore, WTO Ministers reviewed the work and terms of reference of the CTE. The Ministers agreed that the work of the CTE should continue under its existing terms of reference, that further work needs to be undertaken on all items of its work program, and that they would welcome further participation by environmental as well as trade experts in the Committee's deliberations.[28] Although the United States had proposed to the CTE that WTO Ministers endorse environmental reviews of trade agreements as

Table 2-1: Highlights of the WTO's Built-in Agenda

Year	Subject and Action Item
1996	**Net Food Importing Countries**: Ministers review the Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed Countries at the Ministerial Conference in Singapore **Environment:** Ministers receive report from Committee on Trade and Environment and decide whether to extend its mandate
1997	**Textiles and Clothing:** review of the implementation of the agreement **Preshipment Inspection:** review of the operation and implementation of the agreement **Basic Telecommunications Services:** conclusion of the negotiations on basic telecommunications by 15 February 1997 **Financial Services:** negotiations resume in April and conclude on 1 November 1997, at which time participants in the interim agreement may, for a period of 60 days, modify or withdraw all or part of their specific commitments and/or list MFN exemptions relating to financial services
1998	**Sanitary and Phytosanitary Measures:** review operation and implementation of the agreement **Technical Barriers to Trade:** review operation and implementation of the agreement **Intellectual Property Rights:** further negotiations start with a view to broadening and improving the agreement
1999	**Dispute Settlement Understanding:** full review of dispute settlement rules and procedures **Government Procurement:** further negotiations start with a view to improving the agreement and achieving the greatest extension of its coverage among all Parties on the basis of mutual reciprocity **Investment Measures:** review operation of the agreement and discussion on whether provisions on investment policy and competition policy should be included in the agreement
2000	**Agriculture:** negotiations for continuing the process of substantial progessive reductions in support and protection
2001	**Textiles and Clothing:** review implementation of the agreement
2004	**Textiles and Clothing:** review implementation of the agreement

Source: The World Trade Organization.

a means of bringing environmental awareness to bear when negotiating trade agreements,[29] the SMC Declaration was silent on the matter.[30]

Services

Negotiations are under way to establish general disciplines and to build upon market access commitments associated with the General Agreement on Trade in Services (GATS). Ministers termed the results of the various services talks thus far as "below expectations" and stated that, "We are determined to obtain a progressively higher level of liberalization in services on a mutually advantageous basis. . . . In this context, we look forward to full MFN agreements based on improved market access commitments and national treatment."[31]

They pledged to "achieve a successful conclusion of the negotiations on basic telecommunications in February 1997" and "to resume financial services negotiations in April 1997 with the aim of achieving significantly improved market access commitments with a broader level of participation in the agreed time frame."[32] Ministers added that they would aim at completing work on accountancy and on new safeguards disciplines under the GATS by yearend 1997. They looked forward to successfully concluding negotiations on maritime transport "in the next round of services liberalization."[33]

Agriculture and IPR

Negotiations on broadening and improving the TRIPs agreement are to begin in 1998. Negotiations on continuing the process of reducing agricultural support and protection are to begin in 2000. Agricultural exporters, led by Argentina, had urged formal preparatory work for the negotiations, whereas some importers with heavily protected domestic markets, such as Japan and Korea, were described as being reluctant to begin discussing renewed liberalization. In the Singapore Declaration, the WTO Ministers agreed to a process of analysis and information exchange on such built-in agenda issues, noting that the work undertaken "shall not prejudge the scope of future negotiations."[34] Acting USTR Charlene Barshefsky stated that, "Today's Ministerial Declaration guarantees that negotiations to continue the reform process in a number of areas, including agriculture, will remain consistent with the timetable agreed to in Marrakesh," thus offering the United States an opportunity to address remaining obstacles to U.S. agricultural exports, particularly import barriers, state trading, export subsidies, and unjustifiable sanitary and phyto- sanitary regulations.[35]

Tariff Initiatives

Introduction

Although fulfilling existing provisions under the URA was considered of prime importance, a number of WTO members sought to extend the scope of the multilateral trade system by reaching agreement on further liberalization of trade in information technology, as well as helping to better integrate the least developed countries into the expanding world trade system, and introducing "new" issues for consideration as part of the WTO work program.

The Ministers welcomed two tariff initiatives taken by a number of present and prospective members. They noted that in a separate declaration, 28 countries or customs territories had agreed to eliminate tariffs on trade in information technology products on an MFN basis. In addition, the Ministers noted, over 400 products had been added to the previously-agreed "zero-for-zero" initiative on pharmaceuticals. Although Canada and Australia had urged that industrial tariff liberalization be added to the WTO's built-in agenda, no mention of such a change was made in the final declaration.

Information Technology Agreement

Acting USTR Charlene Barshefsky singled out the Information Technology Agreement (ITA) as a top priority for the United States at the Singapore Ministerial.[36] Worldwide production of information technology products amounted to nearly $1 trillion in 1995 as trade in such products reached nearly $500 billion,[37] a figure that makes information technology trade comparable to the value of world trade in agricultural products. Seven countries or regional economic groups account for the bulk of world information technology trade, according to the WTO: Japan, the United States, the EU, Singapore, Korea, Malaysia, and Taiwan.[38] For a discussion of the origins of the ITA, see figure 2-3.

Outcome at Singapore

Agreement on product coverage and the schedule for phasing out tariffs remained the major hurdles to concluding the ITA at Singapore. After intensive negotiations, on December 12, 1996, the United States and the EU announced a plan to eliminate tariffs on ITA products. Specifically, they had established the list of products to be included in the ITA. Various

Figure 2-3
Origins of the Information Technology Agreement

Negotiation of an ITA was formally launched at the U.S.-EU summit in Madrid in December 1995. The initiative was just one of a large number of economic, political, and security measures announced in the New Trans-Atlantic Agenda to reinvigorate the trans-Atlantic partnership. Building on the recommendations of the U.S. and EU business, the two sides committed to seek an agreement eliminating tariffs on information technology products by the year 2000. The products proposed such an agreement included computer hardware, semiconductors and integrated circuits, computer software, telecommunications equipment, parts for these products, and other information technology equipment.

At their April 1996, meeting in Kobe, Japan, trade ministers from the United States, EU, Japan, and Canada (the so-called Quad countries) endorsed the concept of an ITA and agreed to attempt to complete negotiations before the December 1996 WTO Ministerial with a view to initiating tariff reductions on ITA products in 1997. Ministers also agreed that as many countries as possible outside the Quad should participate in the ITA, particularly APEC members such as Korea, Taiwan, Malaysia, Indonesia, Thailand, the Philippines, Singapore, and China. Quad ministers tasked negotiators to work on product coverage.

However, at the same time, progress on the ITA was held up by the EU request for a "balanced" agreement and by linking negotiations with other nontariff matters. EU concern focused on the possibility that the ITA would require the EU to grant more significant tariff concessions than the other Quad members. For example, whereas the United States and Japan agreed in 1985 to apply zero rates on semiconductors, EU tariffs on semiconductors today range from 0 to 7 percent (the duty on smart cards is 14 percent). As a result, the EU demanded that the ITA be a "balanced agreement" and grant "mutual benefits" by including tariff cuts in other sectors. Southern EU-member states in particular withheld support for the ITA unless they would be compensated for tariff concessions.

EU efforts to link ITA progress to other activities focused on EU participation in the U.S.-Japan Semiconductor Arrangement. The EU stated that the only acceptable result from the semiconductor negotiations would be "the establishment of future industry-to-industry and government-to-government cooperation on a tri- or plurilateral basis from the very start, without any form of conditionality . . . ." According to EU officials, EU semiconductor manufacturers strongly supported the linkage so that they could not be excluded from the benefits of the agreement. The EU also tried to link ITA support with progress on negotiations to conclude Mutual Recognition Agreements (MRAs) in a number of sectors. Despite these demands, the United States insisted that the ITA was a separate, simple tariff exercise and concluded a semiconductor agreement with Japan on August 2.

Following conclusion of the semiconductor arrangement, U.S. and EU officials committed to explore how the EU could join the semiconductor accord while making a commitment to conclude an ITA. Progress was difficult, as some EU member states continued to object to the ITA. The United States was determined, however, not to move forward without EU support. Otherwise, tariff cuts on a most-favored-nation (MFN) basis under an ITA would permit the EU to be a free rider.

A resolution was finally agreed, which allowed Quad ministers to formally endorse the ITA at their meeting September 27-28, 1996. The United States and Japan agreed to delay meetings scheduled under the U.S.-Japan Semiconductor Arrangement until March, 1997, which would permit EU participation after conclusion of the ITA. Quad ministers pledged to "work together urgently to conclude the ITA by the Singapore Conference."

Soon after the Quad meeting, the EU-member states offered their support and granted the EU Commission a mandate to negotiate the ITA. On November 25, 1996, APEC Leaders called for conclusion at the SMC of an ITA that would "substantially eliminate" tariffs by the year 2000.

products had proved problematic for one side or the other, and several such products, such as optical fiber cables, were not included in the final product list. Moreover, the United States and the EU had yet to agree upon the staging schedule for eliminating tariffs on such key products as semiconductors and local area network equipment.

In return for EU acceptance of the ITA, the United States tentatively agreed with the EU to eliminate import tariffs on brown distilled spirits such as cognac and whiskey by the year 2000 as well as to abolish tariffs on white spirits, such as gin, as well as liqueurs, over five years beginning in 1997.[39] Details of this agreement were scheduled be worked out in early 1997. With this tentative bilateral deal, attention turned to attracting additional signatories to the ITA.

On December 13, 1996, a total of 28 WTO current or prospective members, representing about 85 percent of global information technology trade,[40] issued a Ministerial Declaration on Trade in Information Technology Products. Among other things, participants declared their intention to bind and eliminate customs duties and other duties and charges on specified ITA products listed in the Annex. The 28 participants were Australia, Canada, the European Union (on behalf of its 15 member states), Hong Kong, Iceland, Indonesia, Japan, Korea, Norway, Taiwan, Singapore, Switzerland, Turkey, and the United States. An Annex to the Declaration describes modalities for tariff elimination and contains two attachments with product descriptions.

The Ministers instructed their respective officials to make good faith efforts to conclude technical discussions on product coverage and staging in Geneva and to complete this work by January 31, 1997, "so as to ensure the implementation of this Declaration by the largest number of participants." In addition, they invited other members of the WTO to join the technical discussions and become participants in the ITA. Nonparticipants will not be eligible to take part in the regular meetings envisaged to review ITA implementation and coverage.[41] In addition to the 28 countries formally signing the December 13, 1996, ITA Declaration, Malaysia, the Philippines and four other countries reportedly have signaled their intention to join the agreement. Together these six countries comprise about 6 percent of global information technology trade.[42]

The Declaration stated that elimination of tariffs and other duties was to be accomplished in equal stages beginning in 1997 and concluding in 2000. It was, however, recognized that "extended staging of reductions and, before implementation, expansion of product coverage may be necessary in limited circumstances."[43] Participants that are WTO members are to bind these concessions in their national tariff schedules to GATT 1994 and, by virtue of doing so, to apply such concessions on an MFN-basis. Non-WTO members are to implement these measures on an autonomous basis and incorporate them into their WTO market access schedule for goods upon WTO accession.[44]

In addition to eliminating tariffs, several provisions of the ITA are intended to address concerns over nontariff measures. The Declaration states that "Each party's trade regime is to evolve in a manner that enhances market access opportunities for information technology products." The regular meetings called for in the Agreement are to include consultations on nontariff barriers to trade in information technology products. WTO dispute settlement will be available to participants believing their anticipated benefits under the ITA are being nullified and impaired, whether or not the measure in question conflicts with provisions of the GATT 1994. Participants agreed to afford sympathetic consideration to requests for consultations concerning the undertakings outlined in the ITA.[45]

Differences over classification of ITA products have also led to trade tensions, for example, in the case of EU reclassification of local area network equipment imported from the United States, which is now the subject of WTO dispute settlement. In an effort to avoid such problems in the future, ITA participants agreed on achieving, where appropriate, a common classification of these products within existing HS nomenclature. The use of two product lists, with both equally binding on participants, was also intended to rectify such problems. The "A" list is presented in customs nomenclature terms; the "B" list—also referred to as the product "landscape"—is presented in commercial terms for additional clarification. The goal was to achieve maximum certainty of product coverage in a sector hallmarked by rapid technological change and continual product advances.

The ITA breakthrough at Singapore was highlighted by Acting USTR Barshefsky as the principal achievement at the SMC,[46] and welcomed by various leading U.S. firms and associations as a valuable step offering concrete benefits to both producers and consumers.[47] The American Electronics Association estimated that in 1995 U.S. exports of products affected by ITA tariff elimination were $76.5 billion and that tariffs paid by U.S. information technology exporters averaged $5 billion. ASEAN, the EU, and Asian Newly Industrialized Economies (Hong Kong, Korea, and Taiwan) account for the bulk of such tariff charges.[48] Two leading U.S. information

technology firms, Compaq and IBM, estimated that on a global basis they will save over $100 million each as a result of the tariff elimination envisaged in the ITA.[49]

ITA Timetable

Final conclusion and formal implementation of the ITA is slated to occur in 1997 provided that the rate of participation and staging are acceptable to participants. The following steps are envisaged in the Declaration and its Annex before the ITA is implemented on the target date of July 1, 1997—

- Talks on the phasing-in of tariff cuts as well as any additions to product coverage and country participation are to be concluded by January 31, 1997.
- Modifications to tariff schedules are to be submitted to other participants by March 1, 1997.
- Reviews and consensus approval of tariff schedules are to be completed by April 1, 1997. Also by that date, a meeting is to be convened under the auspices of the WTO Council on Trade in Goods to review the state of acceptances. Participants are to implement the agreed changes "provided that participants representing 90 percent of world trade in information technology products have notified their acceptance, and provided that the staging has been agreed to the participants' satisfaction." The WTO will calculate the share of world trade covered.
- Each participant is to submit the approved modifications to its tariff schedule to the WTO. In accordance with WTO rules, these changes may be implemented after a 90-day period elapses. Thus, in order to be implemented on July 1, 1997, the WTO would need to be notified of the proposed modifications by April 1, 1997.
- Participants are to meet by September 30, 1997 to consider divergences in classification of information technology products.[50]

Pharmaceuticals

During the Uruguay Round, the United States and 16 other major trading countries had agreed to the reciprocal elimination of duties on over 6,000 pharmaceutical products and chemical intermediates (the latter to be used primarily for the production of pharmaceuticals) and their derivatives. The agreement was a result of a "zero-for-zero" initiative by the United States, whereby it offered to eliminate tariffs in particular sectors in return for reciprocal commitments by other trading partners.[51] The 17 countries participating in the pharmaceutical zero-for-zero agreement also agreed to conduct a review, at least once every 3 years, to identify products to be added by consensus to the national market-access schedules section concerning pharmaceuticals.[52]

The first review was conducted under the auspices of the WTO Council for Trade in Goods. The review resulted in agreement on the addition of 262 pharmaceutical and 234 intermediate products to the list of products, as well as the deletion of 25 products from the previously agreed list that had erroneously been included in the prior agreement. The 496 products and their derivatives, as specified, are to be provided duty-free treatment once the agreement is implemented. On October 11, 1996, the WTO was notified of these changes via a communication from the EU on behalf of the members concerned (the United States among them).[53] The notification said that it had been agreed that duty-free treatment on the extra products and their derivatives would be implemented by April 1, 1997.

Least-Developed Countries

At Singapore, Ministers adopted a draft WTO Plan of Action for the Least-Developed Countries, aimed at providing a comprehensive approach for measures taken in favor of these countries. Least-developed countries (LLDCs) have been designated since 1971 by the United Nations Economic and Social Council on the basis of per capita income as well as more recently by a number of other socioeconomic indicators.[54] Initiatives similar to the WTO action plan have been launched by other multilateral agencies, including the United Nations Conference on Trade and Development (UNCTAD), the World Bank, and the International Monetary Fund.

The WTO action plan foresees closer cooperation between the WTO and other multilateral agencies, such as those that are engaged in promoting growth in the LLDCs, through better coordination of national and international aid efforts, appropriate macroeconomic policies, and improved market access and supply-side measures. The WTO has already been directed toward this goal by several ministerial decisions and declarations taken under the Uruguay Round Agreements—

- the Decision on Measures in Favor of Least-Developed Countries;

- the Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking; and

- the Decision on Measures concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries.

The action plan agreed at Singapore focuses on three main elements: implementation of the Decision on Measures in Favor of Least-Developed Countries, human and institutional capacity-building in LLDCs, and possible improvements in market access. Under the first element, WTO members will step up efforts to help LLDCs meet their notification obligations. In addition, the WTO Committee on Trade and Development will review implementation of the decision and promote more broadly the provisions under the URA that favor LLDCs. Under the second element, WTO members will give LLDCs priority when providing technical assistance and will cooperate closely with other multilateral agencies to help build human and institutional capacity in the trade area. This activity will include training courses for public and private sector representatives and others supporting export diversification. Under the third element, ministers were presented with an array of options from which they might choose that could improve the market access in developed countries for exports from LLDCs. These possibilities include granting duty-free access to LLDC exports, making use of the provisions of the WTO Agreement on Textiles and Clothing to provide LLDCs with increased market access opportunities, extending benefits to LLDC suppliers unilaterally, and providing preferential market access to LLDC exports. In addition, the WTO Secretariat will assist nonmember LLDCs wishing to accede to the WTO in drawing up their Memorandum of the Foreign Trade Regime and their schedules of concessions in goods and commitments in services.

New Issues for WTO Consideration

A number of proposals for new WTO work were put forth at Singapore and are set out here in order of their appearance in the ministerial declaration.[55] These topics reflected various members' priorities for work beyond the WTO's built-in agenda.

Core Labor Standards

At Singapore, Ministers declared—

> *We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.*[56]

The Clinton Administration had placed priority on trade and labor standards among the new issues to be discussed at Singapore. It had unsuccessfully sought to have a working party set up to examine the matter at the April 1994 Marrakesh Ministerial, which closed the Uruguay Round. Observance of core labor standards[57] was a matter of concern as the administration considers domestic labor groups are increasingly unlikely to support the trade liberalization needed to spur global growth.[58]

A study released by the OECD in May 1996 examined the relationship between core labor standards and trade flows. Based on a review of available literature addressing a range of possible linkages, it concluded that concerns by developing countries that observing core labor standards would undermine their economic performance or competitive position were probably unfounded. Instead, it said, observance of core labor standards may actually reinforce long-term development prospects.[59]

In large measure supported by Norway, the United States initially sought: (1) a political declaration on the desirability of promoting internationally recognized core labor standards and (2) the establishment of a WTO Working Party to examine ways in which the WTO might cooperate with other institutions in identifying the links between trade and core labor standards and a potential WTO role in furthering their observance.[60] Specifically, the United States sought to launch "a non-negotiating and non-prejudicial dialogue in the WTO on how observance of core labor standards and trade liberalization can be mutually supportive;"[61] the United States was not proposing to negotiate wage

rates, harmonize labor costs or to justify protectionist measures.[62]

These ideas generally met with lukewarm support[63]—or outright opposition[64]—from other developed countries and virtually uniform opposition from developing countries. Opponents said that the WTO lacked a legitimate role in fostering core labor standards. They added that linkage of trade and labor standards would lead to abuse by protectionist interests and could undermine the comparative advantage of developing nations. Both before and during the conference, the issue eluded consensus, until finally the United States reportedly threatened to withhold its support for the entire declaration unless it attained some measure of satisfaction on the labor issue. The language ultimately agreed has been interpreted variously, with the United States taking the view that "This negotiation was extraordinarily difficult and the convergence of views achieved is no small accomplishment . . . The effort made at Singapore will help ensure collaborative efforts between the WTO and the ILO."[65] Others stressed that the declaration does not set the relation between trade and labor standards on the WTO agenda.

Regionalism

The Ministerial Declaration reaffirms members' commitment to ensure that regional agreements are complementary to and consistent with WTO rules, stating that—

> *The expansion and extent of regional trade agreements makes it important to analyze whether the system of WTO rights and obligations as it relates to regional trade agreements needs to be further clarified.*[66]

Present WTO rules permit regional trade agreements (RTAs) subject to certain requirements, notably that such agreements have as their primary purpose to facilitate trade among signatories and do not increase the general incidence of barriers to the trade of non-parties. Regional arrangements must be notified to the WTO and are subject to review and regular reporting requirements.

Most WTO members agree that RTAs promote further liberalization and may speed integration of developing and transition economies into the world economy. Nevertheless, with the rapid increase in both the number and coverage of regional trade agreements—144 RTAs have been notified to the WTO involving nearly all of its 128 members—some WTO members were of the view that the conference should adopt tighter disciplines on RTAs.[67]

At Singapore, Korea successfully sought an explicit statement in the Ministerial Declaration on the primacy of the multilateral trading system in the conduct of trade relations. In addition, Korea, Japan, Australia and other participants sought to expand the mandate of the Committee on Regional Trade Agreements to include an examination of the adequacy of existing WTO rules and procedures on RTAs. This would complement the Committee's existing charge to consider the systemic implications of regional trade agreements.

Vigorous discussions regarding the systemic implications of regional trade arrangements divided between those countries that do and those countries that do not participate in RTAs. The former said it was premature to revise the newly created committee's mandate until it had completed outstanding reviews, whereas the latter felt strongly that existing rules and procedures were inadequate.[68] U.S. negotiators in particular appear reluctant to reopen current WTO rules, saying that insufficient attention is being paid to existing rules and procedures and that many RTAs among developing countries have not been duly notified. The United States also believes that some of the EU's many preferential agreements are inconsistent with existing WTO requirements.

Competition Policy

At Singapore, Ministers agreed to establish a working group to—

> *study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework.*[69]

The General Council is to determine after two years how the work of this body will proceed. The existence or activity of the Working Party is not to prejudge whether negotiations will be initiated in the future.

The multilateral trade system contains few formal links to the distinct area of competition policy, also known as antitrust policy.[70] Both areas of competition and trade policy have similar goals of improving consumer welfare and ensuring economic efficiency through fair competition among producers. However, competition authorities increasingly face firms whose reach extends beyond their jurisdictions and whose actions abroad may lead to trade frictions over questions of market access being obstructed, previously negotiated benefits being undermined, and a

host of other issues with implications for domestic consumers. The review of the WTO Agreement on Trade-Related Investment Measures (TRIMs Agreement)—scheduled as part of the URA before 2000—is in part designed to present the multilateral trade system with the opportunity to augment the agreement with complementary provisions addressing competition policy, among other issues.

As the principal advocate, the EU sought to launch a WTO work plan on competition at Singapore.[71] Other countries, such as Korea and Japan, made it clear that such competition work would also need to include issues related to trade policy such as subsidies and antidumping.[72] The United States said that—although it favors development of sound antitrust policies worldwide—it could only support a much narrower and "educative" endeavor by the WTO because the United States believes that the time is not ripe to launch negotiations on a comprehensive framework of WTO rules.[73]

Investment

At Singapore, WTO Ministers agreed to "establish a working group to examine the relationship between trade and investment" on the understanding that the work "shall not prejudge whether negotiations will be initiated in the future" and shall be "without prejudice to work in UNCTAD" and other fora.[74] The General Council is to determine after 2 years how its work should proceed.

Comprehensive, widely applicable rules designed to liberalize foreign direct investment (FDI) do not yet exist; instead, some 1,160 bilateral, regional, and plurilateral agreements currently govern FDI. During the Uruguay Round, an expanded WTO role in investment was created; however, investment coverage under these provisions is far from complete. Further consideration of investment provisions is likely by or before 2000, the scheduled date to review the TRIMs Agreement as well as to renew negotiations under the General Agreement on Trade in Services (GATS) where a number of investment-related provisions are also found.

WTO members differ on whether and where to negotiate new international rules on investment. The United States considers negotiations taking place in the OECD to conclude a multilateral agreement on investment by May 1997 as the best chance to obtain a high-standard investment agreement.[75] The United States took the position at Singapore that it "is satisfied that the WTO work program on investment will not endanger the OECD investment negotiations."[76] Alternatively, some developing country WTO members would prefer exploring issues concerning trade and investment in a broader forum such as UNCTAD.[77]

Transparency in Government Procurement

At Singapore, Ministers agreed to—

> *Establish a working group to conduct a study on transparency in government procurement practices, taking into account national policies, and based on this study, to develop elements for inclusion in an appropriate agreement.*[78]

No deadline was set for completion of these tasks. Technical assistance by the WTO Secretariat will be available to facilitate participation by less-developed countries in this work.

In April 1996, the world's four major trading powers—the United States, the EU, Japan, and Canada—agreed "to initiate work on an interim arrangement on transparency, openness, and due process in government procurement, which would help to reduce corruption as an impediment to trade."[79] The goal was to conclude such an agreement by yearend 1997.

The proposal was primarily intended as an interim step towards broader acceptance of disciplines in an area heretofore exempted from multilateral WTO rules. Efforts to broaden participation in the plurilateral WTO Agreement on Government Procurement (GPA) have met with limited success, partly because the agreement's disciplines are considered too rigorous and complex by potential signatories.[80] At present, the GPA contains extensive disciplines with respect to nondiscrimination and transparency, but applies to just 23 WTO members.

The proposal advanced by the United States in May was for a strictly procedural WTO agreement intended to ensure transparency, openness, and due process in government procurement. It was envisaged that such an agreement would be applicable to all WTO members and would commit members to publicize procurement opportunities, set out specific evaluation and award criteria, and provide an opportunity to challenge procurement decisions before an independent review authority. The interim agreement would apply to both goods and services and would be subject to the WTO's dispute settlement understanding.[81] It was made clear that such an arrangement would not deal with the existing price and other preferences for national suppliers. Agreeing to negotiate such an interim agreement would not imply a

commitment to join the GPA, the United States explained. By the SMC, a considerable degree of consensus had been attained,[82] such that Ministers could agree to establish a working group aimed at developing such an agreement.

Other Issues

In addition, several institutional issues were raised at Singapore—accession, WTO goals, WTO decisionmaking, as well as launching a new round of multilateral trade negotiations. Regarding membership, the ministerial declaration stresses that applicants for membership—such as China—must contribute "to completing the accession process by accepting WTO rules and offering meaningful market access commitments," while at the same time Ministers hoped to bring the 28 present applicants "expeditiously into the WTO system."[83] Regarding WTO goals, the Declaration states, "In pursuit of the goal of sustainable growth and development for the common good, we envisage a world where trade flows freely,"[84] alluding to comparable goals set out in RTAs such as the Asia-Pacific Economic Cooperation forum and the Free Trade Area of the Americas. Neither issue of a WTO steering committee nor of launching a new round of multilateral trade negotiations was addressed in the final declaration, although the idea of launching a "Millennium Round" is reported to have "received wide support from developed and developing countries."[85]

WTO Committee Activity

Introduction

The regular review of WTO committee activity during 1996 took place in the context of the first report to the ministerial conference since the establishment of the WTO on January 1, 1995. Rather than limiting the scope of review to the calendar year, as done under the previous GATT 1947 system, each committee typically reported activities from the time of its initial meeting in mid-1995 through preparation of its report in fall 1996. In general, the committees met roughly three or four times during this 1995-96 period, adopted individual rules of procedure and reporting formats for their committees, and examined the implementation of their respective agreements. A foremost concern of the various committees was the extent to which notifications—needed to gauge compliance with the various agreements' obligations—continued to lag, sometimes seriously. In general, committees took into consideration notifications made through October 1996, gauged against an approximate total of 111 WTO members at that time that were required to submit notifications (the EU-15 counted as a single member).

General Council[86]

The General Council functions as the foremost WTO body overseeing implementation of the Uruguay Round Agreements (URA) and operation of the WTO in the absence of a ministerial level conference such as at Singapore in December 1996. In addition, the General Council also convenes in the form of the Dispute Settlement Body (DSB) as well as the Trade Policy Review Body (TPRB) to carry out the separate tasks charged to those bodies. The Council for Trade in Goods, Council for Trade in Services, Council for Trade-Related Aspects of Intellectual Property Rights report to the General Council. In addition, several committees outside of the subsidiary council structure report directly to the General Council—

- Committee on Trade and Environment (reports to the ministerial conference when in session);
- Committee on Trade and Development (plus its Subcommittee on Least Developed Countries);
- Committee on Regional Trade Agreements;
- Committee on Balance of Payments Restrictions; and
- Committee on Budget, Finance, and Administration.

During 1996, the council considered the following administrative matters: the finalization of goods and services schedules and the protocol of accession for the United Arab Emirates; the composition of the Textiles Monitoring Body; reports from the Committee on Balance of Payments Restrictions and the Committee on Budget, Finance, and Administration; the establishment and approval of the rules of procedure for the Committee on Regional Trade Agreements; and the establishment of a working party under the Preshipment Inspection Agreement. In addition, the council extended waivers concerning implementation of the Harmonized System (HS); extended waivers concerning renegotiations of schedules; extended the time limit for the introduction of HS changes to WTO schedules of tariff concessions originally set for January 1, 1996; and extended waivers for preferential trade arrangements involving developing countries. The council heard statements from members about particular issues, as well as considered other issues such as derestriction of WTO documents; cooperation

with intergovernmental and nongovernmental organizations as well as their possible observer status; and staff-related matters such as pensions.

Membership and Accessions

WTO membership reached 128 on December 13, 1996 (table 2-2). In addition, there were another 33 countries in various stages of seeking accession to the WTO (table 2-3). During 1996, the following 16 countries acceded to the WTO—Qatar, Fiji, Ecuador, Haiti, St. Kitts and Nevis, Benin, Grenada, United Arab Emirates, Rwanda, Papua New Guinea, Solomon Islands, Chad, Gambia, Angola, Bulgaria, and Niger.[87]

At Singapore, the General Council took action on a number of further requests for accession. The council approved the protocol of accession and the report of the working party for Mongolia and Panama. The council established WTO working parties (some transformed from working parties under GATT 1947) to examine the accession request of Georgia, Kazakstan, Kyrgyz Republic, Oman, Saudi Arabia,

Table 2-2
WTO Members (128 as of December 13, 1996)

Angola	Ghana	Nigeria
Antigua and Barbuda	Greece	Norway
Argentina	Grenada	Pakistan
Australia	Guatemala	Papua New Guinea
Austria	Guinea	Paraguay
Bahrain	Guinea Bissau	Peru
Bangladesh	Guyana	Philippines
Barbados	Haiti	Poland
Belgium	Honduras	Portugal
Belize	Hong Kong	Qatar
Benin	Hungary	Romania
Bolivia	Iceland	Rwanda
Botswana	India	Senegal
Brazil	Indonesia	Sierra Leone
Brunei Darussalam	Ireland	Singapore
Bulgaria	Israel	Slovak Republic
Burkina Faso	Italy	Slovenia
Burundi	Jamaica	Solomon Islands
Cameroon	Japan	South Africa
Canada	Kenya	Spain
Central African Republic	Korea	Sri Lanka
Chad	Kuwait	St. Kitts and Nevis
Chile	Lesotho	St. Lucia
Colombia	Liechtenstein	St. Vincent and the Grenadines
Costa Rica	Luxembourg	
Cote d'Ivoire	Macau	Suriname
Cuba	Madagascar	Swaziland
Cyprus	Malawi	Sweden
Czech Republic	Malaysia	Switzerland
Denmark	Maldives	Tanzania
Djibouti	Mali	Thailand
Dominica	Malta	Togo
Dominican Republic	Mauritania	Trinidad and Tobago
Ecuador	Mauritius	Tunisia
Egypt	Mexico	Turkey
El Salvador	Morocco	Uganda
European Community	Mozambique	United Arab Emirates
Fiji	Myanmar	United Kingdom
Finland	Namibia	United States
France	Netherlands	Uruguay
Gabon	New Zealand	Venezuela
Gambia	Nicaragua	Zambia
Germany	Niger	Zimbabwe

Note.—WTO membership as of December 13, 1996. Zaire acceded to the WTO on Jan. 1, 1997.

Source: WTO, "Membership of the World Trade Organization," WT/L/113/Rev.5, Nov. 15, 1996; WTO website at http://www.wto.org/memtab2_wpf.html.

Table 2-3
Countries seeking membership through WTO Working Parties on accession (33 as of December 13, 1996)

Albania	Congo	Laos	Oman	Ukraine
Algeria	Croatia	Latvia	Panama	Vanuatu
Armenia	Estonia	Lithuania	Russian Federation	Vietnam
Belarus	Georgia	Macedonia	Saudi Arabia	Uzbekistan
Cambodia	Jordan	Moldova	Seychelles	Zaire
China	Kazakhstan	Mongolia	Sudan	
Chinese Taipei	Kirgyz Republic	Nepal	Tonga	

Note.—Countries seeking membership as of December 13, 1996. Zaire acceded to the WTO on Jan. 1, 1997.

Source: WTO, "Membership of the World Trade Organization," WT/L/113/Rev.5, Nov. 15, 1996; WTO website http://www.wto.org/memtab2_wpf.html.

Seychelles, Tonga, and Vanuatu. The Working Party on the Accession of China held its first meeting as a WTO working party on March 22, 1996. China was invited to revise its current proposals or make new ones so that new impetus can be given to China's accession negotiations and work regarding the several annexes to its draft accession protocol can advance.[88] Since December 1994, work on China's accession has been conducted in informal meetings.[89]

Committee on Regional Trade Agreements[90]

The majority of WTO committees had a counterpart under the GATT 1947 system. In February 1996, however, the WTO established a new committee—the Committee on Regional Trade Agreements (CRTA)—to consolidate the many separate working parties that were previously created under the GATT to review the formation of regional trade arrangements for consistency with multilateral trade rules. The committee held its first meeting May 21-22, 1996, and, at later meetings, considered procedural matters and adopted a work program.

Regional trade agreements may be notified to one of three WTO bodies, each on a different basis—

- the Council for Trade in Goods, where working parties may be established to examine regional trade agreements involving goods;[91]
- the Council for Trade in Services, where working parties may be established to examine regional trade agreements involving services;[92] or
- the Committee on Trade and Development, where working parties may be established to examine regional trade agreements involving trade preferences among developing countries.[93]

The work program of the CRTA includes over 30 regional trade agreements that GATT/WTO members have notified through October 1996 (table 2-4).[94] Whereas the vast majority of working parties are established under the Council for Trade in Goods (or previously under GATT 1947), one working party has been established under the Committee on Trade and Development to examine MERCOSUR (which will use relevant provisions of both GATT 1994 and the Enabling Clause in its examination) and two working parties were established under the Council for Trade in Services, one to examine trade in services concerning NAFTA and another concerning the EU enlargement to 15 members.[95]

In addition to the CRTA's mandate to examine individual regional trade agreements for their consistency with multilateral rules and procedures—those adopted by the Council for Trade in Goods, Council for Trade in Services, and Committee for Trade and Development—the terms of reference for the CRTA also include consideration of the "systemic implications" of regional trade agreements for the multilateral trading system and development of recommendations to be presented to the General Council. Discussions on systemic issues have been intense but as yet remain unresolved, with some members advocating changes to Article XXIV while others highlight that the committee's mandate already charges it to examine all regional trade agreements—including those among developing countries even

Table 2-4
Regional trade agreements notified for WTO examination

Notifications carried over—
EU Enlargement: Austria Finland Sweden (goods)
NAFTA (goods)
EFTA-Hungary
EFTA-Israel
EFTA-Poland
EU-Czech Republic
EU-Hungary
EU-Poland
EU-Slovak Republic
MERCOSUR: Argentina Brazil Paraguay Uruguay
NAFTA (services)
EU Enlargement: Austria Finland Sweden (services)
EU-Bulgaria
EU-Romania
EU-Estonia
EU-Latvia
EU-Lithuania
EFTA-Bulgaria
EFTA-Romania
EFTA-Slovenia
EU-Turkey
Notifications before June 1996—
Faroe Islands-EU
Faroe Islands-Iceland
Faroe Islands-Norway
Faroe Islands-Switzerland
Slovenia-CEFTA
Notifications after June 1996—
EFTA-Estonia
EFTA-Latvia
EFTA-Lithuania
Romania-Czech Republic
Romania-Slovak Republic
EU (services for EU-12 under the Treaty of Rome)

Source: WTO, "Attachment I— Status of Examination of Regional Trade Agreements," *Report (1996) of the Committee on Regional Trade Agreements to the General Council*, WT/REG/2, Nov. 6, 1996, pp. 6-7; and WTO, "Regional Trade Committee Set to Examine 23 Agreements This Year," *Focus*, June-July 1996, No. 10, p. 10.

if they are not notified under Article XXIV and at times are not notified at all.[96]

Dispute Settlement Body[97]

Introduction

As of January 7, 1997 the DSB had received 64 requests for consultations dealing with 44 distinct matters since it began operation in January 1995, with seven active panels under way.[98] Of the final panel reports resulting from consultations, four have been forwarded to the WTO Appellate Body—on reformulated gasoline, taxation of alcoholic beverages, cotton and man-made fiber underwear, and desiccated coconut. Appointment of members to the Appellate Body was finalized in November 1995.[99] On February 15, 1996, working procedures for the Appellate Body were circulated and on February 21, 1996, the Appellate Body received its first case.

Reformulated Gasoline Panel and Appeal

In April 1995, the WTO established its first dispute panel to examine a complaint by Venezuela concerning standards set by the United States for conventional and reformulated gasoline that Venezuela claimed discriminated against imports of gasoline. Brazil joined this dispute in May 1995, and the joint panel issued its findings in January 1996.[100]

The panel found that in certain instances the treatment of gasoline imports under the regulation issued by the U.S. Environmental Protection Agency (EPA) was inconsistent with certain provisions of GATT 1994, notably Article III:4 (National Treatment), and that this treatment could not be justified under Article XX (General Exceptions), the article often used to justify action taken for environmental purposes that may conflict with multilateral trade rules.

On February 21, 1996, the United States appealed the panel findings. On April 29, 1996, the Appellate Body upheld the findings of the panel report that the EPA provisions do not comply with WTO rules, but the Appellate Body did adjust certain reasoning by the panel related to the conservation of exhaustible natural resources under Article XX. The Appellate Body report and the panel report as adjusted were adopted on May 20, 1996.[101]

Alcoholic Beverage Tax Panel and Appeal

In September 1995, the WTO established a dispute panel to examine a complaint by Canada, the European Communities, and the United States that taxes on certain liquors in Japan discriminated against imported liquors. A joint panel issued its findings in July 1996, finding that the Japanese tax system that levied a substantially lower tax on a domestic alcohol ("shochu") than on imported alcohols (such as whiskey, cognac, or white spirits) was inconsistent with GATT 1994 Article III:2.

On August 8, 1996, Japan appealed the panel findings. On October 4, 1996, the Appellate Body upheld the findings of the panel report that the Japanese Liquor Tax Law is inconsistent with Article III but the Appellate Body did adjust certain legal reasoning by the panel. The Appellate Body report and the panel report as adjusted were adopted on November 1, 1996. On December 24, 1996, the United States applied for binding arbitration to determine the reasonable period of time for implementation by Japan of the recommendations of the Appellate Body.[102]

Underwear Panel and Appeal

In March 1996, the WTO established a dispute panel to examine a complaint by Costa Rica regarding U.S. restrictions on imports of cotton and man-made fiber underwear, applied under the transitional safeguards provision of the WTO Agreement on Textiles and Clothing (ATC).[103] The panel report was circulated to WTO members on November 8, 1996, concluding that U.S. action was inconsistent with Article 6 of the ATC. On November 11, 1996, Costa Rica filed a notice of appeal concerning the permissible temporal scope of application of transitional safeguard action under the ATC.[104]

Desiccated Coconut Panel and Appeal

In March 1996, the WTO established a dispute panel to examine a complaint by the Philippines concerning countervailing duties on imports of desiccated coconut imposed by Brazil.[105] The panel report was circulated to WTO members on October 17, 1996, concluding that the provisions relied on by the Philippines were inapplicable to the dispute. On December 16, 1996, the Philippines notified its decision to appeal against certain issues of law and legal interpretations of the panel.[106]

Active Panels

Panels active at the end of 1996 were examining the following seven complaints—

- India vs. U.S. measures affecting imports of woven wool shirts and blouses;[107]
- Ecuador, Guatemala, Honduras, Mexico, United States vs. EU regime for the import, sale, and distribution of bananas;[108]
- United States, Canada vs. EU measures affecting meat and meat products containing hormones;[109]
- United States vs. Canada's measures concerning periodicals;[110]
- United States vs. Japan's measures affecting consumer photographic film and paper;[111]
- EU vs. United States' measures concerning the Cuban Liberty and Democratic Solidarity Act;[112] and
- United States vs. India's patent protection for pharmaceutical and agricultural chemical products.[113]

Operation of the DSB

The committee report by the DSB included several initial overall observations on the operation of the DSB during 1995 and 1996. First, the number of matters referred to the DSB under the WTO has been considerably greater than was the case under the GATT. The major trading partners remain the main participants, both as complaining and responding members, but developing country members have made increasing use of the dispute settlement system under the WTO. Second, there have been a significant number of settlements reached under the DSU, not only as a result of panel decisions but moreover following consultations that have led to settlements without formal panel procedures. Third, following a General Council decision adopted in July 1996, transparency for the WTO dispute settlement system has increased in that all WTO documents—including panel reports unless otherwise specified—are to be circulated as unrestricted subject to certain exceptions.[114]

Trade Policy Review Body[115]

The Trade Policy Review Mechanism (TPRM) was established provisionally in 1989 as part of the Montreal mid-term review of progress of the Uruguay Round and formally established under the WTO as part of the Uruguay Round Agreements. Reporting to the General Council, the task of the TPRB is to evaluate the full range of individual members' trade policies and practices and their impact on the functioning of the multilateral trading system. The TPRB has reviewed approximately half (57 of 108, counting the EU-15 as one) the members of the WTO—those accounting for 98 percent of all members' trade in goods and services—at least once since 1989. These evaluations take place on different review cycles—every two years for the four largest trading countries or entities in world trade (the "quad" members—Canada, the EU, Japan, and the United States), every four years for the

next 16 largest economies, every six years for remaining WTO members, with a longer interval envisaged for least developed economies. In 1996, members agreed to make every second review of the "quad" members an interim review and, if need be, to apply greater flexibility in scheduling reviews for all countries. The TPRB also recognized that greater efforts may be needed to better integrate the remaining half of WTO members under the TPRM and thus into the multilateral trading system.[116]

During 1996, the WTO Secretariat reviewed the following 15 countries as part of the TPRM to assess these countries' trade policies for consistency with WTO multilateral trade rules: Morocco, Venezuela, Dominican Republic, Czech Republic, Switzerland, Singapore, Norway, Zambia, Colombia, Korea, New Zealand, Brazil, United States, Canada, and El Salvador.

Council on Trade in Goods[117]

The Council on Trade in Goods is the largest of the three subsidiary councils (goods, services, and intellectual property), overseeing operation of 13 multilateral trade agreements and their 12 corresponding committees set out below in order of appearance in the URA. The WTO Agreement on Preshipment Inspection (PSI) has no committee, although the Independent Entity called for in the agreement for purposes of settling PSI disputes became operational in 1996. In addition, several other bodies also report to the Council for Trade in Goods, such as the Working Party on State Trading Enterprises, the Working Group on Notification Obligations and Procedures, and regional agreements involving trade in goods that are notified to the council before being referred to the Committee on Regional Trade Agreements.

Committee on Market Access[118]

The committee supervises the implementation of Uruguay Round concessions relating to tariffs and nontariff measures, including concessions by acceding countries, addressing market access issues not covered by another WTO body. In addition, the committee covers matters related to the WTO Integrated Data Base (IDB). Nearly all WTO members use the Harmonized Commodity Description and Coding System (HS), a customs nomenclature administered by the World Customs Organization (WCO). In 1993, amendments were agreed to the HS that were to take effect January 1, 1996. A number of countries, however, were unable to implement these changes in time. As a result, in 1996 the committee extended 33 waivers for amendments to the HS through April 1997. In addition, the committee also extended 11 waivers as a result of Article XXVIII (Modification of Schedules) renegotiations that were still outstanding.

Committee on Agriculture[119]

The committee has focused on agricultural market access commitments, particularly tariff and quota commitments as well as agricultural safeguards, in its systematic review of the provisions of the agreement. This focus has generated a number of questions concerning tariff rate quotas (TRQs) such as how to allocate TRQs between countries receiving preferential and nonpreferential terms, to state trading enterprises, how to auction off licenses for such TRQs, and similar questions that may relate to the connection between the WTO Agreements on Agriculture, Import Licensing, and Trade-Related Investment Measures. Unlike many committees, notifications to the Committee on Agriculture seem to have been satisfactory although at times incomplete or submitted late. Future issues for the committee will include export credits to help prevent the circumvention of export subsidy commitments as well as preparations for new agriculture negotiations to be initiated one year before the end of the 1995-2000 implementation period.

Committee on Sanitary and Phytosanitary Measures[120]

The Committee on Sanitary and Phytosanitary Measures oversees implementation of the Agreement on the Application of Sanitary and Phytosanitary Measures. In 1996, it adopted working procedures and established lists of national enquiry points to respond to requests for information regarding sanitary and phytosanitary (SPS) measures, to be updated regularly. The committee also established lists of national notification authorities, those authorities responsible for notifications concerning sanitary and phytosanitary measures. The committee began drafting guidelines for the practical implementation of article 5.5 (Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection), which aims to achieve a consistent application of different levels of SPS protection against risks to human, animal, or plant life or health without becoming a disguised restriction on international trade. The committee is also developing a procedure to monitor harmonization of SPS measures along the lines of existing international standards.

Textiles Monitoring Body[121]

The Textiles Monitoring Body (TMB) consists of a chairman and 10 members appointed to oversee the implementation of the Agreement on Textiles and Clothing (ATC). The ATC requires notifications concerning (1) restrictions under the Multifiber Arrangement (MFA) that were in force at the end of 1994 that were carried over to the ATC (article 2.1), (2) the first stage integration of textile trade under GATT 1994 rules (articles 2.6 and 2.7), (3) non-MFA restrictions remaining in place (article 3.1), and (4) transitional safeguards regarding textile trade (article 6.1).

Only four WTO members (Canada, the EU, Norway, and the United States) notified MFA restrictions to be carried over into the ATC. Forty-two members—most of those that were so required—notified the products that they were required to integrate into GATT 1994 on January 1, 1995, under terms of the ATC. Twenty-nine countries notified that they maintained non-MFA restrictions, although a number of these further elaborated that the measures notified did not actually restrict trade or were being phased out. Only seven WTO members renounced their rights to use the transitional safeguards for textile trade permitted under the ATC, whereas 51—a substantial part of the membership—notified their desire to retain the right to use them. The remaining half of WTO members have failed so far to notify whether or not they wish to retain the right to use these provisions.

In 1996, the Council on Trade in Goods held discussions about the implementation of the ATC in which concerns were expressed that the first stage of integration programs carried out by four importing members in January 1995 had not been commercially meaningful. Papers submitted by representatives of both the exporter camp (such as Brunei, Hong Kong, India, Indonesia, Korea, Malaysia, Pakistan, Philippines, Singapore, Thailand) and the importer camp (such as Canada, EU, Norway, United States) helped focus discussions. At issue was that virtually all products integrated during the first stage had never before been subject to quantitative restrictions, and further concerns were raised that the second stage integration in January 1998 may not be any more commercially meaningful. As a consequence, the progressive improvement of access to markets and the smooth transition from MFA to GATT/WTO disciplines was being disrupted. Similar complaints from the exporter camp were made concerning the use of transitional safeguards permitted under the agreement in particular the 25 consultation requests made by the United States in 1995 and 1996 as well as 7 by Brazil. Members responding from the importer camp indicated that these actions were perfectly legitimate and consistent with the provisions of the agreement. Nonetheless, the Singapore Ministerial Declaration confirmed the commitment of WTO members to the full and faithful implementation of the ATC, as well as directing that the use of safeguard measures under ATC provisions should be as sparing as possible.[122]

Committee on Technical Barriers to Trade[123]

The committee discussed implementation of the Agreement on Technical Barriers to Trade (TBT) through one-time and periodic notifications. These included national laws and regulations concerning standards (article 15.2); standards bodies required and those that have volunteered to accept the Code of Good Practice under Annex 3(c); changes in technical regulations and conformity assessment procedures; establishment of national enquiry points to answer trade-related technical questions about technical regulations, standards, and assessment procedures; and standards agreements reached with other countries that may have significant trade effects. However, by late October 1996, only 42 WTO members had notified their laws and only 60 bodies (of an estimated 600 or more standardizing bodies worldwide) had notified acceptance of the code. The committee also discussed environmental labelling programs and measures ("ecolabelling"), including with the Committee on Trade and Environment. The issue involved is whether ecolabelling schemes, in particular criteria based on nonproduct processes and production methods (PPMs), are covered under provisions of the TBT Agreement.

Committee on Subsidies and Countervailing Measures[124]

The committee created an Informal Group of Experts in 1995 and also established in 1996 a Permanent Group of Experts. The informal group will help develop an understanding among members on the calculation of ad valorem subsidization (Annex IV of the agreement). The permanent group will help with advice on prohibited subsidies and related matters under the agreement. The committee reviewed available notifications, which are to include full subsidy notification, subsidies inconsistent with the agreement, subsidies maintained as part of transformation into a market economy, nonactionable subsidies, subsidies linked to privatization programs,

countervailing duty laws and regulations, and semiannual reporting of countervailing duty action taken. The committee also concluded that additional efforts are needed to submit full and complete notifications on a timely basis.[125]

Committee on Antidumping Practices[126]

The committee received and examined notification of members' antidumping laws and regulations as well as antidumping actions taken.[127] The committee also requested notification of the competent national authorities involved in initiating antidumping action. The committee formed an Ad Hoc Group on Implementation to discuss topics and prepare recommendations for the committee on issues where agreement seems possible. The committee also authorized the chairman to undertake informal consultations to develop a framework for future discussions on the issue of anticircumvention, including the possible scope of the issue and whether existing mechanisms might not be sufficient. The committee also concluded that additional efforts are needed to submit full and complete notifications on a timely basis.

Committee on Customs Valuation[128]

The committee examined notification of national legislation and adopted the decisions agreed as part of the URA concerning customs valuation. A large number (51) of developing country members notified their delayed application of the agreement permitted under article 20.1, and the committee recommended to the Ministers at Singapore that technical assistance for developing countries be made available to help them effectively implement the agreement.

Committee on Rules of Origin[129]

The committee officially launched the Harmonization Work Program on July 20, 1995, in conjunction with the Technical Committee on Rules of Origin (TCRO) established under the auspices of the World Customs Organization. The program, with TCRO work scheduled for completion by July 20, 1998, has three phases: (1) the definition of goods wholly obtained in one country, and of minimal operations or processes not conferring origin; (2) substantial transformation, represented by changes in tariff classification; and (3) substantial transformation, as determined by supplementary criteria. The first phase is largely completed except for two remaining issues—one, the origin of recovered articles shipped beyond the boundaries of the consumer country (such as scrap metal or parts shipped abroad for recovery) and, two, goods produced on ships or vessels offshore which leads to the unresolved definition of the term "country." Phase two is ongoing, even as work will soon commence on phase three. The committee expressed concern over lagging notifications; by October 1996, about one-half of the members had notified their nonpreferential and preferential rules of origin as required.

Committee on Import Licensing[130]

The committee received notifications of laws and regulations pertinent to import licensing. These include notifications concerning sources where licensing procedures are published (article 1.4a), responses to the annual questionnaire on import licensing procedures (article 7.3), and the conformity of domestic legislation on licensing with the agreement (article 8.2b). Twenty-four developing country members have notified their delayed application of the automatic licensing provisions (article 2.2) permitted under the agreement. The committee expressed concern over lagging notifications. In addition, Guatemala, Honduras, Mexico, and the United States requested consultations with the EU in the committee concerning the EU import regime regarding bananas.

Committee on Trade-Related Investment Measures[131]

Early in 1995, the committee received notification from members of trade-related investment measures inconsistent with the agreement, as well as notification from other members that they have no TRIMs. By fall 1996, roughly 24 countries had notified TRIMs that are not in conformity with the agreement. The committee recognized that issues raised concerning these notifications include their timing and adequacy, the recent introduction or modification of measures covered under the agreement, and the consistency of notified measures with other WTO agreements—such as the Agriculture Agreement or Subsidies Agreement. The committee also recognized that a future issue for it to consider is whether provisions on investment policy and competition policy should supplement the agreement.

Committee on Safeguards[132]

In 1996, the committee adopted its rules of procedure and proceeded with its examination of notifications made. These notifications include safeguard laws and regulations (article 12.6); pre-existing Article XIX measures (article 12.7); so-called "grey area" measures (articles 11.1 and 12.7); timetables for elimination or legitimation of such nonconforming grey area measures (article 11.2); initiation or other action concerning safeguard measures (article 12.1); and required consultations (article 12.5).

The committee expressed concern over lagging notifications, observing that only about 60 percent of members had submitted their safeguards legislation by October 1996 even though the deadline to do so had been in March 1995. The very few notifications of pre-existing Article XIX measures also raised the question of whether few such measures existed or whether members have failed to date to notify them. In late 1995 and again in 1996, the committee reviewed notifications from Korea, the United States, and subsequently Brazil, concerning the initiation of safeguards investigations.

Preshipment Inspection Entity

On May 1, 1996, the independent entity established by the General Council in December 1995 under the WTO Agreement on PSI became operational. The agreement sets out standardized procedures for preshipment inspections—the practice of employing specialized private companies to check shipment details such as price, quantity, and quality of goods ordered overseas. PSI is currently employed by some 30 developing countries, mainly in Africa, to compensate for inadequacies in administrative infrastructure and thus to avoid trade delays and safeguard national financial interests. The agreement calls for an independent review procedure to resolve disputes between an exporter and a PSI agency. The independent entity (IE) will be jointly administered by an organization representing PSI agencies—the International Federation of Inspection Agencies (IFIA)—and another representing exporters—the International Chamber of Commerce (ICC). A single independent trade expert or a three member panel, selected from the list of experts maintained by the IE from nominations, will decide a dispute referred to it by majority vote within eight working days from its being filed.[133] To date, the IE has received no requests for an independent review.

Working Party on State Trading Enterprises[134]

The working party was established in early 1995 as part of the Understanding on the Interpretation of Article XVII of GATT 1994. Article XVII pertains to state trading enterprises and the working party is charged with reviewing notifications on these enterprises, and with ultimately developing a list of relationships between governments and such enterprises. In 1996, the working party began to review the new and full notifications received from members. The working party has received 45 such notifications since its establishment (counting the EU-15 as one).

Working Group on Notification Obligations and Procedures[135]

The working group was formed following the establishment of the WTO to review the notification obligations and procedures under the agreements in Annex 1A to the WTO Agreement, the agreements involving trade in goods. The group sought to rationalize requirements, avoid duplication, and improve compliance with notification obligations because of the important role played by timely and complete notifications in carrying out the URA, particularly given the increase in such notifications resulting from the Round. The working group concluded that there were 175 notification obligations or procedures resulting from Annex 1A, falling into three categories—(1) periodic or regular notifications, of which there were 26 semiannual, annual, biennial, or triennial notifications; (2) one-time notifications, to provide startup information of existing situations at the entry-into-force of the various URA; and (3) ad hoc notifications, required when a WTO member takes certain action. The group concluded that, once the heavy burden of one-time notifications was met, only a few areas might warrant actual changes in reporting requirements so as to avoid duplicative notification—for example, in the areas involving the WTO Agriculture Agreement and Subsidies Agreement. Another conclusion concerned the need for extensive and focused technical assistance for at least certain developing country members in order to improve the rate of compliance with notification obligations for the URA.

Council for Trade in Services[136]

Beginning in 1995 and continuing into 1996, the Council for Trade in Services discussed and adopted various rules and procedures, such as for modification and rectification of national schedules of commitments

in services and for notifying established contact points regarding services. In addition, several other bodies also report to the Council for Trade in Services: the Committee on Specific Commitments, Committee on Trade in Financial Services, Group on Basic Telecommunications,[137] Negotiating Group on Maritime Transport Services, Working Party on Professional Services, and Working Party on GATS Rules.

A number of trade agreements involving services were notified to the council under GATS article V (Economic Integration), which were forwarded to the Committee on Regional Trade Agreements for examination concerning their consistency with GATT/WTO trade rules and disciplines. These notifications included the "Economic Integration Agreement" submitted by the EU (modifying the Treaty of Rome regarding services for the EC-12[138] prior to enlargement), Australia and New Zealand's Closer Economic Relations, and three EU agreements (so-called Europe agreements) separately with the Slovak Republic, Hungary, and Poland.

The Committee on Specific Commitments and the Working Party on GATS Rules are involved with developing procedures that help administer the GATS framework agreement, as well as being involved previously with services negotiations indicated under the GATS built-in agenda. During 1996, the Group on Basic Telecommunications, the Negotiating Group on Maritime Transport Services, and the Working Party on Professional Services were involved in completing the extended negotiations originally indicated for particular service sectors at the December 1993 conclusion of the Uruguay Round.[139]

The Committee on Specific Commitments is developing procedures to assist with technical aspects of commitments made in the national schedules on services. The Working Party on GATS Rules is considering how to implement the negotiations built into the GATS. These include Article X (Emergency Safeguard Measures) negotiations on emergency safeguard measures in services,[140] Article XIII (Government Procurement) negotiations on government procurement in services,[141] and Article XV (Subsidies) negotiations on trade-distorting subsidies in services.[142] The Singapore Ministerial Declaration noted that more analytical work will be needed in these three areas of emergency safeguards, procurement, and subsidies.[143]

Financial Services Negotiations

The Committee on Trade in Financial Services was involved during 1996 in ensuring the adoption of the Interim Agreement on Financial Services (formally, the Second Protocol to the GATS), agreed in July 1995. The interim agreement entered into force September 1, 1996 and will continue through 1997.[144] Schedules of commitments attached to the interim agreement may be modified or withdrawn during the final 60-day period of the agreement, starting November 1, 1997, in effect initiating new negotiations on trade in financial services. The committee intends to resume discussions concerning these new negotiations in April 1997.

Movement of Natural Persons Negotiations

The Agreement on the Movement of Natural Persons (formally, the Third Protocol to the GATS) was concluded in July 1995 as part of the extended service sector negotiations beyond the end of the Uruguay Round. It was opened for acceptance through June 30, 1996. The deadline for acceptance was extended through November 1996, so that several members could complete their acceptance procedures (Belgium, Greece, Portugal, Spain, and Switzerland).

Telecommunications Services Negotiations

The Negotiating Group on Basic Telecommunications (NGBT) began deliberations in May 1994 and concluded in April 1996 as part of the extended negotiations on service sectors following the conclusion of the Uruguay Round. However, despite conclusion of the NGBT negotiations on April 30, 1996, participants agreed to further extend the deadline until February 15, 1997 regarding commitments to be made under national schedules—negotiations that continued in the Group on Basic Telecommunications (GBT).

During 1996, the NGBT endeavored to conclude the Agreement on Basic Telecommunications Services (formally, the Fourth Protocol to the GATS), scheduled to enter into force January 1, 1998. Once in force, the schedules of commitments on basic telecommunications services will constitute part of the GATS schedules in force since January 1, 1995.[145] The protocol agreed in April 1996, along with the commitments negotiated by February 1997, is open for acceptance until November 30, 1997.

At the April 1996 conclusion of negotiations, there were 53 full participants and 24 observers who submitted 34 schedules of commitments representing 48 governments. These schedules reflected commitments in the areas of voice telephony; local, long distance, and international telephone service; data transmission services, cellular and other mobile telephone service; private leased circuit services; and satellite services. Thirty of the 34 schedules embraced commitments related to procompetitive regulatory disciplines involving competition safeguards, interconnection, licensing, and the independence of regulators. The following section summarizes the objectives of the basic telecommunications talks, commitments made by major U.S. trading partners, and the outcome of the negotiations.

Objectives of the Negotiations

The Ministerial Decision establishing the NGBT mandated conclusion of negotiations regarding basic telecommunications services by April 30, 1996.[146] However, after the United States indicated that current offers were not sufficiently trade liberalizing, participants agreed to extend negotiations further. The Council for Trade in Services issued on April 30, 1996 the Decision on Commitments in Basic Telecommunications that established a one-month period—from January 15 to February 15, 1997—during which members could improve, modify, or withdraw their offers and list of MFN exemptions without penalty. In addition, the Decision replaced the NGBT with the GBT.

The Ministerial Decision directed members of the NGBT to negotiate with a view to the "progressive liberalization of trade in telecommunication transport networks and services."[147] The telecommunications annex to the GATS defines transport networks as the "telecommunication infrastructure which permits telecommunications between and among defined network termination points."[148] Consequently, the talks focused not only on basic service provisions, but on ownership and control of telecommunication facilities.

During negotiations, the United States endeavored to obtain a level of openness similar to that of the U.S. market after passage of the Telecommunications Act of 1996. The Act provides for competition in the local, long distance, and international calling markets, through all telecommunication infrastructure (e.g., wireline, radio-based, and cable television), and allows for 100 percent indirect ownership of U.S. telecommunication firms.[149] Specific aspects of the U.S. approach were to obtain foreign commitments to market access and national treatment, and foreign adoption of pro-competitive principles. U.S. negotiators urged the adoption of a reference paper tabled in the NGBT setting out pro-competitive principles, not only to establish agreement on common regulatory approaches to basic telecommunications, but to preserve the meaningfulness of commitments on value-added telecommunication services, which were scheduled prior to December 1993.[150] The telecommunications annex guarantees access to infrastructure necessary to provide value-added services, but does not impose disciplines in areas such as leased line pricing[151] and interconnection requirements[152], which significantly affect the competitive position of value-added service providers. Pro-competitive principles include:

- safeguards against anti-competitive practices, including cross-subsidization, among monopolies or other firms with market power;
- timely and cost-based interconnection under non-discriminatory terms, conditions, rates, and quality;
- transparent and nondiscriminatory universal service requirements[153] that are no more burdensome than necessary;
- transparent and publicly available licensing criteria and reasons for denial;
- independence of regulators and suppliers of basic telecommunication services; and
- publication of international accounting rates.

In short, the ultimate objectives of negotiations over basic telecommunication were to benefit telecommunication service suppliers by increasing investment opportunities and establishing competitive markets abroad; benefit telecommunication consumers, including multinational corporations, by achieving lower prices and broader service offerings; and increase business opportunities for manufacturers of telecommunication, computer, and aerospace equipment.[154]

Summary of Commitments on Basic Telecommunications

OECD Member Countries. Although the European Union and the United States had not negotiated mutually acceptable offers by the April 1996 extension, they did negotiate such offers by the fall of 1996. Both scheduled commitments that reflect recent efforts to deregulate and liberalize their markets for telecommunication services. The 1996 U.S.

Telecommunications Act provided a liberal trading and investment environment in the United States, while the ongoing implementation of the European Commission's telecommunication directives established the liberal climate in the European Union. The United States and the EU largely granted one another rights to acquire 100-percent equity in all basic service providers and telecommunication facilities,[155] including satellite service providers and satellite facilities.[156] In addition, both partners scheduled commitments that allow foreign firms to provide essentially all basic telecommunication services. Finally, both partners adopted all of the pro-competitive regulatory principles outlined in the reference paper. Although the EU and the United States encouraged other OECD trading partners to liberalize their telecommunication sectors to a similar extent, most did not.

Despite objections lodged by the United States and the EU, Japan declined to remove a 20-percent foreign ownership cap pertaining to its two largest carriers, Nippon Telegraph and Telephone Corporation (NTT)[157] and Kokusai Denshin Denwa (KDD).[158] However, Japan did schedule commitments that allow 100 percent foreign ownership of all other service providers and facilities and adopted the reference paper on pro-competitive regulatory principles in its entirety. At the end of the negotiations, the United States expressed concern that Japan's ownership restrictions might permit others, particularly developing countries, to better justify their own ownership limitations.[159]

The United States' two largest telecommunication service trading partners, Canada and Mexico, also remained steadfast in their restrictions on foreign ownership. Canada retained a restriction that imposes a 46.7 percent equity cap on foreign ownership of all basic telecommunication service providers except those providing services through submarine cables and mobile and fixed satellites. Canada imposed no foreign ownership restrictions on the latter. Canada's reluctance to remove its restriction on foreign investment was not well received, as the offers of several low-income developing countries allowed more foreign participation than did Canada. The United States responded to Canada's unwillingness to eliminate the foreign investment limitation by listing an MFN exemption for one-way satellite transmission of direct to home (DTH) broadcasting, direct broadcast satellite (DBS),[160] and digital audio transmission services.[161]

Mexico revised its offer the day before the negotiations concluded, increasing its foreign equity limits on all telecommunication services from 40 percent to 49 percent. An exception pertains to cellular services, where Mexico scheduled commitments that allow 100-percent foreign ownership. Mexico also scheduled commitments that accord foreign service providers full market access and national treatment when providing all services except domestic satellite services, for which foreign providers are required to use Mexican infrastructure until 2002.

Like Mexico, Korea improved its offer shortly before the negotiation's end. Korea increased foreign ownership limitations on facilities-based providers from 33 percent to 49 percent by 2001; on Korea Telecom from 20 percent to 33 percent by 2001; and on cellular service providers from 49 percent to 100 percent by 2001. Beyond this, Korea scheduled commitments providing foreign firms with full market access and national treatment as of January 1, 1998, and adopted the reference paper on pro-competitive regulatory principles in its entirety.

Asia. Telecommunication service markets in Asia are relatively small compared to the North American and European markets and many regions within Asian countries are underserved by telecommunications services. For these reasons, many governments in Asia feel obligated to protect their telecommunication markets. Foreign firms, noting the same reasons, identify Asian markets as those with the most potential for growth.[162] U.S. negotiators consistently expressed the belief that a "critical mass" of good offers could not be realized without significant liberalization among key Asian markets. In this sense of striving for a critical mass, the United States and others viewed the offer tabled by India as disappointing. India only committed to guarantee a 25 percent foreign investment access limit, rather than its existing ceiling of 49 percent. India also declined to offer full commitments on market access and national treatment, indicating that market entry may be subject to economic needs testing. In addition, while India adopted certain parts of the reference paper on pro-competitive principles, it altered the language of many of the principles addressing competitive safeguards, interconnection, regulatory independence, and the allocation of scarce resources. India also was the first trading partner to list an MFN exemption pertaining to devising cost-based accounting rates,[163] possibly spurred by the International Settlement Rates Notice of Proposed Rulemaking (NPRM) issued by the Federal Communications Commission (FCC) on December 19, 1996. Sri Lanka, Pakistan, Bangladesh, and Turkey all subsequently took MFN exemption pertaining to accounting rates. By contrast, the offer submitted by Malaysia was seen as a breakthrough late in the negotiations. Malaysia rolled back foreign

investment caps, permitting 30 percent foreign ownership of existing telecommunication operators, and adopted the reference paper in its entirety. Malaysia's offer was perceived as particularly forthcoming in light of the fact that its public telecommunication sector accounts for 2.5 percent of its gross domestic product, the highest percentage of any country in the region according to the International Telecommunications Union.[164]

Latin America. The offers from the Latin American trading partners generally improved through the end of negotiations. Between the April 30, 1996 extension and February 15, 1997, nine Latin American and Caribbean countries submitted new offers.

Brazil improved its offer the day before the conclusion of negotiations by offering to phase out its 49-percent foreign equity limits on cellular and satellite transport services by July 1999, while scheduling a commitment to establish cellular telephone duopolies in each designated market. Brazil's offer remains quite restrictive compared to other Latin American trading partners and does not offer any significant liberalization of foreign investment improvements or improve foreign access to satellite services and facilities. However, Brazil's offer binds forthcoming telecommunications legislation that U.S. negotiators note may liberalize Brazil's telecommunication sector more than that of several other Latin American markets.[165]

Argentina ended negotiations on a potentially disturbing note, indicating an intention to retreat from its formerly liberal offer regarding foreign provision of satellite-based services and access to satellite facilities, reflecting the tone of satellite regulations issued by the government of Argentina in January 1997.[166] In the end, Argentina took an MFN exemption regarding foreign access to geostationary fixed satellite systems, but otherwise made relatively liberal offers with respect to foreign provision of other services and access to other facilities.

Conclusion of the Negotiations

On February 15, 1997, the GBT successfully concluded an agreement that enters into effect January 1, 1998. The accord binds 69 countries, covering 91 percent of $600 billion[167] in annual global telecommunication revenues.[168] Since the April 30, 1996 extension, 46 trading partners improved their offers,[169] and 21 countries submitted new offers.[170] The agreement provides market access for local, long-distance, and international service through any means of network technology, either on a facilities basis or through resale of existing network capacity. In all, 56 countries scheduled commitments that allow, or will phase in, foreign ownership or control of many or all telecommunication service providers and facilities; 55 trading partners adopted pro-competitive regulatory principles that reflect, in part, the U.S. Telecommunications Act of 1996; and 56 countries guarantee market access to some or all telecommunication services and facilities, with 50 of these guaranteeing access to satellite services and satellite facilities.[171]

The landmark agreement will not only provide a means of enforcement, but will, for the first time, open up to foreign competition the rapidly growing markets in Southeast Asia, Latin America, and Africa. While the United States and Europe account for more than half of the world's $600 billion a year telecommunication revenue, the average annual revenue growth of 9.7 percent in developing countries, from 1990 to 1995, was more than double the average annual growth of 4.1 percent in industrial countries over the same period.[172] Additionally, it is projected that over the next five years developing countries will require $60 billion a year in capital investment for telecommunications, expanding potential markets for U.S. manufacturers of telecommunication equipment.[173]

Maritime Transport Services Negotiations

The Negotiating Group on Maritime Transport Services (NGMTS) began deliberations in 1994 and concluded in June 1996 as part of the extended negotiations on service sectors following the conclusion of the Uruguay Round. There were 56 full participants and 16 observers at the April 1996 conclusion of these negotiations of which 35 members made commitments on maritime transport services. The group discussed issues in maritime transport involving international shipping, auxiliary shipping services, access to port facilities, and multimodal transportation. Negotiations were suspended on June 28, 1996 because some participants considered that an insufficient critical mass of offers had been tabled. The talks are to be resumed and concluded as part of the comprehensive negotiations on trade in services in 2000 called for in the GATS Article XIX (Negotiation of Specific Commitments). Until January 2000, the participants agreed not to apply measures concerning maritime transport services so as to improve their negotiating position, although they may liberalize such services.[174]

Professional Services Discussions

During 1996, the Working Party on Professional Services (WPPS) concentrated on its work program, given in the Final Act, to examine (1) the development of multilateral disciplines, (2) the use of international standards, and (3) the establishment of guidelines for the recognition of qualifications such as mutual recognition agreements. The WPPS has focused first on the field of accounting. In 1996, the WPPS held seminars regarding domestic regulation in the accounting sector to take account of work done in both private (for example, by the International Federation of Accountants, the International Accounting Standards Committee) and multilateral organizations (OECD, UNCTAD). The WPPS drew up a list of priority issues that will include requirements and regulations concerning professional qualifications and other necessary licenses; establishment of commercial presence; nationality and residency; professional liability; and entry and temporary stay. The WPPS also progressed in developing draft guidelines to help negotiate mutual recognition agreements in the field of accounting. In the Singapore Ministerial Declaration, members agreed to aim to complete work in the field of accounting by the end of 1997.[175]

Council for Trade-Related Aspects of Intellectual Property Rights[176]

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) entered into force with the establishment of the WTO on January 1, 1995. However, the provisions of the TRIPs Agreement contain a general one-year grace period before any WTO member is obliged to apply its provisions. For developing country and transition economy WTO members, the grace period is five years under article 65.1 (Transitional Arrangements), that is, by January 1, 2000. For all members, however, the most-favored-nation and national treatment provisions (TRIPs articles 3, 4, 5) became applicable from January 1, 1996. Thus, provisions of the TRIPs Agreement only began to become effective beginning in January 1996 and then only partially for certain members.

During 1996, major items considered by the council included required notifications; national intellectual property laws and regulations that had been notified; the operation of the agreement, particularly in regard to disputes over so-called mailbox provisions (articles 70.8, 70.9)[177] and the protection of existing subject matter (particularly article 70.2); statements regarding the revocation of patents; technical cooperation particularly for developed country members; and cooperation with the World Intellectual Property Organization (WIPO).

In late 1995, the Council for TRIPs adopted several decisions to help structure the required notification of national legislation on intellectual property in 1996. These included procedures for notification of national laws, a possible common register of such laws and regulations, the format for notifications, and a checklist regarding enforcement of these laws. By November 1996, a substantial number of notifications had been submitted and a schedule to review national implementing legislation during 1996-97 was set up. The council reviewed legislation in 1996 concerning trademarks, geographical indications, and industrial designs, and will continue in 1997 to review legislation on patents, integrated circuit design, proprietary business information, and anticompetitive business practices.

In 1996, the council received notification of disputes concerning Article 70 (Protection of Existing Subject Matter) in two areas. In February 1996, the United States initiated dispute settlement proceedings concerning sound recordings (see below), and notified the council of a mutually agreed solution in October. In July 1996, the United States initiated dispute settlement proceedings concerning delays in notification of mailbox provisions under the agreement. The United States requested dispute settlement panels to examine the failure to implement these provisions in India and in Pakistan on July 2 and 4, 1996, respectively.[178]

An Agreement between the WIPO and the WTO went into effect beginning January 1, 1996. The WIPO-WTO Agreement—approved by the council at the end of 1995—relates to cooperation in the access to national laws and regulations concerning intellectual property, the implementation of Paris Convention article 6ter (National Emblems) through the TRIPs Agreement, and technical assistance.[179]

Also during 1996, the council considered—but in general did not resolve—items related to future negotiations under the TRIPs Agreement, often referred to as the built-in agenda. These issues include a review of the provisions providing protection for geographical indications as well as entering into new negotiations to increase this protection (articles 23 and 24), patentable subject matter (article 27), dispute settlement provisions (article 64), as well as implementation of the TRIPs Agreement once its transitional provisions have expired (article 71).

Sound Recordings

On February 9, 1996, the United States requested consultations with Japan concerning the term of protection afforded sound recordings in Japan. The TRIPs Agreement requires a 50 year term of protection for sound recordings whereas Japan only provided recordings a 25-year protection period. The United States, joined by the EU, held consultations with Japan on March 4, 1996 to discuss why owners of rights to sound recordings produced between 1946 and 1971 (the 1996 entry into force of the provisions under the TRIPs Agreement less a 50- and 25-year protection term, respectively) were being denied exclusive rights to these sound recordings. The EU requested its own consultations with Japan, which were held on June 24, 1996, joined by the United States as an interested party.[180] On December 26, 1996, the Government of Japan promulgated amendments to extend protection to 1946 and provide retroactive protection for sound recordings, thus terminating dispute settlement proceedings on a mutually satisfactory basis.[181]

Plurilateral Agreements

During the 1973-79 Tokyo Round, nine sector-specific agreements (the so-called Tokyo Round codes of conduct) were concluded under the GATT; these agreements—referred to as "plurilateral" agreements—were binding only on those GATT members that signed them rather than being "multilateral" agreements binding on all GATT contracting parties. Under the WTO Agreement, five of these agreements became multilateral agreements applicable to all WTO members—those concerning antidumping, subsidies, technical barriers to trade (or "standards"), customs valuation, and import licensing. The four remaining Tokyo Round agreements were carried over into the WTO as plurilateral agreements—the agreements on government procurement, civil aircraft, bovine meat, and dairy products.

Agreement on Government Procurement[182]

The Agreement on Government Procurement (1994) was concluded in parallel with the Uruguay Round negotiations, entering into force on January 1, 1996. The GPA 1994 will co-exist with its predecessor—the 1979 Agreement on Government Procurement (GPA 1979) concluded as one of the Tokyo Round codes.[183] By the end of 1996, there were ten parties to the GPA 1994 (table 2-5). The agreement will enter into effect for Korea in 1997. The WTO Committee on Government Procurement approved the accession of Hong Kong in September 1996 and the agreement will enter into force for Hong Kong following its submission of its instrument of ratification. In addition, accession negotiations have also been completed for Liechtenstein and Singapore, and Chinese Taipei is in the process of completing bilateral negotiations with other signatories.[184]

During the period under review,[185] the Committee on Government Procurement considered modifications of appendices to the agreement, accessions, procedural matters, a practical guide to the agreement, a loose-leaf system for updating the agreement's appendices, and statistical reporting under the agreement, as well as other matters. In late 1995, the EC and the United States submitted modifications to their appendices that extended mutual benefits under the GPA to reflect their bilateral agreement negotiated during the signing of the URA in Marrakesh in April 1994.

Agreement on Trade in Civil Aircraft[186]

During Uruguay Round negotiations through 1993, as well as thereafter in 1994, efforts to introduce technical changes that would adapt the 1979 Agreement on Trade in Civil Aircraft (Civil Aircraft Agreement) to the new WTO framework were unsuccessful. Since the 1995 establishment of the WTO, the committee overseeing the agreement has continued to consider ways to bring the 1979 Agreement into conformity under the legal structure that established the WTO. The application of the agreement in its present form creates considerable legal uncertainty, according to the committee chairman, including the lack of a clear forum for consultations and effective dispute settlement procedures.[187]

Table 2-5
Members of WTO Plurilateral Agreements

AGREEMENT ON GOVERNMENT PROCUREMENT (1994)	
Aruba	Japan
Canada	Korea
EC-15	Norway
Hong Kong	Switzerland
Israel	United States

AGREEMENT ON TRADE IN CIVIL AIRCRAFT	
Austria	Luxembourg
Belgium	Macau
Bulgaria	Netherlands
Canada	Norway
Denmark	Portugal
EC	Romania
Egypt	Spain
France	Sweden
Germany	Switzerland
Ireland	United Kingdom
Italy	United States
Japan	Greece (ratification pending)

INTERNATIONAL DAIRY AGREEMENT	
Argentina	Norway
Bulgaria	Romania
EC	Switzerland
Japan	Uruguay
New Zealand	

INTERNATIONAL BOVINE MEAT AGREEMENT	
Argentina	New Zealand
Australia	Norway
Brazil	Paraguay
Bulgaria	Romania
Canada	South Africa
Colombia	Switzerland
EC-15	United States
Japan	Uruguay

Note.—Membership for Hong Kong in the Government Procurement Agreement will enter into force 30 days after the date it deposits its instrumentt of accession with WTO Director-General. Membership for Bulgaria in the Civil Aircraft Agreement entered into force on Dec. 1, 1996. Membership for Greece in the Civil Aircraft Agreement is pending ratification.

Source: WTO, WT/L/190, *Report (1996) of the Committee on Government Procurement (1994 Agreement)*, Oct. 17, 1996; WTO, WT/L/193, *Report (1996) of the Committee on Trade in Civil Aircraft*, Nov. 11, 1996; WTO, WT/L/178, *International Dairy Council—Report to the Singapore Ministerial Conference*, Oct. 11, 1996; WTO, WT/L/179, *International Meat Council—Report to the Singapore Ministerial Conference*, Oct. 11, 1996; WTO, "WTO Government Procurement Committee Approves Membership of Hong Kong," *Press Release*, PRESS/61, Dec. 5, 1996.

Finding an appropriate solution that would in effect link the 1979 Civil Aircraft Agreement to the 1995 WTO Agreement and its integrated framework has so far proved elusive.[188] In 1992, the United States won a dispute settlement case under the 1979 Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) against the exchange rate guarantee program for Deutsche Airbus, which the panel found to be a prohibited export subsidy under the agreement.[189] The EC maintained that the case should have been filed under the 1979 Civil Aircraft Agreement because that agreement recognizes the specificity of the sector and provides for comprehensive rules on trade in civil aircraft, including dispute settlement procedures, and was further concerned that U.S. recourse to the 1979 Subsidies Agreement might deprive the EC of its rights under the 1979 Civil Aircraft Agreement.[190] The EC blocked formal adoption of the panel report.[191]

The issue of how to transfer the 1979 Civil Aircraft Agreement—with its status quo relation to related GATT instruments involving subsidies and dispute settlement procedures—to fit under the framework of the 1995 WTO Agreement—with its multilateral application of the WTO Agreement on Subsidies and Countervailing Measures and its integrated dispute settlement system—has been largely responsible for the deadlock between the EC and the United States over how to treat these provisions when revising the Aircraft Agreement. While no agreement could be reached in 1996 to resolve these issues, signatories agreed to continue discussions aimed at reaching a solution.[192] At the end of 1996, there were 22 parties to the Civil Aircraft Agreement (table 2-5). The agreement entered into force for Bulgaria on December 1, 1996, whereas Greece is a signatory pending ratification.

International Dairy Agreement[193]

The International Dairy Agreement entered into force on January 1, 1995. The International Dairy Council overseeing the agreement met twice in 1995 and once in 1996, adopting rules of procedure and formats for gathering information policy to aid in reviewing the situation and outlook in the world market for dairy products. The council agreed to suspend its provisions to maintain minimum export prices for dairy products due to the nonparticipation of some major dairy exporting countries until December 31, 1997. This action prompted the suspension of the Committee on Certain Milk Products as a result. By yearend 1996, there were nine parties to the International Dairy Agreement (table 2-5).

International Bovine Meat Agreement[194]

The International Bovine Meat Agreement entered into force on January 1, 1995. The International Meat Council overseeing the agreement met once both in 1995 and in 1996, adopting rules of procedure as well as formats for gathering policy and statistical information. By yearend 1996, there were 16 parties to the International Bovine Meat Agreement (table 2-5).

The Organization for Economic Cooperation and Development

New Trade Agenda Issues

In looking beyond the Uruguay Round, the OECD ministers decided in the early 1990s to embark on new work to explore trade issues arising out of the increasing globalization of business and the world economy. Beginning with the 1991 and 1992 OECD communiques, the Ministers began to set out a work program that involved examination of trade issues of the 1990s, or so-called new trade agenda issues, that considered the links and interactions of trade policy with other areas that previously were considered largely domestic in nature. The areas pursued initially, and reaffirmed in the 1993 communique, included trade policy and its connection to policies related to (1) the environment, (2) investment, and (3) competition policy (also known as antitrust policy). Work on these trade issues of the 1990s is carried out by the OECD Trade Committee in cooperation with other relevant OECD committees.

Since then, the work program has evolved with these initial subjects progressing at different rates and other subjects being introduced or considered as possible areas for examination. With the creation of the WTO in 1995 and its establishment of a Committee on Trade and Environment, the multilateral focus on trade and the environment has shifted to a large extent from the OECD to the WTO although supporting work continues in the OECD. Work in the OECD on trade and investment has advanced the furthest where, after an initial examination, Ministers agreed at the 1995 Ministerial meeting to undertake negotiation of a multilateral agreement on investment (MAI) scheduled for completion by their May 1997 meeting. In contrast, work on trade and competition policy has proved to date more difficult to find common ground that would allow more rapid progress. In 1994, Ministers agreed to add the relation of trade to core labor standards to the OECD new trade agenda. In addition, other subjects currently under examination at the OECD—such as regulatory reform, expanded market access/openness, and multilateral efforts against bribery and corruption—may be included formally at some point under the rubric of the new trade agenda either as a separate subject or as a related part of an existing subject given the overlapping elements and similarities that exist in many of these issues.

Trade and Environment

In 1991, the Joint Experts Group on Trade and Environment was established to examine the subject of how to better integrate the two areas so as to ensure the compatibility of trade and environmental policies and thus contribute to sustainable development. In June 1993, the joint group presented and OECD ministers adopted the Procedural Guidelines for Integrating Trade and Environment Policies.[195] In 1995, the group presented a report that describes the progress made by members in carrying out these guidelines. The report also summarizes conclusions by OECD trade and environment policymakers on preferred strategies to make the two policies more compatible and mutually reinforcing. It addresses a number of key issues such as the effects of environmental policies on competitiveness, of trade liberalization on the environment, of economic instruments—such as subsidies, taxes and charges, deposit refund schemes, or other adjustments made for environmental purposes—and of the use of trade measures in multilateral environmental agreements (MEAs).[196]

In 1996, the group continued a study begun in 1995 concerning the relation between trade and the environment in the transportation sector, structured in three parts. First, the study will examine the relation between international trade and transport, with a focus on the effects of trade liberalization in general and on liberalization of the transport sector in particular. Second, the study will survey the major effects of international freight movements on the environment. Third, the study will attempt to measure the effects of growth in international freight due to trade liberalization on the environment. The study is due to be completed in 1997. The group is also well advanced in its examination of the effects of ecolabeling programs, focusing on the market impact and trade effects of such schemes, as well as their consultation processes, their transparency, and their environmental effectiveness. In addition, the group has decided to continue examination of experiences with trade measures in two MEAs—the Convention on

International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal. These studies will examine the purposes and effectiveness of trade provisions in these conventions, how noncompliance and illegal trade is addressed, and how developing country interests are affected.

Trade and Investment

Ministers confirmed their intent at the OECD Ministerial meeting in May 1996, to reach agreement on a multilateral agreement on investment by their next Ministerial meeting in 1997. In negotiating a MAI, OECD members have also entered into a dialogue with nonmember countries that might be interested in acceding to a MAI once negotiations are completed.

Multilateral agreement on investment negotiations

At the May 1996 Ministerial meeting, the Negotiating Group tasked with developing a MAI presented ministers with a progress report. Since beginning talks in September 1995, building blocks of the agreement have been defined—such as investment protection, national treatment, most favored nation (MFN) treatment, and transparency. Mechanisms have also been outlined to help achieve "standstill" (no new reservations or restrictions) and "rollback" (relaxation or liberalization of existing ones) and to resolve disputes—both state to state and investor to state. However, negotiations continue on how to realize the goals of liberalization at a high level, disciplines in new areas, commitments applicable to all government levels, and measures taken in the context of regional economic agreements.[197]

The negotiating group chairman characterized the basic framework of the MAI being developed as based upon the definition of "investment" and "investor," saying there was agreement on the need for a broad definition of "investment" but no agreement yet on the precise definition of either term. Once agreed, these definitions will operate through two key channels that are also focal points of negotiations —the "pre-investment" phase of investment where the principle of nondiscrimination will be important, and the "post-investment" phase where investment protection disciplines will be important. Binding these concepts together will be the final dispute settlement provisions. He further outlined three types of likely exceptions—

- general exceptions as part of the treaty text (e.g. national security provisions);
- temporary derogations for balance of payments reasons (of more importance to non-OECD members that may join the MAI under negotiation than to OECD members); and
- country specific reservations that include "standstill" and hopefully "rollback" provisions in effect.[198]

The negotiating group has set up several drafting and expert groups to treat various topics—

- Drafting Group 1 on Investment Protection;
- Drafting Group 2 on Treatment of Investors and Investment;
- Expert Group 1 on Dispute Settlement and Geographic Scope;
- Expert Group 2 on Taxation Issues;
- Expert Group 3 on Special Topics;
- Expert Group 4 on Institutional Matters; and
- Expert Group 5 on Financial Services Matters.

Trade and Competition

OECD members approved in April 1996 the Joint Group on Trade and Competition, which held its first meeting in July. The Joint Group is charged with strengthening the work previously carried out by separate meetings of the Working Parties of the Trade Committee (TC) and of the Competition Law and Policy Committee (CLP) with the aim to increase the coherence between the two policies.

Key issues to be examined include—

- Reducing exemptions to the scope and coverage of competition laws and ensuring actual enforcement;
- The possible development of core international competition principles, including transparency and nondiscrimination; and
- Means to improve international cooperation among competition authorities, such as by exchange of information and positive comity, etc.

The two committees reported at the May 1996 OECD ministerial conference that there were three key problem areas in the interaction of trade and competition policies—

- Anticompetitive private practices may impede market access as well as competition (e.g. domestic producers may use exclusive dealing arrangements to keep foreign forms out of distribution or sales channels or may jointly boycott domestic firms that purchase or distribute imported products).
- Trade measures may impede competition as well as block market access (e.g. tariff peaks, quantitative restrictions, other nontariff measures, may insulate producers from competition which in turn may raise costs to consumers).
- Regulations may frustrate both market access and competition (e.g. a monopoly position granted through regulation may be continued even after its economic justification is no longer warranted, or product standards might be used to block imports).

Both trade and competition officials seek to enhance consumer welfare through economic efficiency and greater competition, and both agree that trade and competition policies can be mutually reinforcing although trade and competition authorities sometimes differ on the appropriate role that national competition policies should play in addressing the market access concerns of trading partners. Further work in the OECD will aim at strengthening trade and competition policies by focusing on the feasibility and desirability of resolving these problem areas through means such as enhanced bilateral cooperation, development of agreed minimum common standards, or multilateral agreement.[199]

Trade and Labor

A considerable controversy was generated by the U.S. request in April 1994 to include trade and labor standards in the Marrakesh Declaration and the future work program for the WTO. As a result, the OECD member countries agreed in May 1994 to include examination of trade and core labor standards as part of the OECD work program on trade issues of the 1990s.

In May 1996, a joint report done by the OECD Trade Committee (TC) and the Committee on Employment, Labor, and Social Affairs (ELSA)—accompanied by an analytical study done by the OECD Secretariat—was issued addressing the links between trade and labor standards. The report identified the following core labor standards as those that should apply as an integral part of human rights (alongside for example the right to life, freedom of expression, and others contained in a number of United Nations texts) in all countries regardless of degree of economic development—

- Freedom of association;
- Freedom to organize and bargain collectively;
- Elimination of child labor exploitation;
- Elimination of forced labor; and
- Nondiscrimination in employment

The analysis points to the lack of evidence to show that countries with lower labor standards enjoy better export performance or that countries with higher labor standards suffer poorer export performance. Indeed, contrary to conferring an export advantage, the study considers that lower labor standards are more apt to hamper economic efficiency and export growth over the long run because, for example, child labor or employment discrimination undermine development of human capital and productivity growth. Such findings may go some way to alleviate concerns by developing countries that enforcement of core standards would negatively affect their economic performance or their international competitiveness by undermining their competitive advantage for producing goods requiring lower-wage labor.[200]

The analysis shows that there is a mutually reinforcing relation between trade liberalization and improvements in core labor standards and that core standards are more closely adhered to in sectors exposed to international competition than in sheltered sectors. However, although economic development may lead to improved observance of core labor standards in particular when supported by market-oriented reforms, the study finds it is doubtful that market forces alone will automatically improve labor standards. Thus, some form of incentives to promote core standards worldwide might be needed. These could include making financial assistance to developing countries contingent on compliance with core labor standards, educational promotion that could help reduce child labor exploitation, consumer labeling that hindered fraud, and investment codes that guide multinational enterprises to adopt core labor standards.[201]

Accessions

During 1996, three new members joined the OECD, raising to 29 the number of member countries (table 2-6). Upon completing an examination of a country's terms of accession, the OECD issues a formal invitation to join the OECD and a country becomes a member when it deposits its instrument of

accession to the OECD Convention with the Government of France, which is the depositary for the Convention. The new 1996 OECD members, along with their accession dates, were—

- Hungary—May 7, 1996;
- Poland—November 22, 1996; and
- Korea—December 12, 1996.

In addition, the Russian Federation officially requested OECD membership on May 20, 1996, and its request is under consideration.[202]

Table 2-6
OECD Members (29 as of December 12, 1996)

Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal
Canada	Italy	Spain
Czech Republic	Japan	Sweden
Denmark	Korea	Switzerland
Finland	Luxembourg	Turkey
France	Mexico	United Kingdom
Germany	Netherlands	United States
Greece	New Zealand	

Sources: OECD, "Korea Officially Becomes OECD Member," SG/COM/NEWS(96)117, Dec. 12, 1996; OECD, "Poland Officially Becomes OECD Member," SG/COM/NEWS(96)107, Nov. 22, 1996; OECD, "Russian Federation Requests OECD Membership," SG/COM/NEWS(96)52, May 21, 1996; and OECD, "Hungary to Become a Member of OECD," SG/COM/NEWS(96)29, Mar. 25, 1996. Found at OECD website at http://www.oecd.org.

ENDNOTES

[1] Reports directly to the Ministerial Conference when in session.

[2] Including its Subcommittee on Least Developed Countries.

[3] Formally, the Agreement Establishing the World Trade Organization ("WTO Agreement").

[4] The General Agreement on Tariffs and Trade 1994 ("GATT 1994") includes a number of understandings on how to interpret certain articles under the General Agreement, as well as the Marrakesh Protocol to the GATT 1994 that contains national country schedules with their individual tariff and other trade commitments.

[5] Concerning antidumping measures.

[6] Concerning customs valuation.

[7] WTO, "WTO Ministerial Conference - 9-13 December 1996," WTO website (http://www.wto.org).

[8] WTO, "Statement by the Honorable Charlene Barshefsky, Acting United States Trade Representative, on behalf of the United States," WT/MIN (96)/ST/5, Dec. 9, 1996 (96-5176) and USTR, "Acting USTR Charlene Barshefsky Outlines Declaration at Singapore WTO Ministerial," press release 96-94, Dec. 9, 1996.

[9] USTR, "Prepared Statement of Ambassador Charlene Barshefsky, Acting United States Trade Representative, before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives," Sept. 11, 1996, p. 14.

[10] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996.

[11] WTO, "Ministerial Declaration on Trade in Information Technology Products," Singapore, Dec. 13, 1996. The 15 EU members were represented by the EU.

[12] WTO, "Singapore Ministerial Declaration," WT/MIN(96)/DEC, Dec. 18, 1996. The Singapore Ministerial Declaration is reprinted in USTR, *1997 Trade Policy Agenda and 1996 Annual Report,* pp. 81-88.

[13] USTR, "Prepared Statement of Ambassador Charlene Barshefsky, Acting United States Trade Representative, before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives," Sept. 11, 1996, p. 15.

[14] *Singapore Ministerial Declaration*, para. 10.

[15] Ibid., para. 11.

[16] Ibid., para. 12.

[17] For a discussion of developments related to the ATC in 1996, see ch. 5.

[18] WTO, "Press Brief: Textiles," p. 3, posted on the WTO website. A U.S. paper examining the first-stage implementation plans of 5 major importing countries shows that in the first stage, covering 1995-98, "most exporting Members have not integrated any meaningful or sensitive products in the fabric, apparel or made-up groups," which represent 3 of the 4 major product groups subject to the quota phase-out (the 4th category is yarn). Communication from the United States to the Council for Trade in Goods, "Issues Concerning Market Access and Circumvention as they Relate to the Implementation of the Agreement on Textiles and Clothing," Sept. 19, 1996.

[19] The measure was applied to cotton and manmade fiber skirts from El Salvador. WTO, "Report of the Textiles Monitoring Body," G/L/113, Oct. 4, 1996, p. 13.

[20] *Singapore Ministerial Declaration*, para. 15.

[21] *Decision on Trade and Environment*, Marrakesh Ministerial, April 1994.

[22] WTO, *Report (1996) of the Committee on Trade and the Environment*, Nov. 12, 1996 WT/CTE/1 (96-4808), p. 40.

[23] USTR, "Trade and Environment," Singapore Ministerial Conference briefing book, Nov. 27, 1996.

[24] WTO, *Report (1996) of the Committee on Trade and the Environment*, Nov. 12, 1996 WT/CTE/1 (96-4808), p. 39, para. 173 and p. 40, para. 174.

[25] WTO, "Report (1996) of the Committee on Trade and the Environment," Nov. 12, 1996 WT/CTE/1 (96-4808). A coalition of U.S. industry associations led by the Grocery Manufacturers' Association, and the U.S. Council for International Business, were among the business interests urging USTR to seek enhanced WTO disciplines on ecolabeling to counter discriminatory, non-transparent, and market-inhibiting effects of ecolabeling by U.S. trading partners, particularly the EU.

[26] Ibid., p. 42, para. 185.

[27] BNA, "Trade and Environment Committee Adopts Text for Singapore Meeting," *International Trade Reporter*, Nov. 13, 1996, p. 1730.

[28] *Singapore Ministerial Declaration*, at para. 16.

[29] BNA, "U.S. Expects Little on Trade/Environment in Singapore Ministerial, Barshefsky Says," *International Trade Reporter*, Sept. 20, 1996, p. 1480.

[30] USTR, "Trade and Environment," Singapore Ministerial Conference briefing book, Nov. 27, 1996.

[31] *Singapore Ministerial Declaration*, para. 17.

[32] For a discussion of the outcome of the negotiations on basic telecommunications, see the section on the "Council on Trade in Services," later in this section.

[33] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996, p. 2.

[34] *Singapore Ministerial Declaration*, para. 19.

[35] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996, p. 2.

[36] USTR, "Acting USTR Charlene Barshefsky Outlines Declaration at Singapore WTO Ministerial," press release 96-94, Dec. 9, 1996.

[37] This number is a preliminary ITC estimate based upon the proposed actual ITA product coverage. It is compiled by USITC Office of Industries staff from *Elsevier's World Electronics Yearbook*. The WTO preliminary estimate of ITA exports is $595 billion but is based on the WTO's annual report definition of IT products, which includes consumer electronics but excludes software.

[38] WTO, "Press Brief: Information Technology Agreement (ITA)," posted on the WTO website.

[39] BNA, "U.S., EU Announce Accord to Scrap Tariffs on Info. Tech Goods; Other Nations to Join," Dec. 13, 1996, *BNA International Trade Daily*.

[40] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996.

[41] WTO, *ITA Declaration*, para. 3.

[42] U.S. Department of State telegram, "Info Tech Agreement: Outcome from WTO Ministerial," message reference No. 254990, prepared by the U.S. Department of State, Washington, DC, Dec. 13, 1996.

[43] *ITA Declaration*, para. 2.

[44] *ITA Declaration*, Annex, para. 1.

[45] *ITA Declaration*, para. 1 and paras. 3, 6, and 7 of Annex.

[46] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996.

[47] BNA, "Nations Join U.S.-EU Info Tech Pact; Agreement Could Take Effect Next Year," *BNA International Trade Daily*, Dec. 13, 1996. The article notes that Hewlett-Packard, IBM, Sun Microsystems, Inc., Compaq Computer Corp., Microsoft, Intel, the Business Software Alliance, and the Coalition of Service Industries all have issued statements welcoming the ITA accord.

[48] American Electronics Association, informal transmittal to ITC staff, Jan. 16, 1997.

[49] BNA, "U.S. High-Tech Firms to Gain from IT Accord, but Not for Some Time," *BNA International Trade Daily*, Dec. 27, 1996.

[50] Negotiations to conclude the ITA resumed in Geneva on January 17, 1997. Countries accounting for some 92 percent of world trade in information technology products had signed by the end of March 1997 (90 percent or more are required for the agreement to become operational on July 1, 1997), including— Australia, Canada, Costa Rica, Estonia, the EU-15, Hong Kong, Iceland, Indonesia, Japan, Korea, Macau, Malaysia, New Zealand, Norway, Romania, Singapore, Switzerland, Taiwan, Thailand, Turkey, and the United States. USTR, "Information Technology Agreement on Track Toward March 26 Conclusion," press release 97-21, Mar. 13, 1997.

[51] The results of the Uruguay Round zero-for-zero initiative on pharmaceuticals are contained in a record of discussion on the treatment of pharmaceutical products, GATT document L/7430, Mar. 25, 1994.

[52] For example, GATT Schedule, Part I — Most-Favored-Nation Tariff, Pharmaceutical Appendix.

[53] WTO, Committee on Market Access, "Trade in Pharmaceutical Products," G/MA/W/10, Oct. 11, 1996, (96-4185).

[54] There are 48 least developed countries designated by the UN; 25 LLDCs that are WTO members and 23 LLDCs that are not WTO members, some of which are in various stages of acceding to the WTO. In addition to the LLDCs that are by definition net food importers, there are 15 other countries that the WTO recognizes as net food importers, bringing the total to 63. For details, see, UN, "Committee for Development Planning—Report on the Thirtieth Session (28 and 29 May 1996)," E/1996/76, June 21, 1996, Annex IV; WTO, "Background Information Packet Q&A—Lower-Income Developing Countries and the WTO," found at WTO website http://www.wto.org/wto/Whats_new/qadev.htm on Dec. 17, 1996; and USTR, "Singapore Agenda for the Least-Developed Countries," Singapore Ministerial Conference briefing book, Annex 2.

[55] Several of these issues—such as competition policy and core labor standards—are far from "new" and were at one time part of the 1948 Havana Charter that, had it entered into force, would have established an organization much like the present WTO.

[56] WTO, *Singapore Ministerial Declaration*, para. 4.

[57] In 1994, the ILO Governing Body established a Working Party on the Social Dimension of Liberalization of International Trade. The Working Party agreed that there is a set of core standards that should be adhered to no matter what the level of development. The standards identified by the Working Party include those relating to: (1) freedom of association; (2) right to organize and bargain collectively; (3) prison labor; (4) forced labor; (5) discrimination in employment; and (6) discrimination in pay. USTR, "Trade and Labor Standards," Singapore Ministerial Conference briefing book, Nov. 27, 1996.

[58] See, for example, USTR, "Remarks by Andrew Stoler, Deputy Chief of Mission in the U.S. Trade Representative's Office in Geneva before the International Confederation of Free Trade Unions, Singapore," Dec. 8, 1996.

[59] OECD, *Trade, Employment, and Labour Standards: A Study of Core Workers' Rights and International Trade*, Paris: OECD, 1996, pp. 11-13.

[60] U.S. Department of State telegram, "WTO Singapore Ministerial - Trade and Labor Standards," message reference No. Geneva 3493, prepared by the U.S. Mission to the United Nations, Geneva, May 17, 1996. The text of the U.S. "non-paper" as well as the remarks of the U.S. delegate when introducing it at the May 15, 1996 informal heads-of-delegation meeting are reported therein.

[61] U.S. Department of State telegram, "Demarche Request: WTO Singapore Ministerial Issues," message reference No. State 239604, Nov. 19, 1996.

[62] USTR, "Prepared Statement of Ambassador Charlene Barshefsky, Acting United States Trade Representative, before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives," Sept. 11, 1996, p. 26.

[63] Although the EC Commission proposed in a July 24, 1996 communication that the EU support WTO work in the area, the EU's General Affairs Council dropped the issue from guidelines for EU participation in the SMC due to strong objections from the United Kingdom. "Commission to Push WTO Working Group on Social Standards," *European Report*, No. 2151, July 24, 1996, p. V-1 and U.S. Department of State telegram, "EU GAC Meeting, Oct. 28: Preparations for WTO Ministerial," prepared by U.S. Mission to the European Union, Brussels, message reference no. Brussels 9392, Oct. 30, 1996.

[64] In the case of Japan and Australia, for example, see "Australia Supports Indonesia's WTO Stance," *Xinhua*, NewsEDGE/LAN, Oct. 25, 1996 and BNA, "Quad Partners Propose New Initiatives for Discussion at December WTO Meeting," *International Trade Reporter*, Apr. 24, 1996, p. 676.

[65] USTR, "United States Praises Sweeping Information Technology Agreement, WTO process," press release 96-96, Dec. 13, 1996.

[66] WTO, *Singapore Ministerial Declaration*, para. 7.

[67] WTO, "Press Brief: Regionalism and the Multilateral Trading System," p. 1, posted on the WTO website.

[68] USTR, "Regional Trading Agreements," Singapore Ministerial Conference briefing book, Nov. 29, 1996.

[69] WTO, *Singapore Ministerial Declaration*, para. 20.

[70] For additional background on this issue, see, Edward Wilson, "Trade Issues of the 1990s—Part II," *International Economic Review*, USITC, Dec. 1994.

[71] Submission by the European Community and Its Member States, "Draft Ministerial Decision on Trade and International Dimension of Competition Rules," Oct. 4, 1996.

[72] For additional background on this issue, see "Questions to the E.C. on an International Framework of Competition Rules, by the Republic of Korea," Oct. 10, 1996, Submission by Japan, "Decision on Trade and Competition Policy," Oct. 14, 1996, and "Replies from the E.C. Commission to Questions from the U.S.," and "Replies from the E.C. Commission to Questions from ASEAN."

[73] BNA, "Presidential Advisory Committee Opposes WTO Talks on Competition Policy at This Time," *International Trade Reporter*, Sept. 25, 1996, p. 1476.

[74] WTO, *Singapore Ministerial Declaration*, para. 20.

[75] USTR, "United States Praises Sweeping Information Technology Agreement, WTO Process," press release 96-96, Dec. 13, 1996.

[76] Ibid.

[77] WTO, "Press Brief: Trade and Investment," p. 1, WTO website.

[78] WTO, *Singapore Ministerial Declaration*, para. 22.

[79] Statement by Shunpei Tsukahara, "28th Quadrilateral Trade Ministers' Meeting - April 19-21, 1996 - Chairman's Statement," found at website http://www.dfait-maeci.gc.ca/english/news/press_~1/96_press/96_07e.htm. See also, U.S. Department of State telegram, "WTO Singapore Ministerial Initiative on Government Procurement," message reference No. 95668, prepared by the U.S. Department of State, Washington, DC, May 9, 1996; and BNA, "Quad Partners Propose New Initiatives for Discussion at December WTO Meeting," *International Trade Reporter*, Apr. 24, 1996, p. 676.

[80] USTR, "Prepared Statement of Ambassador Charlene Barshefsky, Acting United States Trade Representative, before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives," Sept. 11, 1996, p. 25.

[81] U.S. Department of State, "WTO Singapore Ministerial Initiative on Government Procurement," message reference No. 95668, prepared by the U.S. Department of State, Washington, DC, May 9, 1996.

[82] USTR, "Transparency in Government Procurement," Singapore Ministerial Conference briefing book, Nov. 27, 1996.

[83] WTO, *Singapore Ministerial Declaration*, para. 8.

[84] WTO, *Singapore Ministerial Declaration*, para. 6.

[85] EU, "The Outcome of the WTO Ministerial In Singapore," *European Union News*, Dec. 13, 1996, No. 74/96.

[86] WTO, "General Council—Annual Report (1996)," WT/GC/7, Nov. 20, 1996.

[87] WTO, "Membership of the World Trade Organization," WT/L/113/Rev.5, Nov. 15, 1996; and WTO, "WTO membership," found at WTO website, http://www.wto.org/wto/memtab2_wpf.html.

[88] WTO, "News Briefs—Working Party on China," *Focus*, No. 10, May 1996, p. 12.

[89] USTR, "Status of WTO Accessions (as of 11-22-96)," *1996 WTO Ministerial Conference*, Singapore, Dec. 9-13, 1996, briefing book, sec. G1. The Working Party met Mar. 6, 1997 to take stock of its work. U.S. Department of State telegram, "Working Party on the Accession of China," message reference No. 765, prepared by the U.S. Mission to the United Nations, Geneva, Feb. 10, 1997.

[90] WTO, "Report (1996) of the Committee on Regional Trade Agreements to the General Council," Nov. 6, 1996.

[91] Under GATT 1994 Article XXIV (Customs Unions and Free Trade Areas).

[92] Under GATS Article V (Economic Integration).

[93] Under the Decision of 28 November 1979 on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries (the "Enabling Clause") that exempts developed country WTO members from their MFN obligations in order to provide special and differential treatment to developing country members.

[94] For more details, see WTO, "Committee on Regional Trade Arrangements," *Annual Report—1996*, vol. 1 (Geneva: 1996), pp. 141-146.

[95] WTO, "General Council—Body on Regional Trade Established," *Focus*, No. 8, Jan.-Feb. 1996, p. 4.

[96] USTR, section IV, "Regional Trade Agreements," Singapore Ministerial Conference briefing book.

[97] WTO, "Dispute Settlement Body—Annual Report (1996)," WT/DSB/8, Oct. 28, 1996.

[98] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. See WTO website for summary of current WTO disputes.

[99] For more details, see U.S. International Trade Commission, *The Year in Trade: Operation of the Trade Agreements Program, 47th Report, 1995*, USITC publication 2971, p. 16.

[100] For more details, see USITC, *The Year in Trade: OTAP, 47th Report, 1995*, USITC publication 2971, p. 16.

[101] WTO, "Dispute Settlement—United States—Standards for Reformulated and Conventional Gasoline," *Focus*, No. 11, June-July 1996, p. 3.

[102] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. The arbitrator's report was circulated to members on Feb. 14, 1997, finding that the reasonable period for implementation was 15 months.

[103] WTO, "Developing countries are becoming active users of WTO dispute-settlement rules - Textile products," *Focus*, No. 9, Mar.-Apr. 1996, pp. 1-2.

[104] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. The Appellate Body's report was circulated to members on Feb. 10, 1997, upholding the panel report regarding the particular point in question. The Appellate Body report and the panel report as adjusted were adopted on Feb. 25, 1997.

[105] WTO, "Developing Countries Are Becoming Active Users of WTO Dispute-Settlement Rules—Desiccated Coconut," *Focus*, No. 9, Mar.-Apr. 1996, pp. 1-2.

[106] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. The Appellate Body's report was circulated to members on Feb. 21, 1997, upholding the panel report. The Appellate Body report and the panel report were adopted on Feb. 21, 1997.

[107] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on Apr. 17, 1996. On Jan. 6, 1997, the panel found that the safeguard measure imposed by the United States violated the provisions of the Textile Agreement. On Feb. 24, 1997, India notified its intention to appeal certain interpretations of the panel.

[108] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on May 8, 1996. The complainants allege that the EU regime concerning bananas is inconsistent with GATT Articles I, II, III, X, XI, and XII, as well as provisions of the Import Licensing, Agriculture, TRIMs Agreements, as well as the GATS.

[109] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on May 20, 1996, and on Oct. 16, 1996, for the U.S. and Canadian complaints, respectively. The complainants allege that measures taken by the EU concerning hormones are inconsistent with GATT Articles III or XI, as well as provisions of the SPS, TBT, and Agriculture Agreements.

[110] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on June 19, 1996. On Jan. 16, 1997, the parties involved received the panel's interim report, which found that Canada's preferential tax and postage treatment of Canadian-origin periodicals were inconsistent with GATT rules. BNA, "Canada Weighs Response to Ruling by WTO Against Magazine Tax Policy," *BNA International Trade Daily*, Jan. 22, 1997, art. No. 40221002.

[111] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on Oct. 16, 1996. On Dec. 18, 1996, the United States and Japan agreed to the three members comprising the dispute panel. BNA, "U.S., Japan Agree to Members for Panel in Film Dispute Settlement," *BNA International Trade Daily*, Dec. 19, 1996, art. No. 33541002. The U.S. film case against Japan is discussed in greater detail in ch. 4.

[112] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on Nov. 20, 1996. U.S. economic sanctions against Cuba are discussed in greater detail in ch. 6. The European reaction to the sanctions is discussed in ch. 4.

[113] WTO, "Overview of the State-of-play of WTO Disputes," found at the WTO website, http://www.wto.org/wto/dispute/bulletin.htm, Mar. 11, 1997. A panel was established on Nov. 20, 1996.

[114] WTO, "Dispute Settlement Body—Annual Report (1996)," WT/DSB/8, Oct. 28, 1996, p. 17; and WTO, "Procedures for the Circulation and Derestriction of WTO Documents - Decision adopted by the General Council on 18 July 1996," WT/L/160/Rev.1, July 26, 1996.

[115] WTO, "Trade Policy Review Mechanism—Report to the Singapore Ministerial Conference WT/TPR/27, Oct. 28, 1996;" WTO, "Annex II—Trade Policy Review Body—Concluding remarks by the Chair of the Trade Policy Review Body," *Annual Report—1996* (WTO: Geneva, 1996), pp. 168-189; and WTO, list of TPRM reports issued by the WTO Secretariat.

[116] For more details, see WTO, "Trade Policy Review Mechanism," *Annual Report—1996*, vol. 1 (Geneva: 1996), p. 139.

[117] WTO, "Report of the Council for Trade in Goods to the General Council," G/L/134, Nov. 5, 1996.

[118] WTO, "Report of the Market Access Committee," G/L/132, Nov. 4, 1996.

[119] WTO, "Report of the Committee on Agriculture," G/L/131, Nov. 7, 1996.

[120] WTO, "Report of the Committee on Sanitary and Phytosanitary Measures," G/L/118, Oct. 15, 1996.

[121] WTO, "Report of the Textiles Monitoring Body," G/L/113, Oct. 4, 1996.

[122] WTO, *Singapore Ministerial Declaration*, Dec. 13, 1996, par. 15.

[123] WTO, "Report of the Committee on Technical Barriers to Trade," G/L/122, Oct. 28, 1996.

[124] WTO, "Report (1996) of the Committee on Subsidies and Countervailing Measures," G/L/126, Oct. 28, 1996.

[125] Data listing 1996 notifications of countervailing duty actions reported by signatories to the WTO Committee on subsidies and Countervailing Measures were not available prior to publication of this report. Notifications reported for 1996 will be published in the USITC's *International Economic Review* in Summer, 1997.

[126] WTO, "Report (1996) of the Committee on Anti-dumping Practices," G/L/123, Oct. 29, 1996.

[127] Data listing 1996 notifications of antidumping actions reported by signatories to the WTO Committee on Antidumping practices were not available prior to publication of this report. Notifications reported for 1996 will be published in the USITC's *International Economic Review* in Summer, 1997.

[128] WTO, "Report of the Committee on Customs Valuation to the Council for Trade in Goods," G/L/121, Oct. 29, 1996.

[129] WTO, "Report of the Committee on Rules of Origin," G/L/119, Oct. 18, 1996.

[130] WTO, "Report of the Committee on Import Licensing," G/L/127, Oct. 30, 1996.

[131] WTO, "Report (1996) of the Committee on Trade-Related Investment Measures," G/L/133, Nov. 1, 1996.

[132] WTO, "Report (1996) of the Committee on Safeguards," G/L/129, Oct. 29, 1996.

[133] WTO, "Dispute Settlement—Preshipment Inspection Body Becomes Operational," *Focus*, No. 11, June-July 1996, pp. 5-6.

[134] WTO, "Report (1996) of the Working Party on State Trading Enterprises," G/L/128, Oct. 28, 1996.

[135] WTO, "Report of the Working Group on Notification Obligations and Procedures," G/L/112, Oct. 7, 1996.

[136] WTO, "Council for Trade in Services—Report to the General Council," S/C/3, Nov. 6, 1996.

[137] Before May 1996, the Negotiating Group on Basic Telecommunications.

[138] The Treaty of European Union (the so-called Maastricht Treaty) went into effect Nov. 1, 1993. References to the European Communities (EC), the European Coal and Steel Community (ECSC), European Atomic Energy Community (EURATOM), and the European Economic Community (EEC), or "European Community," have since adopted the form "European Union" (EU). The legal obligations of the EU, however, remain the responsibility of the Commission of the European Communities (or "EC Commission"), and references to the EU prior to the Maastricht Treaty may be noted as EC followed by the number of member states at the time, such as EC-6, EC-9, EC-12.

[139] With the completion of the Interim Agreement in Financial Services by July 1995, the Agreement on Movement of Natural Persons in July 1995, agreement in June 1996 to postpone further negotiations on maritime transport services until 2000, and the Feb. 1997 conclusion of the Agreement on Basic Telecommunications, the mandates for their respective negotiating groups and supporting committees (such as the Committee on Trade in Financial Services) have ceased to operate or have become dormant until new negotiations and possibly new mandates are agreed.

[140] Scheduled to enter into effect by January 1, 1998.

[141] Scheduled to begin within two years of the entry into force of the WTO Agreement, i.e. by Jan. 1, 1997. Ongoing work under GATS Article XIII:2 on government procurement in services is expected to be addressed in parallel with that on goods, to which end ministers at the Dec. 1996 Singapore conference directed the establishment of a working group on transparency in government procurement. U.S. Department of State telegram,"Instructions for WTO heads of delegation meeting on government procurement initiative," message reference No. 126703, prepared by the U.S. Department of State, Washington DC, June 19, 1996; and WTO, *Singapore Ministerial Declaration*, Dec. 13, 1996, par. 21.

[142] Scheduled to begin at a time set under a work program to be developed.

[143] Singapore Ministerial Declaration, Dec. 13, 1996, par. 17.

[144] By early November 1996, the following 29 countries had accepted the Second Protocol—Australia, Brazil, Canada, Chile, Czech Republic, Dominican Republic, Egypt, EU-15, Hong Kong, Hungary, India, Indonesia, Japan, Korea, Kuwait, Malaysia, Mexico, Morocco, Norway, Pakistan, Philippines, Poland, Singapore, Slovak Republic, South Africa, Switzerland, Thailand, Turkey, Venezuela.

[145] WTO, "The WTO Negotiations on Basic Telecommunications - Summary," http://www.wto.org/wto/whats_new/summary.htm, Feb. 20, 1997.

[146] For a discussion of the basic telecommunication negotiations prior to Apr. 30,

1996, see USITC, "Basic Telecommunication Service Negotiations in the World Trade Organization: Impetus, Offers, and Prospects," *Industry, Trade, and Technology Review*, USITC publication 3017, Jan. 1997.

[147] GATT Secretariat, *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts*, p. 461.

[148] Ibid., p. 360.

[149] Foreign entities may indirectly own 100 percent of U.S. carriers through establishment of a U.S. holding company. There is a limit of 20 percent on direct ownership.

[150] Value-added telecommunication services include facsimile transmission, electronic mail, voice mail, on-line information and data base retrieval, on-line processing, electronic data interchange, and other services that add value to telecommunication services beyond the transmission of voice or data signals.

[151] Leased lines are lines dedicated to users requiring exclusive or continuous capacity for rapid voice and, principally, data transmission. Because leased lines are one of the integral building blocks of private networks and entities providing value-added services, their availability and pricing significantly influence the competitive position of the lessee.

[152] Interconnection is the technical interface between two networks, such as that between a private network constructed by private firms and the public switched network operated by the state monopoly. The terms and conditions of interconnection significantly influence the competitive position of the firm seeking connection to the public switched network.

[153] Universal service requirements generally specify that every citizen should have basic telecommunication service at affordable prices.

[154] USTR, "Testimony of Ambassador Jeffrey M. Lang, before the U.S. House of Representatives, Subcommittee on Commerce, Trade, and Hazardous Materials," May 9, 1996.

[155] Notable EU member states' investment restrictions include a 20 percent foreign equity limit on radio-based service by France and a 25 percent foreign equity limit by Portugal.

[156] The liberalization is to be implemented on a delayed basis by Spain in December 1998 and by Portugal and Greece in 2003.

[157] NTT is a former government monopoly and is Japan's largest domestic carrier. It remains two-thirds owned by the government, and currently has 3 percent foreign investment.

[158] KDD is Japan's largest overseas carrier and has close ties to the Government of Japan and to NTT.

[159] USTR, "Statement of Ambassador Charlene Barshefsky on Basic Telecom Negotiations," press release, Feb. 15, 1997, Washington, DC.

[160] Although the United States regulates both DTH and DBS as basic telecommunications, other trading partners consider these satellite services as broadcasting. U.S. Department of State telegram, message reference No. 779, "Statement by Ambassador Jeffery Lang before the Group on Basic Telecommunications Senior Officials meeting at the World Trade Organization," prepared by the U.S. Mission to the United Nations, Geneva, Feb. 11, 1997.

[161] USTR, "Statement of Ambassador Charlene Barshefsky on Basic Telecom Negotiations," press release, Feb. 15, 1997, Washington, DC.

[162] Industry representatives, interviews by USITC staff, Hong Kong, Jan. 30, 1997, and New Delhi, India, Feb. 2, 1997.

[163] Because the nature of the accounting rate system involves differential rates, the Group on Basic Telecommunication came to the understanding that the application of accounting rates would not give rise to action by members under dispute settlement under the WTO until 2000.

[164] "Malaysia Proposes Long-Awaited Telecoms Offer," *1997 Comtex Scientific Corporation*, NewsEDGE/LAN, Feb. 7, 1997.

[165] USTR, press statement by Don Abelson, Feb. 21, 1997, Washington, DC.

[166] See, for example, U.S. Department of State telegram, "Demarche to Argentina on GBT," message reference No. 20987, prepared by the U.S. Department of State, Feb. 5, 1997.

[167] Estimate from the ITU database on World Telecommunication Indicators.

[168] Ibid.

[169] Only Côte d'Ivoire, Ecuador, and Turkey did not improve their Apr. 30, 1996 offers.

[170] USTR, "Statement of Ambassador Charlene Barshefsky on Basic Telecom Negotiations," press release, Feb. 15, 1997, Washington, DC.

[171] USTR, "Foreign Investment," "Market Access for Satellite Service Suppliers," "Regulatory Principles," and "International Services and Facilities," electronic mail, Feb. 25, 1997.

[172] "Telecommunications: Throwing Open the Markets," *1997 Comtex Scientific Corporation*, NewsEDGE/LAN, Feb. 11, 1997.

[173] Robert S. Greenberger and Gautan Naik, "Global Telecommunications Pact Opens Lines to Growing Markets for U.S. firms," *The Wall Street Journal*, Feb. 18, 1997, p. A3, A16.

[174] WTO, "News Briefs—Negotiations on Maritime Transport Suspended," *Focus*, No. 11, June-July 1996, p. 15.

[175] WTO, *Singapore Ministerial Declaration*, Dec. 13, 1996, par. 17.

[176] WTO, "Report (1996) of the Council for TRIPS," IP/C/8, Nov. 6, 1996.

[177] TRIPs article 70 (Protection of Existing Subject Matter) requires, under section 70.8, that members with no patent protection for pharmaceutical and agricultural chemical products make available from the entry into force of the WTO Agreement (Jan. 1, 1995) a means by which applications for such patents may be filed toward such time as when patent protection becomes available for these

products—that is, a "mailbox" where such applications can be registered in advance of being granted patent protection—and that, under section 70.9, exclusive marketing rights shall be granted for a 5-year period following marketing approval for these products.

[178] USTR, "Update: Developments in U.S. International Trade Dispute Settlement—November 1, 1996," pp. 8, 9.

[179] For more details, see WTO, "Cooperation with Other International Organizations," *Annual Report—1996* (WTO: Geneva, 1996), pp. 156-161.

[180] USTR, "Update: Developments in U.S. International Trade Dispute Settlement—November 1, 1996," p. 7.

[181] USTR, "USTR-Designate Barshefsky Announces Resolution of WTO Dispute With Japan on Sound Recordings," press release 97-04, Jan. 24, 1997.

[182] WTO, "Report (1996) of the Committee on Government Procurement (1994 Agreement)," WT/L/190, Oct. 17, 1996.

[183] The United States will terminate its participation in the GPA 1979 on entry into force of the GPA 1994. Uruguay Round Agreements Act Statement of Administrative Action, p. 368; published in H. Doc. 103-316, 103d Cong., 2d Session, 1994, at p. 1037.

[184] WTO, "WTO Government Procurement Committee Approves Membership of Hong Kong," press release PRESS/61, Dec. 5, 1996; and WTO, "Government Procurement—Opening a Huge Market to International Competition," *Focus*, No. 8, Jan.-Feb. 1996, p. 8.

[185] Including the period under the Interim Committee.

[186] WTO, "Report (1996) of the Committee on Trade in Civil Aircraft," WT/L/193, Nov. 11, 1996.

[187] WTO, "Agreement on Trade in Civil Aircraft," *Annual Report—1996* (WTO: Geneva, 1996), p. 151.

[188] Ibid., p. 151.

[189] USTR, "EC—Government Support for Airbus," *1993 National Trade Estimate Report on Foreign Trade Barriers* (USTR: Washington, 1993), pp. 92-93.

[190] GATT, "Subsidies Panel to Examine US/EC Airbus Dispute," *Focus*, No. 80, April 1991, pp. 1, 8.

[191] USTR, "EC—Government Support for Airbus", *1993 National Trade Estimate Report on Foreign Trade Barriers* (USTR: Washington, 1993), p. 93.

[192] WTO, "Report (1996) of the Committee on Trade in Civil Aircraft," WT/L/193, Nov. 11, 1996, par. 6.

[193] WTO, "International Dairy Council—Report to the Singapore Ministerial Conference," WT/L/178, Oct. 11, 1996.

[194] WTO, "International Meat Council—Report to the Singapore Ministerial Conference," WT/L/179, Oct. 11, 1996.

[195] For more details, see USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 73-74.

[196] Dale Andrew, "Trade and Environment in the OECD," *OECD Observer*, special edition, Dec. 1996, p. 33.

[197] OECD, "Multilateral Agreement on Investment—progress Report by the MAI Negotiating Group," OCDE/GD(96)78, 1996, and OECD, *OECD Letter*, vol. 5/6, July 1996. p. 8.

[198] U.S. Department of State telegram, "OECD: Multilateral Agreement on Investment (MAI)—Chairman Briefs the Council on Progress Thus Far," message reference No. 09945, prepared by U.S. Embassy, Paris, May 7, 1996.

[199] OECD, "Strengthening the coherence between trade and competition policies," OCDE/GD(96)90, 1996, and OECD, *OECD Letter*, Vol. 5. No. 8, Oct. 1996. pp.7- 8.

[200] OECD, "Promoting labour standards urged by OECD ministers," *OECD Letter*, Vol. 5, No. 6, July 1996, pp. 6-7.

[201] Raymond Torres, "Labour Standards and International Trade," *OECD Observer*, special edition, Dec. 1996. pp. 31-32.

[202] OECD, "Russian Federation Requests OECD Membership," SG/COM/NEWS(96)52, May 21, 1996.

CHAPTER 3
Regional Trade Activities

As in recent years, regional trade initiatives were an important component of U.S. trade policy during 1996. The main regional trade agreement with U.S. participation in 1996 was the North American Free-Trade Agreement (NAFTA). The United States also participated in ongoing discussions among two other regional groupings—the Free Trade Area of the Americas (FTAA) and the Asia-Pacific Economic Cooperation (APEC) forum. NAFTA, the primary vehicle for conduct of U.S. trade relations with Mexico and Canada, concluded its third year of operation in 1996. Hemispheric trade ministers met in 1996 to consider how to begin negotiating an FTAA. The United States and other members of APEC took steps to begin implementing commitments to attain liberalized trade and investment in the Asia-Pacific region by 2020.

NAFTA

Implemented on January 1, 1994, NAFTA links the United States, Mexico, and Canada in a free trade agreement resulting in the immediate elimination of tariffs on more than one-half of U.S. imports from Mexico and more than one-third of U.S. exports to Mexico.[1] NAFTA also addresses a variety of non-tariff barriers, commits each party to high levels of protection for foreign investors and owners of intellectual property rights, liberalizes trade in services, and creates dispute settlement mechanisms. NAFTA was accompanied by side agreements on environmental and labor cooperation, the first U.S. trade accord to be formally linked to such commitments.

NAFTA is overseen by the Free Trade Commission, made up of the trade ministers from each country.[2] Day-to-day operation of the agreement and technical matters are handled by various committees and working groups composed of trade and other relevant officials from the three governments. This section first discusses U.S. trade with Canada and Mexico in 1996. It then reviews 1996 activities under NAFTA and its accompanying agreements on labor and the environment. Issues that were primarily trilateral in nature or that, though bilateral in origin, had a strong NAFTA dimension, are discussed below, with issues presented in the order they are treated in the NAFTA agreement itself. Issues that are primarily bilateral in nature or that, though having a NAFTA dimension, had a major impact on bilateral trade relations, are covered in Chapter 4 of this report.

NAFTA Trade

Trade among the three NAFTA partners accounts for more than 46 percent of total worldwide trade of NAFTA countries.[3] In 1996, combined U.S. merchandise exports to Canada and Mexico made up 30 percent of total U.S. exports worldwide, while combined U.S. imports from Canada and Mexico accounted for nearly 30 percent of all U.S. imports.[4]

The U.S. merchandise trade balance with NAFTA partners Canada and Mexico deteriorated during 1996. The combined U.S. trade deficit was $56.7 billion in 1996, versus a deficit of $24.6 billion during 1994, NAFTA's first year. However, Mexico's economic recovery and increased U.S. exports to Mexico in 1996, following a year of declining exports in 1995, helped slow the rate of growth of the U.S. trade deficit with the NAFTA partners. U.S. two-way trade (the sum of exports plus imports) with Canada and Mexico has risen from $330.1 billion during NAFTA's first year to $404.3 billion in 1996 (table 3-1). The following sections highlight key trends in trade flows among the NAFTA partners during 1996.

Canada

The United States and Canada are each other's main trading partner, and growth in trade under the NAFTA has been significant. Following annual increases in exports of 12.8 and 9.3 percent respectively during the first two years of NAFTA, U.S.

Table 3-1
U.S. Trade with NAFTA partners, 1994-96

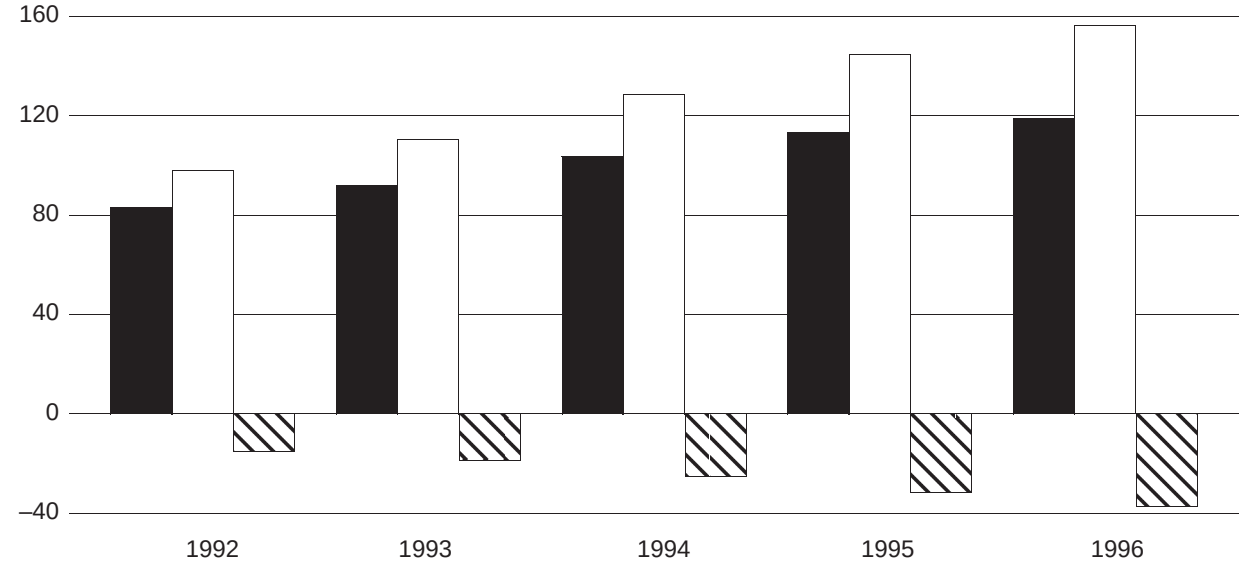
(Billion dollars)

Year	NAFTA Partner	Exports	Imports	Trade Balance (Exports – Imports)	Two-way trade (Exports + Imports)
1994	Canada	103.6	128.8	-25.1	232.4
	Mexico	49.1	48.6	0.5	97.7
	Canada and Mexico	152.7	177.4	-24.6	330.1
1995	Canada	113.3	144.9	-31.6	258.2
	Mexico	44.9	61.7	-16.8	105.7
	Canada and Mexico	157.3	206.6	-49.3	363.9
1996	Canada	119.1	156.3	-37.2	275.4
	Mexico	54.7	74.2	-19.5	128.9
	Canada and Mexico	173.8	230.5	-56.7	404.3

Source: Compiled from official statistics of the U.S. Department of Commerce.

merchandise exports to Canada increased 5.2 percent in 1996 (figure 3-1). Machinery and transport equipment accounted for more than one-half of this entire trade flow (figure 3-2). The top 25 export commodities accounted for approximately one-third of total U.S. exports to Canada. Nine of these products were in the automotive category, the area of major commerce between the two trading partners.

Figure 3-1
U.S. trade with Canada: Exports, imports, and trade balance, 1992-96
Billion dollars

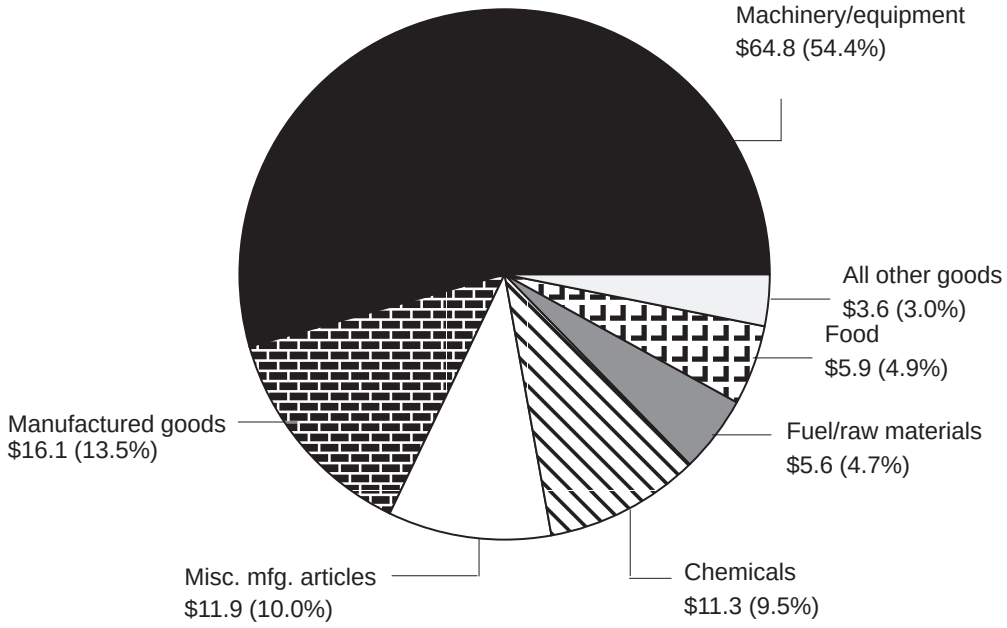


	1992	1993	1994	1995	1996
Exports	$83.2	$91.9	$103.6	$113.3	$119.1
Imports	$98.2	$110.5	$128.8	$144.9	$156.3
Balance	-$15.0	-$18.6	-$25.1	-$31.6	-$37.2

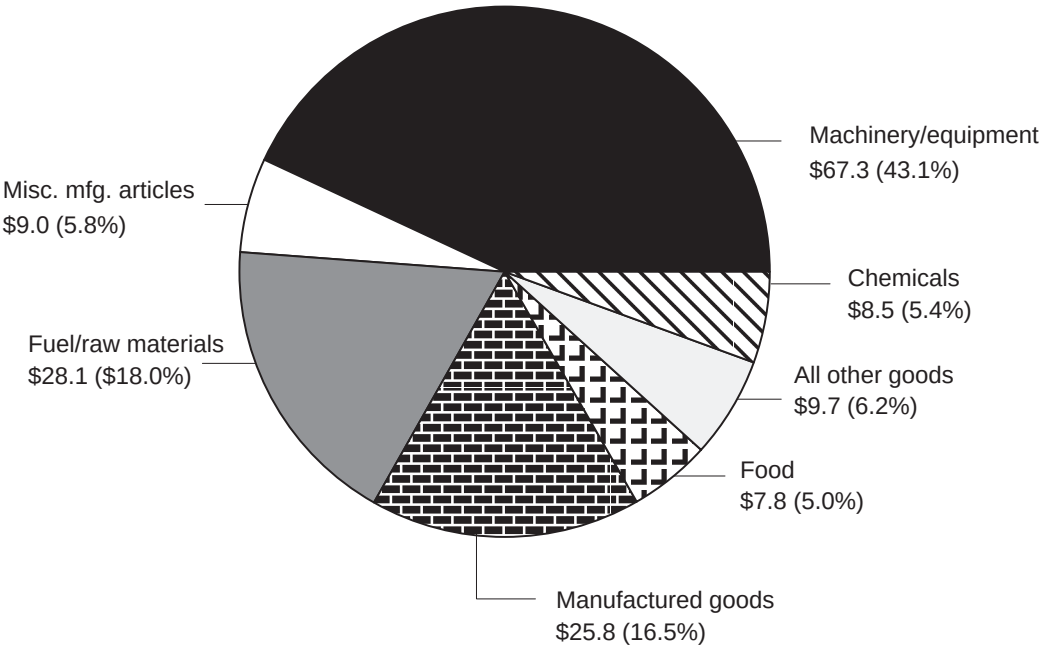
Source: Compiled from official statistics of the U.S. Department of Commerce.

Figure 3-2
U.S. trade with Canada: Exports and imports, by product sectors, 1996

(Billion dollars)



U.S. Exports = 100%



U.S. Imports = 100%

Note.—Because of rounding figures may not add up to totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

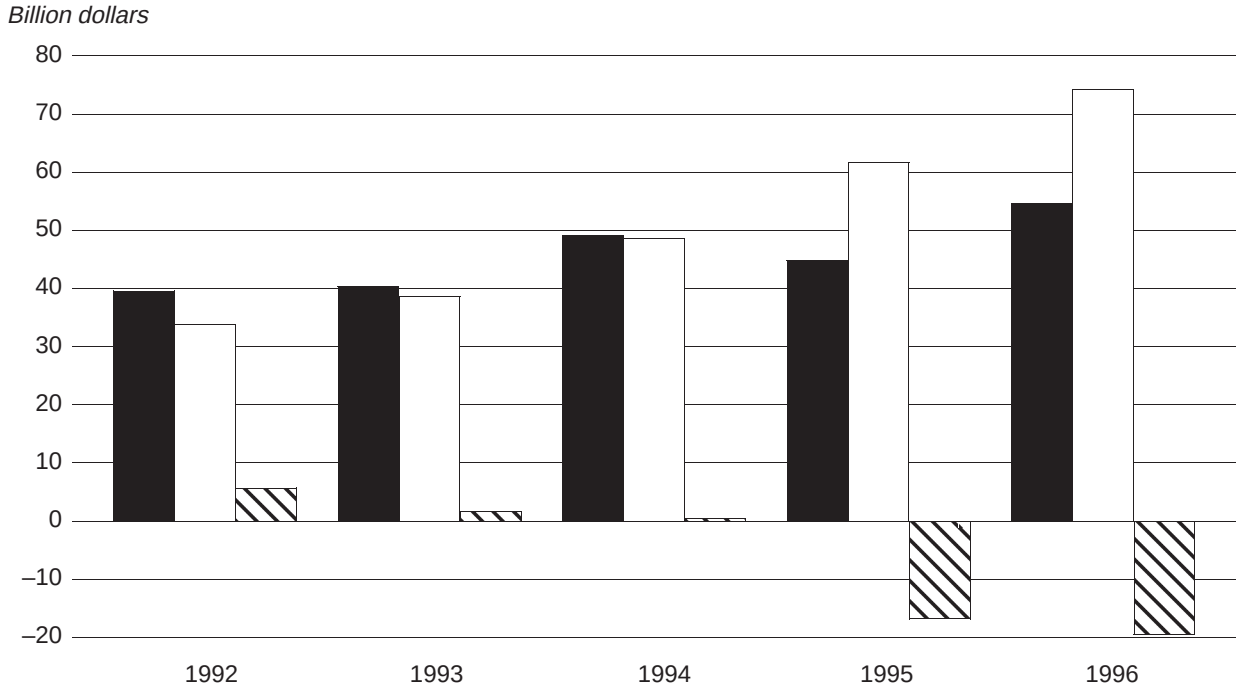
In recent years, the growth of U.S. merchandise imports from Canada has outpaced that of U.S. exports. This trend continued in 1996, when imports increased by 7.9 percent. Machinery and transport equipment again accounted for the most significant (43 percent) commodity trade flow (figure 3-2). Other manufactured goods were the next largest category—16 percent. The greatest amount of trade takes place in the automotive sector, reflecting the integration of the North American motor vehicle industry.

Mexico

Bilateral trade

The United States accounted for over four-fifths of Mexico's exports and some three-fourths of its imports in 1996. Mexico ranks as the third-largest U.S. trading partner, in both exports and imports, after Canada and Japan. NAFTA has generally boosted U.S.-Mexican bilateral trade. U.S. merchandise exports to Mexico rose to a record $54.7 billion in 1996. The 24-percent increase of this trade flow in 1996 contrasts sharply with the 10-percent decline recorded in 1995 (figure 3-3). U.S. exports to Mexico in 1996 rebounded in all major product categories from their unusually low 1995 levels to record high values in most (table A-10). Machinery and transportation equipment was the largest export category, with motor vehicle parts being the predominant items in the group (table A-11), and accounted for almost one-half of total U.S. exports to Mexico (figure 3-4.) Food and live animal exports were the fastest-growing category, up 66 percent during the year (table A-10). As drought destroyed crops in Northern Mexico, U.S. exports of corn almost tripled, and exports of soybeans almost doubled compared with 1995 (table A-11).

Figure 3-3
U.S. trade with Mexico: Exports, imports, and trade balance, 1992-96

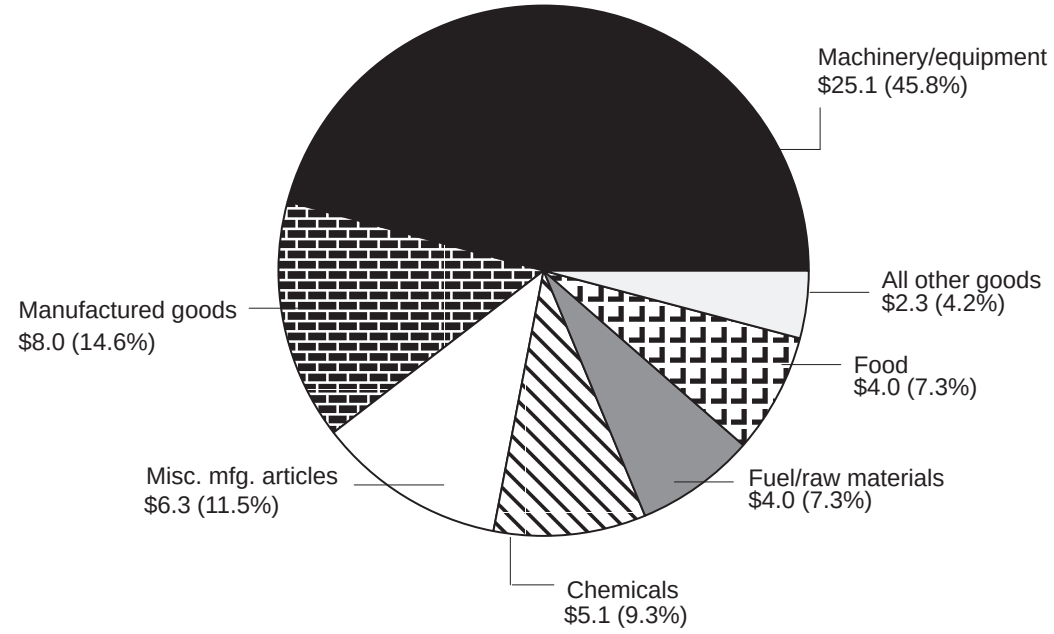


	1992	1993	1994	1995	1996
Exports	$39.6	$40.3	$49.1	$44.9	$54.7
Imports	$33.9	$38.7	$48.6	$61.7	$74.2
Balance	$5.7	$1.6	$0.5	-$16.8	-$19.5

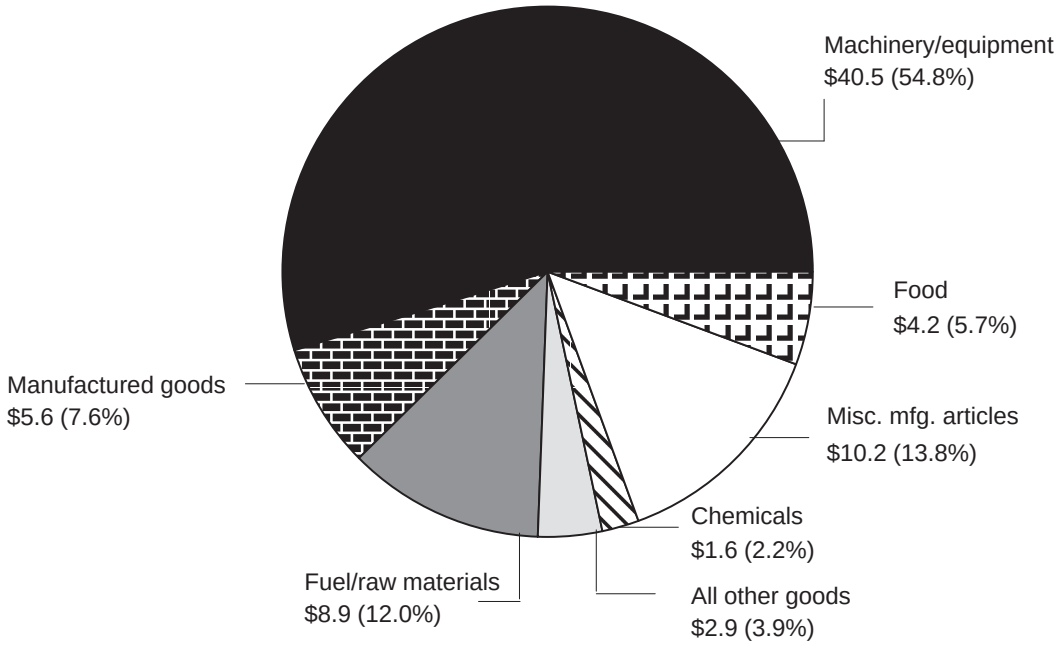
Source: Compiled from official statistics of the U.S. Department of Commerce.

Figure 3-4
U.S. trade with Mexico: Exports and imports, by product sectors, 1996

(Billion dollars)



U.S. Exports = 100%



U.S. Imports = 100%

Note.—Because of rounding figures may not add up to totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. merchandise imports from Mexico rose by approximately 20 percent in 1996 to $74.2 billion (figure 3-3). Machinery and transportation items accounted for more than one-half of this trade flow (figure 3-4). Most leading U.S. import items from Mexico, many of them motor vehicles or parts in the dominant machinery category, were up in 1996 (table A-12). The rise in crude oil imports, the traditionally leading import item from Mexico, reflected both predominantly higher prices and larger volume.

Notable also is the continued increase in imports of U.S. apparel from Mexico, reflecting duty-free entry of garments sewn from U.S.-cut fabric under NAFTA-created tariff provision 9802.00.90. Imports of men's and boys' trousers, one of the leading U.S. import items from that country, were up by nearly 26 percent. Moreover, women's and girls' trousers became a leading item in 1996 (table A-12). During the year, Mexico became the world's largest clothing exporter by volume, displacing China.[5] Most U.S. apparel imports from Mexico enter under production sharing arrangements (discussed below).

Production sharing

Production sharing refers to foreign processing or assembly of goods made of U.S.-origin materials or components and return of the finished goods to the United States.[6] The facilities involved in production sharing in Mexico have generally been the "maquiladoras"—in-bond production units established since 1965 under Mexico's Border Industrialization Program.[7] The bulk of these imports originates in the United States as the maquilas use only an estimated 2 percent of their supplies from domestic sources.[8]

U.S. exports to production-sharing operations accounted for 28.1 percent of overall U.S. exports to Mexico in 1996, valued at approximately $15.4 billion (table 3-2).[9] U.S. imports of shared products increased from $25.0 billion in 1995 to $27.9 billion in 1996, as the depreciation of the peso improved price-competitiveness and spawned a boom in maquiladora production.[10] However, the proportion of shared-production imports in total imports from Mexico has declined—from 49.1 percent in 1994 to 37.6 percent in 1996. This decline is due to both a shift from entry under the production sharing provisions of HTS heading 9802 to entry of assembled products under NAFTA, and to a rise in U.S. imports from Mexico, outside of production sharing provisions.

In October 1996, the Government of Mexico modified the maquiladora program to simplify administrative procedures, provide incentives for the use of more Mexican and other North American content in production, and promote greater integration of the maquiladora into the Mexican economy. Mexico's incentives and other special provisions for maquiladoras are scheduled to be eliminated by 2001.[11]

Canadian-Mexican Trade

In 1996, Canadian imports from Mexico rose 12.2 percent to $4.3 billion. Leading Canadian imports from Mexico consisted of fruits and vegetables, electrical machinery, motor vehicles, furniture, mineral fuels, and organic chemicals. Canadian exports to Mexico increased by 2.6 percent in 1996, rising to $0.8 billion. The leading Canadian exports to Mexico include cereals, oil seed, wood pulp, machinery and mechanical appliances, and motor vehicles. Canada's bilateral trade deficit with Mexico continued to rise, registering over $3.5 billion in 1996 (figure 3-5).

NAFTA Implementation

NAFTA's various trade liberalization and facilitation commitments continued to be implemented in 1996. Mexico continued to change its trade and investment regime as a result of NAFTA disciplines in areas such as government procurement, investment performance requirements, and trade in services.[12] In addition, Mexico has undertaken additional unilateral liberalization since NAFTA's inception, permitting foreign participation in sectors such as railroads, seaports, airports and greater competition in telecommunications, natural gas distribution, and financial markets.[13] However, the United States has expressed dissatisfaction with certain aspects of Mexico's NAFTA implementation, notably in the areas of standards, intellectual property, and small package delivery services.[14] The status of implementation is reviewed below.

Tariffs

The phasing-out of tariffs ("staging") by the three NAFTA partners proceeded on agreed schedules in 1996. Tariffs on qualifying U.S.-Canadian trade will generally be eliminated by 1998, the date agreed in the 1988 U.S.-Canada Free Trade Agreement; remaining tariffs on U.S.-Mexico trade will be eliminated by 2008. With implementation of the third annual tariff reduction on January 1, 1996, Mexico's average tariff rate on NAFTA qualifying U.S. goods was lowered to an estimated 5.1 percent *ad valorem*, down from the pre-NAFTA average of 10 percent.[15] On January 1,

Table 3-2
U.S.-Mexican production sharing trade, 1991-96

(Million dollars)

Item	1991	1992	1993	1994	1995	1996
Total U.S. imports from Mexico	30,445.1	33.934.6	38,667.7	48,605.3	61,721.0	74,179.1
U.S. imports under production sharing provisions:[1]						
Total value	14,334.3	16,502.0	18,992.3	23,068.2	24,962.3	27,924.3
Percent of total imports	47.1	48.6	49.1	47.5	40.4	37.6
U.S. components in shared-production imports:						
Total value	7,254.8	8,691.9	9,887.0	11,608.4	12,832.8	15,355.5
Percent of shared production imports	50.6	52.7	52.1	50.3	51.4	55.0
Percent of total imports	23.8	25.6	25.6	23.9	20.8	20.7
U.S. imports entered under both NAFTA and production sharing provisions:[2]						
Total value	NA[3]	NA[3]	NA[3]	14,504.5	16,721.1	20,,388.3
U.S. content	NA[3]	NA[3]	NA[3]	7,215.1	8,674.4	10,848.9
Total U.S. exports to Mexico	32,279.2	39,604.9	40,265.5	49,136.0	44,880.8	54,685.9
U.S. exports of components to maquiladoras	7,254.1	8,687.9	9,867.6	11,591.6	12,432.0	15,366.7
Percent of total exports	22.5	22.0	24.6	23.6	28.6	28.1

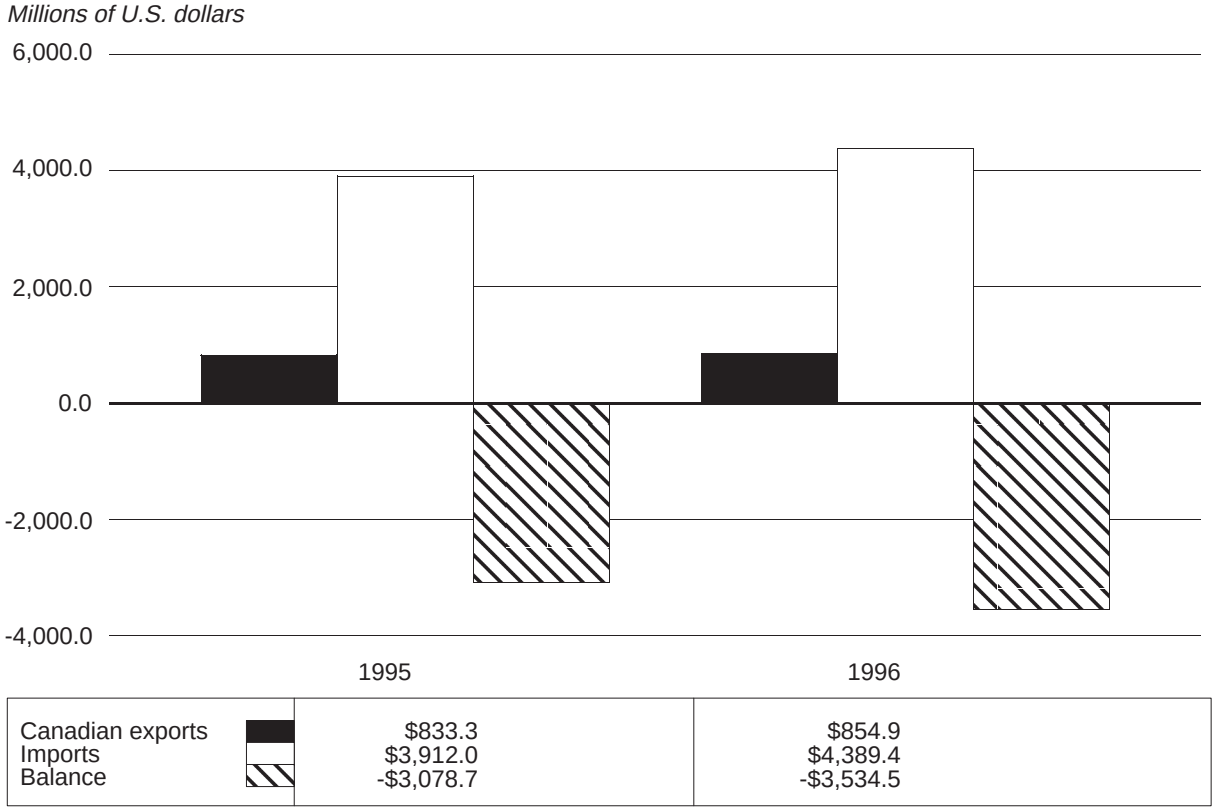
[1] The relevant provisons of *HTS* chapter 98 are 9802.00.5010, 9802.00.60, 9802.00.80, and 9802.00.90.

[2] Some imports from Mexico declare eligibility for preferential tariff treatment under both NAFTA and chapter 98; such entries are reported in the totals for both imports under production sharing provisions (and U.S.-made components in shared production imports) as well as imports under NAFTA reported elsewhere in this report.

[3] Not applicable. NAFTA entered into force on Jan. 1, 1994.

Source: Compiled by U.S. International Trade Commission staff from official statistics of the U.S. Department of Commerce.

Figure 3-5
Canada-Mexico, merchandise trade, 1995-96



Source: Compiled from official statistics of the U.S. Department of Commerce.

1996, technical revisions to NAFTA tariff staging took effect in response to changes in the international HS tariff nomenclature, so that previously agreed concessions would apply to new tariff categories. During the tariff phase-out period, some products are subject to tariff-rate quotas (TRQs). Problems in Mexico's administration of TRQs have been experienced by some U.S. agricultural producers.[16]

The tariff increases announced by Mexico on May 30, 1995 on imports of 502 categories of footwear, leather, and textile and apparel products remained in effect in 1996. U.S. exports meeting NAFTA's rules of origin are not subject to the higher rates and are effectively enjoying a wider margin-of-preference in the Mexican market over other foreign suppliers of these products.[17]

In response to the U.S. safeguard action imposing tariff rate quotas on broomcorn brooms from Mexico announced on November 28, 1996, Mexico announced on December 12, 1996 that it was raising tariffs from 2 to 20 percent *ad valorem* on U.S. fructose, alcoholic beverages (wine, wine coolers, brandy, Tennessee whiskey), notebooks, flat glass, and wood furniture, effective December 1, 1996.[18] Mexican figures indicate that the retaliatory duties will result in $1 billion in new tariff revenues.[19] U.S. industry asserts that the level of compensation being claimed is excessive.[20] The tariff increases imposed by the United States and Mexico on one another's products pursuant to the U.S. action on broomcorn brooms followed bilateral consultations under Chapter 20 of the NAFTA on August 21, 1996, which had been requested by Mexico but did not resolve the dispute.[21]

Although tentative, working-level agreement on accelerated tariff elimination was reached in 1996, no formal action was taken to implement such changes. The United States is seeking improvements in Mexican

tariff treatment of U.S. goods such as wine, major home appliances, flat glass, and bedding.[22]

Customs, Rules of Origin, and Marking Rules

Several technical changes were made in 1996 to ensure compliance with NAFTA commitments and to facilitate customs clearance of NAFTA goods.[23] Work to resolve remaining difficulties continued. Meanwhile, as explained below, a court ruling in 1996 called into question interpretation by U.S. Customs of country-of-origin marking requirements.

Customs Administration

On April 1, 1996, a new Customs Reform Law entered into effect in Mexico.[24] The new law aims to increase transparency in customs administration, improve clarity regarding importer responsibilities, and permit greater flexibility in duty payments. Mexican customs authorities were also empowered by the law to take action if IPR violations are suspected.[25] Despite some outstanding concerns, traders and Mexican customs brokers reportedly agree that Mexican customs procedures have improved dramatically in recent years and that the new law simplifies a number of procedures.[26] Nevertheless, U.S. exporters, particularly in consumer product sectors, continue to complain about certain aspects of Mexican customs administration, largely related to a lack of prior notification regarding changes, inconsistent enforcement of regulatory requirements, and burdensome administrative procedures.[27]

Rules of Origin

The NAFTA rules of origin determine whether a good qualifies for a duty preference as a product of the region. These NAFTA rules were modified effective January 1, 1996, as a result of changes to the Harmonized System and efforts to simplify the rules; another round of technical changes was due to be made on January 1, 1997.[28] Tentative agreement to make rules of origin for certain products less restrictive and easier to use has been reached and is expected to be acted upon in 1997.[29] Operational procedures to ensure compliance with NAFTA provisions on duty drawback and duty deferral became effective between Canada and the United States in January 1996. Simplification of the certificate of origin required to obtain NAFTA tariff benefits is presently under consideration by the NAFTA Customs Subgroup. Procedures for the conduct of textile verification visits are also being developed.[30]

Marking Rules

In June 1996, the U.S. Customs Service issued final country-of-origin marking rules for NAFTA partners that were to become effective in August 1996.[31] The rules modified the interim marking rules issued January 3, 1994, to conform to the 1996 HTS.

In a July 8, 1996 ruling, the U.S. Court of International Trade (CIT) struck down the applicable interim marking rule, as well as a ruling by the U.S. Customs Service on shipments for peanut slurry that had been made under the interim rule.[32] The CIT said Customs' implementation of U.S. country-of-origin marking requirements as set forth in NAFTA and promulgated in the NAFTA Implementation Act was "arbitrary and contrary to law." In particular, the CIT said, Customs must employ both the change in tariff classification test and the substantial transformation test originally set forth in *United States v. Gibson Thomsen Co.* in making determinations as to whether country-of-origin marking is required. The NAFTA Implementation Act provides that finished goods that result when imported inputs undergo substantial transformation in the United States are exempt from country-of-origin marking requirements. Customs had previously proposed extending the tariff-shift methodology it uses for making NAFTA origin and marking determinations to non-preferential trade as well.[33]

The CIT decision applies to all NAFTA marking decisions, but its impact in practice will be limited to those products that do not meet the change in tariff classification test, but still undergo substantial transformation in the United States. The Justice Department filed a request for a rehearing of the CIT decision; the request was denied on the record.[34] Meanwhile, on August 22, 1996, the final NAFTA Marking Rules, as issued by the U.S. Customs Service on June 6, 1996, took effect despite the July decision.

Energy

In 1996, Mexico retreated from original plans to privatize fully the secondary petrochemical facilities owned by Petroleos Mexicanos (PEMEX), the government-owned petroleum monopoly, and valued at an estimated $3 to $5 billion.[35] Although Mexico is not required by NAFTA to open up its secondary petrochemical industry to majority foreign participation, President Ernesto Zedillo made the sale of some 61 petrochemical facilities an important

component of his economic stabilization and privatization program in early 1995.[36] However, in March 1996, Mexico announced its intention to use a NAFTA provision that allows the initial offering of the PEMEX secondary petrochemical assets to be limited to firms with majority ownership by Mexican nationals. In October 1996, Mexico announced that plans to privatize secondary petrochemical plants would be scaled down, and that legislation would be introduced to limit private-sector investment into secondary petrochemicals to 49 percent, with PEMEX retaining majority share; newly-built petrochemical plants may have up to 100 percent foreign investment; legislation along these lines was passed on October 30, 1996.[37] Initial privatization plans were announced in late January 1997.[38]

Agriculture

NAFTA establishes both trilateral and bilateral commitments on agricultural trade. Market access commitments are made bilaterally among the three NAFTA partners, that is, between the United States and Mexico, between the United States and Canada (generally, what was already agreed under the U.S.-Canada FTA), and between Canada and Mexico. Trilateral commitments address domestic support and export subsidies.

Trade in agricultural goods has expanded dramatically since NAFTA's inception.[39] A USDA report issued in October 1996 estimates that intra-NAFTA trade in agricultural products could reach $30 billion a year by 2005, up from $19 billion in 1995.[40]

The most significant 1996 developments related to NAFTA agriculture trade were—

- The issuance in December 1996 of a NAFTA panel report on dairy and poultry products;[41]
- The signing by Mexican suppliers and the U.S. Department of Commerce of a bilateral price undertaking on tomatoes, ending a 2-year dispute;[42]
- U.S. imposition of tariff-rate quotas on Mexican broomcorn brooms;[43] and
- The establishment of an advisory committee on private commercial disputes in the agricultural sector.[44]

Each of these issues is discussed in other sections of this report.

Also in 1996, the three parties continued efforts to monitor subsidies on exports by third parties to the Western Hemisphere and agreed to cooperate towards achieving a multilateral agreement in the context of the WTO to eliminate tariffs and other export measures in the oilseed sector.[45] Such work is in line with the Working Group's mandate to work toward elimination of all export subsidies affecting agricultural trade between the parties. Monitoring and other cooperation regarding implementation of market access commitments and domestic support measures was also agreed.[46] In addition, a technical working group on pesticides held its inaugural meeting on Mar. 27-29, 1996. It will work on harmonizing tolerances for pesticides, food additives, pesticide registration procedures, and veterinary drug residue levels.[47]

NAFTA eventually will replace all agricultural import licenses and allocated quota shares affecting U.S.-Mexico trade with tariff rate quotas (TRQs).[48] However, the Mexican government still requires import licenses for slightly under 200 products.[49] The United States asked Mexico to replace its existing licensing requirement on corn grits with a TRQ, separate from the TRQ on corn. In March 1996, Mexico notified the United States of its approval of a new TRQ of 50,000 tons for corn grits.[50]

NAFTA represented a breakthrough in the area of animal and plant health cooperation by creating a mechanism whereby portions of a country can be recognized as free of disease or pests, thereby permitting imports to enter or transit the United States from such regions. As a result, on December 31, 1996 the United States announced plans to permit fresh, chilled and frozen pork and pork products from the Mexican State of Baja California to transit the United States for export to another country,[51] and on January 31, 1997, USDA announced its final approval of the partial lifting of the U.S. ban on Mexican avocados, marking progress on a longstanding bilateral dispute.[52]

In 1996, USDA and Mexico's Ministry of Agriculture (SEGAR) also cooperated in the development and recognition of disease-free zones. USDA's Agriculture and Plant Health Inspection Service is currently focusing on free zones for classic swine fever in the state of Sonora. Recognition of Mexico's poultry meat inspection system is another important issue for Mexico.[53] USDA is currently reviewing Mexico's inspection system.

The three NAFTA partners agreed that the Sanitary and Phytosanitary Committeee will consider issues related to trade in genetically-modified material.[54] That committee will conduct the review in response to Mexican concerns that genetically-altered corn and cotton grown in U.S. border states could spread across the border.

Other sanitary and phytosanitary standards issues remain under discussion. For example, the United States has concerns over Mexico's standards regarding mold in grain[55] and concerns exist over other products.[56] In addition, the United States believes that Mexico's reliance on "emergency" standards that do not follow the normal notification and comment process has disrupted trade.[57]

Standards

NAFTA establishes both substantive and procedural requirements on product standards and conformity assessment procedures in an effort to ensure that such requirements do not unnecessarily restrict trade. Since NAFTA has been in effect, a number of standards-related issues have confronted business and trade policy makers. USTR notes that since NAFTA's entry into force the United States has "repeatedly called upon the Government of Mexico to recognize its obligation to publish changes in regulation with adequate time for public comment."[58] Problems in ensuring transparency, confusion about regulatory requirements, and inconsistent application of requirements have been cited by the U.S. Chamber of Commerce as impediments to small business export expansion under NAFTA.[59] Some of these problems are due to an extensive overhaul of Mexico's standards and certification system, which has been under way since 1992. This overhaul contains some positive features, such as greater opportunities for input in standards development. However, it involves numerous changes from prior practice as well as enforcement of prior regulations that were previously ignored. A Committee on Standards-Related Measures was established to oversee NAFTA obligations and to address specific concerns. In 1996, the Committee addressed a number of matters of interest to U.S. industry.

Mexico began enforcing certain new labeling requirements for textiles and apparel on February 14, 1996 that had been published in final form on January 24, 1996.[60] The standard was originally published in draft form on Dec. 23, 1994, but its requirements and implementation was postponed following protests by U.S. and other suppliers. U.S. suppliers expressed concerns about a requirement that labels contain information on the country of origin of the material as well as the country in which the product is assembled, requiring firms to keep costly records exclusively for sales to Mexico.[61] Previously, Mexico had enforced labeling requirements at the point of sale, rather than at the border.[62] In July 1996, Mexico postponed indefinitely application of two of the more problematic portions of the regulation that had been slated to go into effect July 1996;[63] final rules were published in early 1997.[64]

On January 24, 1996, Mexico published labeling requirements on consumer products and pre-packaged food and non-alcoholic beverages that were to enter into force in November; implementation was later postponed until March 1, 1997 (for consumer goods) and July 1, 1997 (for processed foods and non-alcoholic beverages).[65] "Over-stickering" of labels—a common practice among U.S. exporters whereby required Spanish-language information is attached to the package via a sticker applied over existing labels—will be permitted under the new rules. However, firms choosing to attach labels after the product's entry into Mexico would need to have their product's conformity with the labeling requirements verified within 10 days of entry. Enforcement guidelines spelling out certain aspects of how Mexico's verification units would monitor compliance with the new labeling rules were issued on June 24, 1996;[66] additional rules regarding verification units were issued in early 1997,[67] just two weeks before the March 1, 1997 date when enforcement of the new consumer product labeling rules would begin.[68] The United States urged Mexico to employ a "soft implementation period," during which manufacturers would be informed of any deficiency in complying with the new labeling rules and be given an opportunity to fix it, during the first few months after implementation.[69] It also expressed the hope that additional verification units be named.[70]

A draft Mexican health regulation that would reclassify certain vitamins and herbs as pharmaceuticals was also discussed in the context of the NAFTA standards group. There was concern both over the requirements themselves as well as over whether U.S. and Canadian suppliers would have an opportunity to comment upon them.[71] Specifically, the rule would considerably expand the scope of regulation to include all products whose vitamin and mineral content exceed 100 percent of recommended daily amounts and limit distribution of such goods to over-the-counter pharmacies, versus door-to-door and other sales outlets, which are widely employed by U.S. suppliers such as Amway and Shaklee.[72] Mexico maintains that since the change would not technically involve a revision of an existing regulation but rather a new interpretation of one, it is not required to publish the change in draft or to provide NAFTA partners an opportunity to comment.[73]

Nearly all Mexican standards are mandatory and Mexico generally requires products subject to mandatory standards to undergo certification by

accredited Mexican laboratories.[74] Under NAFTA, Mexico is obligated to accredit or otherwise recognize testing and certification performed by U.S. or Canadian labs after a 4-year transition period (lasting until 1998).[75] Until then, however, U.S.-based laboratories are not able to seek recognition under Mexican accreditation procedures as being competent to perform mandatory testing and certification.

Problems have arisen for U.S. exporters in sectors where technical capability in Mexico is insufficient or resides in competing manufacturers.[76] An agreement reached on March 18, 1996 resolved one such problem. The agreement will allow the U.S. Department of Transportation to identify competent laboratories and to have data from these laboratories used by Mexican authorities in determining whether U.S. tires meet Mexican regulations and are entitled to certification.[77] In September 1996, Mexico published new standards for automobile tires that were responsive to comments received by U.S. industry; certain information is permitted to be attached to imported tires via labels rather than being molded into the sidewall.[78]

U.S. suppliers have complained about the Mexican practice of granting certification to individual importers, rather than to manufacturers, which means that a new certification must be obtained for each importer. In discussions in the NAFTA Committee on Standards-Related Measures during 1996, Mexico said it planned to change its certification procedures. Uncertainty over the new requirements and when they would be applicable remained a source of U.S. concern during 1996.[79] On January 3, 1997, Mexico published new standards certification procedures for comment that appear to permit foreign producers to place their products on a register so that various importers can obtain the required certification.[80] The publication is consistent with U.S. requests that the new procedures be notified in draft form and that opportunities for comment by foreign suppliers be provided.[81]

NAFTA created subcommittees on standards dealing with various industries: land transportation, automotive, and telecommunications standards and textile labeling. These subcommittees are to make efforts to harmonize regulatory requirements among the NAFTA partners to facilitate intra-regional commerce. A private sector initiative by the American National Standards Institute and its Mexican and Canadian counterparts, known as the North American Trilateral Standardization Forum (NATSF), is also achieving cooperation in development of private sector standards.

During 1996, progress was made in the five working groups related to land transportation standards, which deal with such areas as truck and rail operations and equipment. Technical work on comparing vehicle weights and dimension standards was finalized and consideration given to developing a single set of regulations to govern cross-border transportation of hazardous materials.[82]

Regarding automotive standards, the three parties are seeking to identify incompatible standards that have created, or could create, barriers to trade. Based on comments from industry, it was agreed in 1996 to establish working groups with participation from industry to study emissions, engines, and fuels; light vehicle safety standards; heavy vehicle safety standards; and parts and equipment. Each government issued public notices inviting participation in the working groups by non-governmental interests.[83] In mid-October 1996, 3 of the 4 working groups met in Washington to begin their work.[84]

Government Procurement

Under NAFTA, U.S. firms enjoy improved access to the Canadian procurement market and progressively increasing access to the Mexican procurement market, including its two largest purchasing entities, PEMEX and CFE (the state oil and federal power utility, respectively.) NAFTA also calls for joint steps to make it easier for small businesses to take advantage of government procurement opportunities. Implementation of NAFTA provisions has been generally effective,[85] and U.S. firms have recently won several contracts with PEMEX. However, in its April 1996 report on discrimination in foreign government procurement, USTR noted U.S. and Canadian concern over Mexico's implementation of set-asides (exemptions) for PEMEX and Mexico's proposed services schedule, which, despite two revisions in 1996, has still not been finalized and excludes a number of sectors that should be covered by NAFTA rules.[86] In October 1996, Mexico agreed to provide a detailed breakdown of the data included in the Mexican set-aside calculation.[87] Canada's broad interpretation of its exception for services was also a source of U.S. complaint,[88] though generally the Government of Canada poses few barriers to U.S. firms seeking to bid on contracts.[89] Mexico has complained about changes in U.S. federal procurement law made in 1994 which raise the value of contracts subject to small-business set-asides from $50,000, the level when NAFTA was negotiated, to $100,000. As a result of trilateral working level discussions in October 1996, the NAFTA partners have tentatively agreed to raise the NAFTA threshold to $100,000 for all three countries.[90]

Investment and Services

Trucking

The December 1995 decision by Secretary of Transportation Federico Pena to suspend processing of applications by Mexican trucking firms to serve U.S. border states until safety concerns were resolved was a major NAFTA issue throughout 1996. Mexican trucks already have access to a 20-mile zone along the U.S. border under a pre-NAFTA bilateral arrangement. NAFTA was to provide Mexican truckers full access to the 4 U.S. border states (California, Arizona, New Mexico, and Texas) starting in December 1995 and to the entire United States by 2000. The possibility of ill-equipped trucks and poorly-trained drivers entering the United States from Mexico had been a source of U.S. concern, particularly since trucks crossing the border often carry hazardous materials.

At the time of the 1995 delay, USTR Kantor indicated that it would take at least 45 days to agree on additional safeguards to ensure that trucks are safe and drivers are qualified.[91] Mexico sought formal consultations under NAFTA dispute settlement procedures. The first round of consultations was held on January 19, 1996.[92] The U.S. side reportedly told Mexico that improvements in safety and in control over cross-border drug smuggling were required before Mexican applications would be processed.[93] Technical discussions among safety officials continued, including at meetings on the margins of the U.S.-Mexico Binational Commission held in early May. However, Mexico remained insistent that the United States immediately begin processing the applications on file and rejected U.S. requests that it establish a system that would allow authorities to determine in advance whether Mexican applicants for cross-border licenses met U.S. truck and driver safety requirements.[94]

A June 24, 1996 blockade by Mexican truckers of international bridges along the common border from Matamoros to Miguele Aleman, Tamaulipas, Mexico, completely stopped U.S.-Mexico commerce in the affected areas. The drivers were protesting heightened inspection of Mexican trucks by Texas state officials that Mexican drivers felt was discriminatory and resulted in 78 of the 98 vehicles inspected during the June 3-15, 1996 period being placed out of service.[95]

On October 18, 1996, the International Brotherhood of Teamsters filed an appeal in a renewed effort to legally block entry by Mexican truckers.[96] The petition charged that the Interstate Commerce Commission failed to seek all relevant information and misapplied the national treatment obligation found in NAFTA Article 1202, which requires that "Each Party shall accord to service providers of another Party treatment no less favorable than that it accords, in like circumstances, to its own service providers." The petition cited a February 1996 GAO study,[97] which found that nearly half of the 12,462 trucks from Mexico inspected at the border were taken out of service due to serious safety problems. Such statistics, the Teamsters argued, provided grounds for the U.S. Department of Transportation to conclude that "like circumstances" did not exist between U.S. and Mexican truckers.

The issue was also controversial domestically. In an early January 1996 letter to President Clinton, Chairman of the House Ways and Means Committee Bill Archer (R-Texas) and Trade Subcommittee Chairman Phil Crane (R-Illinois) protested the delay, warning that "Your decision to break a NAFTA commitment . . . is a dangerous precedent that threatens future implementation of the agreement and draws into question the commitment of the United States . . . to NAFTA."[98] In October, California Governor Pete Wilson asked President Clinton to allow the state to implement NAFTA cross-border trucking provisions as a pilot project.[99] The Governors of California, Arizona, New Mexico and Texas have said they are satisfied that the safety and security measures being implemented by federal and border state agencies are adequate.

Lack of progress in this matter was also criticized by the American Trucking Association (ATA). The ATA pointed out that failure to open borders has hurt the U.S. trucking industry, as trucking companies made investments in anticipation of reciprocal access.[100] The ATA added that the dispute prevented progress in discussions of other important trucking issues. Those talks centered on permission for U.S. trucks larger than a specified length to operate in Mexico, investment by U.S. companies in Mexican trucking firms, and the finalization by the government of Mexico of small parcel delivery regulations for U.S. carriers into Mexico in accordance with its NAFTA obligations.[101]

On the other hand, in late January 1996, a bill was introduced in the Senate that would have blocked implementation of NAFTA's trucking provisions until Mexico improved its performance in fighting drug trafficking, a growing U.S. concern. On January 14, 1997, the National Association of Independent Insurers called on President Clinton to retain the moratorium on granting increased access to Mexican trucks, citing safety concerns.[102]

The United States has indicated that opening U.S. border states to Mexican trucking is contingent upon Mexico's willingness to implement a mutually acceptable inspection and enforcement process regarding motor carrier safety.[103] Recent reports suggest that efforts to resolve the trucking dispute are intensifying, with a settlement possible in the early months of 1997.[104] Nevertheless, citing similar grounds, the United States decided in January 1997 to delay implementation of NAFTA commitments on bus transportation, which called for lifting of restrictions on regular-route, cross-border scheduled bus service on January 1, 1997.

Investment and Non-Financial Services

In a March 31, 1996 exchange of letters,[105] the three NAFTA partners agreed to reserve indefinitely all non-conforming state and provincial measures existing January 1, 1994 from NAFTA disciplines on non-financial services and investment. The effect of this action is to extend indefinitely the exemption of such measures from the accord's provisions on national treatment, most favored nation treatment, and prohibitions on attaching conditions on investors or service providers that require local presence, mandatory performance (e.g., for local content and exporting), and national or residency conditions for firm managers.[106] However, new non-conforming measures by states and provinces implemented after January 1, 1994 could be subject to challenge under the accord. The three governments agreed for purposes of transparency to exchange lists of measures that they had identified as non-conforming measures; this exchange was completed in 1996.[107]

Under the original NAFTA text, all existing non-conforming measures at the state and local level were blanket exempted until January 1, 1996, when the 3 countries were to submit detailed lists of non-conforming measures; only notified measures were to be exempt from certain obligations under NAFTA Chapters 11 and 12. This deadline was extended until March 31, 1996. Canada had faced opposition from its provinces over the item-by-item exemptions, largely due to concerns that U.S. health care providers might find ways to penetrate the Canadian health care system. Several U.S. states had also expressed a desire for a general versus individual exemptions from the accord.

Financial Services

In April 1996, Mexican President Ernesto Zedillo introduced legislation to replace Mexico's government-run social security system with a privately-managed system. The U.S. Government advocated the right of U.S. companies under NAFTA to participate in managing the system's $7 billion in assets. Although some Mexican legislators and unions reportedly opposed foreign participation,[108] foreign firms have since been approved as private pension fund administrators.[109] The improvement in Mexico's economic performance, meanwhile, resulted in increases in the individual and aggregate capital limits for U.S. and Canadian financial institutions, which were announced on November 5, 1996. NAFTA permits foreign financial institutions from member nations to hold a specified percentage of system-wide capital and assets that increases over time and fluctuates with the amount of assets in the financial system.[110]

Professional Services

An agreement on mutual recognition of engineering licenses reached under NAFTA's professional services provisions during 1995 was circulated to 55 state and territorial license boards for ratification in 1996.[111] The representative engineering and licensing groups are currently reviewing procedures for implementation. Nine Canadian provincial and territorial engineering associations have submitted letters of intent to implement the agreement and the state of Texas became the first U.S. state to submit a letter of intent.[112] A draft text on foreign legal consultants has been prepared and is currently under review.[113] Discussions by several other professional groups regarding mutual recognition are underway.[114]

Telecommunications

The NAFTA Telecommunications Standards subcommittee monitors and facilitates implementation of telecommunications-related productions of NAFTA. It has a detailed multi-year work program on standards harmonization and testing-related trade facilitation. Two main disagreements over implementation of NAFTA obligations relating to telecommunications equipment occurred during 1996. One related to Mexican acceptance of U.S. test data, the other to Mexican standards for telecom terminal attachment equipment that the United States and Canada believe go well beyond NAFTA provisions.

Acceptance of Test Data

As part of the annual review of telecommunications trade agreements under Section 1377 of the 1988 Trade Act,[115] USTR on April 3, 1996 determined that Mexico is not in compliance with its obligations under NAFTA. NAFTA Article 1304-6 required Mexico to have in place by January 1, 1995, procedures for the direct acceptance of U.S. test data for use in determining conformity with standards relating to telecom terminal equipment authorization.[116] Procedures for acceptance of data regarding terminal attachment standards and regarding data on terminal safety standards were required. Without both sets of procedures in place, U.S. exporters are effectively denied access to the growing Mexican market for telecommunications equipment. The USTR report said that the United States would initiate NAFTA dispute settlement procedures should rapid progress not be made.[117]

A series of discussions were held in an effort to resolve the dispute. Mexico maintained that the relevant NAFTA deadline for its acceptance of all product safety test data, including those related to telecom equipment, is not until January 1, 1998, as outlined in NAFTA's Chapter 9 on standards generally. In August consultations, NAFTA parties agreed to pursue an informal plan on telecom data exchange. The plan called for U.S. laboratories to conclude agreements for the exchange of test data related to product safety with laboratories in Mexico. The negotiated schedule for resolution of the dispute has reportedly slipped, but the issue was slated to be resolved at an April 1997 meeting.[118] As of yearend, the exchange of letters had taken place but Mexico had not implemented the procedures.[119]

New Regulations on Telecom Attachment Equipment

Related to the dispute over test data was the December 1994 issuance by Mexico's Electronic Standardization and Certification Agency of an emergency regulation establishing standards for network terminal attachment equipment, which includes telephones, facsimile machines, and other equipment connected to the public phone network by users. Mexico relied on the emergency regulation in order to come into compliance with an obligation to have in place by January 1, 1995 parameters for terminal attachment equipment. Discussions about the emergency regulations revealed fundamental differences between the United States and Canada on the one hand, and Mexico on the other hand, over NAFTA commitments on product standards for network terminal equipment, notably over what issues were legitimate topics for mandatory standards.

Article 1304 provides that mandatory standards for terminal telecommunications equipment should only go so far as to prevent harm or interference with the network and to ensure users' safety and access to public telecommunications networks or services. The three government representatives to the NAFTA Telecommunications Standards Subcommittee (TSSC) reportedly agreed in three separate TSSC meetings in 1995 to a limited interpretation of "access" and network harm.[120]

Mexico, whose industry is dominated by subsidiaries of the big European telecom suppliers,[121] resisted the NAFTA definition of access arguing instead that Article 1304 entitles Mexico's Telecom Ministry and its standards body to impose a host of mandatory performance and design standards on a product-by-product basis. The Mexican emergency regulation contains 32 parameters and some 60 subparameters to regulate network terminal attachment equipment.[122] The Government of Mexico maintains that these standards are consistent with the goal of ensuring "access," because it defines access as meaning that equipment must reliably work as anticipated by consumers.

Until August 1996, attempts to resolve the issue had not progressed.[123] At the TSSC meeting held in Mexico City August 15-16, 1996, the three NAFTA governments agreed to a series of steps and deadlines for resolving the dispute, with a view toward resolving the problem by the end of the next TSSC meeting scheduled for February 11-12, 1997. Mexico agreed that the new set of standards developed by its industry would be reviewed by the trilateral industry consultive body, the Consultive Committee - Telecom (CCT). The CCT was charged with comparing the 32 proposed Mexican standards against the requirements of NAFTA Article 1304 and reporting back to the TSSC which of the 32 should be mandatory, which should be voluntary, and which it cannot agree upon.

The CCT's final recommendation was issued to the TSSC in January 1997.[124]

Intellectual Property

Mexican legal standards for protection of intellectual property rights have been progressively aligned with internationally-accepted standards. In 1996, Mexico passed a law providing protection of plant species, as required by NAFTA.[125] Mexico has also signed the International Union for the Protection of New Varieties of Plants and the Patent Cooperation

Treaty. Enforcement of intellectual property rights has been slowly improving since NAFTA's inception. The entry into force of a new Customs law in April 1996 enabled Mexican customs officials to seize pirated merchandise for the first time, and U.S. rights holders have reported positive outcomes when such action has been requested.[126] Nevertheless, few arrests have resulted from investigations and raids, and criminal cases have been compromised by leaks and loss of evidence.[127] Enforcement still falls far short of the level required to combat effectively rampant piracy.[128] As a result, USTR reports that piracy and counterfeiting of U.S. intellectual property in Mexico remains a serious U.S. concern.[129]

In late 1995, the United States and Mexico established a bilateral working group on intellectual property rights.[130] Following its first meeting in February 1996, Mexico agreed to re-establish the inter-secretarial commission for the safeguard and protection of IPR and unfair competition. At a March 28-29, 1996 meeting, Mexico unveiled a ten-point action plan based on U.S. industry recommendations for improving IPR protection that it said it planned to announce. At the third meeting in July, the Mexican delegation notified the United States of two newly established IPR working groups, one to focus on enforcement and the other to review legal matters related to IPR protection.[131]

In a February 1996 submission to USTR, the International Intellectual Property Alliance (IIPA) said that Mexico's failure to comply with NAFTA's enforcement obligations cost copyright-based industries more than $285 million in 1995. The IIPA charged that Mexico does not provide expeditious relief from piracy as required under Article 1714 of NAFTA. In addition, IIPA said that Mexico has not provided provisional remedies, injunctive relief, or sufficient criminal penalties for violators, as required under Articles 1715, 1716, and 1717 respectively. The Business Software Alliance (BSA) also expressed concerns over Mexico's procedures for criminal enforcement of IPR.[132]

On November 11, 1996, President Zedillo submitted reforms to intellectual property law to Mexico's Congress. The reforms would significantly increase protection for computer programs, textile designs, and several other types of copyrighted material. Penalties in several areas were to increase.[133] Penalties for copyright violations would include prison sentences from one to six years and fines of up to 20,000 times Mexico's daily minimum wage (currently about $3 per day). Software piracy violations would include prison sentences of up to 12 years and fines of up to 40,000 times the minimum wage. However, the law contained serious deficiencies from the U.S. perspective, particularly with respect to penalties for infringement and protection for certain types of sound recordings.[134] The law was enacted on December 24, 1996. The U.S. government has submitted formal comments on the law,[135] and is reportedly hoping that the Mexican government addresses outstanding U.S. concerns in implementing regulations now under development.[136]

In June 1996, the United States notified Canada that pending revisions to Canadian copyright law would violate NAFTA's nondiscriminatory treatment and IPR provisions because the measure would discriminate against U.S. music performers and companies. The bill, scheduled to come to a final vote in early 1997,[137] would extend music broadcast royalty rights to producers and performers (neighboring rights), impose a levy on blank audio cassettes to compensate artists, and make it an offense for booksellers to obtain books from any source other than the exclusive agent for the Canadian market. Because the neighboring rights amendment would benefit only Rome Convention signatories, U.S. producers and performers could benefit under NAFTA only if the United States passed a similar law.[138]

NAFTA Dispute Settlement

NAFTA contains several dispute settlement mechanisms. It carries forward the system created under the U.S.-Canada Free Trade Agreement that provides firms the option of having final antidumping and countervailing duty determinations reviewed by a panel of experts drawn from each party, in lieu of appealing such determinations to the national courts. NAFTA also contains a government-to-government dispute resolution procedure. Any NAFTA party can request consultations under NAFTA dispute settlement procedures and, failing satisfaction, can request formation of a panel to examine its concerns. Opting to pursue NAFTA dispute settlement, a choice made at the complaining parties' discretion, precludes pursuit of the same matter under WTO dispute settlement procedures.

As of December 30, 1996, a total of 25 dispute settlement panels had been established under NAFTA. All but one of the panels involved firm-initiated reviews of final agency determinations in antidumping and countervailing duty investigations, as provided for in NAFTA Chapter 19.[139]

Trilateral Panel Reviews of AD/CVD Determinations

Panel reviews of AD/CVD determinations are conducted under Chapter 19 of NAFTA. Since NAFTA entered into force, Chapter 19 panels have completed 12 appeals (6 concerning U.S. determinations, 2 concerning Mexican determinations, and 4 concerning Canadian determinations). Chapter 19 panels are currently considering 5 appeals, including 1 against U.S. determinations, 1 against Canadian determinations, and 3 against Mexican determinations. All but 2 of the Chapter 19 cases considered thus far have involved U.S. determinations or U.S. exporters.[140]

The NAFTA Chapter 19 panel system has not been without controversy.[141] In August 1995, a bipartisan group of U.S. Senators urged that the panel system be changed or abandoned and expressed opposition to extending the mechanism to future FTA partners.[142] In January 1997, a private group announced plans to mount a constitutional challenge to the mechanism.[143]

General Dispute Settlement

Panel Reports

The only government-to-government dispute referred to a panel for resolution under NAFTA Chapter 20 reached a key stage in early December 1996 with the formal release of the panel's report. As explained in greater detail in the Canada section of ch. 4, the panel was formed at the request of the United States to examine the NAFTA compatibility of Canada's tariff rate quotas on imports of U.S. dairy, poultry products, barley, and margarine. The panel found that Canada was within its NAFTA rights in subjecting U.S. goods to the high duties that resulted from the conversion of Canadian import quotas to tariffs as called for by the WTO Agreement on Agriculture.

Pre-Panel Consultations

Government-to-government consultations under NAFTA dispute settlement procedures were held on 6 issues. The United States was the complaining party in one case, on Mexico's treatment of U.S.-affiliated small package delivery firms. Consultations over U.S. concerns, which include Mexico's onerous restrictions on vehicle and package size and failure to grant U.S. firms full operating authority (they operate under temporary and limited authority), thus far have proved inconclusive.[144] The United States was the respondent in 5 cases—tomatoes,[145] trucking (discussed above), broomcorn brooms,[146] sugar-containing products (discussed below), and the Cuban Liberty and Democratic Solidarity Act of 1996 (Libertad, or Helms-Burton, Act[147]).[148]

Formal dispute settlement consultations over a Canadian complaint about the U.S. Sugar-Containing Products Re-Export Program were held on November 20, 1996.[149] Canada maintains that the United States is obliged to stop applying the program to exports destined for Canada as a result of NAFTA Article 303, whose accompanying annex sets a January 1, 1996 deadline for phasing out duty-drawback and duty-deferral programs. The United States maintains that the Sugar Re-Export Program—which allows U.S. firms to purchase quota-exempt raw sugar if they re-export an equivalent amount of refined sugar in food products—is not a duty-drawback or duty-deferral scheme.

Private Commercial Disputes

Another innovation of NAFTA was its efforts to facilitate resolution of cross-border commercial disputes between private parties. Article 2022 of NAFTA requires each party to facilitate use of alternate dispute resolution (ADR), to establish procedures to enforce agreements to arbitrate, and to recognize and enforce arbitral awards. NAFTA establishes a broad-ranging Advisory Committee on Private Commercial Disputes as well as a separate committee on agriculture.

Advisory Committee on Private Commercial Disputes

The broad group was constituted shortly after NAFTA's inception and has formed 4 working groups, dealing with arbitration, mediation, promotion of ADR, and enforcement issues. Action plans for each working group have been agreed upon. The Committee has compiled and evaluated existing means for settling private commercial disputes in each country and has developed a brochure aimed at first-time users of ADR, a survey of companies, and several legal papers on enforcement issues. A third meeting of the Committee was held on November 14-15, 1996. The Committee's recommendations for future work are expected to be considered by the NAFTA Free Trade Commission when it meets in 1997, along with a report on the Committee's work to date.[150]

Advisory Committee on Private Commercial Disputes for Agricultural Goods

On April 30, 1996, the three NAFTA partners agreed to appoint an advisory committee on private commercial disputes in agriculture, as called for in Article 707. The NAFTA countries agreed to the terms of reference for the committee, which is charged with making recommendations on the availability, use, and effectiveness of arbitration and other methods of alternate dispute resolution in the NAFTA region. Each country was to appoint up to 10 members of the committee, 2 of which could be government representatives.[151] The Committee held its inaugural meeting on February 17, 1997, in Mazaltan, Mexico. The initial focus of the group will be on perishable fruits and vegetables, sectors for which Canada and the United States both have governmental programs to aid resolution of private commercial disputes.

NAFTA and Environmental Cooperation

NAFTA was accompanied by a trilateral North American Agreement on Environmental Cooperation (NAAEC) as well as bilateral agreements with Mexico to create the North American Development Bank (NADBank) and the Border Environmental Cooperation Commission (BECC). The goal of these agreements was to ensure that NAFTA-related economic integration was accompanied by cooperation to strengthen environmental protection and promote sustainable development. Regular consultations, case-by-case examination of environmental concerns, cooperative work, and jointly financed infrastructure projects are among the activities envisioned.

Commission for Environmental Cooperation

The NAAEC is administered by a Commission for Environmental Cooperation (CEC). A CEC Council, comprised of the three NAFTA environment ministers, oversees the CEC. The Council is supported by a Secretariat, located in Montreal, Canada, as well as a Joint Public Advisory Committee that includes representatives from non-governmental organizations and business. During 1996, discussion papers were prepared that focused on such topics as how NAFTA partners could lay the groundwork for international efforts to address the nexus between trade and the environment by developing innovative ways to identify and avoid trade disputes over environmental issues. The release of these papers was followed by June 21 and July 19 public meetings.[152] At its August 1-2, 1996 annual meeting, the CEC Council agreed to launch a program to promote environmental "best practices" in both the public and private sectors and to develop principles to guide development of new environmental regulation and management systems.

All three NAFTA partners have or are considering devolving considerable responsibility for environmental regulation to states and provinces. Ways to ensure that standards of protection and administrative capacity remain adequate were discussed by the CEC Council. A December 4-5, 1996 meeting sponsored by the CEC and held in Austin, Texas brought together state, federal, and local government regulators from across the Americas to consider these questions, as well as the implications of moves by all 3 countries towards reliance on "voluntary compliance" measures that provide businesses greater leeway in attaining environmental goals.[153]

Cooperative Projects

The CEC has begun cooperative work on 38 projects that focus on four major goals: conservation, protecting human health and the environment, enforcement cooperation and law, and information and public outreach. Several cooperative agreements were signed on October 13, 1996. Under the conservation theme, the CEC is developing a biodiversity database for North America. Programs to conserve North American birds and butterflies were launched by the CEC after it had conducted an investigation under the NAAEC into the deaths of over 40,000 migratory and native birds in December 1994 at Mexico's Silva Reservoir. Regarding human health, trilateral discussions aimed at sound management or phase-out of four toxic substances—PCBs, DDT, mercury, and chlordane—resulted in submission of regional action plans on December 15, 1996. A trilingual electronic information service to help users of environmental technologies make better decisions about which products best suit their needs will be launched in the Spring of 1997.[154] The CEC has developed a database of environmental laws in all the three countries that is accessible to the public via the Internet. Development of measures to gauge compliance and enforcement is also being considered.

Study of NAFTA's Impact on Environment

Of direct interest to trade policy makers, the CEC has undertaken a pathbreaking study on the effects of NAFTA trade on the environment. The study was launched in response to Article 10.6 (d) of the NAAEC, which calls for continued consideration of the environmental effects of NAFTA.[155] Drafts of the study's component papers are presently being reviewed. Detailed case studies on two sectors—agriculture and energy—are being prepared.[156] The complete study should be released in 1997.[157] In a statement released after their August 1-2, 1996 meeting, the CEC Council also indicated that it would seek a joint meeting with their trade counterparts "to review the American experience in integrating trade and environment policies."[158]

Fact-Finding Investigations Launched Upon Complaint

Some environmental groups claim that NAFTA has worsened water and air pollution and hazardous waste dumping, and increased rates of disease and birth defects.[159] Others criticize weak enforcement of environmental rules.[160] Concerns that the heightened competition engendered by NAFTA would result in pressure to lower environmental standards or loosen enforcement of environmental rules led to establishment of a trilateral mechanism for investigating such complaints.

By year-end 1996, 4 requests for the CEC to investigate such concerns under procedures set forth in Arts. 14 and 15 of the NAAEC had been lodged. Two petitions, relating to non-enforcement of U.S. laws via the withdrawal of funding from such activities, were rejected by the Commission in 1995.[161] In response to another such request, at its August 1996 meeting, the CEC Council directed the CEC Secretariat to prepare a factual record regarding the construction and operation of the public harbor terminal in Cozumel, Mexico,[162] which some fear could threaten coral reefs.[163] The group alleged that Mexico did not conduct an environmental impact assessment before permitting construction of a pier, passenger terminal and other infrastucture for tourist cruises, as required under its environmental laws.[164]

NADBank and BECC

The NAFTA was accompanied by bilateral agreement by the United States and Mexico to establish a jointly-funded North American Development Bank (NADBank) to provide seed money for environmental infrastructure and community development projects along the U.S.-Mexico Border, as well as to establish a Border Environmental Cooperation Commission (BECC) to review proposals for such funding. In December 1996, NADBank approved its 2 first loans, for water treatment plants in Mercedes, Texas, and Brawley, California.[165] As of March 1997, financing for a total of 4 projects had been approved. BECC, which recommends projects for NADBank financing based on need and community support, has certified 12 projects for financing, and is considering additional projects from a pool of some 100 projects submitted.[166] A report by the U.S. General Accounting Office (GAO) issued in July 1996 indicated that NADBank did not disburse any loans in the year and a half since Mexico and the United States agreed to commit $1.5 billion to clean up pollution along the U.S.-Mexican border.[167] GAO also warned that interest rates on NADBank loans, at 1 percent above market rates, may be too high for the most polluted towns.[168] NADBank officials have stated that the bank is ready to be more proactive and to quickly act upon applications after having put in place credit guidelines and administrative processes.[169] Nevertheless, NADBank General Manager Alfredo Phillips says it may be difficult for the bank to engage in substantial lending operations in the short-term because few of the many projects that have been discussed have been adequately analyzed and developed for presentation to potential financiers.[170]

NAFTA and Labor Cooperation

NAFTA was accompanied by a trilateral North American Agreement on Labor Cooperation (NAALC) to ensure that NAFTA-related economic integration was accompanied by improved working conditions and living standards in each party's territory and adherence to basic labor law principles. The NAALC is administered by a Commission for Labor Cooperation (CLC). A CLC Council, comprised of the three NAFTA labor ministers, oversees the CLC. The Council is supported by a Secretariat, located in Dallas, Texas. Each member has a National Administrative Office (NAO) for the agreement. In the United States, a 12-member National Advisory Commission drawn from academia, business, and labor groups advises the NAO.

At its third annual meeting, held May 15, 1996, the CLC Council heard reports on the CLC Secretariat's first year of operation. The Secretariat has initiated several projects, including preparing comparative

reports on labor market conditions and labor law, undertaking a project to identify advanced labor practices in the apparel industry, and sponsoring an international conference on incomes and productivity in North America in 1997. Cooperative projects on occupational safety and health, industrial relations, worker training, and child labor are also underway.[171]

On February 13, 1996, the Secretariat also launched a special study at the request of the Council on the effects of sudden plant closings on the principle of freedom of association and the right of workers to organize in the three NAALC countries. The request was part of an action plan resulting from Ministerial Consultations held under the accord regarding a Mexican complaint about union registration at a U.S. telephone firm (Sprint). The December 15, 1995 action plan also called for continued monitoring of U.S. legal developments in the case and for the U.S. Department of Labor to hold a public forum in San Francisco to allow interested parties an opportunity to convey their concerns. The forum was held February 27, 1996.[172] A draft of the Secretariat study is presently being reviewed by the Council, which can either accept the study for publication or send it back for revisions.[173]

Each party, through its NAO, can accept petitions by domestic interests requesting investigations into complaints about administration of another party's labor laws. Issues of union registration and internal union democracy have been raised in each of the six submissions reviewed by the U.S. NAO since NAFTA's inception. In August 1996, the Secretary of Labor of Mexico and Mexico's major labor and business organizations, signed a document committing their respective organizations to address these matters.[174] In 1996, ministerial consultations were held on a U.S. complaint about efforts to organize a union at a Mexican electronics firm (Sony). The consultations resulted in an agreement to hold 3 public seminars on union registration and certification, for the U.S. NAO to conduct a study on cases before Mexican authorities involving allegations of unjustified dismissals, and in meetings between Mexican authorities and the parties concerned, the last of which was held February 29-March 1, 1996.[175] Also in 1996, the U.S. NAO agreed to investigate charges that Mexican federal workers had been thwarted in attempts to form an independent union. A hearing on the case was held December 3, 1996.[176]

WTO Review of NAFTA

Under multilateral trading rules, all regional trade agreements must be notified and undergo an examination of the accord's consistency with existing GATT obligations.[177] A working party to examine NAFTA's consistency with multilateral trade rules was established by the GATT on March 23, 1994. With the advent of the WTO on January 1, 1995, the working party was converted into a working party under the WTO,[178] whose membership and terms of reference were established in August 1995.[179] Numerous questions regarding NAFTA have been raised and responses transmitted.[180] The WTO's Committee on Regional Trade Agreements focused on NAFTA during their July 29-31, 1996 session.[181] At the meeting, questions and concerns were raised about the impact of NAFTA rules of origin on third-country trade, particularly with respect to autos, electronics, and textiles and yarn. Trade statistics to aid in an evaluation of whether NAFTA had been trade-creating or trade-diverting were also requested.

NAFTA Accession and Bilateral FTAs

The United States, Canada, and Mexico announced their intention to begin negotiations on Chile's accession to NAFTA in December 1994, and formally launched negotiations in June 1995.[182] However, little beyond exploratory work occurred in 1995 and 1996, due in part to the lapse in U.S. Presidential negotiating authority. With little progress made on NAFTA accession, the Governments of Chile and Canada began negotiations on a bilateral free-trade agreement (FTA) in December 1995. A Canada-Chile FTA, which is closely patterned on NAFTA market access provisions and rules of origin, was concluded on November 14, 1996. Among key differences between the Canada-Chile FTA and NAFTA, the Chile-Canada agreement—

- Permits Chile to retain capital control requirements for foreign investors that have been identified by the United States as investment barriers;
- Phases out the use of anti-dumping measures in bilateral trade over a 6-year period;[183] and
- Exempts cultural industries as well as supply-managed agricultural commodities.[184]

Canada and Chile also signed agreements on labor and the environment, closely patterned on the NAFTA "side agreements" in the same areas, on February 6, 1997; the negotiated Canada-Chile agreements are scheduled to enter into force on June 2, 1997.[185]

A bilateral Chile-Mexico FTA has been in operation since 1992. Negotiations to make that agreement more comparable to NAFTA by expanding its coverage and adding disciplines on non-tariff barriers, services, investment, intellectual property rights, and temporary movement of personnel (all topics addressed in NAFTA) are under way.

Free Trade Area of the Americas

At the December 1994 Summit of the Americas, the heads of state of the Western Hemisphere's 34 democracies declared their resolve "to begin immediately to construct the Free Trade Area of the Americas (FTAA) in which barriers to trade and investment will be progressively eliminated. . . . to conclude the negotiations of the Free Trade Area of the Americas no later than 2005, and agree that concrete progress toward the attainment of this objective will be made by the end of this century."[186] Eleven working groups were created to lay groundwork for eventual FTAA negotiations. Those working groups are for: market access; customs procedures and rules of origin; investment; sanitary and phytosanitary measures; standards and technical barriers to trade; subsidies, antidumping and countervailing duties; smaller economies, competition policy; government procurement; intellectual property rights; and services.[187]

The Hemisphere's Trade Ministers held their second meeting under the FTAA process in March 1996 in Cartagena, Colombia. No new commitments to the FTAA process were made during that meeting; however, the Ministers directed their Vice Trade Minsters to make an assessment of when and how to launch the FTAA negotiations, and to make recommendations on those issues before the third Trade Ministerial meeting scheduled for May 1997 in Belo Horizonte, Brazil.[188]

Asia-Pacific Economic Cooperation

During 1996, the Asia-Pacific Economic Cooperation forum (APEC) moved from goal-setting activities to taking actions towards free and open trade and investment in the region by 2020, as set forth in the Bogor Declaration.[189] APEC's activities were based on the framework for action outlined in the 1995 Osaka Action Agenda (OAA) which rests on the three pillars of trade and investment liberalization; trade and investment facilitation; and economic and technical cooperation. APEC's liberalization activities focused on developing individual and collective initiatives to fulfill the OAA commitments. APEC also initiated 320 projects in various Working Groups and other APEC fora, many of which involved economic and technical cooperation.

APEC's Work Program

In 1996, the Philippines held the chairmanship of APEC and hosted the annual APEC Ministerial meeting in Manila which was attended by economic and foreign ministers from member economies. Nine other ministerial-level meetings were also held throughout the year including ministers in charge of trade, finance, transportation, telecommunications, education, energy, sustainable development, environment and small and medium-sized enterprises.[190] APEC Senior Officials, who review the work of APEC's two permanent Committees—the Committee on Trade and Investment (CTI) and the Economic Committee (EC)—met four times during 1996. In 1996, the CTI, the group responsible for implementation of APEC's trade and investment agenda, was implementing and reporting on the APEC collective actions (see explanation below). The CTI also continued its ongoing work in other areas including: investment (updating the *APEC Investment Guidebook*); standards and conformance (completion of a report on the alignment of standards); customs procedures (implementation of the Customs Action Plan); government procurement (initiation of two surveys); dispute settlement; Tariff Data Task Force (development of APEC Tariff Database on the Internet/Worldwide Web); deregulation and competition policy (review of concept paper and conduct of workshop); rules of origin (consideration of implementing technical rules of origin work in the Customs Action Plan); Uruguay Round implementation; intellectual property rights (initiation of an Intellectual Property Contact Points list); and mobility of businesspersons (development of an APEC Business Travel Card).[191] The CTI's two Subcommittees on Customs Procedures and Standards and Conformance made substantial contributions to the CTI's work in these areas.

The Economic Committee, which serves as APEC's analytical group, provides reports on

economic trends and related issues in the region. In 1996, the United States prepared one of the main products of the committee, the annual economic outlook report. Other work of the Economic Committee included an analysis of issues relevant to achieving sustainable growth and equitable development in the region. The Committee also published *The State of Economic and Technical Cooperation in APEC*, which provides an overview and recommendations regarding cross-cutting activities currently underway within APEC. APEC Ministers directed the Working Groups and other fora to consider collaborating on issues that are of a cross-cutting nature, based on the report. APEC Ministers also noted the high priority that issues regarding infrastructure development had been given by a task force under the Economic Committee, including the publication of a compendium of "Best Practices" developed at a Roundtable meeting hosted by the United States and Indonesia in Seattle, July 1996.[192] Progress on the APEC Leaders' Initiative on the Impact of Expanding Population and Economic Growth on Food, Energy and the Environment (FEEEP), was addressed by various APEC fora in 1996, including a Task Force on Food under the Economic Committee. The Task Force on Food developed a work plan in 1996 including the appointment of lead economies (shepherds) for future work on food supply and demand, processing and distribution, correlation between food and the environment and future trends in food supply and demand. The task force will first examine regional food issues and thereafter explore options for initiating joint actions with other APEC fora to deal with regional food challenges. Ministers indicated that an overarching report on FEEEP would be prepared for the 1997 Ministerial.[193]

Each of APEC's 10 Working Groups had extensive work programs in 1996 covering broad issue areas of human resources development (HRD), telecommunications, transportation, tourism, energy, marine resources, fisheries, trade and investment data review, trade promotion and industrial science and technology. For example, the Working Group on Human Resources development implemented over 80 joint projects, including the launching of a Labor Market Information database which identifies focal points for each member economy. The first HRD Ministerial meeting was held in January 1996 in Manila. Another example of Working Group activities was the adoption of non-binding energy principles intended to reform regional energy policies, the implementation of a program to mobilize investment in power sector infrastructure and the adoption of a strategic approach to reducing the environmental impact of energy supply and use.[194]

Since its initiation, APEC has sought to integrate and encourage business participation in every level of its work program. During 1996, one of APEC's priorities, as set out by President H.E. Fidel V. Ramos of the Philippines, was to increase the engagement of the private sector in the APEC process. The Philippines sponsored the "APEC Business Forum" in conjunction with the 1996 Ministerial to provide an opportunity for networking among senior business representatives and to define short-term private-sector initiatives to facilitate intra-APEC cooperation.[195] In 1996, the APEC Business Advisory Council (ABAC) met four times and presented its flagship recommendations to APEC Leaders on November 24.[196] The recommendations included establishing a central registry for patents and trademarks; adopting a set of common professional standards for business service providers; holding joint public/private sector roundtables to develop guidelines for infrastructure projects; developing an APEC-wide network and providing other technical cooperation for small and medium-sized enterprises. APEC Ministers were directed by Leaders to work closely with ABAC in examining ways to implement their recommendations.[197]

Institutional Issues

Membership and nonmember participation issues have been a recurring topic of discussion within APEC as the number of requests to joint APEC have increased. APEC's 3-year moratorium on the admission of new members was set to expire in 1996. At the November Ministerial meeting in Manila, Ministers decided not to extend the moratorium and agreed that a set of criteria for evaluation applications would be adopted in 1997. Based on the criteria, APEC Ministers also decided that new members would be announced at the 1998 Ministerial in Kaula Lumpur and would be admitted at the 1999 Ministerial in Auckland.[198] APEC Ministers also adopted guidelines regarding non-member participation in APEC Working Group activities. A key element of the guidelines is a statement indicating that, "There must be no linkage between participation in APEC Working Groups and any application for a full membership in APEC. In other words, participation in a Working Group is neither necessary nor sufficient for a successful application to become an APEC member."[199] In 1996, APEC Senior Officials approved requests by Russia and Vietnam, to participate in a one-time APEC symposium and conferences.

Regarding other budget and administrative issues, APEC Ministers agreed to raise the APEC Secretariat's budget from $3.1 million in 1996 to $8.1 million in 1997. The Ministers also endorsed the recommendations of the Task Force on Management Issues which are intended to facilitate relations between the Secretariat and other APEC fora.[200]

Manila Action Plan for APEC 1996 (MAPA)

One of the most significant APEC actions in 1996 was the endorsement of the Manila Action Plan for APEC 1996 (MAPA) by APEC Leaders at their fourth annual meeting on November 25.[201] The MAPA integrates the Collective Action Plans (CAPs), the Individual Action Plans (IAPs), Progress Reports on Joint Activities of APEC members and various APEC fora, as discussed below.

In accordance with the OAA, APEC began developing two sets of CAPs and Individual Action Plans (IAPs), each of which cover the 15 specific areas in the OAA for liberalization.[202] During 1996, APEC worked on developing standardized guidelines and formats for the action plans. The CAPs consist of summary reports and matrices indicating actions that APEC members have agreed to take as a group to advance liberalization in each of the 15 issue areas. APEC Ministers approved the CAPs at their November meeting in Manila. Ministers noted examples of outputs contained in the CAPs that will contribute to business facilitation in the region including: the APEC Tariff Database, APEC publications on members' investment regimes, customs procedures, rules of origin, business travel, government procurement and intellectual property rights, an Umbrella Mutual Recognition Arrangement of Conformity Assessment for Food and Food Products, an Arrangement for the Exchange of Information on Toy Safety, a guide for the alignment of members' standards with international standards, and the harmonization of tariff nomenclature and other customs procedures. In 1997, the CAPs will be subject to review and expansion.[203]

The IAPs contain individual members' voluntary commitments or concrete steps towards fulfilling the OAA's goals.[204] Each of the eighteen economies submitted the first draft of their IAPs at the Senior Officials Meeting held in Cebu in May 1996. At that time, the content, quality and format of the IAPs varied. During the period May through November, members improved and reformatted their IAPs in accordance with guidelines adopted by Senior Officials. At the Ministerial meeting in Manila, APEC Ministers recognized the IAPs as "a credible beginning to the process of liberalization and noted the rolling nature of the IAPs."[205] The Ministers noted the importance of "ensuring transparency of and comparability among the respective action plans and their implementation in conformity with the principles set out in the OAA."[206] In their declaration, APEC Leaders indicated that APEC was committed to improving the individual action plans, including comparability and comprehensiveness and taking into account the views of the private sector.[207] Differences among APEC members regarding interpretation of "comparability" have emerged. The developed APEC economies interpret this principle to mean that relatively open economies are required to take fewer steps towards liberalization than those that are relatively closed. These economies believe that the more closed economies must raise their level of liberalization and "close the gap" with the more open economies. The APEC developing economies, by contrast, view comparability as meaning that each economy should take relatively the same number of liberalizing actions, implying that more "WTO-plus" commitments should be made by countries such as the United States. This difference in opinion is expected to become more important in 1997 when member economies will begin implementing their IAPs and engaging in consultations with other economies.

Another action that APEC took with regard to trade and investment liberalization was to reaffirm the complimentarity of APEC with the global liberalization process, indicating that APEC seeks to be a catalyst for further liberalization. In their meetings throughout the year, Senior Officials noted the importance of APEC in providing substantive support for the WTO at the Singapore Ministerial Conference to be held in December, but there were some differences among members about the content of any official statement. In November, APEC Ministers issued a relatively strong statement emphasizing support for the success of the WTO Ministerial conference. Ministers stressed the importance of full, effective and timely implemention of the Uruguay Round agreements and commitments; endorsed APEC's role in providing technical assistance to member economies; emphasized the need to complete ongoing negotiations on financial services, basic telecommunications and rules of origin within the agreed timeframe; expressed support for the built-in agenda and noted the importance that regional trade arrangements be consistent with the WTO.[208] APEC

Leaders referenced many of the same issues with somewhat weaker language in their declaration.[209]

In their statements of support for the WTO, APEC Leaders and Ministers called for the conclusion of an Information Technology Agreement (ITA) at the WTO Ministerial Conference that would "substantially eliminate tariffs by the year 2000."[210] Gaining APEC support for an ITA was a major objective of U.S. officials. As originally proposed to APEC, the ITA would eliminate tariffs on information technology products by the year 2000, beginning in 1997. During discussions among APEC Senior Officials at their meetings in Davao (August) and Manila (October), there was initial support for the agreement among most members, however, some economies favored broader product coverage and a phased in timetable for elimination of tariffs.[211] By the time of APEC's November 1996 Ministerial meetings, support for total elimination of tariffs had apparently weakened somewhat due to concerns by some of the developing APEC economies and the final language included in the Leaders' Declaration was that tariffs would be "substantially" eliminated. However, the United States did secure support for the ITA during the final day of the meeting, and members agreed to include a deadline of the year 2000.[212] The momentum was carried forth to the WTO Ministerial meeting in Singapore where members agreed to an ITA.[213]

ENDNOTES

[1] These estimates are presented in USITC, *Potential Impact on the U.S. Economy and Selected Industries of the North American Free Trade Agreement*, USITC Publication 2596, January 1993.

[2] The Commission last met on March 20, 1997.

[3] WTO, *Annual Report 1996*, Volume II, p. 22.

[4] Data on U.S. trade with major trading partners and the world are provided in ch. 1.

[5] As reported by the Office of Textiles and Apparel (OTEXA) of the U.S. Department of Commerce.

[6] Products created by production sharing are eligible to reenter the United States under chapter 98 of the Harmonized Tariff System (HTS). Because the United States levies duties only on the value added in Mexico and the qualifying U.S. input returns free of duty, the overall duty payable under this import category is effectively reduced. See USITC, *Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations*, *1992-1995,* USITC publication 3032, March 1997.

[7] The maquiladora program permits imports of raw material, containers, packing material, fuel, lubricants, spare parts, equipment, and machinery without paying import duties or the value-added tax, provided those imports were used to produce goods for export. U.S. Department of State telegram, "Mexican Maquiladora Reforms—Preparing for 2000," message reference No. 14891, prepared by U.S. Embassy, Mexico City, Nov. 29, 1996.

[8] However, the Government of Mexico provides incentives to increase the domestic content of maquiladora production. See also USITC, *Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations*, *1991-1994,* USITC publication 2966, May 1996, p. 4-13.

[9] Ibid., pp. 4-7 to 4-10.

[10] See also USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, p. 31.

[11] See also USITC, *Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations*, *1992-1995,* USITC publication 2966, May 1996, pp. 4-13 to 4-22.

[12] USTR, "Written Testimony by Ambassador Ira Shapiro before the Subcommittee on International Economic Policy and Trade of the House International Relations Committee," Mar. 5, 1997, p. 2.

[13] USTR, "Written Testimony of Regina K. Vargo, Deputy Assistant Secretary of Commerce for the Western Hemisphere before the Subcommittee on International Economic Policy and Trade, House International Relations Committee," Mar. 5, 1997, p. 2.

[14] USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 198.

[15] USTR, *1996 National Trade Estimate Report*, p. 239. With implementation of the fourth round of tariff cuts on Jan. 1, 1997, the average Mexican tariff on U.S. products fell to 2.9 percent, while the average U.S. tariff on Mexican products fell to 0.8 percent. USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 148.

[16] U.S. Department of State telegram, "National Trade Estimate Report-Mexico," message reference No. 799, prepared by U.S. Embassy, Mexico City, Jan. 24, 1997.

[17] For background on this Mexican tariff increase, see USITC, *The Year in Trade, 1995*, USITC Publication 2971, p. 28.

[18] The Mexican decree was published in the Dec. 12, 1996 edition of the *Diario Oficial*. See the safeguard action section of ch. 5 for details of the U.S. measure.

[19] U.S. Department of State telegram, "National Trade Estimate Report-Mexico," message reference No. 799, prepared by U.S. Embassy, Mexico City, Jan. 24, 1997.

[20] USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 198.

[21] On January 14, 1997, Mexico formally requested formation of a NAFTA dispute settlement panel to examine its concerns over the U.S. broomcorn broom action. USTR, "Update: Developments in International Trade Dispute Settlement," Feb. 10, 1997, p. 16. See the safeguard action section of ch. 5 for details on the broomcorn brooms dispute.

[22] USTR, "1995 Report to the NAFTA Commission from the NAFTA Committee on Trade in Goods," Nov. 22, 1996. Agreement on an initial round of tariff acceleration was announced by the NAFTA Free Trade Commission on Mar. 20, 1997.

[23] In early 1997, the U.S. Treasury Department announced that it was seeking approval from OMB to conduct a prototype test for trade among the United States, Canada, and Mexico that would improve handling of land border commercial transactions via increased electronic exchange of data. The step was a direct result of cooperation among national customs administrations under NAFTA auspices. BNA, "North American Trade Automation Prototype Data," *International Trade Reporter*, Vol. 14, No. 8, Feb. 19, 1997.

[24] For background on the law, see U.S. Department of State telegram, Mexican Customs Reform: Generally Positive Implications for Business," message reference No. 1680, prepared by U.S. Embassy, Mexico City, Feb. 2, 1996.

[25] USTR, *1996 National Trade Estimate Report on Foreign Trade Barriers*, p. 240.

[26] U.S. Department of State telegram, "1996 Trade Act Report: Mexico," message reference No. 11492, prepared by U.S. Embassy, Mexico City, Nov. 18, 1996.

[27] U.S. Department of State telegram, "National Trade Estimate Report-Mexico," message reference No. 799, prepared by U.S. Embassy, Mexico City,

Jan. 24, 1997. In addition, more recent changes, implemented Mar. 1, 1997, will subject a substantially higher number of commercial shipments to secondary, i.e., two random, customs inspections. U.S. Department of State telegram, "Possible Border Slowdown," message reference No. 2053, prepared by U.S. Embassy, Mexico City, Feb. 27, 1997.

[28] The U.S. International Trade Commission provided USTR with advice on possible changes to NAFTA rules of origin for chemicals that would simplify such rules on Sept. 15, 1995. Such changes were implemented in the new origin rules promulgated in the United States by Presidential Proclamation 6857, *To Modify the Harmonized Tariff Schedule of the United States, to Provide Rules of Origin Under the North American Free Trade Agreement for Affected Goods, and For Other Purposes*, 60 F.R. 64815, Dec. 15, 1995.

[29] USTR requested, via a letter dated Sept. 6, 1996, advice from the U.S. International Trade Commission on other proposed modifications to NAFTA origin rules. A report was provided October 3, 1996. These changes were agreed by NAFTA partners at the Mar. 20, 1997 NAFTA Commission meeting. Liberalizing changes in origin rules for additional products (certain non-stainless alloy steels, certain petroleum products, photocopiers, headphones, alcoholic beverages, and other products) are under consideration.

[30] U.S. Department of Treasury, "Summary of Developments: Working Group on Rules of Origin," Nov. 20, 1996.

[31] The rules are published at 61 CFR 28982, June 6, 1996.

[32] *CPC International Inc. vs. United States*, 933 F. Supp. 1093, Slip Op. 96-106, No. 95-02-00144, July 8, 1996.

[33] U.S. Department of Treasury official, telephone conversation with USITC staff, Apr. 8, 1997.

[34] *CPC International Inc. vs. United States*, U.S. Court of International Trade, Slip Op. 97-1, No. 95-00144, Jan. 6, 1997.

[35] "Secondary petrochemicals" have not been clearly defined by the Government of Mexico. However, the concept is understood to include the production of propylene, ethylene and other petroleum derivatives.

[36] President Zedillo's announcement in March 1995, at the 57th anniversary of the Mexican oil industry's nationalization, that the State petrochemical industry will be put up for sale.

[37] U.S. Department of State telegram, "1996 Trade Act Report: Mexico" message reference No. 14492, prepared by U.S. Embassy Mexico City, Nov. 18, 1996 and U.S. Department of Treasury, "Report to Congress Pursuant to section 403 of the Mexican Debt Disclosure Act of 1995", Dec. 1996, p.5.

[38] U.S. Department of State telegram, "Mexico: Petrochemicals Privatization," message reference No. 1262, Feb. 7, 1997. The privatization plans, affecting 4 facilities presently owned by PEMEX, were announced in the Jan. 30, 1997 edition of Mexico's *Diario Oficial*.

[39] "Agriculture Leads NAFTA Trade Growth," *North American Free Trade & Investment Report*, July 15, 1996, p.13.

[40] "NAFTA Agricultural Trade to Grow," *North American Free Trade & Investment Report*, Oct. 31, 1996, p.10.

[41] See the Canada section of ch. 4 for details.

[42] See the Mexico section of ch. 4 for details.

[43] See the safeguard action section of ch. 5 for details.

[44] See the dispute settlement section, below, for details.

[45] *Minutes of the Fifth Meeting of the NAFTA Committee on Agricultural Trade*, June 19, 1996, Ottawa.

[46] NAFTA Committee on Agricultural Trade, *Draft Report to the Commission*, June 19, 1996.

[47] NAFTA Committee on Sanitary and Phytosanitary Measures, *Report to the Commission*, June 21, 1996.

[48] Generally speaking, the tariff and non-tariff barrier provisions of the U.S.-Canada Free Trade Agreement continue to apply to U.S.-Canada agriculture trade. *Trilaterally Agreed Executive Summary of NAFTA Agreement*, p. 12. With the exception of Canadian tariffs on dairy, poultry, eggs, margarine and barley, and U.S. products subject to tariff-rate quotas (dairy, sugar and sugar-containing products, and peanut butter) all agricultural trade between the United States and Canada will be duty-free beginning in 1998. USTR, "NAFTA and Agricultural Trade, NAFTA Information Package," Jan. 23, 1997.

[49] U.S. Department of State telegram, "1996 Trade Act Report: Mexico," message reference No. 14492, prepared by U.S. Embassy, Mexico City, Nov. 18, 1996.

[50] U.S. Department of State telegram, "Bilateral Trade Issues: Discussion," message reference No. 3156, prepared by U.S. Embassy Mexico City, Mar. 12, 1996.

[51] The proposed action was announced by the U.S. Department of Agriculture in 61 FR 69052, Dec. 31, 1996.

[52] See the Mexico section of ch. 4 for details.

[53] U.S. Department of State telegram, "Agricultural Working Group," message reference No. 6517, prepared by U.S. Embassy Mexico City, May 16, 1996.

[54] NAFTA Committee on Sanitary and Phytosanitary Measures, Report to the Commission, June 21, 1996.

[55] USTR official, meeting with USITC staff, Feb. 23, 1997.

[56] Such as citrus, Christmas trees, cherries, cling peaches, potatoes, apples, apricots, and nectarines. On Feb. 20, 1997, Mexico's agreement to allow imports of U.S. sweet cherries from Washington, Oregon and California was announced by U.S. Secretary of Agriculture Dan Glickman. See also, Mexican Embassy, SECOFI-NAFTA Office, "Mexico Lifts Ban on U.S. Cherries, NAFTA Works, February 1997, p. 1.

[57] U.S. Department of State telegram, "National Trade Estimate Report-Mexico," (draft), message reference No. 799, prepared by U.S. Embassy, Mexico City, Jan. 24, 1997.

[58] USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 198.

[59] "Standards Still A NAFTA Problem," *North American Free Trade and Investment Report*, Dec. 22, 1995.

[60] For background see, U.S. Department of Commerce, "Mexican Textile and Apparel Labeling Rules for 1996," *NAFTA Facts*, Document No. 9007, Feb. 29, 1996.

[61] "Textile Labeling Rule Postponed," *North American Free Trade and Investment Report*, July 31, 1996, p. 11.

[62] "Mexico's New Labeling Standard Catches Textile Exporters Off Guard," *International Trade Reporter*, Nov. 29, 1995, p. 1954.

[63] U.S. Department of State telegram, "Mexico Postpones Implementation of Two Textile Labeling Provisions," message reference No. 9340, prepared by U.S. Embassy, Mexico City, July 19, 1996 and U.S. Department of Commerce, "Suspension of Certain Textile and Apparel Labeling Requirements," *NAFTA Facts*, Document No. 9004 (no date).

[64] The final rules were published in the Feb. 25, 1997 *Diario Oficial*. Product content information about the prime material used in the product (but not accessories) will be required on labels, as well as information on the origin of the product itself (not components), care, and sizing. The definition of textiles was also clarified.

[65] U.S. Department of Commerce, "Postponement of Mexican Labeling Requirements for Consumer Goods, Processed Foods, and Non-Alcoholic Beverages," *NAFTA Facts*, Document No. 9005, Sept. 4, 1996. The notice of delay was published in the Sept. 3, 1996 *Diario Oficial*.

[66] BNA, "Draft Guidelines Leave Questions on Mexican Labeling, IBC Says," *International Trade Reporter*, July 10, 1996, p. 1139.

[67] The rules were published in the February 24, 1997 *Diario Oficial*. For background, see, U.S. Department of State telegram, "Mexicans Publish Tariff Classifications and Procedures for Labeling," message reference No. 1927, prepared by U.S. Embassy, Mexico City, Feb. 25, 1997.

[68] U.S. Department of State telegrams, "Possible Border Slowdown," message reference No. 2053 and "Industry Round table on Mexican Standards Issues," message reference No. 1589, prepared by U.S. Embassy, Mexico City, Feb. 27, 1997 and Feb. 14, 1997, respectively.

[69] Some reports suggest Mexico has agreed to this notion. See, for example, BNA, "Mexico Lists Goods Subject to Labeling, 'Soft Enforcement' of Rules Agreed Upon," *International Trade Reporter*, Vol. 14, No. 9, Feb. 26, 1997.

[70] USTR official, interview by USITC staff, Feb. 23, 1997.

[71] U.S. Department of State telegram, "GOM Still Not Ready to Provide Draft Health Regulations for USG Comment," message reference No. 3891, prepared by U.S. Embassy, Mexico City, Mar. 20, 1996.

[72] U.S. Department of State telegram, "SECOFI's Marquez Pessimistic on Changes to Pending Health Regulations," message reference No. 2100, prepared by U.S. Embassy, Mexico City, Feb. 28, 1997.

[73] USTR official, interview by USITC staff, Feb. 23, 1997 and U.S. Department of Commerce, "Summary of NAFTA Standards Meeting, Mexico City, Mar. 7-8, 1996," Mar. 13, 1996.

[74] U.S. Department of Commerce, "Overview of Mexico's Standards System," *NAFTA Facts*, Document No. 9000.

[75] No other U.S. trade agreement contains such an obligation, which is designed to make it easier for U.S. firms to sell regulated products to Mexico.

[76] USTR, *1996 National Trade Estimate Report on Foreign Trade Barriers*, p. 241.

[77] USTR, "U.S. and Mexico Agree to Mechanism for Streamlining Approval of Tires," USTR *Press Release,* No. 96-25, Mar. 18, 1996.

[78] U.S. Department of State telegram, "Mexican Tires Standards, At Last," message reference No. 11587, prepared by U.S. Embassy Mexico City, Sept. 5, 1996.

[79] U.S. Department of State telegram, "Mexican Certification Policy Revision Around the Corner," message reference No. 13208, prepared by U.S. Embassy, Mexico City, Oct. 17, 1996.

[80] An English language translation of the new regulations is available from U.S. Department of Commerce, "New Draft Regulations on Product Certification in Mexico," *NAFTA Facts*, Document No. 9015, Jan. 21, 1997.

[81] U.S. Department of State telegram, "Mexico Publishes Standards Certification Procedures for Comment," message reference no. 60, prepared by U.S. Embassy, Mexico City, Jan. 3, 1997.

[82] USTR, *Status Report of NAFTA Committees and Working Groups*, Dec. 13, 1996, p. 4.

[83] The U.S. notice can be found at 61 CFR 28636, June 5, 1996.

[84] Committee on Standards-Related Measures, *Report to the NAFTA Commission*, Jan. 1, 1994-December 31, 1996, Attachment II.

[85] USTR, *Annual Report on Discrimination in Foreign Procurement*, Apr. 30, 1996, p. 9. Mexico issued guidelines in 1996 intended to ensure more consistent compliance with NAFTA procurement obligations. U.S. Department of State telegram, "Foreign Government Procurement Practices—Title VII Report—Mexico," message reference No. 4095, prepared by U.S. Embassy, Mexico City, Mar. 20, 1996. Mexico is also taking steps to implement the Organization of American States' Anti-Corruption Agreement. U.S. Department of State telegram, "SECOFI on WTO Issues: Government Procurement, Investment, Maritime," message reference No. Mexico 8520, prepared by U.S. Embassy, Mexico City, June 28, 1996.

[86] According to NAFTA, the schedule was to be finalized by July 31, 1995.

[87] *1994-96 Report on the NAFTA Government Procurement Working Group*, Feb. 6, 1997.

[88] USTR, *Annual Report on Discrimination in Foreign Procurement*, Apr. 30, 1996, p. 9.

[89] "Response to Request for Information on Foreign Government Procurement," Prepared by American Embassy, Ottawa, message reference No. 909, Feb. 23, 1996. U.S. firms have reportedly captured a steady share of the Canadian government procurement market. U.S. Department of Commerce, "Testimony of Regina K. Vargo, Deputy Assistant Secretary of Commerce for the Western Hemisphere before the Subcommittee on International Economic Policy and Trade, House International Relations Committee," Mar. 5, 1997, p. 2.

[90] USTR official, interview with USITC staff, Feb. 24, 1997.

[91] For further background on 1995 developments, see USITC, *The Year in Trade, 1996*, USITC Publication 2971, p. 56.

[92] USTR, "Update: Developments in U.S. International Dispute Settlement," Dec. 1, 1996, p. 13.

[93] "Senate Ties Truck Licenses to Mexican Drug Efforts," *North American Free Trade and Investment Report*, Feb. 15, 1996, p. 12.

[94] "No U.S.-Mexican Agreement on Trucking," *North American Free Trade and Investment Report*, May 31, 1996, p. 8.

[95] U.S. Department of State telegram, "U.S. and Mexican Officials Meet to Discuss Transportation Issues," message reference No. 414, prepared by U.S. Embassy, Mexico City, July 11, 1996.

[96] *International Brotherhood of Teamsters v. Pena*, U.S. Court of Appeals for the District of Columbia, No. 95-1063, Oct. 18, 1996.

[97] U.S. General Accounting Office (GAO), *Commercial Trucking: Safety and Infrastructure Issues Under the North American Free Trade Agreement*, GAO/RCED-96-61, February 1996.

[98] "Key GOP Lawmakers Question Truck Delay," *North American Free Trade and Investment Report*, Jan. 31, 1996.

[99] "California Governor Urges Clinton to Open Border to Trucking," *North American Free Trade and Investment Report*, Oct. 15, 1996, p. 11.

[100] David Barnes, "Truckers Criticize NAFTA Limits at Mexican Border As Broken Promise," *Traffic World*, Knight-Ridder/Tribune Business News, Nov. 4, 1996.

[101] Ibid. The issue of small parcel deliveries by U.S. companies to Mexico has also been discussed in USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, p. 57. Bilateral discussions on this matter continued throughout 1996.

[102] BNA, "NAII Urges Clinton to Keep Moratorium on Mexican Trucks," *International Trade Reporter*, Vol. 14, Jan. 29, 1997, p. 183.

[103] USTR, *Status Report of NAFTA Committees and Working Groups*, Dec. 13, 1996, p. 4.

[104] USTR official, telephone conversation with USITC staff, Jan. 31, 1997.

[105] *Draft Report of the NAFTA Working Group on Investment and Services*, Jan. 28, 1997, p. 1.

[106] "NAFTA Parties Agree to Exceptions," *North American Free Trade and Investment Report*, Apr. 15, 1996, p. 14.

[107] USTR official, telephone conversation with USITC staff, Jan. 31, 1997.

[108] "U.S. Backs Right of Firms to Bid on Mexican Pension Management," *North American Free Trade and Investment Report*, May 31, 1996, p. 10.

[109] U.S. Department of State telegram, "Advances in New Mexican Pension Fund," message reference No. 1110, prepared by U.S. Embassy, Mexico City, Feb. 3, 1997.

[110] "Mexico Updates NAFTA Limits on Foreign Institutional Capital," *International Trade Reporter*, Nov. 13, 1996, p. 1751.

[111] USTR official, telephone conversation with USITC staff, Jan. 31, 1997. For background see, "Engineers Reach NAFTA License Pact," *U.S.-Mexico Free Trade Reporter*, June 30, 1995, p. 5.

[112] USTR, telephone conversation with USITC staff, Jan. 31, 1997.

[113] "NAFTA Trilateral Committee Said Nearing Consultant Proposal Pact," *International Trade Reporter*, Sept. 6, 1995.

[114] Namely, architects, nurses, and accountants. *Draft Report of the NAFTA Working Group on Investment and Services*, Jan. 28, 1997, p. 2.

[115] USTR, "Annual Review of Telecommunications Trade Agreement Under Section1377 of the 1988 Trade Act Completed, " press release 96-36, April 3, 1996.

[116] U.S. Department of State telegram "1377 Trade Review - Demarche to Mexico," message reference No. 52716, prepared by U.S. Department of State, Mar. 14, 1996.

[117] For background, see, "NAFTA Telecom Industries Still Divided on Equipment Standard; Dispute Looms," *International Trade Reporter*, Dec. 11, 1996, pp. 1901-1903.

[118] USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 149 and USTR official, telephone conversation with USITC staff, April 8, 1997.

[119] USTR, "Trade Policy Staff Committee: Request for Comments Concerning Compliance with Telecommunications Trade Agreements," reprinted in 61 CFR 66068, Dec. 16, 1996. For background see, "USTR Seeks Public Comments on Effectiveness of Telecom Accords," *International Trade Reporter*, Dec. 18, 1996, pp. 1950-1951.

[120] U.S. Department of State telegram "1377 Trade Review—Demarche to Mexico," message reference No. 52716, prepared by U.S. Department of State, Mar. 14, 1996.

[121] "Mexico Will Work to Avoid Conflicts Under NAFTA on Telecom, Official Says," *International Trade Reporter*, Dec. 18, 1996, p. 1958.

[122] "NAFTA Telecom Industries Still Divided on Equipment Standard; Dispute Looms," *International Trade Reporter*, Dec. 11, 1996, p. 1901.

[123] NAFTA Committee on Standards-Related Measures, *Report to the NAFTA Commission*, Jan. 1, 1994-Dec. 31, 1996, Attachment IV.

[124] The CCT's recommendations were transmitted to USTR on Jan. 22, 1997. The CCT produced a consensus list of mandatory parameters, as well as those that should remain voluntary, if a prior tripartite governmental agreement of the NAFTA terms is upheld. NAFTA Committee on Standards-Related Measures, *Report to the NAFTA Commission, Jan. 1-1994-December 31, 1996*, Attachment IV. For background, see, "Mexico Will Work to Avoid Conflicts Under NAFTA on Telecom, Official Says," *International Trade Reporter*, Dec. 18, 1996, p.1958.

[125] U.S. Department of State telegram, "1996 Trade Act Report: Mexico," message reference No. 014492, prepared by U.S. Embassy, Mexico City, Nov. 18, 1996. Mexico has not acted upon applications for such protection, however.

[126] U.S. Department of State telegram, "National Trade Estimate Report-Mexico," message reference No. 799, prepared by U.S. Embassy, Mexico City, Jan. 24, 1997.

[127] U.S. Department of State telegram, "1996 Trade Act Report: Mexico," message reference No. 14492, prepared by U.S. Embassy, Mexico City, Nov. 18, 1996.

[128] U.S. Department of State telegram, "Mexican IPR Enforcement Improving," message reference No. 5723, prepared by U.S. Embassy, Mexico City, Apr. 25, 1996.

[129] USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 198.

[130] U.S. Department of State telegram, "U.S.-Mexico IPR Group," message reference No. 284364, prepared by U.S. Department of State, Washington, DC, Dec. 9, 1995.

[131] U.S. Department of State telegram, "Third Meeting of the U.S.-Mexico Working Group," message reference No. 9452, prepared by U.S. Embassy Mexico City, July 22, 1996 and USTR official, interview with USITC staff, Feb. 23, 1997.

[132] "Business Software Alliance Considers NAFTA Case Over Mexican IP Compliance," *International Trade Reporter*, Oct. 10, 1996, p.1675.

[133] "Mexico's Congress To Consider Adding Stiff Penalties to Copyright Law," *International Trade Reporter*, Nov. 20, 1996, p.1785.

[134] USTR official, telephone conversation with USITC staff, Feb. 7, 1997 and USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, p. 198.

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[140] USTR, *Update: Developments in U.S. International Dispute Settlement*, Mar. 1, 1997, p. 20.

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[142] "NAFTA on the Dock—Again," *The Journal of Commerce*, Jan. 13, 1997, p. 6-A.

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[144] USTR, telephone conversation with USITC staff, Jan. 31, 1997.

[145] See the Mexico section of ch. 5 for details.

[146] See the safeguard action section of ch. 5 for details.

[147] The Libertad Act is discussed in ch. 6.

[148] USTR, "Update: Developments in U.S. International Dispute Settlement," Dec. 1, 1996.

[149] USTR, Update: Developments in U.S. International Trade Dispute Settlement, Mar. 6, 1997, p. 19.

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[151] The U.S. Committee members were named on Jan. 16, 1997. U.S. Department of Agriculture, "Glickman Names U.S. Members to NAFTA Advisory Committee," *Ag News*, Release No. 0013.97, Jan. 16, 1997.

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[155] USTR, "NAFTA and the Environment," fact sheet, *NAFTA Information Package*, posted on USTR's Internet home page, Aug. 13, 1996.

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[157] EPA official, telephone conversation with USITC staff, Jan. 28, 1997.

[158] CEC Secretariat, Final Communique: North American Environment Ministers Accelerate Environmental Protection Efforts, Aug. 2, 1996.

[159] Public Citizen, *NAFTA's Broken Promises: The Border Betrayed*, January 1996.

[160] Carl Pope, "Opinion: NAFTA's Broken Promises," *The Journal of Commerce*, Dec. 6, 1996, p. 15.

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[162] USTR, "NAFTA and the Environment," fact sheet, *NAFTA Information Package*, posted on USTR's Internet homepage, Aug. 13, 1996.

[163] "NAFTA Environmental Commission to Examine Mexican Dock," *North American Free Trade and Investment Report*, June 15, 1996, p. 12.

[164] CEC Secretariat, North American Environment Ministers Take Next Step on Cozumel, Aug. 2, 1996.

[165] "NADBank Projects," *International Trade Reporter*, Dec. 11, 1996, p. 1908.

[166] USTR, "Testimony of Ambassador Ira Shapiro before the Subcommittee on International Economic Policy and Trade of the House International Relations Committee," Mar. 5, 1997, p. 8.

[167] GAO, *International Environment: Environmental Infrastructure Needs in the U.S. Mexican Border Region Remain Unmet*, GAO/RCED-96-179.

[168] "GAO Says Mexican Border Cleanup Lags," *North American Free Trade and Investment Report*, Aug. 15, 1996, p. 11.

[169] "NADBank to Seek U.S. Private Loans for Mexican Infrastructure Projects," *North American Free Trade and Investment Report*, Jan. 15, 1996, p. 20.

[170] U.S. Department of State telegram, "NADBank and BECC: Views of Alfredo Phillips Olmedo," message reference No. 1608, prepared by U.S. Embassy, Mexico City, Feb. 1, 1996.

[171] *Labor in NAFTA Countries*, Bulletin of the Commission for Labor Cooperation, Vol. 1, No. 3, Oct. 1996, pp. 1-4.

[172] "Public Hearing Set on Charges Against Sprint," *North American Free Trade and Investment Report*, Jan. 30, 1996, p. 13.

[173] "Labor Ministers Review Study on Plant Closings," *North American Free Trade and Investment Report*, Dec. 15, 1996, p. 12.

[174] USTR, "Testimony of Ambassador Ira Shapiro before the Subcommittee on International Economic Policy and Trade of the House International Relations Committee," Mar. 5, 1997, p. 7.

[175] "Ministerial Consultations," *Labor in NAFTA Countries*, Bulletin of the Commission for Labor Cooperation, Vol. 1, No. 1, March 1996, p. 6.

[176] "U.S. Unit to Review Labor Charges Involving Mexican Government Workers," *International Trade Daily*, Nov. 1, 1996.

[177] Regional trade agreements in the context of multilateral trading rules are discussed in greater detail in ch. 2.

[178] WTO, *Working Parties on Agreements Notified Under Art. XXIV of GATT 1947*, July 18, 1995, WT/REG4/2, (95-2061).

[179] WTO, *Working Party on the North American Free Trade Agreement*, Aug. 3, 1995, (95-2308),WT/REG4/3.

[180] WTO, *Working Party on the North American Free Trade Agreement: Questions and Replies*, June 23, 1995, WT/REG4/1, (95-1677) contains 232 questions and associated replies and WTO, *Working Party on the North American Free Trade Agreement: Questions and Replies—Goods Corrigendum*, Aug. 23, 1996, WT/REG4/1/add.1/Corr.1 (96-3338) contains further responses to 2 questions.

[181] The activities of this committee are discussed in greater detail in ch. 2.

[182] For more details, see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 32-34.

[183] This step was, a Canadian background paper noted, "consistent with the Canadian government's longstanding objective to reform and eventually eliminate the use of antidumping duties within NAFTA." As quoted in BNA, "Canada to Use Free-Trade Agreement with Chile to Press U.S. on NAFTA Accession, Chretien Says," *International Trade Reporter*, Nov. 20, 1996, pp. 1782-1783.

[184] U.S. Department of State telegram, "Canada Signs Free Trade Agreement with Chile," message reference No. 5105, prepared by U.S. Embassy Ottawa, Nov. 19, 1996.

[185] U.S. Department of State telegram, "Canada and Chile Sign NAFTA-Style Side Agreements on Environment and Labor," message reference No. 00494, prepared by U.S. Embassy Ottawa, Feb. 7, 1997, and Government of Canada, Department of Foreign Affairs and International Trade, "Canada and Chile Sign Free Trade Agreement," Press Release, Nov. 18, 1996, found at Florida International University Americas website http://americas.fiu.edu/documents/96/1118.htm.

[186] Declaration of Principles and Plan of Action, reprinted in *Business America*, Dec. 1994, pp. 10-13. For additional information on the 1994 Summit of the Americas, see *The Year in Trade: OTAP*, 1994, USITC publication 2894, pp. 39-41.

[187] For more detailed information on the establishment of the FTAA working groups, see *The Year in Trade: OTAP*, 1995, USITC publication 2971, pp. 35-36.

[188] *Joint Declaration: Summit of the Americas Second Ministerial Trade Meeting*, Cartagena, Colombia, Mar. 21, 1996.

[189] APEC, "APEC Economic Leaders' Declaration of Common Resolve," Bogor, Indonesia, Nov. 15, 1994.

[190] "Asia-Pacific Economic Cooperation (APEC), Part I: A Short History," National Center for APEC, Feb. 6, 1996.

[191] APEC Committee on Trade and Investment, "Chair's Summary Record of Discussion," (February 10-11, 1996), pp. 1-10.

[192] APEC, "Joint Statement of the Eighth APEC Ministerial Meeting," APEC 96 M/M, Nov. 22-23, 1996, p. 15.

[193] Ibid, pp. 15-16.

[194] Ibid., pp. 8-10.

[195] "The APEC Business Forum," briefing paper presented at "APEC 1996: What's In It for Business," U.S. Chamber of Commerce, Washington, DC, July 24, 1996.

[196] ABAC was established in 1995 by APEC Leaders as a permanent private sector advisory committee consisting of three representatives from each member economy.

[197] APEC, "APEC Economic Leaders' Declaration: From Vision to Action," Subic, Philippines, Nov. 25, 1996, p. 4.

[198] APEC, "Joint Statement of the Eighth APEC Ministerial Meeting," APEC, 96/MM, Nov. 2-23, 1996, p. 18.

[199] APEC, "Consolidated Guidelines on Non-Member Participation in APEC Working Group Activities," October 1996, p. 2.

[200] Ibid, pp. 17-18.

[201] APEC, "APEC Economic Leaders' Declaration: From Vision to Action," Subic, Philippines, Nov. 25, 1996.

[202] The fifteen issue areas include tariffs, nontariff measures, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, government procurement, deregulation, rules of origin, dispute mediation, mobility of business people, implementation of Uruguay Round outcomes, and information gathering and analysis.

[203] APEC, "Joint Statement of the Eight APEC Ministerial Meeting," APEC 96/MM, Nov. 22-23, 1996, pp. 4-5.

[204] The process of employing voluntary efforts by individual economies and collective actions has been labeled "concerted unilateral liberalization" whereby a series of principles and guidelines agreed to by APEC economies are used to guide individual APEC economies' actions. Ibid.

[205] Ibid., p. 3.

[206] Ibid. The OAA rests on the three pillars of trade and investment liberalization; facilitation; and economic and technical cooperation. The principles include: WTO-consistency; comparability; non-discrimination; transparency; standstill; simultaneous star, continuous process and differentiated timetables; flexibility and cooperation. "APEC Economic Leaders' Declaration for Action," Osaka, Japan, Nov. 19, 1995.

[207] APEC, "APEC Economic Leaders' Declaration: From Vision to Action," Subic, Philippines, Nov. 25, 1996, p. 2.

[208] APEC, "Joint Statement of the Eighth APEC Ministerial Meeting," APEC 96/MM, Nov. 22-23, 1996, p. 6.

[209] APEC, "APEC Economic Leaders' Declaration: From Vision to Action," Subic, Philippines, Nov. 25, 1996, p. 2.

[210] Ibid.

[211] Substantive discussions regarding specific content of an ITA were referred to members' WTO representatives in Geneva..

[212] APEC, "APEC Economic Leaders' Declaration: From Vision to Vision," Subic, Philippines, Nov. 25, 1996, p. 2.

[213] The WTO Singapore Ministerial meeting and the ITA are discussed in greater detail in Ch. 2.

CHAPTER 4
U.S. Relations With Major Trading Partners

This chapter reviews bilateral trade relations and issues with seven major U.S. trading partners during 1996: Canada, the EU, Japan, Mexico, China, Taiwan, and Korea. See tables A-1 to A-21 for detailed information on U.S. trade with these partners.

Canada

Economic and trade relations between the United States and Canada were relatively smooth during 1996. The trading relationship is dominated by the NAFTA, and while some trade disputes were confronted, no single issue dominated the bilateral trade relationship.[1] The March 1996 enactment by the United States of additional trade sanctions against Cuba and countries or investors that do business in Cuba, however, was a particularly contentious issue in the overall bilateral relationship for the remainder of the year.[2] Another dispute between the United States and Canada in 1996 centered on differing interpretation of obligations related to agriculture under the NAFTA and the WTO. That dispute, involving dairy and poultry products, was resolved in Canada's favor with the announcement of a NAFTA dispute settlement panel determination late in the year. Softwood lumber, a subject of recurring bilateral attention, was again addressed in 1996. A 5-year agreement was concluded following discussions between Federal and Provincial authorities and representatives of the industry on both sides of the border.

Dairy and Poultry Dispute

In the spring of 1994, the United States and Canada disagreed over the priority of NAFTA bilateral commitments versus Uruguay Round commitments on agriculture.[3] The dispute centered on the NAFTA goals of eliminating tariffs on bilateral trade and the conversion of nontariff barriers to tariffs ("tariffication") as part of Uruguay Round implementation. Canada asserted that Uruguay Round tariffication held precedence over NAFTA tariff elimination. The United States said that certain Canadian tariffs on imports of agricultural products were "contrary to its commitments under the NAFTA."[4] The case was the first dispute handled under the dispute settlement procedures of NAFTA Chapter 20.[5]

The dispute ended with release of the dispute settlement panel's report, which was officially published by the NAFTA Secretariat in December 1996.[6] The unanimous panel decision upheld the Canadian position. As a result, Canadian duties on certain products will not be eliminated by January 1, 1998, as they would have been under the original NAFTA timetable. The case was significant in that it had possible implications for further decisions in NAFTA. The following two sections summarize the Uruguay Round and NAFTA provisions which were at issue in the dispute.

Uruguay Round Provisions on Agriculture

The Uruguay Round Agreement on Agriculture included a commitment to expand market access for agricultural products, cut agricultural export subsidies, and reduce trade-distorting support to domestic agricultural producers. In the Uruguay Round, the United States agreed to scale back its own export-subsidy program, including the Export Enhancement Program. The United States also agreed to tariffication of quotas imposed under section 22 of the Agricultural Adjustment Act and then to reduce those tariffs. Canada and other countries with official supply management systems for agricultural products agreed to replace those systems with tariffs and then reduce the tariffs. The tariffication process affected Canadian supply management systems for certain agricultural products, including dairy products, poultry, eggs, barley, and margarine.[7] As a result of the supply management system in Canada, Canadian consumers pay some of the world's highest prices for

milk, butter, and other products covered by the decision.[8]

In January 1994, Canada announced new tariff rates for certain agricultural products that would go into effect on July 1, 1995, as a result of tariffication. Even after the six-year reduction, such Canadian duties would continue to be prohibitive, equaling 285.6 percent *ad valorem* for imported chicken cuts, 187.5 percent for eggs, and 272.5 percent for yogurt.[9]

Duty Elimination under CFTA/NAFTA

The United States reacted to the 1994 Canadian announcement of new tariffs by pointing out that, under the terms of the U.S.-Canada Free Trade Agreement (CFTA) and the NAFTA, all duties between the two countries were to be eliminated by 1998. Canada responded that the Uruguay Round commitments agreement took precedence over both the CFTA and the NAFTA.

The NAFTA agreement anticipated the possibility of overlap with other agreements. Article 103 states that "In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement." Chapter 7 of the NAFTA, which treats agricultural measures, states that "domestic support reduction commitments may result from agricultural multilateral negotiations under the GATT" (Article 704). While the Article acknowledges that a signatory may change its domestic support measures at its discretion, it makes no specific mention of the tariffication that may accompany domestic support reduction commitments in the URA.

In July 1995, the United States and Canada held bilateral consultations on the differences in interpretation of the NAFTA duty elimination requirements and the Uruguay Round tariffication process. The two sides were not able to reach agreement. The United States referred the dispute to dispute settlement proceedings under the NAFTA.[10] The United States, as the party invoking the dispute settlement process, argued that the tariffs resulting from Canada's adherence to the WTO tariffication commitment violated the previous NAFTA/CFTA commitment to eliminate duties between the free trade partners. The United States also argued that the tariffs resulting from the tariffication process were higher than those agreed to under the NAFTA, and thus the Canadian action constituted a violation of the NAFTA Article 302 prohibition on increasing duties. Canada, on the other hand, maintained that it was required to establish these new tariffs pursuant to the WTO Agreement on Agriculture. Canada further argued that its tarrification obligation, was consistent with its commitments under the NAFTA.[11]

The panel concluded that the U.S. contention that the imposition of Canadian tariffs on the goods in question "on its face violates the straightforward prohibition contained in the words of NAFTA Article 302."[12] Because the U.S. had established a *prima facie* case, the panel next had to determine whether Canada had shown either that its actions were consistent with Article 302, or that they were allowed under an exception to the article. The panel decided that Article 710 of the CFTA brings into the NAFTA by reference the replacement regime for nontariff barriers that was ultimately established by the WTO Agreement on Agriculture.[13] As a result, the Canadian duty increases were found to be "otherwise provided for in the agreement" and therefore consistent with NAFTA Article 302. In short, the panel ruled, that Canada acted in conformance with both its NAFTA obligations and its WTO commitments.[14]

Acting USTR Barshefsky and USDA Secretary Glickman expressed "deep disappointment" at the decision. They said that a more open trade regime would benefit both U.S. producers and Canadian consumers. They added that the effect of the NAFTA panel decision would be to preclude U.S. sales of dairy and poultry products in Canada, because the high tariffs that were imposed as a result of the tariffication effort were upheld.[15]

U.S.-Canadian Softwood Lumber Agreement

Bilateral consultations between the Governments and industries of the United States and Canada regarding Canadian softwood lumber exports to the United States began in late 1994.[16] On May 29, 1996, the United States and Canada formally entered into a 5-year agreement intended to ensure that there is no material injury or threat thereof to an industry in the United States from imports of softwood lumber from Canada. The agreement was formally known as the Softwood Lumber Agreement Between the Government of the United States of America and the Government of Canada, originally announced on April 2, 1996,[17] and the legal details were finalized over the next 8 weeks.

The five-year agreement established annual allocations and fees for the lumber exports of the Canadian provinces of British Columbia, Quebec, Alberta, and Ontario. The agreement stipulates that up

to 14.7 billion board feet of lumber may be exported annually without additional fees; for quantities between 14.7 billion and 15.35 billion board feet, a fee of US$50 per 1,000 board feet would be assessed; and a fee of US$100 per 1,000 board feet would be assessed for exports in excess of 15.35 billion board feet per year. The Government of Canada is responsible for allocating export allowances to the four provinces. On September 10, 1996, Canada decided to base the allowances on historical trade levels. Allocations were distributed as follows: British Columbia, 59 percent; Quebec, 23 percent; Ontario 10.3 percent; Alberta 7.7 percent.[18] Exports originating in Manitoba, Saskatchewan, and the Maritime provinces are not subject to the agreement. Provincial allocations were then assigned to individual firms based on historical exports patterns.

Prior to the official allocation of the lumber quota in October by the Canadian Federal Government, lumber shipments and prices were extremely volatile. Because the bilateral pact set up quarterly limits on the exportation of lumber, market response was tentative during the period prior to the announcement of the allocations.[19] Falling prices and a slowdown in trade reportedly occurred near the end of a quarter, when the possibility of increased fees being levied on additional shipments contributed to the uncertainty and confusion in the market.[20]

Under the agreement, U.S. lumber companies, unions, and trade associations pledged that they would not seek recourse to the trade laws against U.S. imports of softwood lumber from Canada for the duration of the five-year agreement. Furthermore, Canada was assured that the U.S. Department of Commerce would not self-initiate any trade action during the life of the agreement and would dismiss any petition from this sector that was brought under the countervailing duty or dumping law as long as the agreement is in effect and not breached.[21]

In the interim period between signing and implementation of the agreement, prices for softwood lumber experienced increased volatility. This increased volatility and subsequent price increases[22] caused much consternation in the United States between end-users and retailers of lumber products and led the National Association of Home Builders and the National Lumber and Building Materials Dealers Association to call for the Agreement to be terminated.[23] While acknowledging unusual volatility in the lumber market, the Coalition for Fair Lumber Imports[24] suggested that the agreement is not the major cause of price increases.[25] When asked to terminate the agreement at the behest of the National Association of Home Builders, USTR declined either to terminate or to modify the existing agreement.[26] In 1996, U.S. imports from Canada totaled 17.6 billion board feet, up 4.9 percent from 1995.

As 1996 drew to a close, the Coalition for Fair Lumber Imports stated that the Agreement is an interim solution to a long-running dispute. The Coalition maintained that the final solution lies in either reformation of Canadian timber sale procedures or free trade[27] of logs from all lands in the United States and in Canada.[28]

Wool Suits

During 1996 a trade dispute developed over increased U.S. imports of wool suits from Canada. The volume of wool suit imports increased over the period 1988-1995, causing the U.S. industry to mount a campaign to overturn what they cited as an "unfair advantage" and a "loophole" in the CFTA and NAFTA.

The trade flows were influenced by the duty treatment on certain textiles and apparel under the CFTA. The origin of inputs and processes completed thereon are the key to determining eligibility for tariff preferences (on goods not wholly obtained in one country) under most trade agreements. The CFTA employed a "fabric forward" rule of origin for certain textiles and apparel. According to this rule, all production, assembly, and manufacture from the weaving of the fabric onward, must take place within the region (Canada or the United States) for the end product to qualify for reduced duties under the CFTA. The fabric forward rule allowed foreign yarn to be used in whatever garment or product was made, as long as the fabric itself was made in either the United States or Canada.

NAFTA employs a stricter "yarn forward" origin rule for these goods—all components and inputs, beginning with the yarn itself, must be made in the region to be eligible for NAFTA tariff preferences. Canada argued against the stricter rule and negotiated an exception in the form of a large U.S. import quota or tariff preference level (TPL) for wool products that did not meet the stricter NAFTA origin rule. The TPL applies to wool fabric apparel made from non-orginating fabric or yarn. Under the TPL, Canada could export wool apparel to the United States at preferential rates although the woolen articles were made from Canadian non-originating fabric or yarn.[29]

After the TPL went into effect, Canada replaced Italy as the leading foreign source of men's suits in the United States. Imports of Canadian suits increased from 100,000 units in 1988 to over 1 million in 1995,

allowing Canadian suits to increase market share from 5 percent to 24 percent.[30] Garment makers in both Canada and the United States buy wool fabric from other countries. Canada's tariff on imported woolen fabric is 8 percent ad valorem, while the U.S. duty is 36 percent. Efforts in Congress to restrict the imports of tailored wool products that are made with foreign fabric failed in 1996.

European Union

The New Transatlantic Agenda (NTA) was the centerpiece of U.S.-EU trade relations in 1996. Urged on by the Transatlantic Business Dialogue, a group of U.S. and European business leaders, U.S. and EU officials made progress on mutual recognition agreements, customs cooperation, and the Information Technology Agreement. However, throughout the year, EU concerns over the U.S. Cuba sanctions law—the so-called Helms-Burton Act—dampened the relationship. In addition, bilateral disputes continued, such as those on the EU hormone ban and the EU banana import regime.

New Transatlantic Agenda

U.S. and EU leaders launched the NTA in December 1995 to revitalize the transatlantic partnership. The NTA sets out a framework for cooperation in economic, political, and security areas and was accompanied by a Joint Action Plan, which identifies specific actions for the two governments to take.[31] In the economic sphere, the NTA aims to strengthen the multilateral trading system and to establish a transatlantic marketplace through trade facilitation and the removal of trade barriers.

During 1996, officials from both sides of the Atlantic worked to accomplish some of the trade-related objectives of the NTA. Priorities included reaching an International Technology Agreement (ITA), Mutual Recognition Agreements (MRAs), and a customs cooperation agreement. The Transatlantic Business Dialogue (TABD) played a key role during 1996 in defining the NTA and achieving its objectives.

The Transatlantic Business Dialogue

The idea of a TABD was originally conceived in late 1994 as a mechanism for involving business in the policy decisions affecting transatlantic trade and economic relations. The purpose of the TABD was to achieve consensus among U.S. and European business leaders on issues and specific actions for the governments to take to facilitate bilateral trade and investment.

The European Commission Vice-President, Sir Leon Brittan and Commissioner Martin Bangemann and the late U.S. Secretary of Commerce Ron Brown launched the initiative at a conference in Seville in November 1995. Over 100 U.S. and European CEOs attended the meeting and produced a report containing recommendations to reduce barriers to trade. Government leaders incorporated some of the Seville recommendations into the NTA and the Joint Action Plan announced in December 1995. The recommendations made by the TABD at the 1995 Seville conference fell into four broad categories: standards, certification, and regulatory policies; trade liberalization; investment; and third country issues. In early 1996, 15 issue groups were established to address the Seville recommendations. These groups issued progress reports in May outlining proposals for future action. Some of the highlights included:[32]

- Construct a new transatlantic regulatory model based on the principle "approved once, accepted everywhere."
- Complete MRAs as soon as possible for medical devices, telecommunications terminal equipment, information technology products, electrical equipment, and pharmaceuticals GMPs (good manufacturing practices). Begin negotiations for MRAs in accountancy services and chemicals.
- Implement fully Uruguay Round results, including tariff cuts, and conclude unfinished business.
- Accelerate Uruguay Round tariff cuts.
- Conclude an ITA before the end of 1996.
- Eliminate remaining barriers in government procurement.
- Improve intellectual property protection both at the bilateral and multilateral level, e.g., through complete implementation of the Agreement on Trade Related Aspects of Intellectual Property (TRIPs), and accelerated TRIPs implementation in key third countries.
- Improve and harmonize customs practices through a variety of technical measures.
- Implement promptly the 1994 and 1996 OECD recommendations on international business practices to combat bribery and

corruption, and support further OECD work on the topic.

- Facilitate transatlantic partnerships and trade between small businesses through a special Small Business Initiative.
- Promote open investment regimes bilaterally and multilaterally, e.g., through conclusion of the OECD Multilateral Agreement on Investment, and initiation of discussions on the links between trade and investment in the WTO.
- Develop proposals to reform the U.S. product liability laws.
- Harmonize U.S. and EU competition policies (e.g., on mergers and acquisitions) and promote discussion of the relationship between trade and competition policy at the multilateral level.

One of the first results of the TABD process was a conference held April 10-11 among auto industry representatives. The purpose of the conference was to harmonize the ways U.S. and EU officials regulate auto safety and emissions and ultimately, global harmonization of auto standards. Conference participants recommended that the two governments agree on mutual recognition and functional equivalence of auto industry regulations, certification, and standards, and that Working Party 29 of the United Nations Economic Commission for Europe (UN/ECE) 1958 Geneva Agreement should be the primary forum for global auto standards harmonization. The United States is in the process of joining the working party.[33]

Later in the year, the TABD marked its first year of operation with a conference held in Chicago on November 8-9. These meetings were successful at nudging forward progress on the ITA, MRAs, and WTO basic telecommunications negotiations. One of the conference's major breakthroughs came when U.S. and EU officials agreed in principle on an MRA for pharmaceutical GMPs, which had been stalemated for a year (see below).

After two days of intense talks between business and government leaders, the TABD issued the so-called Chicago Declaration. Conference participants praised the successful conclusion of a customs agreement, which had been initialed the day before the conference began, and the launching of the Small Business Initiative to facilitate transatlantic small business partnerships. In addition to welcoming the progress to date, the document lists a variety of proposals for future action, building on the recommendations issued in May. Highlights of the recommendations include:[34]

- Continue to work jointly towards a new transatlantic regulatory model based on the principle "approved once, and accepted everywhere";
- Support the elimination of tariffs on (remaining) pharmaceuticals, camera parts, medical devices and diagnostics, and distilled spirits;
- Increase market access through accelerated implementation of Uruguay Round tariff commitments in agreed upon sectors, reduction of peak tariffs, extension of tariff bindings, elimination of nontariff barriers, etc.;
- Call upon U.S. and EU officials to organize a conference within 6 months to report on progress made with respect to TABD recommendations on intellectual property rights issues;
- Expand the membership of the WTO Government Procurement Agreement and improve its disciplines; and
- Urge the withdrawal of the extraterritorial provisions of the U.S. sanctions laws enacted in 1996, but support the objectives of promoting democracy and combating terrorism.

Thirteen sectoral groups made specific recommendations or established work programs to address standards-related trade barriers. For example, the forest products group urged the EU to open up the review process of the EU ecolabeling regime and to cooperate with the United States at the WTO to establish disciplines covering ecolabels.

Both business and government officials have praised the results of the partnership so far. U.S. and EU leaders, meeting at their semi-annual summit on December 16, pledged to support the TABD's involvement in the transatlantic relationship at the highest levels during 1997.[35]

Mutual Recognition Agreements

One of the foremost goals of the NTA is the conclusion of bilateral agreements for mutual recognition of conformity assessment procedures. The purpose of a mutual recognition agreement (MRA) is to permit a product tested and certified as meeting required technical regulations or standards in one country to be sold without further approval in the other country. Seven sectors were under negotiation during 1996: telecommunications terminal equipment and information technology equipment, electrical products,

electromagnetic compatibility,[36] recreational craft, veterinary biologics, pharmaceutical good manufacturing practices (GMPs), and medical devices. Together, these sectors represent about $40 billion in two-way trade.[37] The U.S. Department of Commerce estimates that U.S. companies could save over $100 million annually if these MRAs are concluded.[38]

During the first half of the year, the United States and EU made progress in 5 of the 7 sectors and on an MRA umbrella text.[39] Only progress on pharmaceutical GMPs and medical devices remained stalled. U.S. officials strongly urged the EU to permit conclusion and implementation of those MRAs where agreement appeared imminent. However, the EU insisted throughout the year that agreement must be reached in all seven sectors so that the MRAs could be implemented at the same time as a comprehensive, balanced package.[40]

Under industry pressure, U.S. and EU leaders broke the deadlock on the pharmaceutical MRA at the TABD conference in November. Officials agreed on the major principles that will provide the basis for the final MRA and should permit the U.S. Food and Drug Administration (FDA) to implement the MRA without a change in U.S. law. In addition, officials agreed that all MRAs under negotiation (with the possible exception of veterinary biologics) would be concluded by the end of January 1997, although progress on medical devices remained stalled.[41]

One of the reasons negotiation of a pharmaceutical GMP MRA has been difficult is that U.S. law dictates that the FDA cannot delegate its authority to certify GMPs.[42] Thus, an MRA permitting the acceptance of EU tests and approvals of pharmaceutical GMPs would require a change in U.S. law. Under the recent agreement, both sides will be permitted to conduct reinspections "as necessary." The special circumstances under which a reinspection may take place are supposed to be rare and will be defined carefully in the final text of the MRA.[43]

The two sides also agreed that each government will receive a copy of the inspection reports throughout the life of the agreement, and that pre-approval inspections will be covered. Finally, the agreement calls for a 3-year "confidence-building period" to ease full recognition into place. Joint inspections and other cooperative activities are intended to take place during this time period.[44]

Customs Cooperation

On November 7, 1996 U.S. and EU officials initialed a draft agreement on customs cooperation and mutual assistance in customs matters. The goals of this agreement include:[45]

- To establish bilateral cooperation with a view to simplifying customs procedures and facilitating trade;
- To establish mutual assistance, i.e., a mechanism of exchange of information between the customs authorities, with a view to fighting commercial fraud;
- To exchange customs authorities to advance their understanding of each others customs techniques, procedures, and computerized systems;
- Coordination in international organizations, such as the Customs Cooperation Council; and
- Technical assistance to third countries on customs matters.

The agreement calls for the establishment of a Joint Customs Cooperation Committee composed of both U.S. and EU customs officials. The Committee is to ensure that the agreement is implemented appropriately and to discuss emerging customs issues not covered by the pact.[46]

Meat Hormone Ban

Effective January 1, 1989, the EU banned imports of meat from animals treated with growth-promoting hormones. The ban was estimated to cost U.S. meat exporters approximately $100 million worth of trade annually. As a result, the United States imposed 100 percent ad valorem retaliatory duties on a variety of agricultural imports from the EU.[47] During 1995, two bodies concluded that there was no scientific justification for the ban.[48] Despite these findings, the EU continued to impose the ban. Consequently, in January 1996, the United States initiated formal WTO dispute-settlement procedures.

The U.S. Government has argued that there is no scientific basis for the ban. A U.S. attempt to challenge the ban under the GATT 1947 was blocked by the EU. During 1995, both the United Nations Codex Alimentarius and a special scientific conference convened by the EU declared that the five growth-promoting hormones banned in the EU posed no health risk in meat production if used under prescribed conditions. As a result, on January 26, 1996, the United States requested consultations with the EU under article XXII of the GATT 1994.[49] Canada, Australia, and New Zealand joined the consultations.

Despite the WTO case, the EU reaffirmed its commitment to the ban, citing consumer opposition

and the threat to meat consumption. A primary concern among EU representatives was that demand for beef would fall dramatically as it did after the BSE ("mad cow" disease) scare.[50] All member states, except the United Kingdom, supported maintaining the ban.[51]

Because of the lack of progress in bilateral consultations, the United States requested a dispute-settlement panel on May 8, but the EU blocked the request. A second request resulted in the establishment of a panel on May 20. In announcing the action, Acting USTR Charlene Barshefsky claimed the hormone ban "has no legitimate basis" and "violates the EU's obligations under the WTO agreements."[52] In particular, the United States cited inconsistency with GATT 1994, the Agreement on the Application of Sanitary and Phytosanitary Measures, the Agreement on Technical Barriers to Trade, and the Agreement on Agriculture.[53] Australia, Canada, New Zealand, and Norway reserved their rights to intervene in the panel proceedings as third parties.[54]

Meanwhile, the EU initiated WTO dispute-settlement procedures on April 18 over U.S. measures taken under section 301 of the Trade Act of 1974 in response to the EU hormone ban. The EU Commission claimed that duty increases imposed against Community products by the United States in 1989, as well as section 301 itself, were inconsistent with WTO rules. In response, the United States revoked the 100-percent duties on July 15, 1996. Because the U.S. Government had agreed to use the WTO panel process to examine the EU's hormone ban and it was now underway, U.S. officials said the retaliatory tariffs were no longer needed.[55]

On September 27, Canada requested a WTO dispute-settlement panel to examine the EU's hormone ban. The panel was established on October 16. Like the U.S. case, Canada claims that the ban is not based on scientific evidence and thus, is not consistent with the EU's WTO obligations.[56]

Bananas

After years of bilateral discussions, in 1996 the United States, along with four Latin American nations, requested a WTO dispute-settlement panel to examine the EU's system for the importation, sale, and distribution of bananas. A similar panel found in January 1994 that the EU banana regime was inconsistent with the EU's GATT obligations. However, the panel's report was never adopted.[57]

According to the United States, the EU banana regime,[58] which entered into force on July 1, 1993, favors bananas from domestic producers and former European colonies in Africa, the Caribbean and the Pacific (ACP countries) over cheaper "dollar bananas" from Latin America. The regime imposes duty and quota restrictions on imports of non-ACP bananas (for example, Central and South American) and limits the amount of non-ACP bananas that can be marketed at the in-quota duty rate by traditional operators (for example, U.S. companies) through a highly complex licensing system. In addition, four Latin American countries signed a Framework Agreement with the EU that increased and guaranteed the volume of their export quotas and, according to U.S. officials, permitted the Latin American signatories to implement a banana export licensing scheme in a manner that would further discriminate against U.S. banana companies in favor of EU firms.[59]

The United States, Guatemala, Honduras, and Mexico originally initiated WTO dispute-settlement procedures to examine the EU's banana regime on September 28, 1995. However, Ecuador became a WTO member in January 1996 and sought to join the challenge. Rather than hold separate consultations, which could lead to the establishment of separate panels, the five countries decided to restart the dispute-settlement process and request consultations "jointly and severally." On February 5, 1996, the United States, along with Ecuador, Guatemala, Honduras, and Mexico, requested consultations with the EU under article XXIII of the GATT 1994. The request alleges that the EU banana regime violates GATT 1994, the Agreement on Importing Licensing Procedures, the Agreement on Agriculture, the General Agreement on Trade in Services, and the Agreement on Trade-Related Investment Measures.[60] Consultations were held on March 14-15, but failed to resolve the dispute. Because the views of the EU member states differ widely on the issue,[61] they did not grant the EU Commission a mandate to negotiate substantive changes to the banana regime that could have satisfied the complainants.[62]

On April 24, the United States, Ecuador, Guatemala, Honduras, and Mexico jointly requested a dispute-settlement panel to examine the EU regime for the importation, sale, and distribution of bananas. The EU blocked this initial panel request, but at the next meeting of the Dispute Settlement Body on May 8, a panel was established. The EU continues to claim that it obtained a waiver from WTO obligations for the Lomé Convention,[63] which applies to its banana commitments. However, the United States counters that the waiver does not apply because the banana regime goes well beyond what is required by Lomé.[64] The United States has pointed out that the previous

panel report on the EU banana import regime issued in 1994 concluded, among other things, that the allocation of its tariff quota licenses was inconsistent with the GATT.[65] The final panel report will probably be issued in early May 1997.[66]

On a related but separate issue, on January 10, 1996, USTR announced the results of two section 301 investigations that had been initiated to examine the banana regimes of Costa Rica and Colombia, the only two Latin American Framework Agreement signatories actually to implement the agreement. Although their banana policies were determined to be unfair, no sanctions were invoked because the U.S. Government reached a Memorandum of Understanding (MOU) with each country. USTR noted that Costa Rica and Colombia had not fully addressed all of the problems facing U.S. companies that ship bananas from these countries, but had demonstrated a willingness to work constructively with the United States by signing the MOUs. Among other things, the MOUs committed the two countries to take specific steps to pressure the EU to reform its banana policy; in particular, to expand access to the EU market for Latin American bananas, to develop a market-oriented banana regime, and to end the discrimination in the export certificate system, which is only imposed on imports from Framework signatories. The MOUs also established a consultative mechanism to discuss banana issues. Although the determination and action terminated the section 301 investigations, USTR is monitoring implementation of the MOU commitments and continues to press these countries to withdraw from the Framework Agreement. In the event of noncompliance with the MOU or if satisfactory progress is not made toward removing the discriminatory elements of the Framework Agreement, USTR may take further action.[67]

In 1996, Caribbean leaders continued to condemn U.S. efforts to change the EU banana regime. They expressed concern about losing their preferential access to the EU market, which would significantly hurt their banana industries, the mainstay of many of their economies.[68] U.S. officials have insisted that they support EU tariff preferences and financial assistance to ACP countries under the Lomé Convention for bananas, and that the EU can adopt a market-oriented and less discriminatory banana regime without undermining the Caribbean economies.[69] However, Caribbean leaders continue to be concerned that any disruption to their banana exports could affect the political and economic stability of their nations.[70]

Other Issues

Throughout the year, the EU criticized the U.S. Cuba sanctions law—the so-called Libertad or Helms-Burton Act.[71] The EU protested the extraterritorial effects of the U.S. law.[72] As a result, the EU threatened to retaliate should any European companies be adversely affected by the act.[73] In addition, the EU requested a WTO dispute-settlement panel to examine the act, and a panel was established on November 20. However, in April 1997 the EU and the United States reached a settlement under which the EU suspended the WTO panel while both sides work to develop binding disciplines on dealings in property confiscated in Cuba.[74]

In addition to the EU hormone ban and the EU banana import regime, an array of agricultural disputes remained on the bilateral agenda. By the end of the year, the EU had still failed to implement its Uruguay Round market-access concessions on grains as well as a tariff-rate quota for U.S. rice, which was part of an earlier agreement to provide compensation to the United States for EU enlargement.[75] In addition, negotiations to reach a veterinary equivalence agreement failed to meet the yearend deadline. New harmonized EU import requirements were supposed to enter into effect on January 1, 1997, which could disrupt U.S. exports of livestock and livestock products. However, member states were permitted to roll over existing sanitary measures until April 1, 1997, providing more time to conclude an agreement.[76]

Also during 1996, U.S. officials complained about the EU's unpredictable procedures for approving agricultural products developed with biotechnology. Of particular concern towards the end of the year was the slow pace of EU approval of genetically altered corn from the United States. However, on December 18, the EU Commission authorized its sale after three scientific committees reported their findings.[77] Draft legislation, which contains labeling requirements but should facilitate the approval process, is expected to be implemented in early 1997.[78]

The ITA, which gained multilateral approval at the WTO Ministerial in December, was the subject of extensive bilateral negotiations throughout the year. The concept of an ITA originally grew out of a proposal from the TABD. The goal of U.S. and EU officials was to craft an agreement among Quad members (Canada and Japan, as well as the United States and EU) that could be expanded multilaterally. The EU stalled progress throughout the summer,

attempting to link progress on the ITA with their participation in the U.S.-Japan Semiconductor Arrangement and progress on MRAs. Although the United States concluded the semiconductor arrangement with Japan without EU participation, Quad ministers broke the deadlock in a meeting September 27-28, and intensive negotiations on product coverage ensued.[79]

Japan

During 1996, the primary focus of U.S. trade relations with Japan was review and monitoring of existing agreements to ensure implementation. At yearend 1996, there were 45 major bilateral agreements, including three new agreements covering civil aviation, semiconductors, and insurance. However, U.S. industry, represented by the American Chamber of Commerce in Tokyo, remained concerned about implementation of a majority of the agreements, according to the first comprehensive analysis ever conducted of all bilateral agreements. One contentious issue in 1996 was U.S. access to Japan's market for consumer film and photographic paper. This issue was particularly noteworthy with regard to the breadth of regulations and business practices at issue and to signifying at least a short-term trend toward moving bilateral disputes into multilateral fora. At yearend, this issue was unresolved and a dispute settlement case was pending before the WTO. The United States and Japan continued to focus on both structural and sectoral issues under the Framework Agreement talks that began in 1993, with particular emphasis on deregulation and increasing the level of foreign direct investment in Japan. Meanwhile, the United States trade deficit with Japan continued to decline for the third year in a row, to $51 billion.

Semiconductors

During the first six months of 1996, the United States and Japan issued statements regarding what type of agreement, if any, would replace the 1991 U.S.-Japan Semiconductor Arrangement which was scheduled to expire on July 31, 1996.[80] Early in the year, Japan announced that it was unwilling to discuss renewing the 1991 agreement, stating that the foreign share of Japan's semiconductor market had increased and that its semiconductor market was already deregulated.[81] From the U.S. perspective, the primary reason for the increase was a side letter to the original 1986 agreement containing an expectation that the foreign share of Japan's market would exceed 20 percent by the end of 1992.[82] In fact, the foreign market share in Japan increased from 14.3 percent in 1991 to 30.6 percent during the first quarter of 1996.[83] Japan declined to enter into government-to-government negotiations with the United States, saying that any new initiative on semiconductors should be led by the private sector. The United States, however, maintained that government-level involvement was necessary to ensure that there would not be backsliding or a decline in foreign market share.

On June 11, 1996, Japan's Ministry of International Trade and Industry (MITI) agreed to enter into negotiations with the United States, but noted that it continued to oppose monitoring of the foreign market share of semiconductors in Japan. However, MITI conceded that it was not likely that industry-to-industry talks would succeed without government involvement.[84] Working level meetings were held during June 17-18, 1996 but the two sides remained divided about the need for government involvement in market share surveys. Two days later the talks continued between MITI Vice Minister Yoshihiro Sakamoto and Ira Shapiro, Senior Counsel, USTR, and subsequently between Ambassador Walter Mondale and MITI Minister Shumpei Tsukahara, but reportedly little progress was made. Finally, on July 7, at the G-7 meeting in Lyon, France, President Clinton and Prime Minister Ryutaro Hashimoto agreed that the semiconductor issue would be settled no later than the July 31 expiration date of the agreement.

On August 2, 1996, in Vancouver, Canada, the United States and Japan reached a government-to-government agreement that provided a framework for "ongoing monitoring and bilateral consultations with Japan [regarding semiconductors] to help ensure that the market remains open and functioning on principles with free and fair trade."[85] The two governments agreed that cooperation should be carried out on the basis of three principles: importance of market principles, consistency with WTO rules, and international cooperation.[86] An agreement between the two major U.S. and Japanese semiconductor industry associations was also reached. According to the Joint Statement by the Government of Japan and the Government of the United States Concerning Semiconductors: "the industries will collect data on semiconductor markets, provide the governments with reports on trade flows, market developments, and cooperative activities and will make recommendations on issues of concern."[87] Specifically, the quarterly "market/trade flow reports" were to be based on import/export statistics, industry surveys such as those prepared by World Semiconductor Trade Statistics (WSTS) and Dataquest, government data, and other

available data. The reports were also to include information on design-ins, joint ventures, and long-term relationships.[88] While the industries were to seek to prepare joint reports, they reserved the right under the agreement to distribute separate reports.[89] The agreement established a consultative mechanism whereby the two governments would meet at least once a year to:

- Receive and review reports on data collected and analyzed and recommendations made under the Agreement or by the Council members, and to meet with them to discuss these matters;
- Review and discuss the cooperative activities conducted under the Agreement and market trends and developments, including those related to competitiveness and foreign participation, in major markets, taking into account the information provided in the industry reports; and
- Discuss government policies and activities affecting the semiconductor industries taking into account industry recommendations.[90]

A major point of the joint statement is a reference to a separate document, "Agreement Between EIAJ (Electronic Industry Association of Japan) and SIA (Semiconductor Industry Association) on International Cooperation Regarding Semiconductors," which establishes a Semiconductor Council to "enhance mutual understanding, to address market access matters, to promote industry activities and to expand international cooperation in the semiconductor sector." In addition, a key statement adds that: "The activities of the council should be based on respect for market principles . . . . Markets should be open and competitive, without discrimination based on capital affiliation, and with purchasing decisions based on quality, cost, delivery and service."[91]

The United States had originally noted that it was necessary to take the capital affiliation of firms into account in order to accurately analyze import and export trends. Previously, shipments to Japanese firms from manufacturing facilities in Asia were counted as foreign imports. Although the agreement did not contain references to monitoring specific market share targets or to capital affiliation of firms, these factors were to be taken into account as part of the overall monitoring process. The monitoring would serve as an "early warning" system regarding market developments in Japan, according to U.S. industry representatives. The three types of semiconductors singled out for cooperation in the industry agreement were for automotive, telecommunications, and emerging applications. Cooperative activities will include: standardization; environment; worker health and safety; intellectual property rights; trade and investment liberalization; and market development. On September 28, 1996, the two countries agreed that the first meeting of the Semiconductor Council would not take place before March 1997 and that the first government consultations would be held after that meeting.[92]

Early in the negotiations, MITI proposed the creation of an industry-level Worldwide Semiconductor Council and the Global Government Forum.[93] After initial opposition by the United States, the Global Government Forum (GGF) was established to discuss various issues affecting the semiconductor industry including:

- Trade and investment liberalization, including removal of tariffs and other market barriers;
- Legal regimes that affect the semiconductor industry, such as regulation and taxation;
- Environment, worker health and safety, and standardization;
- Protection of intellectual property rights;
- Present and future approaches to basic scientific research; and
- Promotion of the information society, including market development.

The first GGF was to be held no later than January 1, 1997.[94] In addition to the United States and Japan, other semiconductor producing countries were to be allowed to participate in the annual GGF discussions, without any preconditions.[95]

Autos and Parts

During 1996, the United States continued to monitor progress under the 1995 U.S.-Japan Automotive agreement.[96] The agreement was intended to address some of the difficulties experienced by U.S. firms in accessing Japan's vehicle distribution system, eliminating regulations on the automobile parts aftermarket in Japan, and improving opportunities for U.S. original equipment (OE) parts suppliers in Japan, and with Japanese transplants in the United States. The agreement included 17 objective criteria to evaluate progress in these three areas.[97] An Interagency Enforcement Team was established to ensure compliance with the agreement.[98] Under the

1995 agreement, Japan agreed to support increased access to Japanese dealers. The goal of U.S. manufacturers was to establish 200 dealerships in Japan by the end of 1996, and 1,000 new dealerships by 2000.[99] In addition, Japan agreed to: provide government support and financial incentives to encourage imports of autos and parts to Japan, deregulate the aftermarket for auto parts, purchase more OE parts from non-keiretsu suppliers for use in their transplants in the United States and for use in Japan, address many performance and technical standards that affect Japanese imports of autos, and provide vehicle registration data for use in market research on a more equal basis to foreign and Japanese manufacturers.[100]

On October 21, 1996, the Interagency Enforcement Team issued a report evaluating progress under the agreement.[101] The report also summarized the conclusions of the first bilateral consultations on implementation of the agreement which were held during September 18 and 19 in San Francisco. According to the October report, overall progress had been made towards achieving the main goals of the agreement in the three areas mentioned above. During the first six months of 1996, U.S. exports of motor vehicles to Japan increased by 25 percent to $1.4 billion compared to January-June 1995. U.S. exports of automotive parts to Japan totaled $901 million, an 11-percent increase compared to the first six months of 1995.[102] Regarding the establishment of new dealerships, as of November 1996, 117 new sales outlets had been established in Japan by U.S. automobile manufacturers.[103] Despite this progress, the goal set by U.S. manufacturers of 200 dealerships was not met. Industry representatives and the U.S. government urged Japan to accelerate recruitment of new dealers.[104] In another area affecting automobile sales in Japan, the United States and Japan reached a mutually satisfactory conclusion on 23 outstanding standards and certification issues. One of the most important results in this area was an agreement by Japan to certify U.S. automotive laboratories to undertake tests needed for type designation approval for new model vehicles intended to be sold in Japan.[105]

Following the agreement, the Government of Japan began to enact required deregulation of the automobile parts aftermarket, including the elimination of eight parts from its "critical parts" list.[106] Two of these parts, shock absorbers and struts, offer the most market opportunities for U.S. firms based on sales figures since the agreement was signed. The United States expressed disappointment during its bilateral meeting in September that the Ministry of Transport had decided not to deregulate other frequently repaired items, such as brakes and transmissions.[107] The Government of Japan had also begun to relax the requirements for government approved repair shops. As a result, the number of certified and designated repair garages increased.[108] During previous negotiations, the United States had noted the importance of increasing the number of independent garages which tend to use more non-OE parts than do the dealer-affiliated garages. Since the agreement was signed, there had been greater efforts by Japanese vehicle manufacturers in Japan and the United States to increase supplier opportunities through design-in (the design and engineering phase of new components) and consumer outreach programs. At yearend, the United States continued to urge Japanese auto producers and transplants to use more U.S. produced parts and to procure parts without discrimination based on capital affiliation.[109]

Insurance

Japan is the world's second largest insurance market, with premiums valued at $341 billion.[110] The primary sectors of the insurance market, life and non-life, account for approximately 95 percent of Japan's market. The so-called third sector, which includes insurance against cancer, personal accident insurance and hospitalization, accounts for 5 percent of the market.[111] The total foreign market share is approximately 3.3 percent, compared to market shares of 10 to 33 percent in other industrialized countries. The foreign market share consists of 1.l7 percent of primary life, 0.49 percent of primary non-life and 1.70 percent of the third sector.[112] There are sectoral and structural barriers to trade in Japan's insurance market including nontransparent regulations and use of administrative guidance, a highly concentrated industry structure, private procurement practices and cross-shareholding arrangements associated with keiretsu and various barriers to distribution.[113]

During numerous rounds of bilateral negotiations since February 1996, the United States focused on implementation of the 1994 bilateral agreement, particularly regarding deregulation of the primary sector of the insurance market.[114] U. S. officials indicated that primary sector deregulation must include: direct auto policies including the ability for insurers to differentiate auto products on the basis of risk factors;[115] the adjustment of the commercial fire threshold to allow insurers to offer more rate differentiation; the institution of a notification system for certain insurance products; and deregulation of the rating bureaus which currently set compulsory insurance rates. Under the 1994 agreement, Japan

committed to enhance regulatory transparency, strengthen antitrust enforcement, and undertake liberalization measures. A key part of the agreement stated that "the MOF [Ministry of Finance] intends not to allow such liberalization [of life and non-life insurance companies into the third sector] as long as a substantial portion of the life and non-life areas is not deregulated. . . . Furthermore with respect to new or expanded introduction of products in the third sector, it is appropriate to avoid any radical change in the business environment."[116] This linkage between first implementing deregulation of the primary sectors before allowing expanded entry into the third sector by Japanese insurance subsidiaries was a main focus of bilateral discussions during 1996.[117]

The Japanese claimed that there was already substantial deregulation of the primary market and that the introduction of subsidiaries into the third sector was not a "radical change." [118] Under a revision to Japan's Insurance Business Law, which was enacted on April 1, Japanese insurance firms were to be allowed to sell third-sector products through subsidiaries, beginning on October 1, 1996. Early in the year and throughout the summer, Ambassador Mondale and other U.S. officials expressed concerns about these plans and warned that entry of Japanese subsidiaries into the third sector would be considered a violation of the 1994 agreement.[119] However, Japan claimed that the agreement applied only to parent companies and not the subsidiaries of Japanese insurance firms. Therefore, despite U.S. criticism, in August, Japan's Ministry of Finance began issuing new licenses to allow Japanese firms to enter the third sector.

At the beginning of the year, U.S. negotiators were hopeful that a settlement could be reached by an April 16 summit meeting of President Clinton and Prime Minister Hashimoto. However, following unsuccessful talks in February, and in March and the failure to reach agreement just a week before the summit, it became apparent that the issue would remain outstanding.[120] During the talks, Japan reportedly had offered to allow mail-order sales of automobile insurance and liberalize premium rates for accident insurance in exchange for allowing Japanese subsidiaries to handle third-sector products. On April 1, when the revised Insurance Business Law was scheduled to go into effect, the Ministry of Finance deferred revising rules that would have allowed the new subsidiaries to expand into the third sector.[121] On April 13, just days before the summit, U.S. and Japanese negotiators broke off their talks, agreed that the issue would not be raised by the leaders, and set June 1 as a new deadline for reaching an agreement. However, talks at the end of May also failed to achieve an understanding and the two sides gave up plans to meet the deadline. Bilateral talks held during the last week of July also were unsuccessful. The two sides did not set a date for resuming negotiations. On August 5, Prime Minister Hashimoto sent a letter to President Clinton urging him to find a solution to the insurance dispute by arriving at a "political decision."[122]

On September 30, 1996, following two days of negotiations between Acting USTR Charlene Barshefsky and Japan's Minister of Finance, the two countries reached an interim agreement. However, under the interim agreement, the newly established subsidiaries were not allowed to sell products in the third sector until the end of the year, "pending an overall negotiated solution addressing primary sector deregulation as well as temporary limitations in the third sector."[123] Japan agreed to allow the sale and distribution of automobile insurance via direct mail. Japan also agreed to include additional flexibility in fire insurance rates for policies covering large companies, and additional flexibility in rate and terms of coverage for certain lines of liability insurance.[124] Immediately following the agreement, Ministry of Finance officials announced that insurance subsidiaries would indeed be allowed to move into the third sector as of January 1, 1997 even if a comprehensive agreement were not reached. One day after reaching the interim agreement, the United States also announced that it was citing Japan's market access for insurance as a bilateral priority that could warrant identification as a priority country practice in the future. In announcing this decision, USTR noted that the core of the dispute regarding implementation of the 1994 agreement centered on the linkage between deregulation of the primary markets and entry of Japanese firms into the third sector. USTR noted that despite some initial primary sector deregulation under the interim agreement, "significantly more primary sector deregulation" would be needed to resolve the issue.[125] The two countries set a deadline of December 15 for resolving the dispute.

The United States and Japan held additional talks during November 15-16 in San Francisco, during November 25-26 in Tokyo, during December 6-7 in Tokyo and finally during December 14-15 in Tokyo. Negotiators attempted to reach agreement on deregulation of Japan's mainstream property and casualty business that would allow companies to set their own rates for commercial fire insurance policies and 10 new products, including computers. The United States urged Japan to allow insurance companies to scale premium rates for automobile insurance based on the vehicle owner's risk factors.

Currently, the premiums must be set at no more than 10 percent of the price established by the relevant ratings bureau.[126] Japan argued that deregulation of automobile insurance would result in social inequalities because younger and elderly insurees would be charged higher premiums.[127]

During bilateral talks held December 6-7, Japan put forth another proposal that included deregulation of the primary sector in conjunction with Prime Minister Hashimoto's so-called "Big Bang" proposal to deregulate the financial services and insurance market by 2001. The proposal reportedly allowed insurers to set their own premium rates, including determining automobile insurance rates based on risk factors.[128]

On December 15, the Acting USTR Charlene Barshefsky and Japan's Minister of Finance announced an agreement that would open Japan's primary insurance sector to "significant competition" and allow "very limited entry" into the third sector. Under the agreement, Japan also committed to approving the introduction of auto insurance with variable premium rates (beginning September 1997), to remove the authority of the "rating organizations" to set insurance rates, to deregulate the commercial fire insurance market (within two years), and to streamline the introduction of new insurance products. U.S firms will be able to compete in 15 new areas of Japan's insurance market, including general liability insurance. Consistent with the United States' original position, substantial deregulation of the third sector continues to be linked to deregulation of the primary sector.[129]

Film

In early 1996, the United States continued to seek consultations with the government of Japan regarding access to Japan's market for photographic film and photographic paper. Japan had refused to negotiate with the United States (except for preliminary consultations) since May 1995 when Eastman Kodak filed a petition pursuant to Section 301 of the Trade Act of 1974.[130] Kodak's petition claimed that the Government of Japan had instituted and maintained a system of "liberalization countermeasures" that affect the sale and distribution of foreign film and photographic paper in Japan.[131] Exclusive distribution relationships and anticompetitive practices by firms and trade associations contributed to a restrictive market structure, according to the petition.[132] As a result of these barriers, Kodak claimed that it had foregone $5.6 billion in sales since the mid-1970s and had gained only 10 percent of Japan's consumer photo market. Japan attributed Kodak's relatively low market share to insufficient sales efforts and lack of innovation. On July 2, 1995, in response to Kodak's petition, USTR initiated a section 301 investigation of market barriers in Japan for consumer photographic film and paper.[133]

In refusing to enter into negotiations with USTR, MITI argued that this was a private sector complaint that should be brought to the Japan Fair Trade Commission, which is responsible for competition policy issues and enforcement of the Antimonopoly Law.[134] Kodak's Chief Executive Officer George Fisher disagreed saying, "we do not feel that the Japan Fair Trade Commission (JFTC) is the proper investigative forum. The JFTC has been part of the problem."[135] On February 21, 1996, one day before President Clinton and Prime Minister Hashimoto were scheduled to meet, the Japan Fair Trade Commission announced that it would conduct an economic survey of the film sector beginning in April 1996 to be completed by March 1997.[136] Kodak welcomed the survey but indicated that it hoped that the survey would not be used as an excuse to delay negotiations by the governments of Japan and the United States. The company noted that the JFTC had surveyed the film market in 1992, but had not taken corrective actions despite having found violations of the antimonopoly law at that time.[137]

During the first half of 1996, the United States considered taking the issue to the WTO. Kodak had been reluctant to do so because competition policy issues have not historically been addressed by that body.[138] Japan itself favored moving the dispute to a multilateral fora, either the WTO or the OECD. On June 13, 1996, the USTR announced its determination under section 301 that the Japanese photographic market had been found to be closed, but USTR added that it was not imposing sanctions at that time. Instead, Acting USTR Charlene Barshefsky said the United States was making three separate requests for consultations under the WTO regarding:

- Violations of GATT Articles III and X regarding nullification and impairment of GATT benefits arising from the full panoply of liberalization countermeasures that the Government of Japan has put in place and maintained thwarts imports in this sector;

- Violations of GATS Articles III and XVI arising from the requirements and operation of the Large Scale Retail Store Law which constitute a serious barrier to

foreign service suppliers as well as imports of film and other consumer products; and

- Consultations on restrictive business practices under a 1960 GATT decision."[139]

The first request was for consultations on consumer photographic film and paper, centering on nullification and impairment of GATT obligations and other violations. The second request for consultations was on a broad range of services involving the distribution system, the Large Scale Retail Store Law and other laws. This case did not specifically relate to photographic film and paper. The third request was for consultations under a 1960 mechanism adopted by the GATT Parties.[140]

In announcing the action, Acting USTR Charlene Barshefsky noted that ". . . the Government of Japan built, supported and tolerated a market structure that thwarts foreign competition, in which exclusionary business practices are commonplace."[141] USTR cited three ways in which the Government of Japan restricts market access: closed distribution channels, limits on retail outlets, and limits on incentives such as the Premiums Law.[142] In announcing its decision, USTR said the United States will consider, at the appropriate time, what further action—if any—needs to be taken.[143] The USTR also requested that Kodak provide information on the dispute to the JFTC.[144] Following the announcement, analysts indicated that this would be the first major test of the WTO's ability to address non-traditional barriers and government/private-sector issues.[145] Some observers also noted that the broad nature of the requests would allow the United States to compile information and to test various arguments about whether the case was WTO consistent.[146] Under the WTO procedures, consultations are required for 60 days before a party may request a dispute settlement panel.

On June 24, 1996, Japan notified the United States that it had decided to enter into talks under the framework of the WTO. Consultations held between the United States and Japan during July 10-11 in Geneva, with regard to the first request, failed to resolve the dispute.[147] In a letter from Ambassador Booth Gardner, the U.S. representative to the WTO, to Japan's Ambassador Minoru Endo, the United States indicated that it had evidence of a variety of anticompetitive practices including both horizontal (price fixing, market allocations, group boycotts) and vertical (resale price maintenance and exclusive dealings) measures that "restrict the independent choice of distributors and retailers." [148] On August 7, the Eastman Kodak filed a complaint with the JFTC alleging violations of the Antimonopoly Law in the consumer film and photographic paper market. The U.S. requested that the JFTC investigate and take necessary remedial actions.[149] Under the Antimonopoly Law, there is no deadline for the JFTC to respond to the complaint.

On August 12, Acting USTR Charlene Barshefsky announced that the United States would request the WTO to establish two dispute settlement panels. The United States sought a review of its complaints under the GATT regarding: (1) Japanese government barriers to market access in Japan for foreign photographic film and paper products and (2) under the GATS regarding Japan's Large Scale Retail Store Law. USTR also indicated that it intended to accept the EU's July 5 proposal to join consultations regarding restrictive business practices, although Japan had imposed preconditions on beginning such consultations.[150] MITI officials reportedly called the U.S. decision to request dispute settlement panels, "regrettable."[151]

On September 20, 1996, Acting USTR Barshefsky announced that the United States had formally requested a dispute panel to determine whether Japanese "systemic structural" barriers violate Japan's obligations under the GATT with regard to national treatment and transparency. This first panel request related to measures affecting consumer photographic film and paper. The USTR also announced that it would expand the scope of its GATS consultation request to include measures other than the Large Scale Retail Store Law that affect the competitiveness of Kodak in Japan's market. USTR Barshefsky indicated that the United States would also formally request a GATS dispute panel if consultations failed to resolve those issues.[152]

On October 3, Japan blocked the U.S. request to establish a dispute panel regarding photographic film and paper. Japan said that the United States did not identify which measures were in violation of the WTO and that the complaint involved private business practices, not government actions.[153] On October 16, the Dispute Settlement Body met and, in accordance with dispute settlement rules, automatically established a dispute settlement panel to consider the U.S. complaint.[154] The members of the panel were named on December 17, 1996, and the panel met for the first time on January 9, 1997 to establish a sechedule. On February 20, 1997, the United States submitted a 200-page brief to the dispute panel. The submission documents the U.S. position on Japan's laws, regulations, and administrative actions that affect the photographic film and paper market in Japan.[155]

With regard to the second U.S. request for consultations regarding violations of the GATS, the

60-day consultation period expired on November 19, 1996. During the week of December 9, 1996, Japan responded to the U.S. request for additional information.[156] However, by yearend, the United States had not formally requested the establishment of a dispute panel.

With regard to the U.S. request for consultations on restrictive business practices, Japan agreed to hold consultations with the United States, but only on the condition that parallel consultations on anticompetitive practices in the United States be held as well.[157] The United States responded by saying that concurrent talks would be contrary to the purpose and intent of the GATT. At yearend the request for consultations on restrictive business practices remained stalled.

Paper

During 1996, the United States continued to monitor implementation of a 1992 bilateral agreement on paper products. Under the agreement, Japan committed to strengthen enforcement of the Antimonopoly Law, to encourage the use of competitive foreign paper products by Japanese firms, and to encourage Japanese consumers to purchase paper products in four end-use sectors: pharmaceuticals, cosmetics, publishing, and food processing and packaging.[158]

In conjunction with fulfilling commitments under the 1992 agreement, U.S. officials met with industry representatives twice monthly in 1996 to encourage them to increase their sales efforts and to understand the Japanese business environment. U.S. firms reported that they had improved their products in terms of pricing and quality in order to meet Japanese user requirements. Since the agreement was signed, U.S. firms have developed some relationships with Japanese firms. However, they have not been successful in forming long-term relationships with end-users primarily because these firms are reluctant to switch away from their traditional Japanese suppliers to foreign firms. In addition, U.S. firms continue to experience difficulties in selling directly to first tier distributors or second tier wholesalers in Japan.[159] Many of these issues were raised during bilateral discussions between the Japanese and U.S. industry associations on April 10, 1996.[160]

On October 1, 1996, USTR cited Japan's market access for paper as a bilateral priority that could warrant identification as a priority foreign country practice in the future. In its announcement, USTR noted that Japan's market is restricted by a variety of systemic impediments including: 1) exclusionary business practices; 2) complex and essentially closed paper distribution system; 3) interlocking relationships between Japanese producers, distributors, merchants, converters and corporate end-users; 4) non-transparency in corporate purchasing practices; and 5) inadequate enforcement of the Japanese Antimonopoly Act ."[161]

Supercomputers

U.S. access to Japan's market for supercomputers has improved since 1993, when a special review of Japan's compliance with the arrangement was initiated under section 306 of the Trade Act of 1974. The review was subsequently extended during the next three years and again on April 30, 1996.[162] During the February 1996 review of the U.S.-Japan Supercomputer Arrangement, the United States raised concerns regarding implementation of the agreement. The United States was concerned about the use of benchmark testing that favors Japanese vendors, problems with bid specifications and delivery deadlines, and the discounting of supercomputer prices by Japanese companies in their sales to public sector entities covered under the agreement.[163] The United States was also concerned about the method used by procuring entities in setting and enforcing the estimated price of their awards in relation to the actual price and narrow interpretation by the Supercomputer Procurement Review Board of its mandate to investigate complaints. Japan agreed to provide a response to the United States regarding these implementation issues and to work with the United States in confirming the delivery of two procurements made during Japanese fiscal year (JFY) 1995.[164]

On May 17, 1996, the University Corporation for Atmospheric Research (UCAR), funded in large part by the National Science Foundation, announced that it planned to buy a supercomputer from the NEC Corporation, the first purchase of a Japanese supercomputer by a U.S. government agency. At the same time, the U.S. Department of Commerce advised the National Science Foundation that it "had reached a preliminary conclusion that the procurement does not constitute an offer of fair value."[165] Japanese government officials expressed concerns that the Department of Commerce was attempting to block the contract.[166] The supercomputer was to be installed at the National Center for Atmospheric Research in Boulder, Colorado. In making its announcement, the NSF indicated that NEC had won the right to enter into final contract negotiations, although a final contract had not been awarded. The contract was expected to be worth $13 million to $35 million .[167] Immediately

following the NSF's announcement, Representative David Obey (D-Wisconsin) criticized the decision, which he said had been made despite clear and compelling evidence that the computer was being dumped in the United States. Representatives Obey and Martin Sabo (D-Minn.) introduced an amendment to a 1997 appropriations bill that would suspend the salaries of NSF staff who approved the purchase of any supercomputer whose price was determined by the Department of Commerce to have been sold at less than fair value. The amendment was approved by the House of Representatives, but was later dropped by the Senate Appropriation Committee. Japan's Chief Cabinet Secretary Kajiyama expressed concerns that the so-called Obey amendment could violate the WTO's principle of non-discrimination in government procurement.[168]

On July 29, Cray Research filed an antidumping petition with the U.S. Department of Commerce and the U.S. International Trade Commission alleging that an industry in the United States was materially injured or threatened with injury by reason of less than fair value imports of vector supercomputers from Japan. The USITC instituted an antidumping investigation No. 731-TA-750, effective that date.[169] On August 22, 1996, the National Science Foundation indicated that it was delaying its purchase of a Japanese supercomputer pending a decision by the Department of Commerce and the USITC in their preliminary antidumping investigations. On August 23, the U.S. Department of Commerce initiated an antidumping duty investigation to determine whether vector supercomputers from Japan are being, or are likely to be, sold at less than fair value.[170]

On September 11, 1996, the USITC made an affirmative determination in its preliminary antidumping decision on imports of vector supercomputers from Japan. The Commission found that there was a reasonable indication that a U.S. industry was threatened with material injury by reason of imports of vector supercomputers from Japan that are allegedly sold in the United States at less than fair value. The vote was 3 to 1.[171]

On October 15, NEC filed a lawsuit with the Court of International Trade (CIT) in New York requesting that an unbiased body be appointed to decide the antidumping case brought by Cray. The suit alleged that the Department of Commerce had violated the "GATT antidumping code, the U.S.-Japan Supercomputer agreement and well-established federal procurement principles" by publicly endorsing the merits of Cray's dumping claim before the antidumping investigation was initiated.[172] The lawsuit referred to the May 20 "predecisional memorandum" of the U.S. Department of Commerce that included estimates of dumping margins two months before an antidumping petition was filed by Cray.[173] NEC alleged that "Commerce is biased and has prejudged Cray's dumping allegation."[174] A decision in the case was to be made on February 25, 1997.[175] Commerce, NEC and Cray filed submissions with the CIT. On December 18, the CIT denied the U.S. Department of Commerce's motion to dismiss the case brought by NEC Corp., disputing Commerce's claim that the CIT has no jurisdiction to hear the case and allowing the case to continue. In late December, the U.S. Department of Commerce announced that it would delay its preliminary decision regarding antidumping by NEC from January 6, 1997 to March 28, 1997.[176]

Air Transport Services

Air Cargo

Japan is the largest transpacific air traffic market in Asia.[177] A 1952 U.S.-Japan agreement on transport services governs "beyond" rights (flying rights to third-country destinations) and allows each country to designate an airline or airlines to provide scheduled service of passengers and cargo to the other country. The two countries differ on the interpretation of a number of points in the agreement including whether and how accessibility to Japan can be expanded and on issues regarding "beyond rights."[178] Japan has sought to revise the 1952 agreement and to restrain the ability of U.S. carriers to expand their passenger and air cargo service to other destinations after landing in Japan.[179] According to U.S. industry, some of the problems with servicing Japan's passenger market include insufficient runway capacity and inadequate warehousing space at Japan's airports.[180] In addition, air cargo service is affected by user fees imposed by the Tokyo Air Cargo Terminal requirements to obtain separate freight forwarding licenses needed to operate nationwide transportation services, and paperwork requirements regarding non-document shipments of less than $100.[181]

During 1996, the United States and Japan continued a series of bilateral negotiations on air cargo service that had begun in September 1995.[182] During talks held in early March, Japan threatened to cancel landing rights that had been granted to Federal Express in July 1995. As a result, the United States suspended the negotiations. Subsequently, fifty-seven U.S. Senators sent a letter to President Clinton expressing concerns that Japan's actions "raised fundamental

questions about Japan's commitment to free and fair trade."[183] The letter directed the Administration to "make very clear to the Government of Japan that any action adversely affecting Federal Express's cargo routes will not be tolerated." On March 27, 1996, following five rounds of talks, the United States and Japan announced an agreement that allowed Federal Express, Northwest Airlines and United Air Lines cargo flights to operate from any U.S. city and to service three additional Japanese points; expanded the number of UPS weekly cargo flights (UPS was permitted to fly 12 weekly flights from the United States to Kansai Airport in Osaka and to operate beyond Kansai to up to two points in other countries); and allowed the United States to designate another carrier for all-cargo service for as many as six weekly flights which could fly beyond Japan, but which could not operate locally. Japan was also allowed expanded service to the United Sates and beyond. Nippon Cargo was permitted to operate 18 additional weekly U.S. flights and to serve three new cities in addition to the 11 flights to four cities that it currently provides. However, the agreement did not fully address the issue of "beyond rights".[184]

The air-cargo issue was re-opened on July 16, when the U.S. Department of Transportation proposed to restrict certain all-cargo operations by Japan Air Lines (JAL) because Japan had failed to honor its commitments under the U.S.-Japan bilateral aviation agreement. Specifically, Japan had refused to approve flights by Federal Express between Japan and five other Asian cities (Manila, Cebu, Shanghai, Beijing and Jakarta). The Department of Transportation proposed to prohibit JAL from carrying cargo from these same five cities through Japan and into the United States.[185] In response, Japan's Minister of Transport Yoshiyuki Kamei sent a letter of protest to U.S. Secretary of Transportation Frederico Pena. Japan indicated that it would counter-retaliate by preventing Northwest and United cargo airplanes from flying to Kuala Lumpur, Penang, Singapore, Cebu and Manila via Japan.[186] There were no further bilateral talks before the end of 1996.

Passenger Service

Bilateral talks on passenger services had been suspended since August 1993. Following the agreement in the air cargo sector in March 1996, Japan requested the resumption of formal talks in the passenger services sector. The United States did not agree to the request. However, informal discussions were held in May and early June to attempt to set an agenda for formal negotiations in this area.[187] In order to avoid disruption to summer passenger travel, the United States and Japan agreed to temporarily suspend the dispute until July 8. Under the temporary accord, both countries agreed to approve outstanding requests by airlines for new flights.[188] The United States agreed to allow JAL to operate three weekly flights between Tokyo and Kona, Hawaii until October 26 and to increase its weekly flights from Sendai to Honolulu from three to seven for five weeks. In return, Japan allowed United Airlines to double its weekly flights from Los Angeles to Tokyo for five weeks and to fly seven weekly flights from Kansai in Osaka to Seoul until October 26. Official negotiations were held during June 28-29, but failed to achieve an agreement. The key focus of the negotiations continued to be "the existing right of U.S. carriers under the 1952 agreement to operate flights from the United States to Japan and beyond to other Asian countries and Japan's refusal to approve such flights unless the United States grants new extra-bilateral passenger rights for Japanese carriers."[189]

Following the breakdown in talks, the United States indicated that it would resume discussions only after Japan's Ministry of Transport approved Northwest's request for new Osaka-Jakarata flights and allowed United to continue its Tokyo-Los Angeles flights. Japan's Ministry of Transport had rejected Northwest's request, and the United States subsequently suspended final approval of JAL's new Hiroshima-Honolulu route which was scheduled to begin on July 4.[190] Disruption in service was again avoided when, Japan Air Lines was given permission to operate as a "charter" by the U.S. Department of Transportation and United was allowed to operate between Tokyo and Los Angeles until July 15 as a "special flight." The temporary approvals were renewed during the course of the summer while the two governments negotiated.[191]

On August 16, the U.S. Department of Transportation announced that negotiations with Japan had ended without agreement. In announcing the breakdown of the talks, the U.S. Department of Transportation stated, "The United States is disturbed at the failure of this round because it had brought to the table an affirmative agenda as well as the flexibility to meet concerns that Japan had raised during previous rounds. Instead of responding with similar flexibility, Japan rebuffed U.S. efforts by making new demands and generally raising the ante for a successful outcome."[192] In September, President Clinton sent a letter to Prime Minister Hashimoto calling for the negotiation of an "open skies agreement", in conjunction with discussions with other Asian-Pacific countries.[193]

Mexico

In 1996, Mexico repaid most of the U.S. loans and loan guarantees that were part of the international rescue package the United States assembled for its use early in 1995, following the peso crisis.[194] The Mexican Government drew only $12.5 billion of the U.S. portion originally amounting to $20 billion, and retired the major part of this amount ahead of schedule. After a $7 billion prepayment in August 1996, leaving a balance of only $3.5 billion outstanding,[195] Mexico made a full repayment of the remaining debt in January 1997. Retiring the U.S. loan allowed Mexico to regain full access to that portion of its revenues from petroleum exports that had been used as loan guarantees.[196]

NAFTA (as now implemented in national law) is now the primary framework affecting the conduct of U.S.-Mexican trade relations. Mexican public opinion was generally in favor of the NAFTA following 1994, the first NAFTA year, when the accord's benefits to Mexico were not masked by adverse consequences of that country's sovereign economic policies. During the second NAFTA year too, most Mexicans recognized the advantages of a partnership with major economic powers in a crisis, such as followed the crash of the peso in December 1994.[197] During the third NAFTA year, however, doubts emerged in Mexico about the U.S. commitment to the accord, based on certain actions of the Government of the United States, such as efforts to restrict imports of tomatoes and broom corn brooms from Mexico; delay in allowing Mexican trucks to cross into border states; and delays in lifting embargoes on Mexican tuna and avocadoes.[198] However, the Government of Mexico continues to defend the NAFTA. Commerce Secretary Herminio Blanco, for example, pointed out at his year-end press conference that Mexican exports to the United States have risen by 60 percent since the NAFTA took effect three years ago.[199]

While probably the major U.S. concerns regarding Mexico were that country's role as a conduit for illegal drugs entering the United States and as a source and transit area of illegal immigration, several bilateral and NAFTA-related economic issues were also active during the year under review. A very contentious one—the penetration of Mexican tomatoes to the U.S. market—was settled in 1996, at least temporarily. Another contentious issue was the U.S. embargo on Mexican yellowfin tuna, instituted on environmental grounds. This embargo has been an ongoing source of tension between the two countries, but it heated up in 1996, without being resolved. Improved access to the U.S. market for Mexican agricultural produce has been a key Mexican objective. By early 1997, some headway regarding avocadoes issues was finally made.

Tomatoes

On October 28, 1996, the U.S. Department of Commerce (Commerce) and producers and exporters of certain Mexican tomatoes[200] signed a 5-year suspension agreement following the filing of a petition by U.S. tomato growers earlier in the year. The agreement ended for the time being a longstanding bilateral trade dispute over imports of low-priced Mexican tomatoes, particularly those which enter during the winter months in competition with winter production in Florida. The agreement covers all fresh or chilled tomatoes (henceforth tomatoes,) except for cocktail tomatoes and those used for processing. The accord provides that the tomatoes imported from Mexico will be sold in the United States at, or above, an established reference price. As a result of the agreement, Commerce and the USITC suspended their respective antidumping investigations.[201]

Florida tomato growers, claiming to be seriously injured by increased imports of Mexican tomatoes, had also sought import relief under the U.S. global safeguard laws over the past two years. In 1995, the Florida Tomato Exchange and its constituent member growers requested under section 202 of the Trade Act of 1974, also referred to as the U.S. global safeguard law,[202] that the USITC conduct an investigation to determine whether fresh winter tomatoes are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry; petitioners requested that provisional relief be provided pending completion of the investigation. In April 1995, the USITC made a negative determination in the provisional relief phase of the investigation, and the petitioners subsequently withdrew their petition.[203]

Legislation was subsequently introduced in both houses of Congress to permit the USITC to consider seasonal producers of a perishable agricultural products as a separate industry.[204] The proposed legislation and a December 1995 proposal by USTR to change the way TRQs on imports of Mexican tomatoes are calculated were criticized by several foreign governments and a diverse coalition of U.S. agricultural associations saying that they would set a dangerous precedent and have broad implications for U.S. exports.[205]

Mexico's criticism under the NAFTA of the U.S. TRQ proposal was discussed in January 18, 1996 in formal consultations under chapter 20 of the NAFTA.[206] Mexico said that the proposed measure

would have additional trade-restrictive effects and would thus be contrary to the objectives and principles set forth in the NAFTA."[207] USTR did not implement the TRQ proposal and the proposed legislation was not enacted.

On March 11, 1996, U.S. tomato and bell pepper growers filed a petition with USITC under section 202 of the Trade Act of 1974,[208] alleging that fresh tomatoes and bell peppers were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing fresh tomatoes and fresh bell peppers.[209] On July 2, 1996, the Commission made a negative injury determination and no remedy was provided.[210]

On April 1, 1996, U.S. tomato growers filed a petition with Commerce and the USITC under the U.S. antidumping law. On May 16, 1996, the USITC unanimously determined in the preliminary phase of its investigation that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of fresh tomatoes from Mexico alledged to have been sold at less than fair value.[211] Pursuant to the USITC's preliminary determination, Commerce continued proceedings concerning the margin of dumping, and the USITC continued its injury inquiry. Mexico challenged the U.S. antidumping proceedings under Article 17.3 of the WTO Antidumping Agreement, alleging violations of GATT Articles VI and X as well as Articles 2, 3, 5, 6 and 7.1 of the WTO Antidumping Agreement. Consultations were held in August 1996. However, no request for a dispute resolution panel was filed.[212] A suspension agreement was reached in October between Commerce and the Mexican growers.[213]

The agreement seeks to ensure that there will be no undercutting or suppression of prices by setting a reference price, which can be adjusted after one year, if market conditions undergo significant changes.[214] In addition, the accord puts in place measures to ensure effective enforcement and to prevent circumvention.[215] Commerce is to monitor imports by requiring Mexican exporters to submit quarterly certifications on prices. Commerce also is to verify Mexican tomato prices periodically. The accord may be terminated if its terms are violated. The agreement was welcomed by the U.S. industry.[216]

The agreement between Commerce and the Mexican producers followed an announcement by Commerce that it had preliminarily determined the dumping margin to be 17.56 percent for most products in question.[217] However, as long as the accord remains in effect, no antidumping duties will be assessed on tomatoes from Mexico.

Yellowfin Tuna Embargo

The U.S. embargo on imports of yellowfin tuna and tuna products from Mexico became contentious in 1996.[218] In 1991, a court-ordered U.S. embargo took effect that forbade yellowfin tuna imports from any country whose vessels have an incidental marine-mammal taking rate higher than that of U.S. vessels.[219] This embargo was implemented pursuant to the 1984 amendment of the 1972 Marine Mammal Protection Act (MMPA), which was enacted to minimize incidental killing of dolphins by tuna fishing.[220] Mexico responded to the embargo by filing a complaint under GATT dispute settlement procedures in 1991. It was this dispute in the GATT that triggered an examination of the link between trade liberalization and environmental protection measures. The dispute centered on to what extent unilateral trade measures otherwise inconsistent with multilateral trade rules—namely, those involving invocation of GATT article XX, on general exceptions to trade obligations when in support of protection of human, animal, or plant health and the conservation of natural resources—can be used to enforce a national environmental objective.

A GATT panel favored Mexico in the tuna dispute, concluding that U.S. import restrictions brought under the act were not justified on the basis of GATT article XX, and so did not conform to U.S. obligations under GATT articles III and XI regarding national treatment and elimination of quotas, respectively.[221] The GATT panel concluded, among other things, that the United States acted extra jurisdictionally, i.e. imposed its own environmental standards beyond its borders on Mexico through such trade action. In October 1991, however, Mexico and the United States requested that the report be removed from GATT Council consideration, pending attempts by both parties to reach a bilateral solution.[222]

The issue nonetheless reached the GATT Council in 1994, when the Council considered a complaint by the EU (on behalf of the Netherlands Antilles) against the U.S. import ban on yellowfin tuna and tuna products from countries not complying with the MMPA. A second GATT panel on the tuna case supported the first panel's decision that the U.S. embargoes were in violation of GATT articles III and XI[223] and constituted a trade barrier. The panel's conclusion was forwarded to the GATT Contracting Parties at their 50th session in December 1994.[224] The Contracting Parties sent the reports of the two panels

back to the GATT Council. No further developments took place in the matter under the GATT, or its successor, the WTO.

In 1996, Congress considered legislation that would have changed the U.S. marine mammal protection laws and lifted the embargo on tuna caught and processed by previously embargoed nations, provided they comply with newly specified standards on dolphin protection. On July 31, 1996, the House approved HR 2823[225] that would have replaced the current ban by allowing the United States to sign the Panama Declaration, an international agreement.[226] The bill accepted the procedure prescribed by this accord, i.e. posting official observers on fishing boats to ensure that no dolphins are killed in the tuna fishing process. If observers reported no dolphin death, the tuna produced from the catch would be designated "dolphin-safe," and tuna cans would be labeled accordingly. This would allow Mexican (and other imported) products to gain access to the U.S. market. Presently, no tuna or tuna product is considered "dolphin safe," if resulting from the practice of setting nets on tuna that swim with the dolphins.

The Clinton Administration supported H.R. 2823 and S.1420, a companion bill in the Senate.[227] On October 7, 1996, President Clinton sent a letter to Mexican president Ernesto Zedillo, expressing his personal commitment in this matter.[228] However, the proposed, more liberal "dolphin-safe" definition under these bills was strongly challenged by environmental groups, who doubted that the observer system would be adequate in enforcing true dolphin-safety. However, the legislation was opposed in the Senate and the Senate version was not passed.

Mexican officials expressed frustration over the failure of Congress to lift the embargo and have indicated that Mexico may retaliate against the embargo.[229]

Avocadoes

In 1996, Mexico renewed its demands that the United States lift its long-standing import ban on avocados. This 83-year old embargo, barring Mexican avocados from entry into the entire United States except Alaska, was instituted to prevent possible fruit fly contamination. The U.S. Department of Agriculture (USDA) proposed on July 3, 1995, a partial lifting for the Haas variety of avocadoes from Mexico's Michoacan state to 19 Northeastern U.S. states for the November-February period, when the risk of pest infestation is minimal. The proposal, which was consistent with NAFTA's call for the recognition of pest- and disease-free zones and was based on scientific data showing diminished pest infestation, drew strong opposition from California avocado growers, who produce most of the U.S. crop. After extensive review of the situation, by yearend, USDA had not announced a change of policy, frustrating Mexican officials, who were hoping for it to boost Mexican avocado exports in the upcoming season. However, on January 30, 1997, USDA lifted the embargo on fresh avocadoes for the winter months with respect to imports from Michoacan state that are destined for the 19 Northeastern U.S. states, under certain conditions as it outlined in 1995.

China

The dispute between the United States and China over Chinese enforcement of intellectual property rights (IPR) protection dominated U.S.-China trade relations for the first half of 1996. This dispute culminated on June 17, 1996, in a confirmation by Acting USTR Barshefsky that China had taken certain actions to suppress the illegal production of compact audio, video, and computer disks and exportation of illegally produced disks. In other areas, the United States renewed MFN treatment of imports from China amid less controversy over the annual decision than in recent years. In September, the United States applied sanctions against China for illegally transshipping certain textile and apparel items. Negotiations on China's proposed accession to the WTO progressed as China announced it would not issue policies inconsistent with the WTO.

Intellectual Property Rights Protection and Enforcement

During the 2 years after the United States and China signed a Memorandum of Understanding (MOU) on Intellectual Property Rights (IPR) in January 1992, the Chinese Government made the required changes in its laws and regulations to lay the foundation for an IPR system that could meet international standards.[230] It failed, however, in the view of the U.S. Government, to meet its commitments under the agreement to establish an adequate and effective mechanism for IPR enforcement. In addition, the U.S. Government found that China failed to provide fair and equitable market access for persons who rely on intellectual property rights protection.

On June 30, 1994, USTR Michael Kantor identified China as a "priority foreign country" under the Special 301 provisions of the Trade Act of 1974 and immediately initiated a 6-month investigation into its IPR enforcement practices.[231] Numerous

negotiations between the United States and China were held on these issues. China indicated that it would take some actions to address U.S. concerns, but U.S. negotiators indicated that significant movement on a majority of issues was lacking. Therefore, on December 31, 1994, a list of products being considered for retaliation was issued by the USTR and the investigation was extended until February 4, 1995.[232] On February 4, 1995, USTR Kantor announced trade sanctions that would automatically take effect on February 26, 1995, unless an agreement acceptable to the United States could be reached.[233]

On February 26, 1995, the USTR announced that the United States and China had reached an agreement for China to take specific actions to provide protection of IPR for U.S. companies and provide market access for U.S. intellectual property-based products. The agreement also led to the end of the Special 301 investigation, termination of the retaliatory tariffs, and an end to China's designation as a "priority foreign country." Under the terms of the accord, China agreed to the following detailed commitments in three broad areas of action:

(1) Take immediate steps to address rampant piracy throughout China—

- Implement a Special Enforcement Period during which enhanced resources will be allocated to cleaning up large-scale producers and distributors of infringing products.
- Take actions against the factories that are currently producing infringing products.
- Prohibit the exportation of illegal products, including pirate compact disks (CDs), laser disks (LDs), and CD-ROMs (compact disks containing computer software), and allocate adequate resources to ensure that this takes place.

(2) Make long-term structural changes to ensure effective enforcement of intellectual property rights—

- Establish a strong intellectual property enforcement structure.
- Ensure that cross-jurisdictional enforcement efforts are carried out cooperatively and effectively.
- Create an effective customs enforcement system modeled on the U.S. customs service.
- Create a title verification system to help prevent the production, distribution, importation, exportation, and retail sale of U.S. audio visual works as well as software programs in CD-ROM format, without the verified consent of the U.S. right holder. Associations of U.S. right holders will be allowed to establish offices in China to participate in this system.
- Establish focused enforcement efforts for intellectual property rights in audio visual works, computer programs, and publications.
- Ensure that U.S. right holders have access to effective judicial relief.
- Establish a system whereby statistics concerning Chinese enforcement efforts are provided to the U.S. government, and to provide for the Chinese and U.S. Governments to meet on a regular basis to discuss the adequacy of enforcement efforts.
- Ensure the transparency of any laws, regulations, or rules related to the grant, maintenance and enforcement of intellectual property rights.

(3) Provide U.S. right holders with enhanced access to the Chinese market. This includes a commitment by China to—

- Place no quotas on the importation of U.S. audio visual products.
- Allow U.S. record companies to market their entire catalogue of works in China.
- Allow U.S. intellectual property-related companies to enter into joint venture arrangements to produce, distribute, and sell their products in China. They will be able to establish operations in Shanghai and Guangzhou initially and expand to eleven other cities within five years. [234]

By the fall of 1995, U.S. officials expressed concerns that China was lagging in implementing some parts of the agreement, despite progress in other parts. The United States expressed general satisfaction with Chinese actions to stop the sales of pirated products at the retail level and with its efforts to put an IPR administrative structure in place that should, over time, contribute to enhanced enforcement efforts.[235]

Subsequently, USTR Mickey Kantor and U.S. negotiators emphasized several areas in which China needed to make improvements in order to satisfy terms of the 1995 IPR agreement. Concerns that dominated U.S.-China IPR dialogue included the U.S. contention that—

- Thirty or more factories continued to produce pirated CDs, LDs, and CD-ROMs,

and that China should take actions to end piracy in these plants;

- Chinese customs border enforcement was inadequate to stop exports to third-country markets of pirated CDs, LDs, and CD-ROMs; and
- China had not yet taken the steps necessary to provide access for U.S. exports of intellectual property-based products.[236]

On April 30, 1996, China was designated a "priority foreign country" under Special 301 provisions, because of continued insufficient implementation of the 1995 IPR agreement. On May 15, 1996, Acting USTR Charlene Barshefsky announced a preliminary retaliation list of $3 billion worth of U.S. imports from China, and said that if China failed to take action to satisfy U.S. concerns, prohibitive tariffs would be imposed on June 17, 1996, on approximately $2 billion worth of products drawn from the list. The preliminary sanctions list included approximately $2 billion worth of textile and apparel items, $500 million in consumer electronics items, and $500 million in other consumer goods. The products chosen were produced mainly in Guangdong Province, the location of most of the factories producing counterfeit goods. Alternative sources of production exist for the textile and apparel items chosen, with the exception of three categories of silk goods.

China threatened to retaliate if the United States actually imposed sanctions. China announced a retaliation list that included 100-percent *ad valorem* additional tariffs on U.S. agricultural and animal husbandry products, vegetable oils and fat, vehicles and their spare parts, telecommunications equipment, and a group of miscellaneous products, as well as the suspension of imports from the United States of certain audio-visual products, and suspension of the handling, examination, and approval of applications for chemical and pharmaceutical registration and for certain types of investment by U.S. firms. Chinese sanctions against the United States were to become effective on the day U.S. sanctions against China became effective.[237]

Late in the day on June 17, 1996, after last-minute discussions between Ambassador Barshefsky and Chinese officials in Beijing and after visits to Guangdong Province by U.S. officials to observe the most recent enforcement efforts, Ambassador Barshefsky announced that sanctions would not be imposed. She confirmed that China had taken the following actions:

- The closing of 15 out of 31 CD factories, prohibition of the establishment of new CD plants, and the prohibition of the importation of CD presses. Imminent implementation of a monitoring and verification system whereby licensed CDs would include an SID code identifying the CD press that produced a particular CD, thereby identifying the producer of the CD. CDs lacking an SID code would be considered to be counterfeit and subject to seizure and destruction.
- Reinstatement of the "Special Enforcement Period" provided for in the 1995 IPR agreement. This includes a focused enforcement effort in regions of rampant piracy, most notably in Guangdong Province, and a nationwide enforcement effort focused on wholesale and retail markets, as well as on transporters of pirated goods.
- Enhanced border enforcement of the prohibition of export of illegal audio-visual products and of import of illegal CD presses.[238]

MFN Status

On May 31, 1996, the President issued his official determination to renew China's MFN status for another year.[239] MFN tariff treatment, the nondiscriminatory rates of duty that the United States applies unconditionally to imports from most countries, is extended to imports from China under the President's authority to waive full compliance with the freedom-of-emigration requirements (Jackson-Vanik Amendment) imposed on nonmarket economy countries by section 402 of the Trade Act of 1974. The waiver for China, which has been in effect since February 1980, expires on July 3 of each year unless the President issues a determination to extend it at least 30 days before the scheduled expiration date.

In 1996, as in each previous year since 1989, legislation was introduced in the Congress to disapprove the President's waiver extension for China or to subject its continuation to human rights conditions in addition to freedom of emigration. A measure that would have denied renewal extension of China's MFN status (H.J.Res. 182) was defeated in the House on June 27, 1996. [240]

In his waiver renewal for China in 1993, President Clinton attached human rights conditions for renewal in 1994.[241] He reversed this policy in 1994, delinking MFN renewal from human rights conditions except the freedom-of-emigration requirement. He explained, however, that he was basing his decision on the belief that increased contact with China, rather than the

denial of its MFN status, "offers us the best opportunity to lay the basis for long-term sustainable progress in human rights and the advancement of our other interests in China."[242]

Illegal Transshipments of Textiles and Apparel

On January 17, 1994, the United States and China concluded a bilateral textile agreement that was to remain in effect until the end of 1996.[243] Both before and after the 1994 agreement, the United States alleged that Chinese textile and apparel items have been "transshipped" illegally in an attempt to circumvent U.S. quotas that limit imports of textiles and apparel from China. The practice of transshipment involves the transit of goods through third countries and becomes illegal when labeling or documentation of country-of-origin is falsified.

In 1996, the United States applied sanctions against China for the third time under provisions of the 1994 bilateral agreement for illegal transshipments.[244] The United States held consultations with China on this matter from March 25 through March 27, 1996, during which the United States presented China with evidence of transshipments.[245] On September 6, 1996, after an extensive investigation by the U.S. Customs Service and other government agencies, Acting USTR Barshefsky announced approximately $19 million in charges against China's 1996 quota allowance.[246] Triple charges were applied to the quota levels in 5 out of the 13 categories cited for sanctions. This is the first time that triple charges have been applied under the 1994 U.S.-China bilateral textile agreement.[247]

On November 10, 1996, China announced it would suspend its imports of some U.S. commodities in retaliation for the U.S. sanctions, effective December 10, 1996.[248] This retaliation became intertwined with negotiations that had begun in October 1996 on a new U.S.-China bilateral textile agreement to replace the pact scheduled to expire at the end of 1996.[249] On December 9, 1996, China postponed the retaliation that had been postponed for 30 days, "because the consultations are to be continued and the U.S. delegation has promised to re-study the disputed quota cut cases," according to a MOFTEC spokesman.[250] On December 23, 1996, the Office of the USTR announced that the current agreement would be extended until January 31, 1997, following December 19-21 negotiations in San Francisco during which progress was made toward renewing the 1994 bilateral agreement.[251] Agreement was reached on February 1, 1997 on a new four-year bilateral textile agreement. The agreement extends U.S. import quotas on textiles and apparel from China, cuts quotas in product areas where China had made repeated transshipment violations, and establishes market access for U.S. textile exports to China.

WTO Accession Negotiations

China has sought membership in the WTO and its predecessor, the GATT, since 1986. China did not accede to the WTO in 1996, but there were meetings of the Working Party on the Accession of China (henceforth, Working Party) in 1996 as well as renewed bilateral negotiations on accession between China and the United States and other WTO members.

The Republic of China under Chiang Kai-shek had been one of the founding members of the GATT in 1947, but withdrew in 1950 after the Communists gained control of the mainland and established the People's Republic of China (China). China reapplied for membership in 1986, viewing its bid as a "resumption" of GATT contracting party status. A GATT working party was set up in 1987 to begin the process of reviewing China's trading system and economy in terms of compliance with GATT rules. However, the process was suspended as a result of the Chinese Government's military suppression of the prodemocracy movement in June 1989 and of the slowdown in reforms that followed. A resurgence of reforms prompted the resumption of the GATT working party meetings in early 1992. China pressed for accession by the end of 1994 in order to qualify for founding membership in the WTO, which succeeded the GATT as the world's trade forum on January 1, 1995, but was not successful.[252]

In November 1995, then-Deputy USTR Barshefsky presented the Chinese with a "roadmap." which laid out conditions that the United States wants China to meet for accession to the WTO. The United States and other WTO members have proceeded from the principle that China's membership must be accomplished on terms that provide for meaningful market access and the incorporation of the disciplines of WTO provisions into China's trade regime. China formally applied for WTO membership in late 1995.[253]

The United States and China held bilateral talks on a number of occasions in 1996, mostly after Assistant USTR Lee Sands was named to head the U.S. negotiating team in September. Working Party meetings were held in March and October/November. The March Working Party resulted in China's subsequent provision of additional information related to its trade regime and other policies related to trade.

The October/November Working Party meeting resulted in a Chinese announcement of the implementation of a standstill (an agreement not to introduce new trade restrictions) and that they would issue no WTO-inconsistent policies during the course of the accession negotiations. The United States regards this as a sign that China is prepared to begin a serious negotiation.[254]

Market Access Agreement

The 1992 MOU signed by the United States and China committed the Chinese Government to lift import quotas, licensing requirements, and controls at the end of each year for a 5-year period.[255] Although the MOU eliminated import barriers on some product groups ahead of schedule in 1993, the first year of the agreement, it did not lift the restrictions scheduled to be eliminated at the end of 1994 until June 30, 1995.[256] This delay in implementation stemmed from strained relations between the United States and China based, in part, on a dispute regarding IPR, and because of problems arising from China's accession negotiations to the WTO at the beginning of 1995.[257]

China eliminated restrictions on 176 items on schedule at the end of 1995.[258] Restrictions on 17 commodities were scheduled to be eliminated on December 31, 1996. Commodities on which restrictions were to be eliminated include bottled waters, pesticides, and radios and radio parts.[259]

Taiwan

As part of their effort to join the WTO, Taiwan authorities in recent years have made numerous changes to Taiwan's tariffs, nontariff measures, and trade-related regulations. These changes, once fully implemented, are expected to increase the openness of Taiwan's economy to international markets and expand opportunities for foreign businesses in Taiwan. In addition to joining the WTO, Taiwan hopes to attract financial, shipping, and other services by casting itself as an Asia-Pacific Regional Operations Center (APROC) for international businesses. The APROC initiative concentrates on six sectors: manufacturing, sea transportation, air transportation, financial services, media services, and telecommunications. Taiwan authorities hope that the effect of the APROC initiative will allow Taiwan to remain internationally competitive and play a major role in the economic future of the region.

To meet the twin goals of WTO accession and the development of APROC, in 1996 Taiwan took steps to conform some of its trade and investment rules with international standards. Bilateral negotiations with Taiwan revisited many long-standing issues, particularly in the context of WTO accession talks. Other major issues discussed in 1996 included possible involvement by Taiwan firms in IPR piracy in China, concern over the ability of U.S. firms to supply medical devices and telecommunications equipment to the Taiwan market, and liberalization of the financial sector.

Protection of Intellectual Property Rights

Protection of intellectual property rights (IPR) in Taiwan is a regular topic of bilateral negotiations between the United States and Taiwan. In recent years, Taiwan has taken several steps to improve protection of IPR. Recent laws enacted by Taiwan were designed to protect integrated circuit (IC) layouts and personal data. Taiwan's earlier failure to enact IC protection was a factor in keeping Taiwan on the Special 301 watch list in 1995.[260] In the U.S. view, enactment of the two laws, together with legislation under consideration to protect trade secrets, brings Taiwan's legal framework largely into conformity with WTO standards on Trade-Related aspects of Intellectual Property Rights. In addition, improved enforcement of existing laws has helped to reduce some piracy of computer software and trademarked goods.[261] Taiwan's Export Monitoring System, initiated in 1993 in response to U.S. pressure, has reportedly helped reduce exports of pirated products by Taiwan.

In April 1996, the United States noted that Taiwan had made "significant strides" in improving IPR protection and, therefore, downgraded Taiwan's status under Special 301 from the "watch list" to the "special mention list." Citing "growing concerns about IPR problems" and "expectations for future progress," USTR announced that it would conduct an out-of-cycle review of Taiwan's IPR protection within the next 6 months.[262] In response, Taiwan implemented an 18-point program[263] designed to improve IPR protection through education, enforcement, export monitoring, and fighting participation by Taiwan-owned firms in piracy taking place in China (so-called "cross-straits piracy").[264] A growing regional IPR issue in recent years has been collaborative piracy of CD-ROMs among Hong Kong, Taiwan, and China.[265] According to U.S. industry representatives, Taiwan plays an important role in

piracy of software among Taiwan, Hong Kong, and China. A group of CD manufacturers based in Taiwan pledged not to sell master CDs or CD-making machinery without proper authorization from holders of the relevant rights.[266]

Taiwan took several steps to improve IPR protection in 1996. During IPR consultations in September, Taiwan authorities announced that its law enforcement officials had been instructed to investigate and prosecute under Taiwan law cases in which Taiwan nationals counterfeit copyrighted articles in China. Taiwan took other actions in 1996 to counter CD piracy including, conducting the largest crackdown on CD piracy in the Island's history, which confiscated $1 billion worth of cassettes and CDs; requiring CD makers to mark identification numbers on the CDs they produce; and securing agreement from Taiwan's CD manufacturers not to invest in production of pirated CDs in China.[267]

After the out-of-cycle review, which ended in November 1996, the United States removed Taiwan from the "special mention list." In making the change, the United States signaled that IPR protection in Taiwan had improved since the April review began. The United States cited Taiwan's "aggressive implementation" of the 18-point action plan and discouragement by Taiwan authorities of investment by Taiwan firms in Chinese facilities that produce pirated CDs as the main reasons for the improved protection of IPR in Taiwan.[268] At the time of the announcement, USTR Barshefsky added that "Taiwan has made a serious effort to address IPR problems over the last six months, and has achieved considerable success."[269] The move marked the first time since 1992 that Taiwan was not cited under any aspect of Special 301 provisions.[270]

Medical Devices

In 1995, Taiwan's National Health Insurance Bureau established rules on reimbursement prices for medical devices as part of its national health care plan. The plan implemented brand-name price lists for determining reimbursement prices for a number of medical devices and equipment, an action that cut reimbursement prices by as much as 20 to 30 percent. The U.S. Health Industry Manufacturers Association (HIMA) criticized the move, stating that the cuts appeared designed to favor domestic purchases of medical devices. They argued that lower reimbursement prices for medical devices reduced the incentive for U.S. firms to sell their most advanced products in Taiwan thereby favoring lower-cost, domestic producers of less advanced technology products. HIMA and the United States Government also criticized Taiwan's method for setting reimbursement prices as non-transparent and burdensome because of a requirement that foreign firms supply price data not required from domestic companies. In July 1996, HIMA filed a petition with USTR requesting that the practices be considered under Super 301.[271]

In November 1996, the United States and Taiwan reached agreement to preserve access for U.S. medical devices in Taiwan's market. Taiwan agreed to ensure that its medical insurance authorities do not discriminate against U.S. exports of medical devices. In particular, Taiwan agreed that it would not require cost data from foreign manufacturers not also required of domestic firms and would not use non-transparent procedures or arbitrary price controls on medical devices that favor domestic producers.[272]

WTO Accession

A Working Party was established in September 1992 to consider Taiwan's application to join the GATT and to negotiate terms for Taiwan's membership.[273] By yearend 1996, the Working Party had held seven meetings, most recently in December 1995. In addition to the multilateral working party, Taiwan is also conducting bilateral accession negotiations with 26 current WTO members. Approximately half of those negotiations were concluded by the end of 1996.[274]

The United States and Taiwan held several bilateral talks on Taiwan's WTO accession during 1996. Outstanding issues under discussion at yearend included tariffs and quotas for automobiles and other industrial goods; tariffs and distribution arrangements on certain agricultural commodities; and tariffs, taxes, and other aspects of market access on products that are currently the responsibility of the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB). Another aspect of the talks on TTWMB include reforming the bureau to meet WTO requirements of national treatment, MFN, and transparency. In late 1996, Taiwan authorities sent two draft laws pertaining to alcohol and tobacco to the legislature for approval. The draft laws provide for private manufacturing and repackaging of alcohol and tobacco products, sets requirements on advertisement of these products, and sets the year 2000 as the deadline for privatization of the Taiwan's tobacco and wine monopoly.[275]

In other areas, the United States has requested that Taiwan make market access commitments in legal and financial services, adhere to the WTO Aircraft

Agreement,[276] and accede to the WTO Agreement on Government Procurement (AGP). In the procurement area, although U.S. firms participate in public procurement in Taiwan, most procurement is awarded to domestic bidders. As a result, the extent of participation by U.S. and foreign firms in contracting in Taiwan is limited.[277] As part of its efforts to make public procurement more consistent with WTO rules, Taiwan developed a procurement law that included a bid protest mechanism and began publishing a government procurement bulletin in 1996.[278]

Taiwan's WTO accession process includes revision of numerous tariffs, quotas and other import policies in Taiwan. In September 1996, Taiwan announced a comprehensive tariff reduction package. The plan to cut tariffs on 1,121 import categories and, once fully implemented, would lower Taiwan's average tariff from 8.6 percent *ad valorem* to 8.4 percent. Average tariff rates on agricultural and industrial products will be 20.0 percent and 6.2 percent, respectively. The tariff package included changes to liberalize tobacco and wine markets, in line with WTO accession talks. The plan called for replacing monopoly taxes on imported tobacco and wine products with tariffs and other domestic taxes at rates below the current monopoly tax.[279] Taiwan has indicated that it will allow rice imports after WTO accession, but the size of the import quota and other issues, such as inspection, sampling, and grading, are still under negotiation. In 1996, Taiwan proposed a rice import scheme that would allow minimum market access of 6 percent of average annual rice consumption, gradually increasing to 8 percent over 6 years.[280] In July, Taiwan changed other provisions affecting sales of tobacco and alcohol. The maximum prices for alcohol and tobacco products were increased and the allowable profit margins on sales of such goods were raised from 8 percent to 20 percent. In addition to making the TTWMB more consistent with WTO obligations, the increases are expected to increase profitability of sales of tobacco and alcohol and boost market share of imported products in Taiwan.[281]

Telecommunications

In January 1996, after 4 years of debate, Taiwan passed legislation to overhaul the legal framework governing the telecommunications sector. The legislation, which permits foreign investment in the sector, is expected to create opportunities for U.S. and other foreign telecommunications service providers. Taiwan's growing telecommunications services market was estimated at $5.3 billion in 1995. In addition to allowing foreign investment, the legislation revamped Taiwan's telecommunications regulatory structure. The Directorate General of Telecommunications (DGT), formerly both regulator and monopoly telecommunications service provider, was relieved of the latter role. The responsibility for providing telecommunications services was shifted from the DGT to a newly-created state agency, Chung Hwa. This division of authority was designed to remove the possibility for conflict of interest between the regulator and telecommunications operating companies.[282]

Foreign firms were formerly not allowed to provide basic or value-added network (VAN) services in Taiwan. Under the legislation passed in January, foreign firms are allowed to provide up to 20 percent of basic services, including cellular, paging, trunking radio, and wireless data services. Foreign providers are allowed to provide up to 100 percent of the market for VAN services, such as voice services, information storage and retrieval, information processing, remote transactions, and electronic data interchange.[283]

The new law is seen as an important step in liberalizing Taiwan's telecommunications sector. Foreign investors, however, said that the 20-percent foreign ownership limit on basic services and a 11.9 percent cap on return on investment were too limited to present a viable business opportunity.[284] Several U.S. firms also expressed concerns about Taiwan's plans for allocation of the radio spectrum for new market entrants in cellular and personal communications services. They indicated that the portion of the spectrum allocated to these services may be insufficient for developing a customer base. U.S. companies were concerned that not enough of the spectrum would be put up for bid and that Taiwan authorities would not grant island-wide licenses. Both limitations, the companies said, would hinder the ability of new entrants to compete in Taiwan's cellular market.[285]

In early 1996, Taiwan published proposed "key points" describing the bidding procedures for wireless services. U.S. firms expressed concern that the procedures overemphasized the size of the bidder's performance bond and underemphasized the importance of technical and operational merits in bid selection. U.S. firms were also concerned about the possibility of political interference in the bid qualification process. In addition, Taiwan authorities delayed finalizing a fee structure for use of the radio spectrum by wireless service providers.[286]

In July 1996, the United States and Taiwan held discussions on the aspects of the new telecommunications law that had the effect of limiting foreign participation in Taiwan. As a result of those

talks, Taiwan agreed to remove a cap on profits on new telecommunications companies, ensure that foreign telecom firms could interconnect with the central phone system on the same terms as Chung Hwa, and relax stringent debt/equity requirements of participating firms. In response to the agreement, Acting USTR Barshefsky said that "removal of these barriers is a good first step toward moving from a monopoly to a competitive market in Taiwan's telecommunications sector."[287] Taiwan further agreed that Chung Hwa would not cross-subsidize its wireless services with revenue from its basic telecommunications monopoly, nor discriminate in pricing for interconnection.[288]

Financial Sector Liberalization

In an effort to promote Taiwan as an international financial center, Taiwan has taken steps in recent years to open the financial sector to foreign participation. Many observers state that successful implementation of the APROC plan, however, will require significant liberalization of the financial services sector in Taiwan to attract foreign capital. Financial liberalization in 1996 included relaxing some restrictions on capital flows, allowing conversion of foreign currency loans to local currency, easing foreign exchange restrictions on banks, and easing rules on forward foreign exchange contracts. Taiwan also eased rules on foreign insurance companies[289] and expanded limits on foreign participation in its stock market.[290]

Revision of Taiwan's Offshore Banking Statute is one of the goals of the APROC plan. In the securities sector, new rules were introduced in 1996 to ease restrictions on offshore banking activities in Taiwan. The changes would authorize offshore banking units to accept foreign currency deposits from residents, to obtain capital funds by selling Taiwan residents products such as bank-issued, foreign currency certificates of deposit, money market instruments, and other securities. In addition, offshore banking units would be allowed to participate in a wider range of transactions, including giving advice on, negotiating and opening foreign currency-denominated letters of credit for non-residents.[291]

Korea

U.S. trade relations with Korea in 1996 centered on several recurring market access disputes. In July, the United States announced that it was taking steps that could lead to trade sanctions against Korea in response to involvement by the Government of Korea in the telecommunications sector. During the year, the United States continued efforts to improve market access for imported automobiles in Korea. Imports account for less than 2 percent of automobiles sold in Korea, which is the world's third largest auto exporter. Longstanding agricultural disputes also continued in 1996. Korea's shelf-life standards for imported meat and import clearance procedures for fruits and other agricultural products remained trade disputes in 1996. After the United States brought the import clearance dispute to the WTO, Korea announced that it would revise its import clearance procedures. By the end of the year, Korea had completed its process of acceding both to the OECD and the WTO Agreement on Government Procurement.

Telecommunications

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires an annual review of U.S. telecommunications trade agreements. This review process has regularly included Korea. In recent years, the United States has negotiated a series of bilateral telecommunications trade agreements with Korea. These agreements have been designed to improve procurement practices, strengthen protection of IPR by Korea Telecom, clarify standards-related issues, regularize type approval of equipment, and provide equal treatment for U.S. firms pursuing procurement opportunities in Korea.[292]

In March 1996, the United States and Korea reached an understanding on implementation of a 1992 telecommunications agreement.[293] In subsequent talks, the two sides failed to reach agreement on preventing involvement by the government of Korea in wireless procurement decisions. The United States estimates that by the year 2000, the size of Korea's wireless market will reach $6.5 billion and the total market for telecommunications equipment and services will reach $100 billion.[294]

In July 1996, as a result of a breakdown in the talks, the United States identified Korea as a "priority foreign country" pursuant to section 1374 of the act. In making the designation, USTR said that it was particularly concerned about "Buy Korean" preferences in procurement practices by both public and private entities in Korea, nondiscriminatory access, the need for increased transparency in Korea's telecom regulations, and protection of intellectual property rights.[295] Designation as a priority foreign country under section 1374 starts a one-year timetable leading to possible imposition of sanctions. In July, however, Acting USTR Barshefsky said that the United States did not intend to wait that long to resolve the

dispute.[296] Talks in late 1996 failed to narrow the differences between the two sides.[297]

Automobiles

The low level of sales of imported automobiles in Korea has been a source of bilateral friction in recent years. The United States maintains that Korea supports a "sanctuary market for automobiles" while pursuing an aggressive automobile export strategy.[298] Although Korea is now the world's third largest auto exporter after Japan and the European Union, in 1995 Korea imported 6,000 vehicles from the United States and 4,300 from the EU, which accounted for less than one percent of all automobiles sold in Korea. Korea's exports of automobiles to the United States and Europe in 1995 reached 191,000 and 180,000 units, respectively. By late 1996, imports of automobiles, although up from earlier levels, accounted for 1.5 percent of the total market in Korea.[299]

The United States and Korea signed an MOU in late 1995 designed to improve market access for foreign automobiles. The MOU covers Korea's treatment of foreign automobiles in the areas of taxation, standards and certification procedures, advertising, auto financing, and consumer perception.[300] Among other things, the MOU was designed to combat excessively high taxes on imported automobiles, remove certification requirements on new models of automobiles, remove restrictions on access to television advertising, counter the perception of the Korean consumer that purchase of a foreign automobile will result in a tax audit for the purchaser, and implement a consultation mechanism.[301]

In 1996, the United States reviewed Korea's progress in implementing the MOU. The U.S. report noted that Korea had made some progress in cutting barriers in the areas of safety and emission standards and certification, taxes on foreign passenger vehicles (except jeep-type vehicles), advertising regulations, improving consumer perceptions of imported vehicles, and retail financing. The United States said that "much more needs to be done" by Korea to open its automobile market to a level comparable to that of the United States. The United States noted that, although growing, sales of U.S. passenger vehicles remain at very low levels. In a joint statement, USTR and Commerce said that although Korea had "generally" implemented the September 1995 agreement, it was "still too early to see any significant impact on the Korean auto market." They also expressed concern about taxes on jeep-type vehicles. Sport utility vehicles are the fastest growing segment of the Korean automobile market. In their statement, Acting USTR Barshefsky and Commerce Secretary Mickey Kantor said that "Korea remains the most closed market of the major world auto producers."[302]

By late 1996, the United States concluded that Korea had "largely met" its obligations under the 1995 MOU. However, significant market access barriers for automobiles remain under discussion. These barriers include Korea's method for determining taxation on automobiles, financial liberalization of auto leasing and wholesaling, and certification requirements. In late 1996, Commerce Secretary Kantor observed that the U.S. market share for automobiles in Korea, which remains at about 1 percent, indicates discriminatory practices in Korea's auto market. Secretary Kantor again called on Korea to repeal tax increases on sport utility vehicles, revise the method for determining taxation on passenger automobiles, cut the import tariff on automobiles, and liberalize financial restrictions on auto leasing. On the issue of taxation, Korean taxes on automobiles escalate based on engine size. The United States has requested that Korea instead calculate auto taxes based on the value of the vehicle. U.S. automakers point out that, under the current formula, the taxation burden falls heaviest on large-size automobiles, which the U.S. automakers export to Korea. Korea maintains that taxation of sport utility vehicles is consistent with the MOU because it was announced prior to signature of the agreement and that taxation based on engine size is designed to protect the environment.[303]

Shelf-Life Agreement

A long-standing dispute between the United States and Korea has centered on certain Korean measures that impede market access for imported beef and pork in Korea. The United States has negotiated a series of agreements in recent years designed to improve market access for beef and pork. In the most recent agreement, reached in July 1995, Korea agreed to phase out its system for determining shelf-life for meat products and lengthen the time period for offering tenders for the purchase of pork products.[304] Under the agreement, Korea agreed to phase out its system of setting shelf-life periods by regulation and instead to allow food manufacturers to set their own "use-by" dates, similar to the practice followed in most other countries. Korea also agreed that it would not use temperature specifications for meat products to restrict imports. Korea did not, however, agree to liberalize its mandated seven-week shelf life requirement for sterilized milk. The United States reserved its rights to

use WTO dispute settlement procedures to resolve this issue.

Korea began phasing in provisions of the agreement in July 1995. Other provisions were scheduled to take effect in July 1996.[305] However, the United States requested consultations in 1996 with Korea over inadequate implementation of the agreement. In late 1996, the United States said that it would request that a WTO dispute settlement panel consider the issues if the problems were not resolved.[306]

Import Clearance

In May 1996, the United States filed a complaint at the WTO protesting Korea's testing and inspection procedures for imported fruit and vegetables. The United States alleges that phytosanitary inspection delays, to meet requirements of the Ministry of Health and Welfare and the Ministry of Agriculture, Forestry and Fisheries, prevent fruit from clearing customs for up to a month, versus 3-4 days in other countries in the region. Korea requires inspection of 100 percent of agricultural products at the time of import, instead of using random sampling as is done in other countries.[307] These delays, the U.S. points out, contribute to spoilage of imported products prior to customs clearance.

The U.S. complaint centers on Korea's import clearance requirements for fruit and vegetables, particularly import inspection and fumigation for pests already existing in Korea (so-called "cosmopolitan pests"); incubation testing for the Mediterranean fruit fly on fruit grown in California; sorting, repackaging and relabeling requirements; and food safety standards for processed foods.[308] U.S. exporters state that these requirements are excessive, costly, and result in increased spoilage. Other complaints about import clearance include storage of imported oranges for up to five months until after the domestic crop is marketed.[309] At a WTO meeting to consider the dispute, several WTO members indicated support for the U.S. position regarding import clearance difficulties in Korea.[310]

In late 1996, Korea announced that it was revising its import clearance procedures under the Plant Quarantine Act. Several changes appear to modify regulations or practices under discussion in the WTO dispute. The main revisions include acceptance of shipments containing cosmopolitan pests, requiring a pest risk analysis only for commodities that had not previously been imported into Korea, and eliminating incubation tests for citrus grown in California (Florida-grown citrus would still be subject to an incubation test). Finally, the new regulations remove a requirement on both California and Florida citrus that all citrus was grown in an area free of medflies. These changes in the Plant Quarantine Act are expected to ease clearance difficulties of many agricultural exports to Korea.[311]

Korea's New Economy

Korea's current 5-year plan for a "New Economy" and its "Globalization" initiatives are designed to reduce government regulation, increase the decision-making role of the private sector in the economy, and open more sectors of the economy to foreign participation. Many of its elements, if implemented, would affect the structure of economic relations in Korea and the role of the government in Korea's economy that underlie many bilateral trade disputes. The plan includes initiatives to attract new foreign investment, protect intellectual property rights, liberalize the financial sector, privatize state-owned enterprises, implement administrative deregulation, and overhaul the land acquisition law.[312]

Some of these reforms are also being undertaken to bring Korea into conformity with OECD standards in light of Korea's recent accession to that organization. Korea formally acceded to the OECD in October, 1996. Before accession, Korea agreed to open its economy in several areas to conform to OECD standards and to meet requirements of the organization's Committee on Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational Enterprises. Changes announced by Korea in the context of OECD accession include reducing limits on foreign ownership of domestic stocks, allowing foreign banks to establish wholly-owned subsidiaries, allowing foreign ownership of long-term corporate debentures, permitting domestic firms involved in infrastructure projects to borrow from foreign lenders, and allowing foreign securities companies to set up wholly-owned subsidiaries in Korea.[313]

Government Procurement

In 1996, Korea's government procurement practices continued to be a subject of bilateral negotiations. As noted above, the United States has been urging Korea for several years to adopt transparent and nondiscriminatory procurement practices for telecommunications equipment. Government procurement in Korea is centralized in the Office of Supply, Republic of Korea (OSROK).

Korean authorities reportedly press for local procurement. Purchasing agencies may also request that suppliers provide offsets in addition to the procured goods. Offsets may include required levels of local-content, investment, technology transfer, or other factors that benefit the local economy.

The WTO Agreement on Government Procurement (AGP) is one of the WTO plurilateral agreements.[314] By the end of 1996, Korea had completed its negotiations on accession to the agreement, with implementation set to begin in early 1997. The AGP rules are designed to ensure transparency in government procurement. The agreement also includes a bid protest mechanism. Upon accession, members agree to allow foreign bidding on government procurement contracts of specified products by specific agencies.

Korea agreed to apply GPA rules to procurement of goods and services, including construction and computer network procurement, by central and sub-central government entities and many state-owned commercial enterprises. Major government-owned enterprises covered by the GPA are Korea Electric Power Corporation, the Korea Petroleum Development Corporation, the Korea General Chemical Corporation, and Korea Telecom. Korea excepted procurement by Korea Telecom of telecommunications goods and network equipment from GPA rules. The United States, however, maintains that its annual review of telecommunications agreements under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, should be sufficient to allow U.S. companies to compete for contracts of such goods in Korea.[315]

ENDNOTES

[1] For discussion of activity in 1996 under section 301 regarding Canadian periodicals and Canadian communications practices see ch. 5.

[2] For a discussion of the Cuban Liberty and Democratic Solidarity (Libertad) Act, see ch. 6.

[3] USITC, *International Economic Review*, "Tariffication or Duty Free?," April 1994, pp. 12-13.

[4] North American Free Trade Agreement, Arbitral Panel Established Pursuant to Article 2008, *In the Matter of Tariffs Applied by Canada to Certain U.S.-Origin Agricultural Products* (Secretariat File No. CDA-95-2008-01), *Final Report of the Panel*, Dec. 2, 1996, para. 16.

[5] NAFTA Chapter Twenty contains provisions addressing the "settlement of all disputes ... regarding the interpretation or application" of the Agreement itself, except for the antidumping and countervailing duty matters separately provided for in Chapter Nineteen.

[6] The decision of the panel was unofficially published in *Inside NAFTA*, "Confidential Draft Shows NAFTA Win for Canada's Dairy, Poultry Farmers," Vol. 3, No. 15, July 24, 1996, pp. 1, 19.

[7] North American Free Trade Agreement, Arbitral Panel Established Pursuant to Article 2008, *In the Matter of Tariffs Applied by Canada to Certain U.S.-Origin Agricultural Products* (Secretariat File No. CDA-95-2008-01), *Final Report of the Panel,* Dec. 2, 1996, para. 9.

[8] USTR, "Joint Statement of the Acting U.S. Trade Representative and the Secretary of Agriculture Regarding Release of the NAFTA Panel Report on Canadian Agricultural Tariffs," press release 96-93, Dec. 2, 1996.

[9] North American Free Trade Agreement, Arbitral Panel Established Pursuant to Article 2008, *In the Matter of Tariffs Applied by Canada to Certain U.S.-Origin Agricultural Products* (Secretariat File No. CDA-95-2008-01), *First Submission of the United States,* Jan. 22, 1996, para. 15.

[10] USTR, "U.S. Requests NAFTA Panel to Examine Canadian Agricultural Tariffs," press release 95-49, July 14, 1995.

[11] North American Free Trade Agreement, Arbitral Panel Established Pursuant to Article 2008, *In the Matter of Tariffs Applied by Canada to Certain U.S.-Origin Agricultural Products* (Secretariat File No. CDA-95-2008-01), *Final Report of the Panel,* Dec. 2, 1996, para. 55.

[12] Ibid., para. 127.

[13] Ibid., para. 199.

[14] Ibid., para. 209.

[15] USTR, "Joint Statement of the Acting U.S. Trade Representative and the Secretary of Agriculture Regarding Release of the NAFTA Panel Report on Canadian Agricultural Tariffs," press release 96-93, Dec. 2, 1996. The Canadian reaction to the panel decision is presented in Department of Foreign Affairs and International Trade, "Ministers Welcome NAFTA Panel Decision," press release No. 229, Dec. 2, 1996.

[16] For background on the bilateral lumber issue, particularly 1995 developments leading up to the bilateral agreement, table 5-1 and see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 47-8.

[17] Office of the United States Trade Representative, "Statement of Ambassador Kantor on Finalizing the Softwood Lumber Agreement," press release 96-35, Apr. 2, 1996. Canadian Department of Foreign Affairs and International Trade, "Agreement on Softwood Exports Preserves U.S. Market Access for Five Years, Eggleton Says," press release No. 56, Apr. 2, 1996.

[18] Canadian Department of Foreign Affairs and International Trade, "Minister Eggleton Announces Softwood Lumber Plan," press release No. 157, Sept. 10, 1996.

[19] Canadian lumber producers exceeded their quotas for exports to the United States during the third quarter. U.S. Department of State telegram, message reference no. 5051, "Summary of Canadian Economic and EST Developments, October 18 - November 13, 1996," prepared by U.S. Embassy, Ottawa, Nov. 15, 1996.

[20] *Globe and Mail*, "Lumber prices slip, trading slows to a crawl." June 13, 1996, p. B2; *Journal of Commerce*, "Turmoil hits lumber trade," June 24, 1996.

[21] USTR, "Statement of Ambassador Kantor on Finalizing the Softwood Lumber Agreement," press release 96-35, Apr. 2, 1996, press release 96-35, Apr. 2, 1996.

[22] The futures price for lumber on Apr. 1, 1996, the effective start date of the Agreement, was $361 per thousand board feet (mbf), peaking at $487 per mbf on Nov. 12, 1996. On Dec. 31, 1996, the futures price was $424 per mbf. Source: Chicago Mercantile Exchange.

[23] National Association of Home Builders, Housing News, Nov. 19, 1996.

[24] The Coalition for Fair Lumber Imports is the lobbying arm representing the majority of the domestic lumber industry on this issue.

[25] Ragosta, John, "Moderation of Market Volatility," Dewey Ballantine Nov. 22, 1996 Memorandum.

[26] *Washington Post*, "Builders Hit Lumber Pact With Canada," Nov. 23, 1996, p. E16.

[27] U.S. exports of logs from Federal and State lands west of the 100th meridian are prohibited, while Canadian exports of logs from Provincial and Federal lands must be deemed "surplus to domestic needs" and then are subject to a 100 percent export tax.

[28] *Globe and Mail*, "U.S. Lumber Producers See Trade Pact as Interim," Dec. 13, 1996, p. B5.

[29] See Appendix 6.B.1 to Annex 300-B to the NAFTA.

[30] U.S. Department of State telegram, message reference no.1087, "Labor Unrest at Large Montreal Apparel Producer Linked to U.S. Trade Concerns," prepared by American Consulate, Montreal, June 7, 1996.

[31] For more details, see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 39-42.

[32] Transatlantic Business Dialogue, *Progress Report*, Brussels, May 23, 1996.

[33] U.S. Department of State telegram, "Automobile Environment and Safety Standards: Toward Agreement on Incorporating the U.S. in UN/ECE WP 29," message reference No. 9332, prepared by U.S. Mission to the EU, Brussels, Oct. 28, 1996.

[34] Transatlantic Business Dialogue, *Chicago Declaration*, Nov. 9, 1996.

[35] "New Transatlantic Agenda, Senior Level Group Report to the U.S.-EU Summit," Dec. 16, 1996.

[36] All products subject to electromagnetic compatibility requirements.

[37] Matt Breitfelder, "The Transatlantic Business Dialogue: Chicago Conference Exceeds Expectations and Confirms the TABD as a Major Force for a More Open Transatlantic Market," *Business America*, Nov. 1996, pp. 22-23.

[38] U.S. Department of State, "Fact Sheet: Mutual Recognition Agreements Gained Through NTA," Dec. 15, 1996.

[39] U.S. Department of State telegram, "Mutual Recognition Agreements - Let's Move the Process Forward," message reference No. 155757, prepared by U.S. Department of State, Washington, July 26, 1996.

[40] U.S. Department of State telegram, "Recent EC Comments on US-EU Negotiations on Mutual Recognition Agreements on Conformity Assessment," message reference No. 3586, prepared by U.S. Mission to the EU, Brussels, Apr. 11, 1996; U.S. Department of State telegram, "Mutual Recognition Agreements - Let's Move the Process Forward," message reference No. 155757, prepared by U.S. Department of State, Washington, DC, July 26, 1996; and U.S. Department of State telegram, "Mutual Recognition Agreements: Austrian Views," message reference No. 4824, prepared by U.S. Embassy, Vienna, Aug. 2, 1996.

[41] U.S. Department of Commerce telegram, "Chicago Transatlantic Business Dialogue Conference," message reference No. 7493, prepared by U.S. Department of Commerce, Washington, DC, Nov. 21, 1996. Negotiators were unable to meet the Jan. 31, 1997 deadline but hoped to conclude the package of MRAs by the semi-annual U.S.-EU summit at the end of May.

[42] U.S. Department of State telegram, "US/EU Mutual Recognition Agreements - USG GMP Proposal Demarche," prepared by U.S. Department of State, Washington, DC, Oct. 20, 1996.

[43] "US, EU Closer to Pharmaceuticals MRA," *Washington Trade Daily*, Nov. 13, 1996, p. 2.

[44] For information on the content of the agreement, see, for example, U.S. Department of Commerce telegram, "Chicago Transatlantic Business Dialogue Conference," message reference No. 07493, prepared by U.S. Department of Commerce, Washington, DC, Nov. 21, 1996.

[45] European Commission Delegation, Office of Press and Public Affairs, "The European Union and the United States Initial an Agreement on Customs Cooperation and Mutual Assistance in Customs Matters," *European Union News*, Nov. 7, 1996.

[46] Agreement Between the European Community and the United States of America on Customs Cooperation and Mutual Assistance in Customs Matters, Nov. 7, 1996.

[47] For more details, see table 5-1 and USITC, *OTAP, 1990*, USITC publication 2403, p. 101; and USITC, *OTAP, 1989*, USITC publication 2317, p. 93.

[48] The research was conducted by the United Nations Codex Alimentarius Commission and a November 1995 international scientific conference sponsored by the EU Commission.

[49] USDA, "Statement by Secretary Glickman on the U.S. Request for Consultations Under the World Trade Organization About the European Union's Hormone Ban," press release 0040.96, Jan. 26, 1996.

[50] See, for example, U.S. Department of State telegram, "Hormone Ban - The European Parliament and the Council of Ministers Insist on Maintaining EU Restrictions," message reference No. 612, prepared by U.S. Mission to the EU, Brussels, Jan. 24, 1996; and U.S. Department of State telegram, "UK Government Criticized Over Hormone Stance," message reference No. 2111, prepared by U.S. Embassy, London, Feb. 21, 1996.

[51] U.S. Department of State telegram, "Hormone Ban - The European Parliament and the Council of Ministers Insist on Maintaining EU Restrictions," message reference No. 612, prepared by U.S. Mission to the EU, Brussels, Jan. 24, 1996.

[52] USTR, "WTO Panel to Review EU Hormone Directive," press release 96-43, May 20, 1996.

[53] For details, see 61 F.R. 33149-33150.

[54] Ibid.

[55] U.S. Department of State telegram, "WTO Dispute Settlement Consultations on Section 301 Beef Hormones Retaliation," message reference No. 3695, prepared by U.S. Mission, Geneva, May 24, 1996; and U.S. Department of State telegram, "Instructions for WTO DSB Meeting of July 15, 1996," message reference No. 145857, prepared by U.S. Department of State, Washington, DC, July 13, 1996.

[56] Government of Canada, Department of Foreign Affairs and International Trade, "Canada Seeks WTO Panel on Beef Growth Hormones," press release No. 170, Sept. 20, 1996.

[57] For more details, see table 5-1 and USITC, *The Year in Trade: OTAP, 1995*, USITC publication

2971, pp. 50-51; and USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 75-76.

[58] *Council Regulation No. 404/93 on the Common Organization of the Market in Bananas, Official Journal of the European Communities (OJ)* No. L 47 (Feb. 25, 1993), pp. 1-11.

[59] For more details, see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 50-51; USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 75-76; and U.S. Department of State telegram, "WTO Banana Consultations—March 14, 1996," message reference No. 56143, prepared by USTR, Washington, DC, Mar. 20, 1996.

[60] For more details, see "Request for Consultations on EU Banana Regime," reprinted in Inside Washington Publications, *Inside U.S. Trade*, Feb. 9, 1996, p. 22; or WTO Internet site.

[61] For more details, see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 50-51; and USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 75-76.

[62] U.S. Department of State telegram, "WTO Dispute Settlement Body Meeting 24 April 1996: Instructions," message reference No. 85603, prepared by USTR, Washington, DC, Apr. 25, 1996.

[63] The Lomé Convention is a trade and aid pact between the EU and the ACP countries. The banana protocol, part of the Lomé Convention, provides special trade preferences to ACP banana producers.

[64] U.S. Department of State telegram, "WTO Banana Consultations—March 14, 1996," message reference No. 56143, prepared by USTR, Washington, DC, Mar. 20, 1996.

[65] For more information on the panel's findings, see GATT, "Panel Report on EC Banana Import Regime Presented," *Focus*, No. 108, June 1994, p. 5.

[66] U.S. Department of State telegram, "Guidance on WTO Interim Report on EU Banana Regime," message reference No. 65846, prepared by U.S. Department of State, Washington, Apr. 9, 1997. An interim panel report issued March 18, 1997, found that the EU banana import regime violates WTO rules.

[67] USTR, "USTR Announces Results of Section 301 Investigations of the Banana Regimes of Costa Rica and Colombia," press release 96-2, Jan. 10, 1996; and U.S. Department of State telegram, "Results of Banana Section 301," message reference No. 4772, prepared by USTR, Washington, DC, Jan. 17, 1996.

[68] See for example, U.S. Department of State telegram, "CARICOM Foreign Ministers Meeting, May 13-14," message reference No. 3066, prepared by U.S. Embassy, Kingston, Jamaica, June 10, 1996; and Canute James, "Caribbean Banana Producers Accuse US of Trying to Squash Their Economies," *The Journal of Commerce*, Oct. 18, 1996.

[69] See for example, U.S. Department of State telegram, "Bananas: U.S. Position on Caribbean Status at WTO Panel," message reference No. 139018, prepared by USTR, Washington, DC, July 4, 1996; USTR, "Banana Alternatives Summary."

[70] WTO, "Panel to examine EC banana regime," *WTO Focus*, No. 11, June-July 1996, p. 5.

[71] For more information on this act, see ch. 6 of this report.

[72] European Commission Delegation, Office of Press and Public Affairs, "European Commission President Jacques Santer Underlines EU's Deep Concern with Helms-Burton Legislation to President Bill Clinton," *European Union News*, July 12, 1996.

[73] European Commission Delegation, Office of Press and Public Affairs, "EU Council of Ministers Spells Out Retaliatory Measures," *European Union News*, July 15, 1996; and European Commission Delegation, Office of Press and Public Affairs, "EU Adopts Regulation in Defense Against Helms-Burton Act," *European Union News*, Oct. 29, 1996.

[74] For more information, see the section on Cuba in ch. 6 of this report.

[75] For more information, see U.S. Department of State telegram, "1997 Trade Act Report - European Union," message reference No. 010479, prepared by U. S. Mission to the EU, Brussels, Dec. 11, 1997.

[76] U.S. Department of State telegram, "Modest Results in December Agriculture Council," message reference No. 010822, prepared by U.S. Mission to the EU, Brussels, Dec. 26, 1996. The Apr. 1 deadline was not met.

[77] European Commission Delegation, Office of Press and Public Affairs, "The European Commission Has Decided to Authorize Genetically Modified Maize in the Light of Available Scientific Advice," *European Union News*, Dec. 18, 1996.

[78] For more information, see U.S. Department of State telegram, "1997 Trade Act Report - European Union," message reference No. 10479, prepared by U. S. Mission to the EU, Brussels, Dec. 11, 1997.

[79] For more information on the ITA, see ch. 2 of this report.

[80] The 1991 agreement replaced a bilateral agreement reached in 1986 which was intended to end dumping of Japanese semiconductors in the United States and third markets and to increase foreign market access in Japan. For background information on the 1986 U.S. Japan Semiconductor Arrangement, see USITC, *The Year in Trade: OTAP*, 38th Report, 1986, USITC publication 1995, pp. 4-26 and 4-27.

[81] Some analysts noted that the increase in U.S. sales could be attributed to the decline in the value of the dollar, to increases in the quality of U.S. semiconductors, and to an increase in demand for high-value U.S.-made microprocessors.

[82] For background information on the 1991 semiconductor agreement, see USITC, *The Year in Trade*: *OTAP*, 1991, USITC publication 2554, p. 107. Japan consistently criticized the 1986 agreement as an example of managed trade and vowed not to enter into an agreement containing specific market share provisions. Japan was particularly critical of the requirement in the 1991 agreement that Japanese semiconductor producers maintain and make available within 14 days, if needed, pricing and

cost data in the format used in deciding anti-dumping cases.

[83] On Dec. 20, 1996, USTR announced that the first quarter 1996 market share was revised downward from 30.6 percent to 26.9 percent "as a result of erroneous data provided by the Japanese government on the overall size of the Japanese market for that period." USTR, "Foreign Market Share for Semiconductors Falls in First Half of 1996," press release 96-98, Dec. 20, 1996. U.S. industry representatives indicated that earlier knowledge of the error might have changed their negotiating strategy.

[84] Also on June 11, 100 members of the U.S. House of Representatives wrote a letter to President Clinton urging him to renew the U.S.-Japan Semiconductor Arrangement. The letter noted the importance of the Government of Japan to the success of the agreement in monitoring and reporting foreign market shares.

[85] USTR, "U.S. and Japan Reach Semiconductor Accord," press release 96-95, Aug. 2, 1996.

[86] "Joint Statement by the Government of Japan and the Government of the United States Concerning Semiconductors," Vancouver, Canada, Aug. 2, 1996.

[87] Ibid., p. 2.

[88] On Dec. 19, 1996, Semiconductor Industry Association (SIA) and Electronics Industry Association of Japan (EIAJ) concluded an agreement to collect quarterly cost and price data from January 1, 1997 through July 31, 1999 in the same format that was used under the 1991 semiconductor agreement. The relevant collected data for the most recent four quarters would be submitted to relevant antidumping authorities within 14 days after a questionnaire is received. Additional data would be submitted to antidumping authorities in accordance with normal antidumping procedures. The agreement also included a statement supported by Japan indicating that the three U.S. petitioners for the suspended 1991 erasable programmable read-only memory (EPROM) antidumping investigation would inform the U.S. Department of Commerce that they support revocation of the EPROM Suspension Agreement and termination of the EPROM antidumping investigation. The United States supported a statement indicating that the two semiconductor industry associations recognize it "may be desirable to extend these measures to third country suppliers and expect this subject to be dealt with in further meetings of the Global Government Forum." "EIAJ/SIA Statement Regarding Effective and Expeditious Antidumping Measures," and "Memorandum of Understanding Between EIAJ and SIA Regarding Semiconductors," Dec. 19, 1996.

[89] "Agreement Between EIAJ and SIA on International Cooperation Regarding Semiconductors," Vancouver, Canada, Aug. 2, 1996.

[90] "Joint Statement," p. 2.

[91] "Agreement Between EIAJ and SIA on International Cooperation Regarding Semiconductors," Vancouver, Canada, Aug. 2, 1996.

[92] Letters between Ira Shapiro, USTR Senior Counsel and Hisashi Hosokawa, Vice Minister for International Affairs, MITI, Sept. 18, 1996.

[93] The EU had objected to the 1991 agreement between the United States and Japan, saying that it had disadvantaged their industry and favored the creation of a multilateral forum such as the GGF instead. With regard to joining the new agreement, the EU indicated that while it might be willing to lower tariffs, it was particularly concerned about the preconditions included for joining the Semiconductor Council (i.e. the elimination of tariffs).

[94] The first GGF meeting was held in Tokyo on December 16 including participants from the United States, Japan, the EU and Korea.

[95] Ibid., pp. 2-3.

[96] "Measures by the Government of Japan and the Government of the United States of America Regarding Autos and Parts," Aug. 23, 1995 and USIA, "Joint Statement by Ryutaro Hashimoto, Minister of International Trade and Industry of Japan and Michael Kantor, United States Trade Representative Regarding Autos and Auto Parts," press release, June 28, 1995. For additional background information regarding the agreement, see USITC, *The Year in Trade: OTAP*, 1995, USITC publication 2971, pp. 53-54 and 68.

[97] Ibid.

[98] The Interagency Enforcement Team is co-chaired by the U.S. Department of Commerce and the Office of the U.S. Trade Representative. USTR, "USTR and Department of Commerce Announce Unprecedented Monitoring Mechanism for U.S.-Japan Automotive Agreement," press release 95-63, Sept. 6, 1995.

[99] Submission of the American Automobile Manufacturers Association to the USITC, Apr. 10, 1996, p. 2.

[100] USIA, "Joint Statement by Ryotaro Hashimoto, Minister of International Trade and Industry of Japan and Michael Kantor, United States Trade Representative Regarding Autos and Auto Parts," press release, June 28, 1995.

[101] The first semi-annual report was issued on Apr. 12, 1996.

[102] U.S. Department of Commerce and the Office of the U.S. Trade Representative, *Report to President William Jefferson Clinton of the Interagency Enforcement Team Regarding the U.S.-Japan Agreement on Autos and Auto Parts*, Oct. 21, 1996, p. 1.

[103] American Automobile Manufacturers Association, "New Outlets Are Far From Goal," *AAMA Report*, Nov. 1996, p. 1.

[104] See, for example, American Automobile Manufacturers Association, "Automakers' Japan Sales Rise in September, but Only One New Dealer Outlet Added," press release, Oct. 18, 1996.

[105] U.S. Department of Commerce and the Office of the U.S. Trade Representative, *Report to President William Jefferson Clinton of the Interagency Enforcement Team Regarding the U.S.-Japan Agreement on Autos and Auto Parts*, Oct. 21, 1996, p. 27.

[106] "Critical parts" are those parts which are considered essential for vehicle safety and emissions. Ibid., p. 42.

[107] Ibid., p. 45.

[108] Ibid., p. 44.

[109] Ibid., p. 33.

[110] USTR, "Ambassador Barshefsky Settles Insurance Dispute with Japan," press release 96-97, Dec. 15, 1996, pp. 1-2.

[111] USTR, Senior USTR Official, background briefing, Dec. 4, 1996.

[112] U.S. embassy statistics reported in Michiyo Nakamoto, "U.S. and Japan in a Tangle on Insurance," *Financial Times*, Dec. 6, 1996, p. 4.

[113] Ibid.

[114] For background information on the 1994 agreement see, USITC, *The Year in Trade: OTAP*, 1994, USITC publication 2894, pp. 82-83.

[115] Under the current rating system, drivers were divided into three groups based solely on age and different premium rates were applied to each group.

[116] "Measures by the Government of the United States and the Government of Japan Regarding Insurance," Oct. 11, 1994, p. 11.

[117] For background information on the agreement, see USITC, *OTAP*, 46th Report, 1994, USITC publication 2894, p. 82.

[118] Michiyo Nakamoto, "U.S. and Japan in a Tangle on Insurance," *Financial Times*, Dec. 6, 1996, p. 4.

[119] See, for example, Testimony of Ambassador Ira Shapiro, USTR, before House Ways and Means Subcommittee, Mar. 28, 1996.

[120] John Maggs, "Japan's Move to Cancel Insurance Talks Dismays U.S.," *Journal of Commerce*, Mar. 29, 1996, A3.

[121] *Japan Economic Institute*, Apr. 12, 1996, pp. 9-10.

[122] Kyodo, "Japan: Kajiyama Comments on Hashimoto's Letter to Clinton on Trade," *Foreign Broadcast Information Service (FBIS)*, Aug. 6, 1996.

[123] USTR, "Japan and the U.S. Reach Interim Understanding in Insurance Talks," press release 96-76, Oct. 1, 1996.

[124] "Supplemental Measures by the Government of the United States and the Government of Japan Regarding Insurance," Dec. 24, 1996, Washington, DC.

[125] USTR, "Identification of Trade Expansion Priorities Pursuant to Executive Order 12901," Oct. 1, 1996.

[126] *Japan Economic Institute Report*, Nov. 22, 1996, pp. 7-8.

[127] "U.S. and Japan in a Tangle on Insurance," *Financial Times*, Dec. 6, 1996, pp. 4-5.

[128] Robert Steiner, "Japan Offers to Drop Some Regulations on Insurance to Settle Dispute With U.S.," *New York Times*, Dec. 12, 1996, p. A2.

[129] USTR, "Ambassador Barshefsky Settles Insurance Dispute with Japan," press release 96-97, Dec. 15, 1996, pp. 1-2.

[130] USTR, *1996 National Trade Estimates Report on Foreign Trade Barriers*, p. 208.

[131] Dewey Ballentine for Eastman Kodak Company, *Privatizing Protection: Japanese Market Barriers in Consumer Photographic Film and Consumer Photographic Paper*, Memorandum in Support of a Petition Filed Pursuant to Section 301 of the Trade Act of 1974, as amended, May 1995, pp. I and ii.

[132] USTR, "USTR Kantor Initiates Investigation of Japanese Market Barriers for Consumer Photogrpahic Film and Paper," press release 94-47, July 3, 1995.

[133] 60 F.R. July 7, 1995. For a summary of the 301 case, see table 5-1.

[134] USTR, *National Trade Estimates Report on Foreign Trade Barriers*, p. 208 and *FBIS*, "Japan: Article Discusses Film Dispute, U.S. WTO Action," Sankei Shimbun, June 17, 1996, p. 3 and *FBIS*, "Japan: Tsukahara Welcomes U.S. Decision to Take Film Case to WTO," June 14, 1996.

[135] "Kodak Continues to Call for Government Negotiations; Japan FTC Survey Seen as Possible Delaying Tactic," Eastman Kodak Company press release, Feb. 21, 1996.

[136] USTR, *National Trade Estimates Report on Foreign Trade Barriers*, p. 208, "Japan: FTC to Investigate Photo Film, Paper Markets," *Kyodo*, Feb. 21, 1996, "Japan to Conduct Study of Trade Practices in Film Market," *New York Times*, Feb. 22, 1996, p. D6. Earlier in the year, the United States had indicated that it wanted to see progress in the film sector and three other areas by the time of the Clinton-Hashimoto summit in April.

[137] "Kodak Continues to Call for Government Negotiations; Japan FTC Survey Seen as Possible Delaying Tactic," Eastman Kodak Company press release, Feb. 21, 1996.

[138] "The Era of 'Bilateralism is Over'—Not," Speech by Ira Wolf, Director, Japan Relations and Vice President, Asia-Pacific Region, Eastman Kodak Company at Program on U.S.-Japan Relations, Harvard University, Oct. 17, 1996.

[139] USTR, "Acting USTR Charlene Barshefsky Announces Action on Film," press release 96-48, June 13, 1996 and GATT, "Restrictive Business Practices: Arrangements for Consultations," BISD 9S/29.

[140] "The Era of 'Bilateralism is Over'—Not," Speech by Ira Wolf, Director, Japan Relations and Vice President, Asia Pacific Region, Eastman Kodak Company at Program on U.S.-Japan Relations, Harvard University, Oct. 17, 1996.

[141] USTR, "Acting USTR Charlene Barshefsky Announces Action on Film," press release No. 96-48, June 13, 1996.

[142] USTR, "Consumer Photographic Materials in Japan," Fact Sheet, June 13, 1996.

[143] USTR, "Acting USTR Charlene Barshefsky Announces Action on Film," press release No. 96-48, June 13, 1996.

[144] Ibid.

[145] 61 F.R. 30929.

[146] "Kodak Submission May Prompt Full FTC Investigation of Film Sector," *Inside U.S. Trade*, June 21, 1996, p. 9.

[147] USTR, "U.S. to Request WTO Panels on Film and Large Scale Retail Store Law," press release No. 96-67, Aug. 12, 1996.

[148] Letter from Ambassador Booth Gardner to Ambassador Minoru Endo.

[149] FBIS, "Kodak Files Complaint with FTC Over Film Market," *Kyodo*, Aug. 7, 1996, p. 1.

[150] USTR, "U.S. to Request WTO Panels on Film and Large Scale Retail Store Law," press release No. 96-67, Aug. 12, 1996.

[151] "Japan Criticizes U.S. Appeal to WTO," *Journal of Commerce*, Aug. 14, 1996.

[152] USTR, "United States Requests WTO Panel—Separate GATS Case to be Expanded," press release No. 96-72, Sep. 30, 1996.

[153] During the same period of time when the U.S. was taking actions against Fuji in the U.S. market, Fuji asked the U.S. Department of Justice to take action against alleged antitrust actions (combining photofinishing and film sales) of Kodak in the United States market. *Washington Trade Daily*, Oct. 7, 1996, p. 3.

[154] USTR, "WTO to Launch Panel on Film Case," press release 96-86, Oct. 15, 1996; and WTO, "Overview of the State-of-Play of WTO Disputes," http://www.wto.org/wto/dispute/bulletin, htm, Dec. 20, 1996.

[155] USTR, "Statement by USTR-Designate Charlene Barshefsky," Press Release No. 97-12, Feb. 20, 1997. The first substantive meeting of the panel was scheduled for April 16-17, 1997 and the final report was tentatively scheduled for issuance on September 17, 1997.

[156] WTO, "Overview of the State-of-Play of WTO Disputes," http://www.wto.org/wto/dispute/bulletin.htm, Dec. 20, 1996.

[157] Frances Williams, "Panel to Probe U.S. Photofilm Complaint," *Financial Times*, Oct. 17, 1996. "Europeans Join U.S. Complaint in Kodak-Fuji Case; WTO Agrees to Name Panel," *Japan Digest*, Oct. 17, 1996.

[158] For background information on the 1992 agreement, see USITC, *The Year in Trade: OTAP*, 1992, USITC publication 2640, p. 62.

[159] U.S. Department of State telegram, "Paper: Preparation for 1996 Paper Review," message reference No. 6326, prepared by U.S. Embassy, Tokyo, July 9, 1996.

[160] U.S. Department of State telegram, "April 10 ACCJ Meeting with JPA," message reference No. 540, prepared by U.S. Embassy, Tokyo, June 14, 1996.

[161] USTR, "Identification of Trade Expansion Priorities Pursuant to Executive Order 12901," Oct. 1, 1996. During a March 6-7 semiannual meeting to review the status of the agreement, little progress was reportedly made with regard to extending the agreement.

[162] For background information, see *USITC, The Year in Trade: OTAP*, 1993, USITC publication 2769, p. 95.

[163] USTR, *1996 National Trade Estimate Report on Foreign Trade Barriers*, pp. 184-185.

[164] USTR, "Annual Report on Discrimination in Foreign Government Procurement," April 30, 1996, p. 6.

[165] "Commerce Memo on Supercomputer Dumping Margin," from Paul L. Joffe, Acting Assistant Secretary for Import Administration, U.S. Department of Commerce to Dr. Neal Lane, National Science Foundation, May 20, 1996, printed in *Inside U.S. Trade*, Sept. 13, 1996, p. 1, 19-22.

[166] "Japan Plea for Supercomputer Sale to U.S.," *Financial Times*, May 21, 1996, p. 8.

[167] John Markoff, "U.S. Computer Bid Won By Japanese," *New York Times*, May 18, 1996, p. A1.

[168] U.S. Department of State telegram, No. 005986, "Supercomputers: Chief Cabinet Secretary Voices Concern about Obey Amendment," prepared by U.S. Embassy, Tokyo, June 28, 1996.

[169] 61 F.R. 43527-43530.

[170] 61 F.R. 43527-43530.

[171] 61 F.R. 50331 and USITC, "ITC Votes to Continue Case on Vector Supercomputers from Japan," Inv. No. 731-TA-650, press release ER 96-040, Sept. 11, 1996.

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[173] "Commerce Memo on Supercomputer Dumping Margin," from Paul L. Joffe, Acting Assistant Secretary for Import Administration, U.S. Department of Commerce to Dr. Neal Lane, National Science Foundation, May 20, 1996 printed in *Inside U.S. Trade*, Sept. 13, 1996, p. 1, 19-22.

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[175] John Markoff, "A New Twist in Computer Deal Appears," Jan. 7, 1997, p. D1 and *Japan Economic Institute Report*, Oct. 25, 1996, p. 5.

[176] On February 25, 1997, the Court of International Trade ordered the Department of Commerce to delay its preliminary ruling until March 28, 1997.

[177] Economic Strategy Institute, *Turbulence Over the Pacific*, March 1996, Submission to U.S. International Trade Commission hearing in conjunction with Investigation No. 332-365, "U.S. Interests in APEC Trade Liberalization," held Apr., 2, 1996.

[178] Arthur J. Alexander, "Civil Aviation in the United States and Japan: Colliding Cultures," *Japan Economic Institute Report*, Sept. 2, 1994.

[179] USTR, *1996 National Trade Estimates Report on Foreign Trade Barriers*, p. 202.

[180] Submission of United Air Lines, Inc., for hearing in conjunction with USITC investigation No. 332-365, "U.S. Interests in APEC Trade Liberalization," held Apr., 2, 1996.

[181] Submission of Federal Express Corporation, for hearing in conjunction with USITC investigation No. 332-365, "U.S. Interests in APEC Trade Liberalization," held Apr., 2, 1996.

[182] USTR, *1996 National Trade Estimate Report on Foreign Trade Barriers*, p. 202.

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[184] U.S. Department of Transportation, "U.S., Japan Reach Agreement on Air Cargo Service," press release 61-96, Mar. 27, 1996. The agreement was signed on Apr. 16, 1996 in Washington, DC.

[185] U.S. Department of Transportation, "DOT Proposes Sanctions in Response to Japan's Refusal to Approve FedEx Service," press release 167-96, July 16, 1996.

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[188] "Tokyo, Washington Reach Temporary Truce in Aviation Talks," *FBIS*, May 2, 1996 and "U.S. and Japan Agree Truce on Aviation Rights," *Financial Times*, May 2, 1996, p. 4.

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[192] U.S. Department of Transportation, "U.S., Japan Aviation Talks End Without Agreement," press release No. 186-96, Aug. 16, 1996.

[193] "U.S.-Japan 'Open Skies' Talks Proposed," *Wall Street Journal*, Oct. 8, 1996, p. A2.

[194] For more detail on the peso crisis, see USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, p. 86.

[195] Secretary of the Treasury*, Report to Congress,* Sept., 1996, p. 8.

[196] Mexico also prepaid a portion of the principal extended by the IMF.

[197] For details on Mexico's "peso crisis," and emergency assistance extended to Mexico, see USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 85-87.

[198] "Mexican Anti-NAFTA Drive Takes Shape", *El Financiero,* Jan. 6-12, 1997, p. 1. For details on U.S. import relief actions affecting Mexican broomcorn brooms, see chapter 5 of this report; for a discussion of Mexico's response, see the NAFTA section of Ch. 3. For a discussion of developments on the trucking issue, see the NAFTA section of Ch. 3.

[199] "Mexican Anti-NAFTA Drive Takes Shape", *El Financiero,* Jan. 6-12, 1997, p. 3.

[200] The Confederacion de Asociaciones Agricolas del Estado (C.A.A.D.E.S.) and Confederacion Nacional de Productores de Hortalizas (C.N.P.H.) signed the agreement on behalf of the producers and exporters of Mexican tomatoes.

[201] For the procedurual history of the Commerce investigation, Commerce's notice of suspension of its investigation, and the text of the suspension agreement, see 61 F.R. 36618. For the procedural history of the USITC investigation (inv. No. 731-TA-747) and USITC's notice suspending its investigation, see the *Federal Register* of Nov. 13, 1996 (61 F.R. 58217).

[202] See ch. 5 of this report for a brief legal description.

[203] USITC, *Fresh Winter Tomatoes, Investigation No. TA-201*-64, USITC publication 2881, p. I-4.

[204] H.R. 2795 and S. 1462, introduced in Dec. 1995.

[205] "Farm Groups Oppose Tomato TRQ Proposal," *North American Free Trade and Investment Reporter*, Dec. 22, 1995 and "Mexico, Canada and U.S. Groups Oppose Safeguards Legislation," *North American Free Trade & Investment Reporter*, Mar, 5, 1996.

[206] Chapter 20 of the NAFTA covers institutional arrangements and dispute settlement procedures.

[207] Embassy of Mexico, Washington, DC, press release, untitled, Jan. 18, 1996.

[208] Investigations filed under section 202 of the Trade Act of 1974 are commonly referred to as escape clause investigations.

[209] The petition was filed by the Florida Fruit and Vegetable Association, Orlando, FL; the Florida Bell Pepper Growers Exchange, Inc., Orlando, FL; the Florida Commissioner of Agriculture, Tallahassee, Fl; the Ad Hoc Group of Florida Tomato Growers and Packers; and individual Florida Bell pepper growers. Subsequently, several organizations and individual growers were added as co-petitioners. For a complete listing of these groups and/or firms, see *Fresh Tomatoes and Bell Peppers*, Inv. No. TA-201-66, USITC Pub. No. 2985, Aug. 1996, p. II-3, n. 1.

[210] *Fresh Tomatoes and Bell Peppers*, Inv. No. TA-201-66, USITC Pub. No. 2985, Aug. 1996, p. I-3.

[211] *Fresh Tomatoes from Mexico*, Inv. No. 731-TA-747 (Preliminary), USITC Pub. 2967, May 1996, p. 1.

[212] WTO, "Overview of State-of-play of WTO Disputes," WTO website, http://www.wto.org/dispute/bulletin.htm, Dec. 20, 1996.

[213] USITC, "Fresh Tomatoes from Mexico", *Suspension of Investigation,* Nov. 5, 1996.

[214] The methodology of calculating the reference price is set out in the Appendix of the agreement. Reference prices are based on the lowest level of import prices from Mexico for a recent period in which there was no price suppression.

[215] "Commerce Department and Mexican Tomato Growers Sign Agreement," United States Department of Commerce, *United States Department of Commerce News,* Oct. 28, 1996.

[216] Press release of the Florida Fruit and Vegetables Association on Oct. 11, 1996, immediately after Commerce announced the accord.

[217] 61 F.R. 56808.

[218] U.S. economic and trade sanctions, including the embargo on yellowfin tuna from Mexico, are discussed in more detail in ch. 6.

[219] For more detail, see the discussion of the fund embargo in Ch. 6 and USITC, *Operation of the Trade Agreements Program, 1990,* USITC publication 2403, p. 136, and USITC, *The Year in Trade: OTAP, 1991*, USITC publication 2554, p. 118.

[220] The 1972 MMPA requires the U.S. Government to embargo imports of tuna products caught by foreign fishing boats that do not meet the standard set under the act in protecting dolphins caught in tuna fishing.

[221] The GATT panel suggested that countries should advance environmental improvements by seeking amendments to pertinent GATT rules or waivers from certain GATT obligations, not by imposing unilateral trade sanctions against perceived environmental offenders.

[222] For more detail, see USITC, *Operation of the Trade Agreements Program, 1990,* USITC publication 2403, p. 136, USITC, and *The Year in Trade: OTAP, 1991*, USITC publication 2554, p. 38 and p. 118, and Magda Kornis, "Trade Accords and Environmental Considerations: The Case of Mexican Tuna," *International Economic Review,* USITC, Nov. 1991.

[223] See also Ted Wilson, "Trade Issues of the 1990s—Part I" *International Economic Review,* USITC, Nov. 1994, p. 20.

[224] USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, p. 16.

[225] The bill is also called the "International Dolphin Conservation Program Act."

[226] The Panama Declaration of Oct. 1995—an international agreement to protect dolphins and conserve fishery resources in the Eastern Tropical Pacific Ocean—was endorsed by the United States. The agreement would create binding measures to be followed by fishing vessels in the Eastern Tropical Pacific, including observer requirements, measures to minimize bycatch, and measures to protect specific stocks of dolphin.

[227] Testimony at congressional hearings of David A, Colson, Deputy Assistant Secretary at the Bureau for Oceans and International Environmental and Scientific Affairs at the Commerce Department, in which he urges the rapid passage of both bills and conformity with the standards set in the Inter-American Tropical Tuna Commission (IATTC).

[228] U.S. Department of State telegrams "Invitation to IATTC Intergovernmental Meeting," message reference No. 13100, prepared by U.S. Embassy, Mexico City, Nov. 15, 1996, and Fisheries: Mexico Suspends Participation in La Jolla Agreement," message reference No. 13516, prepared by U.S. Embassy, Mexico City, Nov. 23, 1996.

[229] U.S. Department of State telegrams "Invitation to IATTC Intergovernmental Meeting," message reference No. 13100, prepared by U.S. Embassy, Mexico City, Nov. 15, 1996, and Fisheries: Mexico Suspends Participation in La Jolla Agreement," message reference No. 13516, prepared by U.S. Embassy, Mexico City, Nov. 23, 1996.

[230] For information on the commitments China made in the 1992 bilateral IPR agreement and the steps it took to meet them, see USITC, *The Year in Trade: OTAP, 1992*, USITC publication 2640, pp. 67-68, USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 104-5, USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 96-97, and USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 57-59.

[231] For a chronology of the 301 case, see table 5-1. USTR, "USTR Announces Special 301 Decision," press release 94-38, June 30, 1994. The Special 301 provisions were added to the section 301 authority of the 1974 Trade Act by the Omnibus Trade and Competitiveness Act of 1988.

[232] 60 F.R. 1829-30.

[233] USTR, "USTR Mickey Kantor Orders 100 Percent Tariffs on More Than $1 billion of Chinese Imports Cites China's Failure to Protect U.S. Intellectual Property," press release 95-08, Feb. 4, 1995, and 60 F.R. 7230-31.

[234] USTR, "United States and China Reach Accord on Protection of Intellectual Property Rights, Market Access," press release 95-12, Feb. 26, 1995, and 60 F.R. 12582-83.

[235] "Trade in a New Era: Opportunities and Obstacles," Statement of Ambassador Charlene Barshefsky, Nov. 13, 1995, Hong Kong found at web site http://www.ustr.gov/speeches/barshefsky_1.html, Mar. 21, 1996.

[236] Michael Kantor, testimony before the Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs and the House International Relations Committee, Subcommittee on Asia and the Pacific and International Economic Policy and Trade, Mar. 7, 1996, found at web site http://www.ustr.gov/testimony/kantor_3.html, Mar. 21, 1996.

[237] "Statement from China's Ministry of Foreign Trade and Economic Cooperation Concerning Trade Sanctions on U.S. Goods, issued May 15, 1996," reprinted in Bureau of National Affairs, *International Trade Reporter*, May 22, 1996, pp. 857-858.

[238] USTR, "Statement by Ambassador Barshefsky," press release 96-53, June 17, 1996, found at web site http://www.ustr.gov/releases/1996/06/96-53.html, June 20, 1996, and USTR, "Chinese Implementation of the 1995 Enforcement Agreement," fact sheet accompanying press release 96-50, June 17, 1996, found at http://www.ustr.gov/releases/1996/06/96-53.fact.html.

[239] 61 F.R. 29455.

[240] Library of Congress, CRS, *Most-Favored-Nation Status of the People's Republic of China*, CRS Issue Brief IB92094, Updated June 28, 1996, pp. 1, 4.

[241] For more information about MFN renewal in 1993 and 1994, see USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 101-102, and USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 97-98.

[242] President Clinton, White House press conference, Washington, DC, May 26, 1994, *LEGI-SLATE,* Federal Information Systems Corp., No. 1073290.

[243] Library of Congress, CRS, *China-U.S. Trade Issues*, CRS Issue Brief IB91121, Updated November 27, 1996.

[244] USTR, "China Sanctioned with Triple Charges on Textile Transshipments," press release 96-69, Sept. 6, 1996. Other sanctions were imposed in July 1994 and May 1995, amounting to about $61 million in charges against China's quota allowances in 1994 and 1995. See 59 F.R. 35323-4 and 60 F.R. 21792-3.

[245] 61 F.R. 47892-3 and Commerce Department official, telephone conversation with USITC staff, Dec. 30, 1996.

[246] USTR, "China Sanctioned with Triple Charges on Textile Transshipments," press release 96-69, Sept. 6, 1996.

[247] Ibid.

[248] Joint Announcement by the China Ministry of Foreign Trade and Economic Cooperation and China General Administration of Customs, Nov. 10, 1996, unofficial translation reported in U.S. Department of State telegram, No. 043977, "Temporary Suspension of Chinese Imports of U.S. Agricultural Products," prepared by U.S. Embassy, Beijing, Nov. 22, 1996.

[249] USTR, "U.S.-China Textiles Agreement Extended to January 31, 1997," press release 96-100, Dec. 23, 1996. For additional information, see the discussion on textile and apparel developments in ch. 5.

[250] U.S. Department of State telegram, No. 045970, "China/Textiles: China Delays Retaliation by 30 Days; San Francisco for Dec. 19-21 Negotiations," prepared by U.S. Embassy, Beijing, Dec. 9, 1996.

[251] USTR, "U.S.-China Textiles Agreement Extended to January 31, 1997," press release 96-100, Dec. 23, 1996. On Jan. 9, 1997, China delayed its threatened retaliation to the end of the month. U.S. Department of State telegram, No. 001457, "China/Textiles: Chinese Retaliation Threat Postponed; Visa Letter, Hotel Rooms for U.S. Delegation," prepared by U.S. Embassy Beijing, Jan. 13, 1997. Negotiations continued in Beijing starting Jan. 28, 1997. U.S. Department of State telegram, No. 008668, "Textiles/China," prepared by U.S. Department of State, Washington, DC, Jan. 15, 1997. On Feb. 2, 1997, the United States and China reached agreement on a four-year textile pact that generally extended current quota arrangements in Chinese textiles and apparel exports to the United States, but reduced quotas in areas of repeated transshipment violations. The new agreement contains strong provisions on market access in China for U.S. textile producers, unlike previous agreements. USTR, "U.S. and China Reach Four-Year Textile Trade Agreement—U.S. Gains Market Access in China and Targets Areas of Transshipment Violations for Cutbacks," press release 97-07, Feb. 2, 1997.

[252] For more information on China's efforts to become a member of the GATT/WTO, see USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 106-7 and USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 94-96.

[253] Charlene Barshefsky, testimony before the House Ways and Means Committee, Subcommittee on Trade, Sept. 19, 1996, handout.

[254] U.S. Department of State telegram, No. 234652, "China WTO Talking Points," prepared by U.S. Department of State, Washington, DC, Nov. 13, 1996.

[255] For a description of the provisions of the market access agreement, see USITC, *The Year in Trade: OTAP, 1992*, USITC publication 2640, pp. 68-69.

[256] Kuo Wangdian, "China Calls Off 367 Tax Items in Import Control," *China Economic News*, vol. XVI, No. 28, July 24, 1995, p. 2.

[257] U.S. Department of State telegram, No. 058215, "China Goes Public on Break Off of IPR Talks," prepared by U.S. Embassy, Beijing, Dec. 1994; U.S. Department of State telegram, No. 056994, "China's GATT/WTO Accession: Press Coverage Picks Up," prepared by U.S. Embassy, Beijing, Dec. 1994; China, Ministry of Foreign Trade and Economic Cooperation, "The Economic and Trade Relations Between China and the U.S. in 1994," *Almanac of China's Foreign Economic Relations and Trade: 1995*, pp. 477-478; and USITC, *The Year in Trade: OTAP, 1994*, USITC publication 2894, p. 99.

[258] "Explanatory Note on Individual Actions Announced at the Osaka Meeting by the People's Republic of China," n.d.

[259] "Explanatory Note of the Annexes to the Draft Protocol of China's Accession to the WTO from the Chinese Delegation," July 1996.

[260] U.S. Department of State telegram, "Taiwan Passes the Integrated Circuit Layout Protection Law," message reference No. 4302, prepared by the American Institute in Taiwan, Taipei, July 20, 1995.

[261] U.S. Department of State telegram, "Economic Policy and Trade Practices: Taiwan," message reference No. 6483, prepared by the American Institute in Taiwan, Taipei, Nov. 15, 1995.

[262] USTR, "USTR Announces Two Decisions: Title VII and Special 301," Apr. 30, 1996.

[263] U.S. Department of State telegram "Status of Taiwan's IPR Action Plan: six months later," message reference No. 5227, prepared by the American Institute in Taiwan, Taipei, Nov. 6, 1996.

[264] U.S. Department of State telegram, "Taiwan: Special 301 out-of-cycle review," message reference No. 233701, prepared by the U.S. Department of State, Washington, DC, Nov. 9, 1996.

[265] U.S. Department of State telegram, "Taiwan's Special 301 Review," message reference No. 61632, prepared by the U.S. Department of State, Washington, DC, Mar. 27, 1996.

[266] U.S. Department of State telegram, "Taiwan Economic Minister Publicly Reiterates the Importance of IPR Protection," message reference No. 1758, Apr, 15, 1996.

[267] U.S. Department of State telegram, "September Informal U.S.-Taiwan IPR consultations," message reference No. 4618, prepared by the American Institute in Taiwan, Taipei, Sept. 26, 1996.

[268] U.S. Department of State telegram, "Taiwan: Special 301 out-of-cycle review," prepared by the U.S. Department of State, Washington, DC, Nov. 9, 1996,

[269] USTR, "Acting USTR Barshefsky Announces Results of Special 301 'Out-of-Cycle' reviews," Press Release No. 96-89, Nov. 12, 1996

[270] USTR, "Identification of Trade Expansion Priorities (Super 301) Pursuant to Executive Order 12901," Oct. 1, 1996.

[271] USTR, "Prepared Testimony of Ambassador Charlene Barshefsky before the House Ways and Means Committee, Subcommittee on Trade," Sept. 19, 1996.

[272] USTR, "USTR Announces New Trade Enforcement Actions," Press Release No. 96-75, Oct. 1, 1996 and U.S. Department of State telegram, "Import Climate: Regulation for Medical Devices," message reference No. 6040, prepared by the American Institute in Taiwan, Taipei, Dec. 26, 1996.

[273] The WTO superseded the GATT on Jan. 1, 1995. Taiwan applied for membership in 1990 as the "Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" under provisions of article XXXIII. By electing this application method, Taiwan sought to deflect political controversy over the question of sovereignty as China is also applying for WTO membership. The Republic of China was a founding member of the GATT in 1946, but left the organization in 1950 after the People's Republic of China was established. Taiwan held GATT observer status from 1965-71. Taiwan, Penghu, Kinmen, and Matsu are the four main islands under Taiwan's jurisdiction. After accession, Taiwan will formally be referred to as "Chinese Taipei."

[274] The process of accession to the WTO includes a series of multilateral and bilateral negotiations. A WTO accession working party is open to all members, gathers information about the applicant's trade regime, identifies changes that would make the applicant's trade rules WTO-consistent, and negotiates the terms of accession, including a timetable, for the applicant to meet those goals. At the same time, interested WTO members hold bilateral talks with the applicant on specific market access commitments and concessions on goods and services. The WTO Secretariat combines the results of all bilateral talks into schedules of commitments, one each for goods and services, which are annexed to a draft protocol of accession prepared by the working party. For more details on the WTO accession process, see U.S. Department of State telegram, "WTO Accession: Mechanics and Dynamics," message reference no. 122415, prepared by the U.S. Department of State, Washington, DC, June 13, 1996 and WTO "Accession to the World Trade Organization, Procedures for Negotiations under Article XII—Note by the Secretariat," WT/ACC/1, Mar. 25, 1995.

[275] U.S. Department of State, "Taiwan's Draft Tobacco and Alcohol Mange Law," message reference No. 149, prepared by the American Institute in Taiwan, Taipei, Jan. 10, 1997.

[276] USTR, "Prepared Testimony of Ambassador Charlene Barshefsky before the House Ways and Means Committee, Subcommittee on Trade," Sept. 19, 1996.

[277] U.S. Department of State telegram, "Title VII Input for Taiwan," message reference No. 1271, prepared by the American Institute in Taiwan, Taipei, Mar. 18, 1996.

[278] U.S. Department of State telegram, "Taiwan's Proposed Bid Protest Mechanism as Outlined in the Draft Procurement Law," message reference No. 5187, prepared by the American Institute in Taiwan, Taipei, Nov. 5, 1996 and U.S. Department of State telegram, "Liberalization of Public Procurement in Taiwan: Government Procurement Bulletin," message reference No. 574, prepared by the American Institute in Taiwan, Taipei, Feb. 5, 1996.

[279] U.S. Department of State telegram, "Taiwan's Ministry of Finance Proposes Tariff Reductions on 1,121 Imports," message reference No. 4241, prepared by the American Institute in Taiwan, Taipei, Sept. 6, 1996.

[280] U.S. Department of State telegram, "Taiwan's Rice Import Proposal," message reference No. 1790, prepared by the American Institute in Taiwan, Taipei, Apr. 16, 1996.

[281] U.S. Department of State telegram, "Taiwan's Tobacco and Wine Monopoly Increases Retail Prices and Profits on Alcohol and Tobacco," message reference No. 3786, prepared by the American Institute in Taiwan, Aug. 13, 1996.

[282] U.S. Department of State telegram, "Taiwan Liberalizes Telecommunications," message reference No. 312, prepared by the American Institute in Taiwan, Taipei, Jan. 19, 1996 and U.S. Department of Commerce, International Trade Administration, "Taiwan Passes Telecommunications Legislation," Market Research Reports, Jan. 1996, National Trade Data Bank (USDOC).

[283] USTR, *1996 National Trade Estimate Report.*

[284] USTR, "Prepared Testimony of Ambassador Charlene Barshefsky Before the House Ways and Means Committee, Subcommittee on Trade," Sept. 19, 1996.

[285] U.S. Department of State telegram, "Letter from Secretary Brown Could Help Encourage Fair Competition in Newly Liberalized Taiwan Telecommunications Market," message reference No. 408, prepared by the American Institute in Taiwan, Taipei, Jan. 26, 1996.

[286] U.S. Department of State telegram, "Proposed Procedures for Taiwan's Wireless Telecommunications Liberalization," message reference No. 1415, prepared by the American

Institute in Taiwan, Taipei, Mar. 25, 1996. See also, U.S. Department of State telegram, "Taiwan's Mobile Communications Business," message reference No. 1656, prepared by the American Institute in Taiwan, Taipei, Apr. 9, 1996.

[287] USTR, "Statement by Acting USTR Barshefsky," Press Release No. 96-64, July 30, 1996.

[288] USTR, "Prepared Testimony of Ambassador Charlene Barshefsky Before the House Ways and Means Committee, Subcommittee on Trade," Sept. 19, 1996.

[289] U.S. Department of State telegram, "Regulation of, Approvals for Foreign Insurance Companies in Taiwan," message reference No. 1890, prepared by the American Institute in Taiwan, Taipei, Apr. 22, 1996.

[290] U.S. Department of State telegram, "Taiwan's 1996 Financial Liberalization," message reference No. 103, prepared by the American Institute in Taiwan, Taipei, Jan. 8, 1997.

[291] U.S. Department of State telegram, "Greater Latitude for Offshore Transactions: Taiwan wants to Expand Scope of Business for 'Offshore Banking Units,'" message reference No. 6018, prepared by the American Institute in Taiwan, Taipei, Dec. 23, 1996.

[292] See, for example, USITC, *The Year in Trade, OTAP,* 1995, USITC publication 2971, p. 62.

[293] For a discussion of the 1992 agreement, see USITC, *The Year in Trade: OTAP,* 1992, USITC publication 2554, p. 123.

[294] USTR, "Korea Identified as a 'Priority Foreign Country' under section 1374 of the 1988 Trade Act for telecommunications Practices," Press Release No. 96-63, July 26, 1996.

[295] USTR, "Identification of Trade Expansion Priorities (Super 301) Pursuant to Executive Order 12901," Oct. 1, 1996.

[296] USTR, "Korea Identified as a 'Priority Foreign Country' under Section 1374 of the 1988 Trade Act for Telecommunications Practices," Press Release No. 96-63, July 26, 1996.

[297] U.S. Department of State telegram, "U.S.-ROKG Telecom Market Access Talks," message reference No. 239689, prepared by U.S. Department of State, Washington, DC, Nov. 19, 1996.

[298] USTR, "USTR-Commerce Joint Press Release on the Implementation of the 1995 Agreement with Korea on Autos," Press Release No. 96-44a, June 3, 1996.

[299] U.S. Department of State telegram, "Comments for October 22 TAG Meeting," message reference No. 219928, prepared by U.S. Department of State, Oct. 22, 1996.

[300] For more details on the 1995 automobile MOU, see USITC, *The Year in Trade, OTAP,* 1995, USITC publication 2971, p. 63-64.

[301] USTR, "USTR Kantor Announces Agreement with Korea on Autos," Press Release No. 95-73, Sept. 28, 1995.

[302] USTR, "USTR-Commerce Joint Press Release on the Implementation of the 1995 Agreement with Korea on Autos," Press Release No. 96-44a, June 3, 1996.

[303] U.S. Department of State telegram, "Comments for October 22 TAG Meeting," message reference No. 219928, prepared by U.S. Department of State, Oct. 22, 1996.

[304] For more details on the 1995 beef and pork agreement, see USITC, *The Year in Trade, OTAP,* 1995, USITC publication 2971, p. 62-63.

[305] USTR, "USTR Monitors Korean Shelf-Life Agreement," Press Release No. 96-8, Jan. 22, 1996.

[306] USTR, "Identification of Trade Expansion Priorities (Super 301) Pursuant to Executive Order 12901," Oct. 1, 1996.

[307] U.S. Department of State telegram, "WTO Consultation Request Concerning Korean Requirements for Importation of Agricultural Products," message reference No. 111690, prepared by U.S. Department of State, Washington, DC, May 31, 1996.

[308] U.S. Department of State telegram, "WTO SPS Committee," message reference No. 108523, prepared by U.S. Department of State, Washington, DC, May 25, 1996.

[309] U.S. Department of State, "Draft 1997 National Trade Estimate for Korea," message reference No. 259863, prepared by U.S. Department of State, Washington, DC, Dec. 21, 1996.

[310] U.S. Department of State telegram, "WTO SPS Committee Meeting, May 29-30, 1996," message reference No. 4250, prepared by U.S. Mission to the United Nations, Geneva, June 12, 1996.

[311] U.S. Department of State telegram, "Revisions to the Plant Quarantine Act," message reference No. 7528, prepared by U.S. Embassy, Seoul, Korea, Dec. 27, 1996.

[312] For a summary of the "New Economy" plan, see Korea Economic Institute, Okyu Kwon, "Financial Liberalization and the Environment for U.S. Investment," in *Korea's Economy, 1994*, vol. 10, pp. 12-23.

[313] Ministry of Finance and Economy, Korea Development Institute, "Korea Was Invited to Join OECD," *Republic of Korea Economic Bulletin*, vo. 18, No. 10, October 1996, pp. 3-4.

[314] For a discussion of 1996 developments in the GPA, see ch. 2.

[315] U.S. Department of State, "Draft 1997 National Trade Estimate for Korea," message reference No. 259863, prepared by U.S. Department of State, Washington, DC, Dec. 21, 1996.

CHAPTER 5
Administration of U.S. Trade Laws and Regulations

This chapter surveys activities related to the administration of U.S. trade laws during 1996. It covers (1) the import-relief laws, (2) the unfair trade laws, and (3) certain other trade provisions, including the U.S. Generalized System of Preferences (GSP), the Caribbean Basin Economic Recovery Act (CBERA), the Andean Trade Preference Act (ATPA), section 232 of the Trade Expansion Act of 1962 (impairment of national security), the Agricultural Adjustment Act (interference with programs of the U.S. Department of Agriculture), and programs affecting textile and apparel imports.

Import Relief Laws

The United States has enacted several safeguard laws as well as a trade adjustment assistance program. The U.S. global action safeguard law, which is based on article XIX of GATT 1994 and the Uruguay Round Agreement on Safeguards, is set forth in sections 201-204 of the Trade Act of 1974.[1] U.S. bilateral action safeguard laws are set forth in section 406 of the Trade Act of 1974 (market disruption from imports from Communist countries)[2] and sections 301-304 of the North American Free-Trade Agreement (NAFTA) Implementation Act.[3] The trade adjustment assistance provisions are set forth in sections 221 et seq. of the Trade Act of 1974.[4]

Safeguard Actions

The U.S. International Trade Commission (Commission) conducted three safeguard investigations during 1996, two under the global action safeguard law[5] and one under the NAFTA bilateral action safeguard law.[6] The two global safeguard investigations concerned imports of broom corn brooms and fresh tomatoes and bell peppers, and the NAFTA safeguard investigation concerned imports of broom corn brooms from Mexico. The Commission made affirmative injury determinations in the two brooms investigations and made a negative determination in the tomatoes/peppers investigation. In November 1996, the President imposed relief in the form of higher tariffs on imports of broom corn brooms. There were no investigations in progress at yearend 1996.

The two brooms investigations were conducted on the basis of petitions filed with the Commission on March 4, 1996, by the U.S. Cornbroom Task Force. The investigations were conducted jointly. In its petition filed under the NAFTA safeguard law, the Task Force also asserted that critical circumstances exist and sought provisional relief pending completion of a full investigation. On April 29, 1996, the Commission, by a vote of 3-3, made a negative critical circumstances determination. The Commission made affirmative injury determinations in the full investigations on July 2, and transmitted its report, which included the remedy recommendations of individual Commissioners, to the President on August 1.[7] At the request of Mexico, the two countries conducted bilateral consultations on August 21, 1996.[8] On August 30, the President announced that he would not take action under the NAFTA bilateral safeguard law, but that he was directing USTR to negotiate and conclude, within 90 days, under the global safeguard law, agreements concerning broom corn brooms exported to the United States.[9] Efforts to negotiate such agreements were unsuccessful. On November 28, 1996, the President announced that he was imposing higher rates of duty on imports of broom corn brooms for a 3-year period, to be phased down annually during the relief period. Excluded from the relief were imports from Canada, Israel, and developing countries that account for less than 3 percent of U.S. imports.[10]

The third investigation was conducted on the basis of a petition filed by the Florida Fruit & Vegetable Association, et al., on March 11, 1996, under the global safeguard law. The Commission made a negative injury determination on July 2, and reported the results of its investigation to the President in early August.[11]

Adjustment Assistance

The Trade Adjustment Assistance (TAA) program, set forth in sections 221 et seq. of the Trade Act of 1974, authorizes the Secretaries of Commerce and Labor to provide trade adjustment assistance to firms and workers, respectively, that are adversely affected by increased imports. Initially authorized under the Trade Expansion Act of 1962, the current program is scheduled to expire on September 30, 1998. In 1993, a new subchapter was added to the TAA provisions in the Trade Act to provide transitional assistance to workers separated or threatened to be separated from their employment as a result of increased imports from Canada or Mexico under the NAFTA.[12]

The TAA system of readjustment allowances to individual workers is administered by the U.S. Department of Labor through its Employment and Training Administration (ETA) in the form of monetary benefits for direct trade readjustment allowances and service benefits that include allocations for job search, relocation, and training. Industry-wide technical consultation provided through Commerce-sponsored programs is designed to restore the economic viability of U.S. industries adversely affected by international import competition.[13]

Assistance to Workers

The Department of Labor instituted 1,629 investigations during fiscal year (FY) 1996 (October 1, 1995, through September 30, 1996) on the basis of petitions filed for trade adjustment assistance. This figure represents an increase from the 1,501 petitions instituted in FY 1995.

The number of completed and partial certifications in FY 1996 decreased to 1,089 from 1,196 in FY 1995. Figures for FY 1996 indicate that Labor expenditures for direct Trade Readjustment Allowances (TRA) to certified workers increased to $157.3 million, a 2.6 percent increase from the $153.3 million expenditure in FY 1995. The results of the investigations completed or terminated in FY 1996, including those in process from the previous fiscal year, are shown in the following tabulation.[14]

Item	Number of investigations or petitions	Estimated number of workers
Completed certifications	1,086	115,561
Partial certifications	3	465
Petitions denied	423	60,102
Petitions terminated or withdrawn	76	3,575
Total	1,588	179,703

In addition, Labor provided training, job search, and relocation services valued at a $96.6 million in FY 1996, representing a 1.2-percent decrease from the $97.8 million allocated during FY 1995. As shown in the following tabulation, data for FY 1996 indicate that 33,410 workers used available service benefits, representing an increase of 11.7 percent from the 29,914 workers receiving such services in the previous fiscal year.[15]

Item	Estimated number of participants in FY 1996
Training	32,000
Job search	650
Relocation allowances	760
Total	33,410

NAFTA-Related Assistance to Workers

As stated above, the NAFTA Implementation Act provides for the establishment of a Transitional Adjustment Assistance program. The program, which began operation January 1, 1994, provides job search, training, and relocation assistance to workers in companies affected by imports from Canada or Mexico or by shifts of U.S. production to those countries. Data for FY 1996 from the Department of Labor indicate that 714 petitions were filed for assistance under the program, compared with 410 such filings in FY 1995. Petition activity under the program in FY 1996 is summarized in the following tabulation:

Item	Number of investigations or petitions
Petitions filed	714
Worker groups certified	399
Petitions denied	251
Petitions terminated	19

The number of completed certifications in FY 1996 was 399, covering approximately 46,652 workers. FY 1996 figures indicated that Labor expenditures for direct TRA to certified workers were $10.7 million.[16] The Department of Labor also provided training, job search, and relocation services that decreased from $21.4 million in FY 1995 to $19.2 million in FY 1996. Data for FY 1996 indicated that 2,388 workers used available service benefits, as shown in the following tabulation:

Item	Estimated number of participants	Cost (dollars)
Training	2,300	$5,957,139
Job search	12	3,444
Relocations	76	72,939
Total	2,388	$6,033,522

Assistance to Firms and Industries

Through its Trade Adjustment Assistance Division (TAAD) the U.S. Department of Commerce's Economic Development Administration (EDA) certified 148 firms as eligible to apply for trade adjustment assistance during FY 1996. This figure represents an increase from the 137 firms certified in the previous fiscal year. The TAAD administers its firm assistance programs through a nationwide network of 12 Trade Adjustment Assistance Centers (TAACs). Technical services are provided to certified firms through TAAC staffs and independent consultants under direct contract with TAACs. TAAC's funding for technical services to firms adversely affected by international import competition decreased from $9.95 million during FY 1995 to $8.5 million during FY 1996.

In addition to trade adjustment assistance for firms, Commerce provided $700,000 to the TAACs to continue the defense conversion demonstration begun in FY 1994. Research and development projects on gears by the Gear Research Institute continued in FY 1996.

Laws Against Unfair Trade Practices

The U.S. Department of Commerce issued 8 new antidumping orders during 1996, following completion of investigations by Commerce and the Commission. In addition, Commerce issued two new countervailing duty orders, following completion of investigations by Commerce and the Commission. During 1996, the Commission completed 12 investigations under section 337 of the Tariff Act of 1930 involving allegations of patent, trademark, or copyright infringement or other unfair methods of competition. In one of the section 337 investigations, the Commission issued general exclusion orders prohibiting the importation of merchandise, and in three other section 337 investigations the Commission issued temporary limited exclusion orders barring importation of accused products during the course of the respective investigations.

Section 301 Investigations

In 1996, USTR initiated nine new section 301 investigations. Further developments occurred in nine investigations initiated prior to 1996. Table 5-1 summarizes USTR activities on section 301 investigations during 1996.[17]

Antidumping Investigations

The present antidumping law is contained in title VII of the Tariff Act of 1930.[18] The antidumping law provides relief in the form of special additional duties that are intended to offset margins of dumping. Antidumping duties are imposed when (1) Commerce (the administering authority) has determined that imports are being, or are likely to be, sold at less than fair value (LTFV) in the United States, and (2) the Commission has determined that a U.S. industry is materially injured or threatened with material injury or that the establishment of an industry in the United States is materially retarded by reason of such imports. Most investigations are conducted on the basis of a petition filed with Commerce and the Commission by or on behalf of a U.S. industry.

In general, imports are considered to be sold at LTFV when the United States price (i.e., the purchase price or the exporter's sales price, as adjusted) is less than the foreign market value, which is usually the home-market price, or, in certain cases, the price in a third country, or a "constructed" value, calculated as set out by statute.[19] The antidumping duty is designed to equal the difference between the U.S. price and the foreign-market value. The duty specified in an antidumping order reflects the dumping margin found by Commerce during its period of investigation. This rate of duty will be applied to subsequent imports if no request for annual reviews is received by Commerce.

Table 5-1
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Petitions filed or investigations self-initiated in 1996:	
Docket No. 301-110	**Brazilian Practices Regarding Trade and Investment in the Auto Sector, self-initiated by USTR (Oct. 1996), 90-day delay in request for consultation (Oct. 1996)** On Oct. 11, 1996, USTR self-initiated an investigation under section 302(b)(1) of the Trade Act of 1974, with respect to certain acts, policies and practices of the Government of Brazil concerning the grant of tariff-reduction benefits contingent on satisfying certain export performance and domestic content requirements. On Oct. 11, 1996, USTR invited public comment on the matters being investigated (61 F.R. 54485). Brazil agreed to enter into intensive talks with the United States as a result of consultations held in August, 1996 under WTO dispute settlement procedures. Pending the outcome of these talks, USTR decided pursuant to section 303(b)(1)(A) of the Trade Act to delay for up to 90 days requesting the consultations required under section 303(a) of the Trade Act for the purpose of ensuring an adequate basis for such consultations.
Docket No. 301-109	**Indonesian Practices Regarding Promotion of Motor Vehicle Sector, self-initiated by USTR (Oct. 1996), consultation requested with the Government of Indonesia (Oct. 1996)** On Oct. 8, 1996, the USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to certain acts, policies and practices of the Government of Indonesia concerning the grant of conditional tax and tariff benefits intended to develop a motor vehicle sector in Indonesia. On Oct. 8, 1996, the USTR invited public comment on the matters being investigated (61 F.R. 54247) and requested consultation with the Government of Indonesia pursuant to Article 1 and 4 of the DSU, Article XXII:1 of the GATT 1994, Article 8 of TRIMs Agreement, Articles 7 and 30 of the SCM Agreement, and Article 64 of the TRIPs Agreement.
Docket No. 301-108	**Argentine Specific Duties and Non-Tariff Barriers Affecting Apparel, Textiles, Footwear, self-initiated by USTR (Oct. 1996), consultations were requested with the Government of Argentina (Oct. 1996)** On Oct. 4, 1996, the USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to certain acts, policies and practices of the Government of Argentina concerning the imposition of (1) specific duties on apparel, textiles, footwear and other *ad valorem*; (2) a discriminatory statistical tax and (3) a burdensome labeling requirement on apparel, textiles and footwear. On Oct. 4, 1996, the USTR requested public comment and pursuant to Section 303(a) requested consultations with the Government of Argentina pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 GATT, 1994, Article 14 of the Agreement on Technical Barriers to Trade, Article 19 of the Agreement on the Implementation of Article VII of the GATT 1994, and Article 7 of the Agreement on Textiles and Clothing (61 F.R. 53777).

Table continued on next page

Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Petitions filed or investigations self-initiated in 1996—Continued:	
Docket No. 301-107	**Australian Subsides Affecting Leather, petition filed by the Coalition Against Australian Leather Subsidies (August 1996), consultations were held with the Government of Australia (Oct. 1996)** On Aug. 19, 1996, the Coalition Against Australian Leather Subsidies filed a petition pursuant to section 302(a) of the Trade Act alleging that certain subsidy programs of the Government of Australia constitute acts, policies and practices that violate, or are inconsistent with and otherwise deny benefits to the United States under GATT 1994 and the SCM Agreement. On Oct. 3, 1996, the USTR initiated an investigation pursuant to section 302(a) to determine whether certain acts, policies or practices of the Government of Australia regarding subsidies available to leather under the Textile, Clothing and Footwear Import Credit Scheme and another subsidies to leather granted or maintained in Australia which are prohibited under Article 3 of the SCM Agreement are actionable under section 301. USTR requested public comment, pursuant to Section 303(a) of the Trade Act, requested consultations with the Government of Australia on Oct. 7, 1996, pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 4.1 of the SCM Agreement, and Article XXIII:1 of GATT 1994 as incorporated in Article 30 of the SCM Agreement (61 F.R. 5064). Consultations were held on Oct. 31, 1996.
Docket No. 301-106	**India's Practices Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals, self-initiated by USTR (July 1996), consultations held with Government of India (July 1996)** On July 2, 1996, USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to certain acts, policies and practices of the Government of India that may result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products. On July 8, 1996, USTR invited public comment on the matters being investigated (61 F.R. 35857) and requested consultation with the Government of India pursuant to Article XXII of GATT, 1994, and Article 4 of the WTO DSU and Article 64 of the TRIPs Agreement. Consultations were held July 27, 1996.
Docket No. 301-105	**Turkey's Practices Regarding the Imposition of a Discriminatory Tax on Box Office Revenues, self-initiated by USTR (June 1996), consultations held with Government of Turkey (July 1996)** On June 12, 1996, USTR self-initiated an investigation under section 302(b)(1) of the Trade act with respect to certain acts, policies and practices of the Government of Turkey that may result in the discriminatory treatment of U.S. films in Turkey. On June 17, 1996, USTR invited public comment on the matters being investigated (61 F.R. 32883) and requested consultations with the Government of Turkey pursuant to Article XXII of GATT, 1994, and Article 4 of the WTO DSU. Consultations were held July 25, 1996.

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Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Petitions filed or investigations self-initiated in 1996—Continued:	
Docket No. 301-104	**Pakistan's Practices Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals, self-initiated by USTR (April 1996), U.S. requested establishment of dispute settlement panel (July 1996)** On April 30, 1996 USTR self-initiated an investigation under section 302(b)(1) of the Trade act with respect to certain acts, policies and practices of the Government of Pakistan that may result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemicals products. On May 3, 1996, USTR invited public comment on the matters being investigated (61 F.R. 19971) and requested consultations with the Government of Pakistan pursuant to Article XXII of GATT, 1994, and Article 4 of the WTO DSU. Consultations were held on May 30, 1996. On July 4, 1996 the U.S. requested establishment of a Panel.
Docket No. 301-103	**Portugal's Practices Regarding Term of Patent Protection, self-initiated by USTR (April 1996), investigation terminated (Oct. 1996) following Portugal issuance of Decree-Law 141/96** On April 30, 1996, USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to certain acts, policies and practices of the Government of Portugal relating to the term of existing patents. On May 3, 1996, USTR requested public comment on the acts, policies and practices of Portugal being investigated (61 F.R. 19971) and requested consultations with the Government of Portugal pursuant to Article XXII of GATT, 1994, and Article 4 of the WTO DSU. On May 30, 1996, the United States and Portugal held formal consultations. On August 23, 1996, Portugal issued Decree-Law 141/96 to implement properly its patent term related obligations under the TRIPs agreement. Having reached a satisfactory resolution of the issues under investigation, the USTR terminated the investigation on Oct. 21, 1996, and will monitor implementation of the agreement under section 306 of the Trade Act.
Docket No. 301-102	**Canadian Practices Affecting Periodicals, self-initiated by USTR (March 1996), first dispute settlement panel meeting (Oct. 1996)** On March 11, 1996, the USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to certain acts, policies and practices of the Government of Canada that restrict or prohibit imports of certain periodicals into Canada and apply discriminatory treatment to certain imported periodicals. On March 11, 1996, the USTR requested public comment and requested consultations with the Government of Canada pursuant to Article XXII of GATT, 1994, and Article 4 of the WTO DSU (61 F.R. 11067). The panel was established on June 19, 1996 and its first meeting took place on Oct. 11, 1996.
Other investigations acted upon in 1996:	
Docket No. 301-101	**EU Enlargement, self-initiated by USTR (Oct. 1995), investigation terminated following agreement with EU (Oct. 1996)** On Oct. 24, 1995, USTR self-initiated an investigation under section 302(b)(1) of the Trade Act with respect to the denial of benefits under a trade agreement by the European Union arising from the accession of Austria, Finland and Sweden.

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Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1996—Continued:	
	On Oct. 24, 1995, USTR requested public comment and a public hearing was held on Nov. 21, 1995, on a proposed determination (60 F.R. 55076). On Dec. 22, 1995, the European Union Council approved the U.S.-E.U. Agreements on EU Enlargement and Grains which provides full compensation to the United States for tariff increases that occurred when the three countries acceded to the EU. Effective Oct. 21, 1996, having reached an agreement that provided a satisfactory resolution of the issues under investigation, the USTR decided to terminate this investigation and to monitor EU implementation pursuant to section 306 of the Trade Act.
Docket No. 301-100	**European Community Banana Import Regime, self-initiated by USTR, second meeting of dispute settlement panel (Oct. 1996)** Pursuant to section 302(b)(1) of the Trade Act, the USTR self-initiated a new investigation concerning the European Union's (EU) acts, policies and practices relating to the importation, sale and distribution of bananas. On Oct. 4, 1995, USTR invited public comment on the acts, policies and practices of the EU and pursuant to section 303(a) of the Trade Act, requested consultations with the EU pursuant to the WTO's Understanding on Rules and Procedures Concerning the Settlement of Disputes (DSU) (60 F.R. 52027). On May 8, 1996, the Dispute Settlement Body (DSB) of the WTO established a panel in response to the April 11, 1996, panel request filed jointly and severally by Ecuador, Guatemala, Honduras, Mexico, and the United States. The first panel meeting took place on Sept. 10-12 and the second panel meeting took place on Oct. 16-17.
Docket No. 301-99	**Barriers to Access to the Japanese Market for Consumer Photographic Film and Paper, petition filed by the Eastman Kodak Company (May 1995), dispute settlement panel established (Oct. 1996)** On May 18, 1995, the Eastman Kodak Company filed a petition pursuant to section 302(a) of the Trade Act alleging that certain acts, policies and practices of Japan deny access to the market for photographic film and paper in Japan and are unjustifiable, unreasonable and discriminatory and actionable under section 301. On July 2, 1995, the USTR initiated an investigation with respect to barriers to access to the Japanese market for consumer photographic film and paper. USTR invited public comment on the matters being investigated and the determinations to be made under section 304 of the Trade Act and requested consultations with the Government of Japan (60 F.R. 35447). On June 13, 1996, the USTR determined, pursuant to section 304(a)(1)(A) of the Trade Act, that certain acts, policies, and practices of the Government of Japan with respect to the sale and distribution of consumer photographic materials in Japan are unreasonable and burden orrestrict U.S. commerce and that these acts should be addressed by: (1) seeking recourse to the dispute settlement procedures of the WTO to challenge Japanese Government liberalization countermeasures; (2)(a) requesting consultations with the Government of Japan under the WTO provision for consultations on restrictive business practices; (b)(i) requesting that Kodak provide information for submission to the Japan Fair Trade Commission (JFTC) concerning anticompetitive practices in this sector,(ii) providing information to the JFTC, (c) seeking to cooperate with the JFTC in its review of evidence of anticompetitive practices, and (d) studying the extent to which Japan's market structure for consumer photographic materials distorts competition in the U.S. and third markets. At the appropriate time, based on developments in these consultations and proceedings, the USTR will determine what further action needs to be taken to ensure that the barriers are eliminated (61 F.R. 30929).

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Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1996—Continued:	
Docket No. 301-99	***Continued.***
	On July 11, 1996, consultations took place and on Sept. 20, 1996, the United States requested a panel, and the DSB established the panel on October 16, 1996. Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA)(19 U.S.C. 3537(b)(1)), USTR is providing notice that a dispute settlement panel convened under the Agreement Establishing theWTO at the request of the United States will examine Japanese government measures affecting the distribution and sale of imported consumer photographic paper. USTR also invited public comments from the public concerning the issues raised in the dispute.
Docket No. 301-98	**Canadian Communications Practices, petition filed by Country Music Television (Dec. 1994), agreement signed between Country Music Television and New Country Network to form a single Canadian country music network (March 1996)**
	On Dec. 23, 1994, Country Music Television (CMT), filed a petition pursuant to section 302(a) of the Trade Act alleging that acts, policies and practices of the Canadian Government regarding the authorization for distribution via cable carriage of U.S.-owned programming services are unreasonable and discriminatory and burden or restrict U.S. commerce. On Feb. 6, 1995, USTR initiated an investigation, invited public comment on the matters being investigated and requested consultations with the Government of Canada (60 F.R. 8101). USTR also requested public comment concerning a proposed determination that certain acts, policies and practices of Canada with respect to the granting or termination of authorizations for U.S.-owned programming services to be distributed in Canada via cable carriage are unreasonable or discriminatory and constitute a burden or restriction on U.S. commerce. On Feb. 6, 1996, USTR determined pursuant to section 304(a)(1)(A)(ii) of the Trade Act that certain acts, policies and practices of the Government of Canada with respect to the granting or termination of authorization for U.S.-owned programming services to be distributed in Canada via cable deny market access for such services and are unreasonable and discriminatory and constitute a burden or restriction on U.S. commerce. As negotiations to restore CMT's access were ongoing and Canada had taken no subsequent action to terminate the authorizations of other U.S.-owned programming services, USTR determined pursuant to Section 304(a)(a)(B) that the appropriate action at that time was to direct the Section 301 Committee to recommend the implementation of appropriate responsive action pursuant to section 301 should market access not be restored, and to monitor pursuant to section 306. The section 304 determinations were made and the investigation was terminated Feb. 6, 1996 (61 F.R. 5603). On March 7, 1996 USTR announced that CMT and the New Country Network had signed an agreement to form a single Canadian country music network.
Docket No. 301-97	**Costa Rica Exportation of Bananas to the EU, self-initiated by USTR (Jan. 1995), investigation terminated(Jan. 1996) following commitments made by Costa Rica and USTR officials directed to implement a process to address remaining burden or restriction on U.S. commerce**
	On Jan. 9, 1995, USTR self-initiated an investigation under section 302(b)(1)(A) of the Trade Act to determine whether, as a result of Costa Rica's implementation of the Framework agreement, the policies and practices of Costa Rica regarding the exportation of bananas to the EU are unreasonable and discriminatory and burden or restrict U.S. commerce.

Table continued on next page

Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1996—Continued:	
Docket No. 301-97	***Continued.***
	On Jan. 9, 1995, USTR invited public comment on the matters being investigated and requested consultation with the Government of Costa Rica (60 F.R. 3284-85). On Jan. 10, 1996, USTR determined that the practices under investigation were unreasonable or discriminatory and burdened or restricted U.S. commerce, and that, because Costa Rica has not fully addressed all the acts policies, and practices found actionable pursuant to section 301 (b)(1), the appropriate action at this time was to direct USTR officials to implement a process aimed at addressing the remaining burden or restriction on U.S. commerce while monitoring, under section 306, Costa Rica's commitments made on Jan. 6, 1996, during bilateral consultations, and to terminate the investigations.
Docket No. 301-96	**Colombia's Exportation of Bananas to EU, self-initiated by USTR (Jan. 1995), action terminated(Jan. 1996) following commitments made by Colombia and USTR officials directed to implement a process to address remaining burden or restriction on U.S. commerce**
	On Jan. 9, 1995, USTR self-initiated an investigation under Section 302(b)(1)(A) of the Trade Act to determine whether, as a result of Colombia's implementation of the Framework Agreement, the policies and practices of Colombia regarding the exportation of bananas to the EU are unreasonable and discriminatory and burden or restrict U.S. commerce.
	On Jan. 9, 1995, USTR invited public comment on the matters being investigated and requested consultations with the Colombia Government (50 F.R. 3283). On Jan. 10, 1996, USTR determined that the practices under investigation were unreasonable or discriminatory and burdened or restricted U.S. commerce, and that, because Colombia has not fully addressed all the acts, policies, and practices found actionable pursuant to section 301 (b)(1), the appropriate action at this time is to direct USTR officials to implement a process aimed at addressing the remaining burden or restriction on U.S. commerce while monitoring, under section 306, Colombia's commitments made on Jan. 9, 1996, during bilateral consultations, and to terminate the investigation.
Docket No. 301-92	**China Intellectual Property Rights, self-initiated by USTR (June 1994), USTR announces that proposed sanctions would not be imposed, determined to revoke China's designation as a "Priority Foreign Country," and terminated the limitation on textile and apparel imports to prevent import surges (June 1996)**
	On June 30, 1994, USTR invited public comment on the matters being investigated and requested consultations with the Chinese government (59 F.R. 35558).
	On Dec. 31, 1994, USTR determined that as complex or complicated issues were involved in the investigation, requiring additional time, the investigation should be extended to Feb. 4, 1995 (60 F.R. 1829). On the same date, USTR also requested public comment on proposed determinations on the actionability under section 301 of the practices under investigations and on appropriate action under section 301 in response to them. A public hearing was held on January 24-25 to hear views on the proposed action. On Feb. 4, 1995, USTR determined pursuant to section 304(a) that certain acts, policies and practices of China with respect to its protection of intellectual property rights and the provision of market access to persons who rely on intellectual property rights protection was unreasonable and discriminatory and constituted a burden or restriction on U.S. commerce. USTR also determined that the appropriate action in response was, pursuant to section 301 (b) and (c), to increase duties to 100 percent ad valorem on certain products of China entered or withdrawn from warehouse for consumption on or after

Table continued on next page

Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1996—Continued:	
Docket No. 301-92	***Continued.***
	Feb. 26, 1995. As a result of a Feb. 25, 1995, agreement reached between the United States and China on the protection of intellectual property and related market access issues, USTR terminated the investigation; announced monitoring of the agreement under section 306 of the Trade Act; terminated the order to impose sanctions on Chinese products; and revoked China's designation as a priority foreign country. On May 15, 1996, based on monitoring carried out under section 306(a), USTR considered that China was not satisfactorily implementing the Feb. 25, 1995 agreement. In light of this, USTR proposed to impose prohibitive tariffs on imports of certain products from China and requested public comment and announced a public hearing to be held on June 6 and 7, 1996. Additionally, to prevent surges USTR directed the Commissioner of Customs to limit by date of export entries of certain textile products, over the next 30-day period, to 15 percent of the 1996 adjusted level for each category of product. On June 12, 1996, USTR extended the directive for an additional 30-day period commencing on June 14, 1996. On June 17, 1996, USTR announced that, based on the measures that China has taken and will take in the future to implement key elements of the 1995 Agreement, the proposed sanctions would not be imposed. In addition, USTR determined to revoke China's designation as a "Priority Foreign Country" under section 182 of the Trade Act. USTR determined that the limitation on textile and apparel imports to prevent import surges should be terminated and directed the Commissioner of Customs accordingly. USTR will continue to monitor China's implementation of the 1995 Agreement (61 F.R. 33147).
Docket No. 301-87	**Canada Softwood Lumber, self-initiated by USTR (Oct. 1991), U.S. and Canada enter into agreement (effective from April 1996)** On October 4, 1991, the USTR self-initiated an investigation under section 302(b)(1)(A) of the Trade Act with respect to certain acts, policies, and practices of the Government of Canada affecting exports to the United States of softwood lumber. On Oct. 4, 1991, USTR invited public comments on the matters being investigated (56 F.R. 50738). Because expeditious action was required, USTR made these determinations prior to receiving public comment in accordance with section 304(b)(1). The Administration announced the following action: (1) intention to self-initiate a countervailing duty investigation of softwood lumber imports from Canada (which was in fact initiated on Oct. 31, 1991); and (2) until preliminary results of that investigation are available, interim customs suspension of liquidation to prevent disruption of the U.S. lumber market as a consequence of the abrupt termination of the MOU undertaking. On March 6, 1992, the Department of Commerce issued an affirmative preliminary determination in the countervailing duty investigation. Consequently, the bond requirement imposed by the Section 301 investigation was terminated. Meanwhile, Canada challenged the initiation of the 301 and countervailing duty investigations before the GATT. On Oct. 19, 1994, USTR terminated Section 301 action and ordered the Customs service to cease the extension of liquidation in light of the completion of the binational panel proceedings under the US-Canada Free Trade Agreement (59 F.R. 52846). On May 29, 1996, the United States and Canada entered into an agreement on trade in softwood lumber, with effect from April 1, 1996. This agreement is intended to provide a satisfactory resolution to this matter. USTR determined that this agreement will be subject to the provisions of section 306 of the Trade Act and that USTR will monitor Canadian compliance with this agreement pursuant to section 306 of the Trade Act and will take action under section 301(a) if Canada fails to comply with it (61 F.R. 28626).

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Table 5-1—Continued
Summary of activity on sec. 301 investigations during 1996

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1996—Continued:	
Docket No. 301-62	**EC Hormones, self-initiated by USTR (Nov. 1987), increased customs duties terminated (July 1996) following establishment of WTO dispute settlement panel** On Nov. 25, 1987, the President announced his intention to raise customs duties to a prohibitive level on as much as $100 million in EC exports to the United States. This action was in response to the implementation scheduled for Jan. 1, 1988 of the Animal Hormone Directive. This directive would ban, without valid scientific evidence, imports of meat produced from animals treated with growth hormones. However, the President said he would suspend increased duties if EC member states continued to allow such imports for a 12-month transition period. On Dec. 24, 1987, on his own motion, the President proclaimed but immediately suspended increased duties on specified products of the EC (52 F.R. 49131), pending EC implementation of its Directive. He delegated to USTR authority to modify, suspend or terminate the increased duties (including terminate the suspension of such increased duties). The EC implemented its directive on Jan. 1, 1989. In response, USTR terminated the suspension of the increased duties, effective Jan. 1, 1989, with some modifications (53 F.R. 53115). The United States and the EC agreed on Jan. 12 to allow a grace period for goods exported, or meat certified for export, prior to Jan. 1, if they entered before Feb. 1 (54 F.R. 3032). On Feb. 18, the US and EC established a task force of high-level government officials to seek a resolution to the hormones dispute by May 4, 1989. In May, the task force's mandate was extended and its work continues. Effective July 28, 1989, USTR suspended the additional duty on pork hams and shoulders (54 F.R. 31398), since the EC had enabled non-treated U.S. beef to enter the EC. Effective Dec. 8, 1989, USTR suspended the application of the increased duty on imports of certain tomato sauces from the European Community (54 F.R. 50673), and on May 16, 1990, made a technical amendment to the subheadings on tomato sauces (55 F.R. 20376). On May 20, 1996, based on a request from the United States, the DSB established a dispute settlement panel to examine whether the Directive is consistent with the EC and its member states obligations under various WTO Agreements (61 F.R. 33149). As the United States now had effective multilateral procedures to address the matter of the EC's restrictions on imports of U.S. meat under the Directive, USTR on July 12, 1996, determined that it was in the interest of the United States to terminate, effective July 15, 1996, the increased duties proclaimed in Proclamation No. 5759 and applied pursuant to the authority delegated to the USTR in Proclamation No. 5759.

Source: U.S. Trade Representative.

If a request is received, Commerce will calculate the antidumping duties for that year for each entry.

Commerce and the Commission each conduct preliminary and final antidumping investigations in making their separate determinations.[20] In 1996, the Commission completed 17 preliminary and 13 final antidumping injury investigations.[21] Antidumping orders were imposed as a result of affirmative Commission and Commerce determinations in 8 of the 13 final investigations on products imported from 7 different countries. Details of antidumping actions and orders, including suspension agreements,[22] in effect in 1995, are presented in tables A-22 and A-23. The following tabulation summarizes the number of antidumping investigations during 1994-96:[23]

Antidumping duty investigations	1994	1995	1996
Petitions filed	43	14	20
Preliminary Commission determinations:			
Negative	3	1	0
Affirmative (includes partial affirmatives)	46	13	17
Terminated[24]	1	0	0
Final Commerce determinations:			
Negative	2	2	0
Affirmative	33	40	12
Terminated	0	0	0
Suspended	2	1	1
Final Commission determinations:			
Negative	10	16	3
Affirmative (includes partial affirmatives)	17	24	8
Terminated	2	3	1

Source: Compiled by staff of the U.S. International Trade Commission.

Countervailing Duty Investigations

The United States countervailing duty law is also set forth in title VII of the Tariff Act of 1930. It provides for the levying of special additional duties to offset foreign subsidies on products imported into the United States.[25] In general, procedures for such investigations are similar to those under the antidumping law. Petitions are filed with Commerce (the administering authority) and with the Commission. Before a countervailing duty order can be issued, Commerce must find a countervailable subsidy, and the Commission must make an affirmative determination of material injury, threat of material injury, or material retardation by reason of the subsidized imports.

Two new countervailing duty orders were imposed in 1996 as a result of investigations involving both Commerce and the Commission. In 1996, the Commission completed 1 preliminary and 2 final injury investigations.[26] Details of countervailing duty actions and outstanding orders, including suspension agreements[27] in effect in 1996, are presented in tables A-24 and A-25. The following tabulation summarizes the number of countervailing duty investigations during 1994-96:[28]

Countervailing duty investigations	1994	1995	1996
Petitions filed	7	2	1
Preliminary Commission determinations:			
Negative	1	0	0
Affirmative (includes partial affirmatives)	6	2	1
Final Commerce determinations:			
Negative	0	0	0
Affirmative	1	5	2
Suspended	0	0	0
Final Commission determinations:			
Negative	0	2	0
Affirmative (includes partial affirmatives)	1	3	2
Terminated	0	0	0

Source: Compiled by staff of the U.S. International Trade Commission.

Reviews of Outstanding Antidumping and Countervailing Duty Orders

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) requires Commerce, if requested, to conduct annual reviews of outstanding antidumping and countervailing duty orders to determine the amount of any net subsidy or dumping margin and to determine compliance with suspension agreements. Section 751 also authorizes Commerce and the Commission, as appropriate, to review certain outstanding determinations and agreements after receiving information or a petition that shows changed circumstances. In these circumstances, the party seeking revocation or modification of an antidumping or countervailing duty order or suspension agreement has the burden of persuading Commerce and the Commission that circumstances have changed sufficiently to warrant review and revocation. Based on either of the reviews above, Commerce may revoke a countervailing duty or antidumping order in whole or in part or terminate or resume a suspended investigation. Neither Commerce nor the Commission instituted a changed circumstances investigation under section 751 in 1996.

The Uruguay Round Agreements Act amended section 751 of the Tariff Act of 1930 to require both Commerce and the Commission to conduct "sunset" reviews of outstanding orders 5 years after their publication to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy and material injury.[29] Special rules apply to the conduct of sunset reviews of "transition" orders (orders in effect on January 1, 1995), the date on which the WTO Agreement entered into force with respect to the United States). Commerce and the Commission are to begin conducting reviews of such orders in July 1998, but no transition order may be revoked as a result of such a review before January 1, 2000.[30]

Section 337 Investigations

Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), authorizes the Commission, on the basis of a complaint or on its own initiative, to conduct investigations with respect to certain practices in import trade. Section 337 declares unlawful the importation into the United States, the sale for importation, or the sale within the United States after importation of articles that infringe a valid and enforceable U.S. patent, registered trademark, registered copyright, or registered mask work, for which a domestic industry exists or is in the process of being established.[31]

If the Commission determines that a violation exists, it can issue an order excluding the subject imports from entry into the United States, or can order the violating parties to cease and desist from engaging in the unlawful practices.[32] The President may disapprove a Commission order within 60 days of its issuance for "policy reasons."

In 1996, as in previous years, most complaints filed with the Commission under section 337 alleged infringement of a U.S. patent by imported merchandise. The Commission completed a total of 12 investigations under section 337 (including one enforcement proceeding) in 1996, the same number completed in 1995. As in recent years, the section 337 caseload in 1996 was highlighted by investigations involving complex technologies, particularly in the computer area. Significant among these were computer-related investigations involving various types of integrated circuit devices and processes for producing them, computer hard disk drives, fiber optic modems, electrical connectors for memory modules, and logic emulation systems used for designing computer chips. In addition, several section 337 investigations involved other sophisticated technologies, including patents covering global positioning systems, rare earth magnets used in electronic products, chemical adhesives for repositionable notes, wind turbines for generating electricity, and diagnostic kits for detecting HIV virus levels. Two investigations concerned allegations of trademark infringement and one investigation involved allegations of copyright infringement. Finally, one investigation focused, for the first time, on the alleged infringement of registered mask works.

During 1996, the Commission completed a formal enforcement proceeding for alleged violations of a cease and desist order after a settlement between the private parties, but the Commission referred to the Department of Justice assertions relating to allegedly false reports filed with the Commission. The Commission also began another formal enforcement proceeding regarding alleged violations of a consent order issued by the Commission in the section 337 investigation involving rare earth magnets. Finally, one investigation was remanded to the Commission by the United States Court of Appeals for the Federal Circuit for a further determination regarding violation.

Exclusion orders were issued in four investigations. One temporary limited exclusion order

was also issued. Several investigations were terminated by the Commission without determining whether section 337 had been violated. Generally, these terminations were based on a settlement agreement or consent order, although two investigations were terminated based on the withdrawal of the complaint. At the close of 1996, there were 13 section 337 investigations pending at the Commission, including a formal enforcement proceeding, a remanded investigation, and an ancillary sanctions proceeding. Commission activities involving section 337 actions in 1996 are presented in table A-26.

As of December 31, 1996, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect. Thirty of these orders involved unexpired patents. Table A-27 lists the investigations in which these exclusion orders were issued.

Other Import Administration Laws and Programs

Tariff Preference Programs

Generalized System of Preferences

The U.S. Generalized System of Preferences (GSP) program authorizes the President to grant duty-free access to the U.S. market for certain products that are imported from designated developing countries and territories. The program is authorized by Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 et seq.). By offering unilateral tariff preferences, the GSP program reflects the U.S. commitment to an open world trading system and to economic growth. The program has three broad goals: (1) to promote economic development in developing and transitioning economies through increased trade, rather than foreign aid; (2) to reinforce U.S. trade policy objectives by encouraging beneficiaries to open their markets, to comply more fully with international trading rules, and to assume greater responsibility for the international trading system; and (3) to help maintain U.S. international competitiveness, by lowering costs for U.S. business as well as lowering prices for American consumers.

Countries are designated as "beneficiary developing countries" under the program by the President. The President may not designate certain developed countries and also may not designate countries that *inter alia* discriminate against U.S. goods or do not afford adequate protection to intellectual property rights or afford internationally recognized worker rights to their workers.[33] The President also designates the articles that are eligible for duty-free treatment. The President may not designate articles that are considered by the United States to be "import sensitive." Certain articles (for example, footwear, textiles, and apparel) are designated by statute as "import sensitive" and thus not eligible for duty-free treatment under the GSP program.[34] The statute also provides for graduation of countries from the program when they become "high income" countries, and for removal of eligibility of articles, or articles from certain countries, under certain conditions. Each year, the Trade Policy Staff Committee (TPSC) conducts a review process in which products can be added to or removed from the GSP program, or in which a beneficiary's compliance with the eligibility requirements can be reviewed.

In July 1995, the TPSC began the annual GSP review for 1995, but suspended it when the program expired. In August 1996, the TPSC requested the Commission to provide advice concerning possible modifications to the GSP for a modified list of the articles announced in the TPSC 1995 Annual GSP Review *Federal Register* notice. In October 1996, the TPSC announced its timetable for the 1995 Annual GSP Review, modifications in the list of articles for the review, the initiation of reviews of countries' practices to determine whether the countries afford adequate intellectual property rights protection, the satisfactory completion of two country practice reviews, and the decision to not solicit petitions or initiate a 1996 Annual GSP Review. Further, in September 1996, the TPSC requested the Commission's advice on the possible GSP designation of certain articles (in 1,895 of the Harmonized Tariff Schedule of the United States (HTS) subheadings that are products only of countries designated as least-developed beneficiary developing countries. And, in December 1996, the TPSC announced the initiation of a 1997 Out-of-Cycle Country Eligibility Review inviting petitions concerning country practices under the GSP program.

The GSP program expired on July 31, 1995, and was extended retroactively through May 31, 1997, by legislation (Public Law 104-188) signed by the President on August 20, 1996. The 1996 legislation amended the statutory provisions that authorize the GSP program in several ways. Specifically, it—

- Deleted the prohibition on designating as a GSP beneficiary member countries of the

Organization of Petroleum Exporting Countries;

- Changed the basis of the per capita gross national product threshold for the mandatory graduation of a country from the program from the old basis, exceeding the "applicable limit" calculated under a formula set forth in the Trade Act of 1974, to a Presidential determination that the country has become a "high income" country, as defined by the official statistics of the World Bank;
- Authorized the President to designate additional articles as eligible for duty-free treatment if they are products of a least-developed beneficiary developing country;
- Prohibited consideration of an article as eligible for designation for 3 years, if such article has been formally considered for designation under GSP but is denied such designation;
- Lowered one of the statutory ceilings of the program—the so-called "competitive need" limits—on imports of an eligible article from a beneficiary country, by changing the dollar-value limit from a floating figure derived from a formula to a set, indexed figure;[35]
- Deleted the lower statutory ceilings applicable to imports of any eligible article from a beneficiary country that had demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to that article;
- Changed the date for determining whether an eligible article is not produced in the United States from January 3, 1985, to January 1, 1995; and
- Changed the *de minimis* value (a threshold for waiving certain GSP limits that is based on total U.S. imports of an article) from a floating level based on a formula to a specified, indexed figure.[36]

In October 1996, the President proclaimed certain modifications to the GSP resulting from implementing changes in the GSP legislation and decisions made during the expiration of the GSP program. The modifications provided for (1) the graduation from the GSP, effective January 1, 1998, of Aruba, the Cayman Islands, Cyprus, Greenland, Macau and the Netherlands Antilles as a result of the presidential determination that these countries meet the definition of "high income;" (2) the graduation of Malaysia from GSP, effective January 1, 1997, because Malaysia had become sufficiently advanced in economic development and had so improved in trade competitiveness that continued preferential treatment under the GSP was not warranted; (3) the suspension of benefits under the GSP for certain articles imported from Pakistan because of insufficient progress on affording workers in that country internationally recognized worker rights; (4) the addition of Angola, Ethiopia, Madagascar, Zaire and Zambia to the list of least-developed beneficiary developing countries and the deletion of Botswana and Western Samoa from such list; and (5) the granting of *de minimis* waivers on imports for calendar year 1994 and restoration to preferential treatment of certain eligible articles from certain beneficiary countries.

There were $16.9 billion in duty-free imports entered under the GSP program in 1996,[37] accounting for over 13 percent of total U.S. imports from GSP beneficiaries and 2 percent of total U.S. imports (table 5-2). Malaysia was the leading GSP beneficiary in 1996, followed by Thailand, Brazil, Indonesia, and the Philippines (table 5-3). Table A-28 shows the top 20 GSP products or product categories in 1996, and table A-29 shows the overall sectoral distribution of GSP benefits.

Caribbean Basin Economic Recovery Act

Eligible imports from 24 Caribbean Basin countries entered the United States free of duty or at reduced duties under the Caribbean Basin Economic Recovery Act (CBERA) during 1996.[38] CBERA has been operative since January 1, 1984, and, as amended, the act currently has no statutory expiration date.[39] CBERA is the trade-related component of the Caribbean Basin Initiative (CBI).[40] President Reagan launched CBI in 1982 to promote export-led economic growth and economic diversification in the countries in the Caribbean Basin.[41]

A wide range of Caribbean products are eligible for duty-free entry under CBERA.[42] Excluded from duty-free entry, however, are canned tuna, petroleum and petroleum derivatives, certain footwear, some watches and watch parts, sugar from any "Communist" country, and most textiles and apparel. Certain

Table 5-2
U.S. imports for consumption[1] from GSP beneficiaries and the world, 1996

(Million dollars)

Item	All GSP beneficiaries	World
Total	124,120	[2]787,628
GSP eligible products[3]	29,839	281,460
Duty-free under GSP[4]	16,922	16,922
GSP program exclusion	4,565	4,565
All other	8,352	259,972
Noneligible product imports	94,281	506,168

[1] Customs-value basis.
[2] Excludes imports into the U.S. Virgin Islands.
[3] Includes imports from all beneficiary countries and from the world that are eligible for duty-free entry under GSP. For a variety of reasons, all imports from beneficiary countries under HTS provisions that appear to be eligible for GSP treatment do not always and necessarily receive duty-free entry under the GSP. Such eligible goods may not actually receive duty-free entry under GSP for any of at least four types of reasons: (1) the importer fails to claim GSP benefits affirmatively, (2) the goods are from a beneficiary country that has lost GSP benefits on that product for exceeding the so-called "competitive need" limits (discussed above), (3) the goods are from a beneficiary country that has lost GSP on that product because of a petition to remove that country from GSP benefits for that product, and (4) the goods fail to meet the rule-of-origin or direct-shipment requirements in the GSP statute.
[4] These data show total imports from all GSP beneficiary countries that actually received duty-free entry under the GSP.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 5-3
U.S. imports for consumption under the GSP from leading beneficiaries,[1] and total, 1996

(Million dollars)

Rank	Beneficiary	Total imports	Imports of GSP articles	
			GSP-eligible	GSP duty-free[2]
1	Malaysia	17,771	7,246	4,064
2	Thailand	11,320	4,203	2,341
3	Brazil	8,868	3,247	1,962
4	Indonesia	8,078	2,566	1,861
5	Philippines	8,173	1,901	1,428
6	India	6,143	1,447	964
7	Venezuela	12,329	544	509
8	Republic of South Africa	2,306	494	429
9	Argentina	2,189	530	388
10	Russia	3,528	487	357
	Top 10	80,704	22,665	14,305
	Total	124,120	29,839	16,922

[1] These import data show total imports from the top 10 beneficiary countries that fall in HTS provisions that are eligible for duty-free entry under GSP. For a variety of reasons, all imports from beneficiary countries under HTS provisions that appear to be eligible for GSP do not always and necessarily receive duty-free entry under the GSP. See footnote 2 in appendix table A-29.
[2] These import data show the total imports from the top 10 GSP beneficiary countries that actually received duty-free entry under the GSP program.

Note.—Because of rounding, figures may not add to the totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

agricultural products (including sugar, dairy products, cotton, peanuts, and beef) may receive duty-free entry, subject to U.S. quotas and/or health requirements. Other restrictions apply to ethyl alcohol produced from non-Caribbean feedstock. Handbags, luggage, flat goods (such as wallets, change purses, and eyeglass cases), work gloves, and leather wearing apparel are not eligible for CBERA duty-free entry; however, MFN duty levels on qualifying articles were being reduced by a total of 20 percent beginning January 1, 1992, in five equal annual installments.

Total U.S. imports from countries designated under CBERA in 1996 were $14.5 billion. Imports under CBERA preferences were valued at almost $2.8 billion, or 19.1 percent of the total (table 5-4). The leading items afforded duty-free entry under CBERA in 1996 were raw sugar, leather footwear uppers, cigars, and precious-metal jewelry (table A-30). In 1996, 3 countries—the Dominican Republic, Costa Rica, and Guatemala—accounted for two-thirds of all U.S. imports under the CBERA preference (table A-31).

Andean Trade Preference Act

Designated imports from Bolivia, Colombia, Ecuador, and Peru entered the United States free of duty under the Andean Trade Preference Act (ATPA) during 1996.[43] ATPA has been operative since December 4, 1991, and is scheduled to expire on December 4, 2001.[44] ATPA is the trade-related component of the Andean Trade Initiative. President Bush launched the initiative in 1990 to combat the production of illegal narcotics by helping beneficiaries promote export-oriented industries.[45]

ATPA benefits were modeled after CBERA, but with some limits linked to GSP. A wide range of Andean products is eligible for duty-free entry. [46] ATPA excludes from duty-free entry the same list of articles excluded under CBERA. Rum also is excluded.[47] As under CBERA, handbags, luggage, flat goods (such as wallets, change purses, and eyeglass cases), work gloves, and leather wearing apparel are not eligible for ATPA duty-free entry; however, MFN duties on these articles were being reduced by a total of 20 percent beginning January 1, 1992, in five equal annual installments.

Table 5-4
U.S. imports for consumption from CBERA countries, 1994-96

Item	1994	1995	1996
Total imports *(1,000 dollars)*	11,200,280	12,550,118	14,544,810
Imports under CBERA[1]			
1,000 dollars	2,050,158	2,261,407	2,791,055
Percent of total	18.3	18.0	19.1

[1] Value of imports under CBERA has been reduced by the value of MFN duty-free imports and ineligible items that were misreported as entering under the program.
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 5-5
U.S. imports for consumption from Andean countries, 1994-96

Item	1994	1995	1996
Total imports *(1,000 dollars)*	5,879,505	6,968,729	7,867,646
Imports under ATPA[1]			
(1,000 dollars)	683,817	938,789	1,270,054
Percent of total	11.6	13.4	16.1

[1] Value of imports under ATPA has been reduced by the value of MFN duty-free imports and ineligible items that were misreported as entering under the program.
Source: Compiled from official statistics of the U.S. Department of Commerce.

Total U.S. imports from the four Andean countries totaled almost $7.9 billion in 1996. Imports under ATPA preferences (shown by country in table A-32) were valued at nearly $1.3 billion, or 16.1 percent of the total (table 5-5). The leading items afforded duty-free entry under ATPA in 1996 were chrysanthemums, standard carnations, anthuriums, and orchids; roses; and precious metal jewelry, including ropes and chains (table A-33).

National Security Import Restrictions

Section 232 of the Trade Expansion Act of 1962 authorizes the President, on the basis of a formal investigation and report by the Secretary of Commerce, to impose restrictions on imports that threaten to impair the national security of the United States.[48] Among the most important criteria considered by Commerce are—

- Requirements of the defense and essential civilian sectors;
- Maximum domestic production capacity;
- Quantity, quality, and availability of imports;
- Impact of foreign competition on the economic welfare of the essential domestic industry; and
- Other factors relevant to the unique circumstances of the specific case.

The President has 90 days to decide on appropriate action after receipt of the Secretary's findings. The section 232 authority to adjust imports has been used sparingly in the past. It has most notably been employed in connection with the imposition of quotas, fees, or economic sanctions on imports of petroleum products. The U.S. Commerce Department did not initiate a section 232 investigation during 1996.

Agricultural Adjustment Act

Under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), the President may take action in the form of an import fee or quantitative limitation to restrict imports that render, or tend to render, ineffective or materially interfere with the operation of any U.S. Department of Agriculture (USDA) program. The President acts on the basis of an investigation and report by the Commission, although he may take emergency action pending receipt of that report. Following advice of the Secretary of Agriculture and the investigation of the USITC, the President may modify, suspend, or terminate import restrictions because of changed circumstances.

However, section 401(a)(2) of the Uruguay Round Agreements Act amended subsection (f) of section 22 to prohibit the imposition of quantitative limitations or fees under section 22 on articles that are the product of a WTO member. The amendment became effective with respect to all articles except wheat on the date of the entry into force of the WTO Agreement (January 1, 1995).[49] There were no investigations conducted and actions in effect under section 22 during 1996.

U.S. Textile and Apparel Trade Program

Over the next several years, the structure of U.S. textile and apparel trade will become less restrictive as a result of the implementation of the Uruguay Round Agreement on Textiles and Clothing (ATC). The ATC was negotiated during the Uruguay Round of multilateral trade negotiations to open up world trade in textiles and apparel by gradually phasing out the international Multifiber Arrangement (MFA) system of quotas.

The Uruguay Round Agreement on Textiles and Clothing

On January 1, 1995, the ATC entered into force as part of the WTO agreements and replaced the MFA, which had governed world trade in these goods since 1974. Under the ATC, textiles and apparel will be gradually "integrated" into the GATT regime; that is, the sector will be brought under GATT discipline and subject to the same rules as goods of other sectors. As WTO countries integrate their textile and apparel trade into the GATT regime, they are obligated to eliminate quotas on imports of textiles and apparel from WTO countries, and they cannot establish new quotas on the integrated items other than as provided under normal GATT rules.

Under the ATC, the integration process will occur over a 10-year transition period in three stages ending on January 1, 2005. The first stage began on January 1, 1995, when WTO countries were obligated to integrate into the GATT regime at least 16 percent of their sector trade, based on 1990 import volume, and to increase the annual growth rates for quotas still in place with major suppliers by 16 percent.[50] The second stage begins in 1998, when at least another 17 percent of the trade is to be integrated, followed by at least an additional 18 percent in 2002. The remainder of the trade is to be integrated at the end of the 10-year period.

All WTO countries are subject to the disciplines of the ATC, and only WTO countries are eligible for the ATC's benefits. The Textiles Monitoring Body (TMB), also created during the Uruguay Round, supervises the implementation of the ATC's provisions. The ATC recognizes that some importing countries may need a special mechanism for avoiding serious damage to their domestic textile and apparel industries during the transition period. During the 10 years that the ATC is in force, WTO countries may limit imports of textiles or apparel by applying a "transitional safeguard," or quota. The safeguard may be applied only to products that are not subject to quotas in the importing country and not yet integrated into the GATT regime. The quota may remain in place for up to 3 years or until the product is integrated into the GATT.

U.S. Actions in 1996

The United States currently has textile and apparel quotas with 47 countries, 38 of which are subject to the terms of the ATC (table 5-6). These 38 countries supplied 57 percent of the total value of sector imports in 1996. Bulgaria, Haiti, Qatar, and the United Arab Emirates became members of the WTO in 1996, at which times the quotas with these countries became governed by the provisions of the ATC. Eight non-WTO countries were subject to U.S. quotas in 1996 and supplied 18 percent of sector imports. Another 9 percent of the imports came from Mexico, a WTO member whose textile and apparel shipments to the United States are governed by NAFTA.

The integration of textiles and apparel into the GATT regime during the past 2 years has had limited implications for the U.S. textile and apparel sector. The Committee for the Implementation of Textile Agreements (CITA), a U.S. interagency group charged with implementing and enforcing U.S. textile agreements, deferred integration of the most sensitive products until the end of the 10-year transition period.[51] None of the products integrated by the United States in the first stage was under quota. In addition, the effect of the quota growth acceleration (automatic quota "growth-on-growth" liberalization) provisions of the ATC was small during 1996 and was expected to remain small in the early phases of the transition period.

The United States initiated only two calls—requests for consultations with foreign supplying countries for the purpose of establishing quotas—in 1996; of which only one was a safeguard action taken under the ATC. The latter was an import quota, established under the ATC, of 209,563 dozen cotton and manmade-fiber skirts from El Salvador—a WTO member. The other call resulted in a quota imposed under section 204 of the Agricultural Act of 1956 of 406,469 dozen on imports of men's and boys' cotton and manmade-fiber woven shirts from Ukraine—a non-WTO member. These 2 calls were down significantly from the 28 calls the United States initiated during 1995.[52] Two of the 1995 calls were challenged by the exporting countries during 1996. Costa Rica challenged the U.S. call on cotton and manmade-fiber underwear, requesting a review of the call by the WTO's TMB. India challenged the U.S. call on woven wool shirts and blouses and also requested a review by the TMB.

Both cases were ultimately reviewed by the WTO dispute settlement panel which, in October 1996, ruled that the United States should remove the import quota it had placed on cotton and manmade-fiber underwear from Costa Rica because it failed to demonstrate that the U.S. industry had suffered or was threatened with serious injury caused by those imports.[53] The panel questioned how the underwear imports from Costa Rica alone could cause or threaten injury to the U.S. industry when the United States had granted large quotas for imports of this underwear from five other suppliers.[54] In its finding, the panel reported that "the fact that the U.S. underwear industry was able to accept and withstand such a huge inroad of products from the five other exporting members suggests that there was no serious damage to the industry in the first place."[55]

In the case of India, the WTO dispute settlement panel ruled that the United States failed to demonstrate that its domestic industry was suffering serious damage or the threat of serious damage when it imposed import quotas on woven wool shirts and blouses from India in April 1995.[56] This finding overturned earlier findings by the TMB, which had found in September 1995 that the United States had demonstrated that the increase in the imported shirts and blouses from India had caused actual threat of serious damage to the domestic industry. Trade sources report that the TMB is likely to tighten its requirements of proof of damage as a result of the WTO's dispute settlement panel's findings in both of these cases.[57]

Other Trade Agreements

The United States currently maintains quotas on textile and apparel imports from eight non-WTO countries under section 204 of the Agricultural Act of 1956 (table 5-6). During 1996, memorandums of understanding (MOUs) were established with the Former Yugoslav Republic of Macedonia and Russia.

Table 5-6
Countries with which the United States has textile and apparel quotas, as of February 1, 1997, and U.S. imports of textiles and apparel from these countries in 1996

(Million dollars)

Country	Imports
WTO members subject to the ATC	
Bahrain	63
Bangladesh	1,091
Brazil	170
Bulgaria[1]	42
Burma (Myanmar)	77
Colombia	302
Costa Rica	651
Czech Republic	36
Dominican Republic	1,638
Egypt	288
El Salvador	676
Fiji	48
Guatemala	734
Honduras	1,105
Hong Kong	3,734
Hungary	59
India	1,617
Indonesia	1,375
Jamaica	463
Kenya	26
Kuwait	5
Macau	698
Malaysia	655
Mauritius	155
Pakistan	939
Philippines	1,577
Poland	52
Qatar[1]	70
South Korea	1,907
Romania	63
Singapore	309
Slovak Republic	23
Sri Lanka	1,042
Thailand	1,288
Turkey	689
United Arab Emirates[1]	210
Uruguay	13
Non-WTO members subject to section 204 of the Agricultural Act of 1956	
China	4,573
Former Yugoslav Republic of Macedonia	54
Laos	9
Nepal	97
Oman	106
Russia	85
Taiwan	2,531
Ukraine	59
WTO member subject to the North American Free-Trade Agreement	
Mexico	3,871

[1] Country acceded to the WTO during 1996.

Source: U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel.

China

The United States and China reached agreement on a new 4-year bilateral pact on textiles and apparel trade in February 1997. The agreement replaces the bilateral textiles agreement, which expired on Jan. 31, 1997. The new pact extends U.S. import quotas on textiles and apparel from China and cuts quotas in product areas where China had made repeated transshipment violations. The agreement also establishes market access for U.S. textile and apparel exports to China for the first time. The portion of the agreement covering U.S. import quotas entered into effect on February 1, 1997. The market access portion of the agreement, covering U.S. exports to China, is scheduled to take effect on January 1, 1998.[58]

Regarding market access, China agreed to cut tariffs, which exceed 50 percent *ad valorem*, in some categories, and to bind these tariffs at lower rates. China also pledged to ensure that nontariff barriers, such as import licensing and other arrangements, do not prevent U.S. exporters from benefiting from improved market access.

Regarding U.S. textile import quotas on Chinese goods, the agreement addressed U.S. concerns about illegal transshipment of textiles and apparel. The agreement cut China's quota levels in 14 product areas of U.S. imports which had been subject to illegal overshipment or transshipment practices. The agreement continues the enforcement mechanism of the 1994 agreement, including the possibility to apply "triple charge" quotas against repeated violations. The agreement also improves the bilateral consultation process by enhancing shipment tracking through an "electronic visa" system, and contains provisions on the separate treatment of textile import quotas for Hong Kong and Macau after reversion of the territories to China. The agreement cut China's overall access to the U.S. market by 2.6 percent at the category level. The pact allows average annual import growth of 1 to 3 percent for U.S. textile imports from China, depending on product category.

The United States penalized China three times for violations of the now-expired 1994 agreement. Most recently, triple charges were levied against China's import quotas in September 1996 after illegal transshipments of textile products to the United States. The charges were applied in response to shipments to the United States of products made in China but re-labeled in and transshipped through Mongolia, Turkey, Hong Kong, Fiji and other locations to avoid U.S. import quota limits on products of China. The Chinese Government denied the U.S. finding of transshipment. The 1997 bilateral agreement retains $19 million in charges against China's textile import quota allowances that the U.S. imposed in September 1996.[59]

Transshipment of textiles and apparel through third countries, especially China, to evade quotas continued to be a concern for the United States in 1996. The United States charged China's quotas on certain apparel items, sewing thread, and certain towels for transshipments and misclassification totaling $19 million.[60] The U.S. Customs Service continued to conduct other investigations of transshipments of textiles and apparel produced in China and exported to the United States during 1996.

NAFTA

Under NAFTA, which entered into force on January 1, 1994, the United States agreed to immediately eliminate quotas on textile and apparel imports from Mexico that meet NAFTA rules of origin.[61] For imports that do not meet the origin rules, U.S. quotas will be phased out by 2004. NAFTA provides for tariff preference levels (TPLs) that allow limited amounts of textile and apparel imports from Canada and Mexico that do not meet NAFTA origin rules to enter at preferential duty rates under NAFTA.[62] With the exception of the TPL on wool apparel from Canada, the TPLs are under-utilized. In recent years, Canada has essentially filled its wool apparel TPL with men's and boys' suits, suit-type jackets, and trousers. From 1988 to 1995, U.S. imports of the suits from Canada rose from 100,000 units to 1.1 million, raising concern among U.S. suit and tailored clothing producers.[63]

In a separate issue, U.S. textile and apparel industry officials asked that the President authorize temporary duty-free entry for suits and suit-type jackets from Mexico if they contain nonoriginating interlinings.[64] A provision of NAFTA, HTS heading 9802.00.90 provides for duty- and quota-free entry for apparel and other textile goods assembled in Mexico from fabric wholly made and cut in the United States (production sharing).[65] A recent loss of domestic supply of certain interlining fabrics used in the assembly of these suits and suit-type jackets in Mexico has precluded U.S. firms from importing the garments under the provision. Consequently, members of the U.S. textile and apparel industry are requesting temporary quota- and duty-free entry to allow domestic firms time to develop and test the interlining fabrics. Section 201 (b)(1)(A) of the NAFTA Implementation Act (19 U.S.C. 3331(b)(1)(A)) authorizes the President to proclaim such modifications of any duty as the President determines to be necessary to maintain the

general level of reciprocal and mutually advantageous concessions with respect to Canada or Mexico provided for by NAFTA, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313 (a)). Currently, the President has submitted his proposal for change and the advice reports to the Congress, which has 60 days to react to the President's proposal.

U.S. Trade in 1996

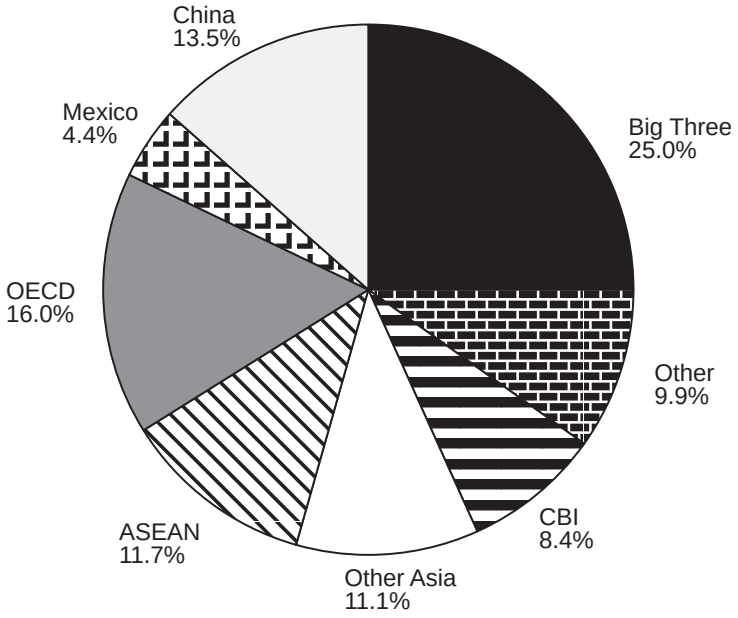
U.S. imports of MFA products in 1996 rose by 4 percent over the 1995 level to a record 19.1 billion square meter equivalents (SMEs) valued at $46 billion (figure 5-1). The increase marked a continuation of a slowdown in the growth of imports, which rose by only 6 percent in 1995 and by 9 percent in 1994. The gain in 1996 imports was fairly evenly divided between imports of apparel, which rose by 5 percent to 9.7 billion SMEs valued at $36.4 billion, and imports of textiles, which rose by 4 percent to 9.4 billion SMEs valued at $9.5 billion.

The Caribbean Basin countries, Canada, and especially Mexico accounted for virtually all of the increase in sector imports in 1996. These countries benefit from preferential access to the U.S. market under U.S. trade agreement programs—Caribbean Basin countries under CBERA, discussed above in more detail, and Canada and Mexico under NAFTA. Sector imports from Mexico escalated in 1996, rising by 42 percent to 2.2 billion SMEs valued at $4.2 billion, enabling Mexico to surpass China to become the single largest country supplier of textiles and apparel. Sector imports from Caribbean Basin countries rose by a much slower 10 percent to 2.4 billion SMEs valued at $6.1 billion in 1996.[66] The vast majority of the imports from both Mexico and the Caribbean Basin countries consisted of garments assembled from U.S. components and entered under production sharing provisions.[67] The use of production sharing operations by U.S. apparel companies has grown rapidly in recent years as U.S. producers, faced with a highly competitive retail environment, expand their use of offshore assembly operations in Caribbean Basin countries and Mexico to cut costs.

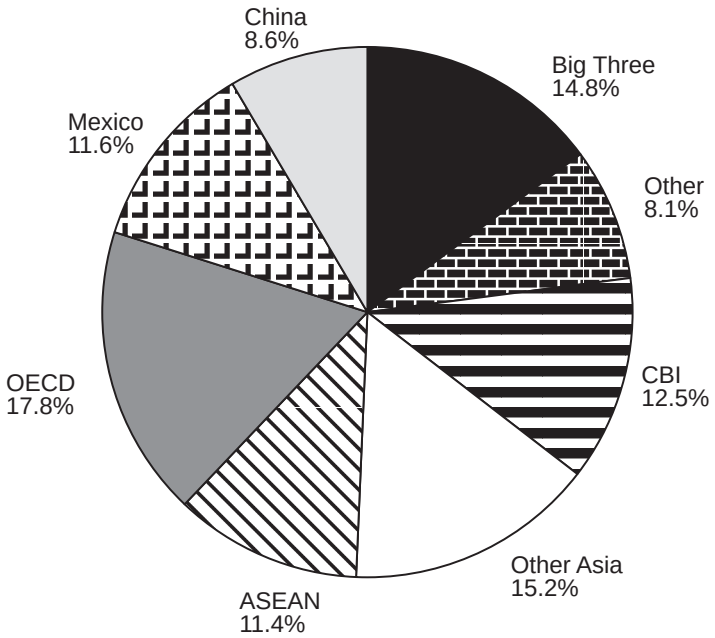
The pattern of sector competition between the Caribbean Basin countries and Mexico has changed since the implementation of NAFTA on January 1, 1994. In the 4 years before NAFTA, U.S. imports of MFA-covered textiles and apparel in volume terms rose at an average annual rate of 18 percent for Caribbean Basin countries and 15 percent for Mexico. The growth in Caribbean Basin shipments since then has lagged behind that of Mexico. In 1994, the growth rate slowed to 15 percent for Caribbean Basin countries but accelerated to 31 percent for Mexico. In 1995, the volume of Caribbean Basin imports resumed a strong upward trend, rising by 22 percent; however, Mexico's shipments rose by 59 percent. The 22-percent growth in Caribbean Basin imports in 1995 has been attributed to optimism by the U.S. apparel industry that imports from the Caribbean Basin countries would be granted NAFTA parity (i.e., the same reduced tariffs available to imports from Mexico under NAFTA). The significant slowdown in growth in 1996 Caribbean Basin imports reflects U.S. industry's concerns and uncertainty over the prospects of passage of any type of legislation which would grant NAFTA parity to Caribbean Basin countries. Industry sources reported in 1996 that although U.S. producers continue to utilize existing production sharing operations in the Caribbean Basin (in order to diversify their sources), new investment or expansion of production sharing facilities continued to increase in Mexico. In fact, U.S. industry officials claimed that NAFTA has led to a measurable diversion of trade and investment from Caribbean Basin countries to Mexico.[68] Eligible imported garments from Mexico enter quota- and duty-free under NAFTA-authorized heading 9802.00.90 of the HTS. Comparable apparel imports from Caribbean Basin countries are still subject to duty on the value added offshore.[69] The devaluation of the Mexican peso during December 1994-January 1995 further affected the competitive balance between Mexico and Caribbean Basin countries by effectively reducing dollar prices of Mexican goods in the U.S. market.

U.S. imports of textiles and apparel from China and two of the traditional Big Three Asian suppliers to the United States—Hong Kong and Korea—continued to decline in 1996, when these countries, together with Taiwan, accounted for 23.4 percent of total sector trade, compared with 38.5 percent in 1991 (figure 5-1). Sector imports from China fell by 7 percent in 1996 to 1.6 billion SMEs; while the value of these imports rose by 2 percent to almost $4.9 billion. The decline in the quantity of imports from China partly reflected tight U.S. import quotas. The bilateral agreement with China provided for 1-percent quota growth in 1996 and adjustments related to transshipment charges cut the actual quota available for 1996. Sector imports from Hong Kong dropped by 9 percent during 1996 to 892 million SMEs valued at $4.0 billion; these imports from Korea declined by 9 percent to 729.6 SMEs valued at $2.0 billion; while those from Taiwan rose by 3 percent to 1.2 billion SMEs valued at $2.7 billion.

Figure 5-1
U.S. imports of textiles and apparel covered by the MFA, by major suppliers, 1991 and 1996



1991: Total 12.8 billion square meter equivalents



1996: Total 19.1 billion square meter equivalents

Note.—The Big Three refers to Hong Kong, Korea, and Taiwan. Other Asia consists of Bangladesh, India, Pakistan, Sri Lanka, and Macau. In addition, OECD does not include Mexico, a member country.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Although restricted to some extent by quotas, the Big Three were largely affected by continued rising operating costs, labor shortages, and growing competition from lower-cost countries.

U.S. textile and apparel imports from the Association of Southeast Asian Nations (ASEAN) remained relatively stable in 1996. U.S. textile and apparel imports from the Philippines grew by only 2 percent in 1996, while those from Indonesia grew by 12 percent. Sector imports from Thailand, Malaysia, and Singapore all declined in 1996. Imports from the "other Asia" countries, led by India and Pakistan, grew by 9 percent in quantity terms in 1996, the value by 6 percent. The value of these imports, however, grew by a much slower 4 percent. Since 1991, other Asia's share of world textile and apparel imports grew from 11.1 percent to 15.2 percent in 1996.

New Rules of Origin for Textiles and Apparel

On July 1, 1996, the United States implemented new rules of origin for imports of textiles and apparel as provided for by section 334 of the URAA. The change in origin rules affects country-of-origin determinations for U.S. imports of products that are subject to manufacturing and processing operations in, or contain components from, more than one country. Under the old rules, textile products (especially apparel) assembled in one country from parts cut from fabric made in another country generally were considered the product of the country in which the cutting occurred. The new rules assign origin to the country of assembly. For home furnishing textiles like sheets and pillow cases, the old rules generally conferred origin in the country in which the goods were cut to size from fabric rolls, hemmed, and otherwise sewn. The new rules confer origin in the country in which the fabric is woven. For fabrics woven in one country and dyed, printed, and otherwise finished in another, the old rules generally conferred origin in the country where the finishing took place, whereas the new rules confer origin in the country in which the weaving takes place.

Numerous disputes with U.S. trading partners have evolved concerning these new rules. For example, European producers which import fabric from such countries as China, India, and Pakistan, and process the fabric by bleaching, dyeing, or printing as well as cutting and sewing such products as silk scarves, draperies, and bed linens in Europe, can no longer benefit from an European Union (EU) country-of-origin label. Under the new rules, these producers must label their products according to where the fabric is woven. In addition, the EU producers may have to obtain quotas and visas from the fabric-producing countries before they can export the products to the United States if their products are covered by U.S. quotas. The EU has threatened to take the United States to the WTO if legislation to correct this is not introduced in the U.S. Congress by April 4, 1997.

ENDNOTES

[1] 19 U.S.C. 2251 et seq.

[2] 19 U.S.C. 2436.

[3] 19 U.S.C. 3351 et seq.

[4] 19 U.S.C. 2271 et seq.

[5] Under the global safeguard law, the Commission conducts investigations to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. 19 U.S.C. 2252(b)(1)(A). If the Commission makes an affirmative determination, it is to recommend to the President the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. 19 U.S.C. 2252(e)(1).

[6] Under the NAFTA bilateral safeguard law, the Commission conducts investigations to determine whether, as a result of the reduction or elimination of a duty provided for under NAFTA, a Canadian or Mexican article is being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of serious injury, or (except in the case of Canada) the threat of serious injury, to the domestic industry producing an article that is like, or directly competitive with, the imported article. 19 U.S.C. 3352(b). If the Commission makes an affirmative determination, the Commission recommends to the President the relief that is necessary to prevent or remedy the serious injury. 19 U.S.C. 3353(b).

[7] Inv. Nos. TA-201-65 and NAFTA 302-1, *Broom Corn Brooms*, USITC publication 2984, Aug. 1996.

[8] U.S. Department of State telegram, "Presidential Safeguard Actions on Broom Corn Brooms," message reference no. 184686, prepared by U.S. Department of State, Sept. 6, 1996. On Jan. 14, 1997, Mexico filed a request for the establishment of a panel under NAFTA chapter 20. NAFTA dispute settlement mechanisms are described in ch. 3.

[9] U.S. Department of State telegram, "Presidential Safeguard Actions on Broom Corn Brooms," message reference no. 184686, prepared by U.S. Department of State, Sept. 6, 1996.

[10] See Presidential Proclamation 6961 of Nov. 28, 1996, 61 F.R. 64431 and accompanying Presidential memorandum of the same date at 61 F.R. 64439.

[11] Inv. No. TA-201-66, *Fresh Tomatoes and Bell Peppers*, USITC publication 2985, Aug. 1996.

[12] Sec. 250 of the Trade Act of 1974 (19 U.S.C. 2331), as added by sec. 502 of the NAFTA Implementation Act.

[13] Sections 251 through 264 of the TAA.

[14] Derived from official statistics of the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, Management Information System.

[15] Ibid.

[16] During FY 1996, 63,944 workers filed for TRA and 29,607 workers received at least their first payment.

[17] Information contained in this table was compiled from USTR, *Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974.*

[18] 19 U.S.C. 1673 et seq.

[19] 19 U.S.C. 1677b; 19 CFR part 353, subpart D.

[20] Upon the filing of a petition, the Commission has 45 days to make a preliminary determination of whether there is a reasonable indication of material injury or threat of material injury to an industry or of a material retardation of the establishment of an industry. If this determination is affirmative, Commerce continues its investigation and makes preliminary and final determinations concerning whether the imported article is being, or is likely to be, sold at LTFV. If Commerce reaches a final affirmative dumping determination, the Commission has 45 days thereafter to make its final injury determination. If the Commission's preliminary determination is negative, by contrast, both the Commission and Commerce terminate further investigation.

[21] The figures set forth in this section do not include court-remanded investigations on which new votes were taken or investigations terminated before a determination was reached.

[22] An antidumping investigation may be suspended through an agreement before a final determination by the U.S. Department of Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping or to cease exports of the merchandise to the United States within 6 months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. A suspended investigation is reinstituted should LTFV sales recur. See 19 U.S.C. 1673c.

[23] When a petition alleges dumping (or subsidies) with respect to more than one like product and/or by more than one country, separate investigations generally are instituted for imports of each product from each country and each such investigation may be given a separate number. For this reason, the numbers of investigations instituted and determinations made may exceed the number of petitions filed. Moreover, an investigation based on a petition filed in 1 calendar year may not be completed until the next year. Thus, the number of petitions filed may not correspond closely to the number of determinations made. Additionally, the numbers set forth in this tabulation do not include

determinations made following court-ordered remands.

[24] These figures include petitions withdrawn voluntarily by petitioners.

[25] A subsidy is defined as a bounty or grant bestowed directly or indirectly by any country, dependency, colony, province, or other political subdivision on the manufacture, production, or export of products. 19 U.S.C. 1677(5), and 1677-1(a).

[26] The figures set forth in this section do not include court-remanded cases on which new votes were taken or investigations terminated before a determination was reached.

[27] A countervailing duty investigation may be suspended through an agreement before a final determination by Commerce if—(1) the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to completely offset the net subsidy, or to cease exports of the merchandise to the United States within 6 months; or (2) extraordinary circumstances are present and the government or exporters described above agree to completely eliminate the injurious effect of the imports of the merchandise under investigation. A suspended investigation is reinstituted if subsidization recurs. 19 U.S.C. 1671c.

[28] Because a petition will sometimes name more than one product and/or country, and because each product and country named is designated as a separate investigation when proceedings are formally instituted, the number of investigations instituted and determinations made generally exceeds the number of petitions filed.

[29] 19 U.S.C. 1675(c).

[30] 19 U.S.C. 1675(c)(6).

[31] Also unlawful under section 337 are other unfair methods of competition and unfair acts in the importation of articles into the United States, or in the sale of imported articles, the threat or effect of which is to destroy or substantially injure a domestic industry, to prevent the establishment of an industry, or to restrain or monopolize trade and commerce in the United States. Examples of other unfair acts are misappropriation of trade secrets, common law trademark infringement, misappropriation of trade dress, false advertising, and false designation of origin. Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping or countervailing duty provisions and not under section 337.

[32] Section 337 proceedings at the Commission are conducted before an administrative law judge in accordance with the Administrative Procedure Act, 5 U.S.C. 551 et seq. The administrative law judge conducts an evidentiary hearing and makes an initial determination, which is transmitted to the Commission. The Commission may adopt the determination by deciding not to review it, or it may choose to review it. If the Commission finds a violation, it must determine the appropriate remedy, the amount of any bond to be collected while its determination is under review by the President, and whether public interest considerations preclude the issuance of a remedy.

[33] 19 U.S.C. 2462(b).

[34] 19 U.S.C. 2463.

[35] "[A]n amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974" (which in 1995 was approximately $122 million) to a dollar value for calendar year 1996 of $75,000,000 and for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

[36] "[A]n amount which bears the same ratio to $5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979" (which in 1995 was approximately $14 million) to a value for calendar year of $13,000,000 and for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

[37] As discussed above, the U.S. GSP program expired on July 31, 1995, and was extended retroactively through May 31, 1997 by legislation signed by the President on Aug. 20, 1996. Because of the lapse of GSP benefits, articles otherwise eligible for GSP duty-free entry were subject to ordinary MFN duties during the period of GSP lapse unless another valid preferential tariff benefit, such as that provided by the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act (discussed below), was claimed and accorded. Duties paid on articles otherwise eligible for GSP duty-free entry during the period of GSP lapse were eligible to be refunded once the program again became operative. Procedures for such refunds were announced in U.S. Customs Service, "Procedures If the Generalized System of Preferences Program Expires," 60 F.R. 35103.

[38] The 24 countries designated for CBERA benefits are listed in table A-33.

[39] Public Law 98-67, title II, 97 Stat. 384, 19 U.S.C. 2701 et seq. Relatively minor amendments were made to CBERA by Public Laws 98-573, 99-514, 99-570, and 100-418. CBERA was significantly expanded by the Caribbean Basin Economic Recovery Expansion Act of 1990, Public Law 101-382, title II, 104 Stat. 629, 19 U.S.C. 2101 note.

[40] For a more detailed description of the CBERA, including country and product eligibility, see USITC, *Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers, Eleventh Report, 1996*, USITC publication 2994, Sept. 1996.

[41] President, "Address Before the Permanent Council of the Organization of American States," *Weekly Compilation of Presidential Documents*, Mar. 1, 1982, pp. 217-223.

[42] Section 213(a) of CBERA (19 U.S.C. 2703(a)) establishes criteria, or rules of origin, to determine which articles are eligible for duty-free treatment under the act.

[43] For a more detailed description of the ATPA, including country and product eligibility, see USITC, *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, Third Report, 1996*, USITC publication 2995, Sept. 1996.

[44] 19 U.S.C. 3202.

[45] President, "Remarks Following Discussions With President Rodrigo Borja Cevallos of Ecuador," *Weekly Compilation of Presidential Documents*, July 23, 1990, pp. 1140-1143.

[46] Section 204(a) of ATPA (19 U.S.C. 3203(a)) establishes rules of origin to determine which articles are eligible for duty-free treatment under the Act.

[47] ATPA sec. 204(b), 19 U.S.C. 3203(b).

[48] 19 U.S.C. 1862.

[49] With the exception of the tariff-rate quotas in effect on wheat, all section 22 fees and quantitative limitations on agricultural products were converted to bound tariffs (tariffs may not be raised above a bound level without compensating affected parties) under a process known as "tariffication." The special tariff-rate quotas on wheat were allowed to expire in September 1995.

[50] The acceleration of quota growth rates is based on the rates specified in the bilateral MFA agreements in place on Dec. 31, 1994. At that time, the annual quota growth rates with major WTO suppliers such as Hong Kong and Korea were less than 3 percent, and those with most other, smaller WTO suppliers were less than 7 percent. In the second and third stages of GATT integration, quota growth for major suppliers is to be increased by another 25 and 27 percent, respectively. For small suppliers (those accounting for 1.2 percent or less of an importing country's total quotas as of Dec. 31, 1991), quota growth is to be advanced by one stage, that is, growth rates are to be increased by 25 percent in the first stage and by another 27 percent in both the second and third stages. For more information on the ATC's integration process, see USITC, *The Year in Trade 1995, Operation of the Trade Agreements Program 47th Report*, USITC publication 2971, Aug. 1996, pp. 81-84.

[51] Ibid., p. 82.

[52] Citing changing U.S. market conditions, CITA rescinded 15 of the 28 calls made in 1995. All of the calls rescinded were made with WTO members.

[53] Costa Rica initiated formal WTO dispute settlement procedures when the WTO's Textile Monitoring Body (TMB) was unable to reach a conclusion as to whether the United States demonstrated a threat of serious damage. The TMB had already concluded that the United States had failed to show serious damage.

[54] The United States granted quotas to Colombia, El Salvador, the Dominican Republic, and Turkey, which together totaled 170,305,774 dozen units and amounted to an increase of 478 percent over then-current import levels. Imports from Costa Rica totaled 14,423,178 dozen units and amounted to an increase of 22 percent over then-current levels.

[55] WTO, "WTO Panel Report on Costa Rica Underwear," VII. Findings.

[56] Following a significant drop in U.S. imports of the woven wool shirts from India, CITA withdrew the restraint or quota on Dec. 4, 1996.

[57] See, for example, Frances Williams, "U.S. Loses WTO Textiles Cases," *Financial Times*, Jan. 7, 1997, p. 6.

[58] USTR, "U.S. and China Reach Four-Year Textile Trade Agreement—U.S. Gains Market Access in China and Targets Areas of Transshipment Violations for Cutbacks," press release 97-07, Feb. 2, 1997.

[59] Under the 1994 agreement, the United States applied over $80 million in charges against China for violations of the textiles agreement. For a summary of the textile dispute with China, see ch. 4.

[60] Committee for the Implementation of Textile Agreements, "New Transshipment and Misclassification Charges for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured In the People's Republic of China," 61 F.R., 47892.

[61] The NAFTA rule of origin is basically a "yarn forward" rule, which requires that textile and apparel goods be produced in a NAFTA country from the yarn stage forward in order to receive the benefits of the agreement.

[62] TPLS (formerly tariff rate quotas, or TRQs, under the United States-Canada Free Trade Agreement) were developed primarily to alleviate short supply problems, especially as they relate to manufacturers' inputs.

[63] For a summary of the wool dispute with Canada, see ch. 4.

[64] For more information on this proposal, see USITC, *Advice on Providing Temporary Duty-Free Entry For Certain Suits and Suit-Type Jackets From Mexico, Report to the President on Investigation No. 332-373*, USITC publication 3012, Jan. 1997.

[65] See the section on Mexico and production sharing in ch. 3 for further discussion.

[66] U.S. textile and apparel imports from Canada increased by 16 percent in 1996 to 1.8 billion SMEs valued at $2.0 billion. Just over 92 percent of the quantity of imports from Canada consisted of textiles and largely reflects trade between subsidiaries of U.S. and Canadian textile companies.

[67] In general, duties on goods entered under heading 9802.00.80 of the HTS are assessed only on the value added offshore and not on the value of the U.S. components sent abroad for assembly.

[68] Letter to William V. Roth, Jr., Chairman, Senate Finance Committee, in support of NAFTA parity for Caribbean Basin countries, jointly signed by the American Apparel Manufacturers Association, American Textile Manufacturers Institute, United States Apparel Industry Council, American Yarn Spinners Association, and American Fiber Manufacturers Association, Oct. 3, 1995.

[69] For every $10 in f.o.b. value, a typical Caribbean Basin garment entered under the

production sharing provision contains $6.40 in duty-free U.S. components and $3.60 in dutiable, foreign value-added. Applying the 1995 trade-weighted tariff on apparel of 16.1 percent *ad valorem* to the foreign value-added yields a duty of $0.58, or an *ad valorem* equivalent of 5.8 percent.

CHAPTER 6
Major U.S. Trade Sanctions Activities

This section reviews major U.S. trade sanctions activities for which there were significant changes in scope or operation of the sanctions during 1996.[1] The United States imposes trade sanctions against specific foreign countries under several statutory authorities.[2] Most are administered and enforced by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury; a few specifically targeted trade embargoes are administered and enforced by other agencies. OFAC acts under Presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and to freeze assets under U.S. jurisdiction.[3] Other offices and agencies, including the Bureau of Export Administration Export Enforcement in the U.S. Department of Commerce and the U.S. Customs Service, play a supportive role in monitoring compliance with the U.S. measures. Some of the U.S. sanctions are based on United Nations (UN) resolutions and other international measures that are multilateral in scope, and are carried out in close cooperation with other governments.

During 1996, the United States lifted certain trade sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb-controlled areas of the Republic of Bosnia and Herzegovina. The United States also implemented an exception to sanctions on trade with Iraq to permit imports of petroleum and petroleum products from that country and exports of certain humanitarian goods. Also during 1996, the United States enacted three statutes to expand or reinforce trade sanctions already applied—the Cuban Liberty and Democratic Solidarity Act of 1996, to expand economic sanctions against Cuba; the Iran and Libya Sanctions Act of 1996, to expand trade sanctions against those countries; and the Antiterrorism and Effective Death Penalty Act of 1996, to authorize criminal penalties to be imposed against U.S. persons engaged in unauthorized financial transactions with Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. In addition, the United States imposed embargoes on imports of certain shrimp and yellowfin tuna from certain countries. These 1996 trade sanctions-related developments are described in more detail below.

Federal Republic of Yugoslavia (Serbia and Montenegro)

U.S. sanctions with the Federal Republic of Yugoslavia (Serbia and Montenegro) were first imposed in 1992.[4] Access to assets under U.S. jurisdiction was blocked for the Governments, companies, or individuals located or resident in Serbia and Montenegro or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the recently constituted Federal Republic of Yugoslavia; in addition, trade and other transactions with these entities were prohibited. These sanctions were later applied to Bosnian Serb-controlled areas of the Republic of Bosnia and Herzegovina.[5]

On November 21, 1995, in Dayton, Ohio, the presidents of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Bosnia and Herzegovina, and the Republic of Croatia initialed the General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto (hereafter Peace Agreement), which was signed by the parties in Paris on December 14, 1995. On November 22, 1995, the UN Security Council adopted Resolution 1022 to immediately and indefinitely suspend sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro). Sanctions against the Bosnian Serb forces and the areas of Bosnia and Herzegovina under their control were to remain in effect until Bosnian Serb troops withdrew to agreed borders. The resolution provides for the reimposition of sanctions if any of the parties fail to meet their obligations under the Peace Agreement and it is so reported by the commander of the international force (IFOR) deployed in accordance with that agreement.[6]

Following the adoption of UN Security Council Resolution 1022, President Clinton issued a Presidential Determination that, among other things,

directed the Secretary of the Treasury to take action to suspend the application of the U.S. sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro).[7] Pursuant to that Presidential Determination, OFAC issued regulations to partially suspend sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) effective January 16, 1996.[8] The IFOR commander transmitted a report to the UN Security Council on February 26, 1996, confirming that the Bosnian Serbs had complied with the terms of the Peace Agreement; consequently, on May 10, 1996, U.S. sanctions also were suspended against the Bosnian Serb-controlled areas of the Republic of Bosnia and Herzegovina.[9]

As a result of these changes to U.S. regulations during 1996, prospective trade and financial transactions involving both the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Bosnia and Herzegovina are permitted. Except as authorized by OFAC, assets blocked prior to suspension will remain blocked until provisions are made to address claims or encumbrances, including the claims of successor states of the former Yugoslavia.[10]

Iraq

Following the 1990 invasion of Kuwait by Iraq[11] and subsequent passage of resolutions by the UN Security Council calling upon members to impose sanctions against Iraq,[12] the United States imposed a complete trade embargo against Iraq.[13] In keeping with UN Security Council Resolution 986 (discussed in more detail below), the United States prohibits imports of goods or services, or any activity that promotes or is intended to promote such imports, from Iraq either directly or through third countries. Goods, technology, or services cannot be exported from the United States to Iraq either directly or through third countries subject to U.S. jurisdiction with the exception of OFAC-licensed food, medical supplies intended to relieve human suffering, and certain other humanitarian goods. In addition, U.S. persons (natural and legal) generally are prohibited from dealing in Iraqi-origin goods or in any goods exported from Iraq to any country after August 6, 1990, and are prohibited from dealing in property intended for export to Iraq from any country. U.S. persons also are generally prohibited from performance of contracts in support of industrial, commercial, public utility, or governmental projects in Iraq and from involvement in any financial, sales, or service contracts that will have an impact on projects in Iraq. These regulations do not apply to foreign subsidiaries of U.S. companies; however, U.S. parent corporations and all U.S. citizens or residents, wherever located, are prohibited from approving or providing financial assistance, advice, consulting services, goods, or any other support to subsidiaries in connection with Iraqi projects.[14]

UN Security Council Resolution 661 (1990), Resolution 687 (1991), and subsequent resolutions direct UN member states to apply a complete embargo on trade with Iraq and to apply other economic sanctions until such time as the Government of Iraq comes into compliance with that country's obligations under the 1991 Persian Gulf War cease-fire arrangements. Specifically, Iraq is banned from having or acquiring nuclear, chemical, and biological weapons and long-range ballistic missiles (so-called weapons of mass destruction). Resolution 661 provided for the establishment of an Iraq Sanctions Committee (also referred to as the "661 Committee"), consisting of representatives of all the members of the UN Security Council, to oversee implementation of the sanctions on Iraq.[15]

On April 14, 1995, the UN Security Council approved Resolution 986 which, subject to certain conditions, authorizes UN member states to permit the import of petroleum and petroleum products originating in Iraq up to a combined total of $2 billion ($1 billion per calendar-year quarter for 6 months, with possible renewal by the Security Council for additional 6-month periods) and authorizes the sale of certain humanitarian goods to Iraq. Contracts to purchase Iraqi oil must be individually reviewed by the UN Iraq Sanctions Committee, or by designated "oil overseers" appointed by the UN Secretary General, to determine whether the contracts conform to the requirements of Resolution 986 and to ensure that the contracts reflect fair market value and do not appear to be fraudulent; alternatively, contracts may use a pre-approved, and periodically adjusted, "oil pricing mechanism" to ensure that transactions are at fair market value and are not fraudulent.[16]

All proceeds from sales of Iraqi oil under Resolution 986 are to be deposited directly into a UN-controlled escrow account.[17] The only authorized disbursements from that account are for: (1) payments to the UN Compensation Commission to settle claims arising from Iraq's invasion of Kuwait (30 percent of the funds, or approximately $300 million every 90 days); (2) deductions for the cost of implementing Resolution 986 and for certain UN costs; (3) up to $10 million every 90 days to reimburse countries for deposits made into the escrow account pursuant to Resolution 778; (4) the purchase of parts and equipment necessary for the safe operation of the Kirkuk-Yumurtalik (Iraq-Turkey) pipeline in Iraq; (5)

payments of between $130 million to $150 million every 90 days to the UN Inter-Agency Humanitarian Program for the purchase and distribution of humanitarian goods in northern Iraq; and (6) the remainder for use by the Government of Iraq to purchase humanitarian goods such as food and medical equipment for distribution throughout the rest of the country. The UN Secretariat is to examine each contract for humanitarian goods to ensure that the goods are eligible to be shipped to Iraq, and to advise on the availability of funds in the escrow account for the contract. The UN Iraq Sanctions Committee must approve by consensus each contract for humanitarian goods individually. Payments for humanitarian goods are authorized only after the UN Secretary General has received confirmation from independent international inspection agents, stationed at Iraq's port of Umm Qasr and at Iraq's borders with Turkey and Jordan, that the goods have arrived in Iraq.[18]

Although this so-called "oil-for-food" provision was available to Iraq since 1995, a Memorandum of Understanding (MOU) between the UN Secretariat and Iraq agreeing on terms for implementing Resolution 986 was not signed until May 20, 1996,[19] and the Government of Iraq did not submit a Distribution Plan for the humanitarian goods it intends to purchase until July 18, 1996.[20] The August 31, 1996 Iraqi attack on the city of Irbil, in the predominately Kurdish area of northern Iraq, also delayed implementation of Resolution 986 while the UN re-evaluated the security situation and distribution plan for northern Iraq.[21] Moreover, the Government of Iraq only agreed in late November 1996 to comply fully with UN provisions for independent observers to monitor oil exports and to oversee the equitable distribution of humanitarian supplies.[22] On December 9, 1996, UN Secretary-General Boutros Boutros-Ghali formally notified the UN Security Council President, who in turn notified the members of the Council, that the necessary conditions to implement Resolution 986 were satisfied; implementation of Resolution 986 officially began on December 10, 1996.[23]

In July 1996, OFAC amended the Iraqi Sanctions Regulations to implement the terms and conditions of Resolution 986.[24] Those amendments provided a general license authorizing U.S. persons to enter into executory contracts with the Government of Iraq, with performance conditioned upon further authorization by OFAC. All executory contracts were required to be consistent with the provisions of Resolution 986 and any other applicable UN Resolutions, memoranda, and subsequent guidance issued by the Iraq Sanctions Committee.[25] Following the UN implementation of Resolution 986 in December 1996, OFAC issued licensing procedures for dealings in Iraqi-origin petroleum and petroleum products exported from Iraq with UN approval, sales of essential pipeline parts and equipment, and sales of humanitarian goods pursuant to Resolution 986.[26] Actual performance of executory contracts requires the issuance of separate specific licenses by OFAC; OFAC forwards requests to export to Iraq to the United States Mission to the United Nations, which submits the request to the UN Iraq Sanctions Committee.[27] U.S. persons seeking to purchase petroleum and petroleum products from Iraq or from Iraq's State Oil Marketing Organization must receive a specific license from OFAC authorizing the licensee to deal directly with the Iraq Sanctions Committee or the oil overseers. U.S. persons seeking to export to Iraq oil pipeline parts and equipment, or to sell humanitarian items to Iraq, must receive a specific license from OFAC in advance of the proposed sale and exportation. Notwithstanding these authorized transactions with Iraq pursuant to Resolution 986, debits to blocked accounts and direct financial transactions with the Government of Iraq remain prohibited.[28]

Cuba

Background

The United States implemented an embargo on most trade with Cuba[29] in 1962. The embargo remained in force during 1996.[30] No U.S. products or services may be exported to Cuba, either directly or through third countries, except for publications and other information materials, and certain humanitarian goods licensed for export by the U.S. Department of Commerce, such as medicine and medical supplies. U.S. persons may not deal in or assist with the sale of goods or commodities to or from Cuba from offshore locations. Goods and services of Cuban origin may not be imported into the United States either directly or through third countries, except for small amounts of merchandise brought by authorized travelers and publications, artwork, or other informational materials. No vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may enter a U.S. port; vessels engaged in trade with Cuba are prohibited from loading or unloading freight at any place in the United States for 180 days after departing a Cuban port. There is a total freeze on Cuban Governmental and private assets within the jurisdiction of the United States, and on financial dealings with Cuba. All property of Cuba, of Cuban nationals, and of certain specially designated nationals of Cuba in the possession of U.S. persons is

blocked.[31] In the mid-1970s, U.S. economic sanctions were amended to permit OFAC to license foreign subsidiaries of U.S. firms to conduct trade with Cuba so long as several specific criteria were met; that trade was prohibited in 1992.[32]

Libertad (Helms-Burton) Act

On March 12, 1996, President Clinton signed into law the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (also known as the Helms-Burton Act),[33] following the downing of two unarmed U.S. civilian aircraft over international waters, taking the lives of four U.S. citizens and residents, by the Cuban Government on February 24, 1996. The Libertad Act contains provisions to: (1) codify all U.S. embargo restrictions against Cuba that were in effect as of March 1, 1996; (2) bar U.S. private investment in Cuba's domestic telephone infrastructure; (3) create a private right of action in U.S. courts that permits U.S. nationals whose property was confiscated by the Cuban Government after the 1959 revolution in that country,[34] to sue Cuban governmental entities or foreign investors who use or profit in any way from these properties (title III of the Libertad Act); and (4) deny visas and entry into the United States of individuals who traffic in U.S.-claimed properties in Cuba after March 12, 1996, and their immediate family members, as well as corporate officers and controlling shareholders of entities which traffic in such properties (title IV of the Libertad Act).[35]

Title III of the Libertad Act originally was scheduled to become effective Aug. 1, 1996. However, this title of the Libertad Act also permits the President to suspend the right to file suit if the President determines that to do so is in the national interest and would expedite a transition to democracy in Cuba, and requires the President to review that decision every six months. On July 16, 1996, President Clinton announced that he would allow title III of the Libertad Act to enter into force—putting companies doing business in Cuba on notice that, by trafficking in allegedly expropriated properties, they face the prospect of lawsuits in the United States. However, the President suspended for six months (until February 1, 1997) the right to file suit pursuant to title III, and appointed Stuart E. Eizenstat, Undersecretary for International Trade in the U.S. Department of Commerce, as special representative to achieve common approach with U.S. allies and trading partners toward achieving democracy in Cuba.[36] The President also sent letters to three companies—Sherritt International (Canada), Grupo Domos (Mexico), and Stet (Italy)—warning them that their practices might conflict with title IV of the Libertad Act; visas ultimately were denied for officials from Sherritt and Grupo Domos.[37]

Several foreign governments registered objections in international fora to the extraterritorial scope of the Libertad Act, noting in particular that its provisions apply to any individual or company, regardless of nationality or country of residence. The United States held a series of consultations on the Libertad Act with NAFTA partners Canada and Mexico beginning on April 18, 1996.[38] At the request of Canada and Mexico, the NAFTA Commission convened to discuss this dispute; however, neither country requested the establishment of a NAFTA dispute resolution panel on the Libertad Act during 1996. U.S. officials briefed a combined session of the European Commission, Council Secretariat, and a special committee of EU permanent representatives on implementation of the Libertad Act on May 6, 1996.[39] The Libertad Act also was the subject of criticism during discussions in the OECD Trade Committee[40] and made the focus of extended discussion in the OECD Committee on Capital Movements and Invisible Transactions.[41]

Canada, the EU, and Cuba itself implemented legislation to block enforcement of the Libertad Act. In September 1996, the Canadian Government[42] introduced legislation to allow the Attorney General of Canada to issue blocking orders to prevent judgments in U.S. courts under the Libertad Act from being enforced in Canada. The legislation, which entered into force on January 1, 1997,[43] provides that Canada will not recognize court rulings issued in accordance with the Libertad Act and will not help collect judgments issued against Canadian firms; it also permits targeted Canadian firms to file countersuits against Canadian subsidiaries of U.S. firms that file lawsuits under the Libertad Act, and to recoup in Canadian courts any amounts awarded under such judgments in the United States.[44] On January 22, 1997, the Governments of Canada and Cuba issued a joint declaration calling for unspecified cooperation between the two countries to combat the Libertad Act; the Canadian Government also set forth a bilateral policy initiative to engage Cuba on the issue of human rights.[45] On October 28, 1996, the EU[46] approved a law providing blocking orders against enforcement of the Libertad Act, obligating EU companies not to comply with any U.S. judgments, and permitting EU companies to sue subsidiaries of U.S. companies for compensation.[47] On December 2, 1996, the EU Council of Ministers approved a "common position" on Cuba in which further expansion of EU trade ties with Cuba are to be linked to an improvement in

human rights and progress towards democracy in Cuba; the EU also agreed to channel humanitarian aid only through international or nongovernmental organizations rather than through the Cuban Government.[48] On December 24, 1996 the Cuban National Assembly approved a law designed to offset the effects of the Libertad Act.[49] The bill declares "null and void" in Cuba any claim made under the Libertad Act and prohibits the provision of any information useful to the United States for application of the Libertad Act.[50]

The Libertad Act also became the subject of a WTO dispute settlement panel during 1996.[51] On May 3, 1996, the EU requested bilateral consultations with the United States on the Libertad Act and other U.S. legislation regarding trade sanctions against Cuba under Article XXIII of the GATT.[52] The EU complaint was that the U.S. sanctions against Cuba, and possible refusal of visas and the exclusion of non-U.S. nationals from U.S. territory, are inconsistent with the U.S. obligations under the WTO Agreement and violate GATT Articles I, III, V, XI, and XIII and GATS Articles I, III, VI, XXVI, and XVII. The EU also alleged that even if these U.S. measures do not violate specific provisions of GATT or GATS, they nevertheless nullify or impair the EU's expected benefits under GATT or GATS.[53] The U.S. position was that the Libertad Act is justified under Article XXI, which permits a WTO member to take any action it "considers necessary for its national security interests." Following three rounds of consultations, the EU formally requested that a WTO dispute settlement panel be established to examine the EU complaint.[54] On November 20, 1996, the WTO Dispute Settlement Body agreed to establish such a panel.[55]

By late December 1996, in addition to the two companies already sanctioned under title IV, 12 foreign companies were under investigation for trafficking in U.S.-claimed properties; 12 other companies reportedly had ceased using, or refrained from planned activities, on properties in Cuba covered under the Libertad Act.[56] The United States also reiterated its policy of seeking to discourage investment in Cuba.[57] To ensure that any investments that are made benefit the Cuban people, and not the Cuban Government, the United States promoted the adoption of "best business practices" in Cuba by European and North American business associations; those practices include respect for internationally recognized labor rights, safe workplaces, nondiscriminatory employment, protection of the environment, employers' right to hire and pay workers directly, and workers' right to organize.[58]

On January 3, 1997, President Clinton suspended the right to file suit pursuant to title III of the Libertad Act for an additional six months (until August 1, 1997); title IV of the Libertad Act remained in force.[59] The EU continued to press for more permanent relief from title III and an end to title IV of the Libertad Act.[60] Although the WTO had agreed to establish a panel to hear the EU complaint about the Libertad Act in November 1996, the members of that panel were not named until February 20, 1997. The 3-member panel includes jurists from Singapore, Switzerland, and New Zealand. After the panel was formed, the United States reported that it would not participate in the panel's proceedings because in the U.S. view the WTO panel lacked "competence to proceed" on a matter of U.S. foreign policy.[61] The United States viewed "with disappointment" the appointment of the WTO panel because the issue reflects "U.S. foreign policy and security concerns with respect to Cuba."[62] Moreover, the U.S. position was that its "actions are not motivated by protectionism, nor have they ever been for commercial gain for the United States at the expense of other countries," and that "by bringing noncommercial matters into the WTO, the EU may well jeopardize what we and others have worked so hard to achieve."[63]

On April 11, 1997, the United States and the EU reached a settlement under which both sides agreed to work cooperatively to develop binding disciplines on dealings in property confiscated in Cuba. As part of this settlement, the EU suspended the WTO panel—but retained the right to reinstate it should a mutually satisfactory agreement not be concluded bilaterally with the United States by October 15, 1997. European Commission Vice President Sir Lean Brittan reiterated that the EU "continue[s] to oppose the principle of extraterritorial laws."[64] For its part, the U.S. administration pledged to work with Congress to draft and implement legislation to amend the Libertad Act to authorized the President to grant waivers under the title IV of the Act once the bilateral consultations with the EU are completed and the EU has adhered to these agreed disciplines.[65]

Iran and Libya Sanctions Act of 1996

On August 5, 1996, President Clinton signed into law the Iran and Libya Sanctions Act of 1996.[66] The President announced that the goal of the Act is:

> *to build on what we've already done to isolate those regimes by imposing tough penalties on foreign companies that go forward with new investments in key sectors. The act will help to*

deny them the money they need to finance international terrorism or to acquire weapons of mass destruction. It will increase the pressure on Libya to extradite the suspects in the bombing of Pan Am 103.[67]

This Act tightens, but does not supersede, existing U.S. economic sanctions against Iran and Libya (those sanctions are described in more detail below) by requiring the President to impose sanctions (1) on any U.S. or foreign person or company, including a parent or subsidiary, that directly and significantly contributes to the enhancement of the ability of Iran or Libya to develop the petroleum resources of these countries (applies to an investment[68] of $40 million or more or to any combination of investments of at least $10 million each which equals or exceeds $40 million during any 12-month period) and (2) on persons providing certain goods and services to Libya in violation of certain UN Security Council resolutions, if the provision of such items significantly and materially contribtes to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons, contributes to Libya's ability to develop its petroleum resources, or contributes to Libya's ability to maintain its aviation capabilities.[69]

The President has the authority to impose any two or more of the following sanctions: (1) a ban on Export-Import Bank assistance; (2) a ban on export licenses under the Export Administration Act of 1979, the Arms Export Control Act; the Atomic Energy Act of 1954, or any other statute that requires prior review and approval of the U.S. Government; (3) a ban on loans exceeding $10 million per year by U.S. financial institutions; (4) a ban on designation as a primary dealer in U.S. Government debt and/or a ban on U.S. Government procurement; and (5) a ban on imports of products selected by the President.[70] Sanctions are to remain in place for a minimum of two years; however, after one year, the sanctions may be lifted if the President determines that the sanctioned person or persons have ceased engagement in the prohibited activities and have provided assurances that they will no longer knowingly engage in such activities.[71]

Because the Iran and Libya Sanctions Act of 1996 will apply U.S. economic and trade sanctions to any U.S. or foreign individual or company who violates its provisions, a number of foreign countries have objected to implementation and enforcement of the Act. While there are no UN-sponsored sanctions against either Iran or Libya, only a small number of countries maintain trade relations with those two countries—albeit at very low volumes of trade. However, a number of countries object to the Act on principle because of its extraterritorial provisions. On August 8, 1996, the United States received a demarche on the Act from the European Commission delegation. The EU representatives stated that "[t]he extra-territorial character of the Iran and Libya Sanctions Act of 1996 provides for sanctions to be taken against foreign companies for business activities that are legal under their national law as well as under public international law."[72]

Iran

U.S. economic sanctions against Iran[73] were first enacted in 1979 following the seizure of the U.S. Embassy in Teheran and the taking of U.S. diplomats as hostages;[74] these economic sanctions were lifted when the United States and Iran signed the Algiers Accords on January 19, 1981.[75] As a result of Iran's continued support for international terrorism and its aggressive actions against nonbelligerent shipping in the Persian Gulf, the United States implemented a new import embargo on Iranian-origin goods and services in 1987;[76] this embargo was further tightened in 1995.[77]

U.S. economic and trade sanctions enforced against Iran[78] prohibit imports, either directly or through third countries, of goods or services of Iranian origin,[79] and prohibit U.S. persons from providing financing for prohibited import transactions. In general, goods, technology including technical data, or services may not be exported from the United States to Iran or to the Government of Iran. U.S. persons may not trade in Iranian oil or petroleum products refined in Iran, finance such trade, or perform services or supply goods or technology that would benefit the Iranian oil industry. New investments by U.S. persons, including loans, commitments of funds or other assets, extensions of credits, and other financial dealings involving Iran are prohibited; U.S. persons, including foreign branches of U.S. banks and trading companies, are prohibited from engaging in any transactions related to goods or services of Iranian origin or owned or controlled by the Government of Iran.[80]

Libya

U.S. economic sanctions against Libya[81] were first established in January 1986 following terrorist attacks against the Rome and Vienna airports in December 1985.[82] In 1992, the UN Security Council approved a resolution directing members to apply certain economic and diplomatic sanctions against Libya;[83] in 1993, citing "the continued failure by the Libyan

Government to demonstrate by concrete actions its renunciation of terrorism," the UN Security Council directed member states to freeze funds and financial resources in their control directly or indirectly held by the Government of Libya and Libyan entities except funds derived from the sale of petroleum and petroleum products, natural gas and natural gas products, and agricultural products provided that such funds were paid into separate bank accounts.[84]

U.S. economic and trade sanctions against Libya[85] provide that no goods, technology, or services may be exported from the United States to Libya either directly or through third countries.[86] No U.S. bank or foreign branch of a U.S. bank may finance, or arrange offshore financing for, third-country trade transactions where Libya is known to have an interest in the trade as its ultimate beneficiary, including brokering third-country sales of Libyan crude oil or transportation for Libyan cargo. Permissible trade involving Libya includes, under certain conditions, the sale of parts and components to third countries where the U.S. goods will be substantially transformed into new and different articles, and the sale of goods which come to rest in the inventory of a third-country distributor whose sales are not predominantly to Libya. Goods or services of Libyan origin may not be imported into the United States either directly or through third countries. Contracts benefitting Libya (including contracts for commercial, governmental, or industrial projects), loans, and financial dealings involving Libya are prohibited, although certain independent transactions by foreign subsidiaries of U.S. firms with Libya are permitted if no U.S. person or permanent resident has a role. U.S. individuals or organizations may be subject to civil or criminal prosecution if they transact business with individuals or organizations who act on behalf of the Government of Libya anywhere in the world. All Government of Libya assets in the United States or in the possession or control of U.S. persons anywhere in the world have been blocked since 1986, and all transfers of Libyan governmental assets prohibited without a specific license from OFAC.[87]

Other Trade Sanctions Activity

Antiterrorism and Effective Death Penalty Act of 1996

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996.[88] Section 321 of the Act makes it a criminal offense for U.S. persons to engage in certain financial transactions with the Governments of Cuba, Iran, Iraq, and Libya, North Korea,[89] Sudan,[90] and Syria,[91] except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State. Those countries are designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) as supporting international terrorism (so-called "Terrorism List Governments"). The 1996 Act added Sudan and Syria to the list, prohibiting United States persons from receiving unlicensed donations and from engaging in financial transactions with respect to which the United States person knows or has reasonable cause to believe that the financial transaction poses a risk of furthering terrorist acts in the United States. (However, unlike the restrictions on Cuba, Iran, Iraq, Libya, and North Korea, the United States does not have a total embargo on trade with Sudan and Syria.) The regulations also provide that the United States may grant exceptions to these prohibitions through issuance of either general or specific licenses;[92] one such exemption was granted during 1996.[93]

Sea Turtle Conservation: Shrimp

To protect and conserve sea turtles that may be inadvertently captured during shrimp harvests, the United States prohibits imports of shrimp from countries that harvest using commercial fishing technology (i.e., commercial shrimp trawling) that may adversely affect sea turtles subject to U.S. protective regulations, unless the harvesting country adopts and enforces—and is so certified by the U.S. Department of State—a program comparable to the U.S. program to protect such turtles.[94] The main element of the U.S. program is the required use of turtle excluder devices (TEDs) on commercial shrimp trawl vessels operating where there is a chance of incidental taking of turtles; the excluder devices provide an opening that allows sea turtles to escape from shrimp trawls with minimal loss of shrimp catch. This requirement initially was applied only to 14 Caribbean Basin nations;[95] on December 29, 1995, the U.S. Court of International Trade (CIT) issued an order (in the case of Earth Island Institute v. Christopher) supporting the contention of certain environmental groups that Congress intended the law to apply on a global basis. The order required the U.S. administration, by May 1, 1996, to prohibit imports of wild-caught shrimp and shrimp products (aquiculture shrimp are not affected) from any country that has endangered sea turtles in its waters and

harvests shrimp using commercial trawl vessels, unless that country is certified by the United States as having adopted a comparable sea turtle conservation program by that date.[96]

On April 30, 1996, the U.S. Department of State certified 36 countries as meeting the requirements set forth by section 609 of U.S. Public Law 101-162 for continued export of wild-caught shrimp to the United States.[97] Shrimp from noncertified countries harvested in a manner harmful to sea turtles became subject to embargo beginning May 1, 1996.[98] However, noncertified countries remained eligible to export to the United States shrimp harvested by aquiculture; by manual rather than mechanical means; in cold waters, where sea turtles are not found; and by TEDs (TEDs used in countries with sea turtle populations must be certified by the United States; moreover, countries that have sea turtle populations and commercial shrimp trawling fleets must require that TEDs be used in order to be certified unless the harvesting nation can prove that sea turtles are not adversely affected by its shrimp trawling operations).[99]

The CIT issued an order on November 25, 1996 to clarify and revise an October 8 decision on shrimp imports from countries not certified under section 609 of Public Law 101-162.[100] The November order authorized imports from noncertified countries of shrimp harvested in nets that are manually retrieved, and of shrimp harvested with gear specified in U.S. domestic regulations, as not requiring the use of TEDs; it also allowed imports from noncertified countries of shrimp that live in waters too cold for sea turtles as well as of fresh water shrimp. By the end of 1996, a total of 39 countries had been certified under section 609 of Public Law 101-162.[101]

On October 8, 1996, India, Malaysia, Pakistan, and Thailand filed a WTO complaint against the U.S. embargo on imports of shrimp and shrimp products imposed under section 609 of Public Law 101-162, alleging violations of Articles I, XI, and XIII of the GATT as well as nullification and impairment of benefits. The Philippines filed a similar WTO complaint on October 25, 1996. These disputes remained in the WTO consultations phase at the end of 1996.[102]

Also during 1996, the United States and a number of Latin American and Caribbean countries participated in negotiations for an Inter-American Convention for the Protection and Conservation of Sea Turtles;[103] an agreement, which establishes multilateral standards for the protection of endangered species of sea turtles in the Western Hemisphere, was concluded on September 5, 1996.[104]

Marine Mammal Protection: Yellowfin Tuna

Since 1990, the United States has placed an embargo on certain imported yellowfin tuna and products derived from yellowfin tuna from certain countries. This embargo is enforced pursuant to the 1972 Marine Mammal Protection Act (MMPA) and its amendments.[105] MMPA seeks to protect marine mammals[106] by prohibiting yellowfin tuna imports from countries that harvest the tuna through the use of purse seine nets that encircle dolphins or other marine mammals. The United States prohibits imports of yellowfin tuna or products derived from yellowfin tuna from countries that harvest tuna in the Eastern Tropical Pacific Ocean unless the National Oceanic and Atmospheric Administration Assistant Administrator for Fisheries makes an affirmative finding that the country has (1) a marine mammal regulatory program and fleet performance comparable to the United States, or (2) implemented regulations to prohibit its vessels from intentionally deploying purse seine nets to encircle marine mammals. Imports of yellowfin tuna and tuna products from Mexico,[107] Colombia, Panama, Vanuatu, and Venezuela were subject to embargo during 1996; imports of all tuna and tuna products from Costa Rica, Italy, and Japan also were subject to U.S. embargo during 1996. In November 1996, Belize was added to the list of countries subject to the embargo on imports of yellowfin tuna.[108] In late November 1996, the United States and other members of the International Convention for the Conservation of Atlantic Tuna (ICCAT) approved a provision authorizing members to ban imports of bluefin tuna from Belize, Honduras, and Panama—countries ICCAT had found which fail to take action to protect marine mammals. ICCAT also authorized members to ban imports from countries that violate catch limits on swordfish in the North Atlantic and bluefin tuna anywhere in the Atlantic Ocean and in the Mediterranean Sea.[109]

ENDNOTES

[1] In this report, the term "trade sanction" applies to actions undertaken (1) to restrict or prohibit U.S. trade with designated hostile and pariah countries to further U.S. foreign policy and national security objectives and (2) to prohibit trade pursuant to U.S. statutory commitments to conserve endangered species. Also considered are certain actions to prohibit U.S. persons or entities from engaging in financial transactions (such as investment and trade finance) that could facilitate international trade by designated hostile and pariah countries. For additional information on U.S. trade sanctions activities against major trading partners in the context of bilateral relations, see ch. 4; measures undertaken pursuant to section 301 are discussed in ch. 5.

[2] The basic authorizing statutes are the Trading with the Enemy Act (50 U.S.C. App. 1-44); International Emergency Economic Powers Act (50 U.S.C. sec. 1701-06); Iraqi Sanctions Act (Public Law 101-513, 104 Stat. 2047-55); United Nations Participation Act (22 U.S.C. 287c); International Security and Development Cooperation Act (22 U.S.C. 2349 aa-9); The Cuban Democracy Act (22 U.S.C. 6001-10); The Cuban Liberty and Democratic Solidarity Act of 1996 (Public Law 104-114); and The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132).

[3] The United States applies criminal penalties (prison terms and/or monetary penalties) for violations under these regulations. In addition, OFAC has the authority to impose civil monetary penalties for certain violations. Civil monetary penalties, which are to be adjusted for inflation at least once every four years, currently are—$55,000 for violations under the Trading with the Enemy Act; $11,000 for violations under the International Emergency Economic Powers Act; and $275,000 for violations under the Iraqi Sanctions Act. OFAC also has the authority to impose civil monetary penalties for banking transactions under the Antiterrorism and Effective Death Penalty Act. U.S. Department of the Treasury, OFAC, "Foreign Assets Control Regulations for Exporters and Importers, Jan. 15, 1997, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[4] Following the adoption of UN Security Council Resolution 757 of May 30, 1992 and subsequent resolutions directing member states to impose economic sanctions against the Federal Republic of Yugoslavia, the United States applied economic sanctions pursuant to Executive Orders No. 12808 of May 30, 1992, 12810 of June 5, 1992, 12831 of Jan. 15, 1993, and 12846 of Apr. 25, 1993. The Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations (31 CFR 585) implement these measures. U.S. Department of the Treasury, OFAC, "Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Partial Suspension of Sanctions," 61 F.R. 1282, and UN Security Council Resolution 1022 of Nov. 22, 1995.

[5] For more detailed information about specific provisions of these economic sanctions as they were implemented beginning in 1992, see U.S. Department of the Treasury, OFAC, "Yugoslavia: What You Need to Know About the U.S. Embargo," Aug. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[6] U.S. Department of the Treasury, OFAC, "Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Partial Suspension of Sanctions," 61 F.R. 1282, and UN Security Council Resolution 1022 of Nov. 22, 1995.

[7] President, "Presidential Determination No. 96-7 of Dec. 27, 1995," 61 F.R. 2885.

[8] U.S. Department of the Treasury, OFAC, "Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Partial Suspension of Sanctions, 61 F.R. 1282.

[9] U.S. Department of the Treasury, OFAC, "Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Suspension of Sanctions Against the Bosnian Serbs," 61 F.R. 24696.

[10] U.S. Department of the Treasury, OFAC, "Yugoslavia: What You Need to Know About the U.S. Embargo," Aug. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[11] The United States has no diplomatic relations with Iraq. U.S. Department of State, "Near East and North Africa: Diplomatic Relations," found at U.S. Department of State website, http://www.state.gov/www/regions/nea/relations.html.

[12] Economic and trade sanctions against Iraq are set forth in UN Security Council Resolutions 661 of Aug. 6, 1990, Resolution 687 of Apr. 3, 1991, and subsequent resolutions. UN, "Sanctions Committee Agrees on Export-Import Mechanism for Iraq," press release SC/6137, 1K/184, Dec. 6, 1995.

[13] President George Bush, Executive Order No. 12722, Aug. 2, 1990. In keeping with UN Security Council Resolution 661 of Aug. 6, 1990 and the United Nations Participation Act (22 U.S.C. 287c), President Bush also issued Executive Order 12724 on Aug. 9, 1990, which imposed additional restrictions. The Iraqi Sanctions Regulations (31 CFR part 575) implement Executive Orders No. 12722 and 12724. These measures were most recently extended by President Clinton, "Notice of July 22, 1996—Continuation of Iraqi Emergency," 61 F.R. 38559.

[14] The Iraqi Sanctions Regulations (31 CFR 575) implement these measures. Criminal penalties for violations of these sanctions range up to 12 years in prison and $1,000,000 in fines. Ibid.

[15] An exemption to these resolutions was made to permit Jordan, which has limited energy resources, to obtain crude oil and petroleum products from Iraq in exchange for food and medicine. UN, "Sanctions Committee Agrees on Export-Import Mechanism for Iraq," press release SC/6137, 1K/184, Dec. 6, 1995.

[16] U.S. Department of State telegram, "Q's and A's on UNSCR 986," message reference No. 244800, Washington, DC, Nov. 27, 1996.

[17] UN Security Council Resolution 778 of October 2, 1992 directed UN member states to transfer to a UN escrow account any funds (up to $200 million apiece) representing Iraqi oil sale proceeds paid by purchasers after the imposition of UN sanctions against Iraq, to finance Iraq's obligations for UN activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, to provide humanitarian assistance in Iraq on a nonpartisan basis, and to fund the activities of the UN Compensation Commission in Geneva, which handles claims from victims of the Iraqi invasion and occupation of Kuwait. President, "Letter to Congressional Leaders on Iraq," *Presidential Documents: Administration of William J. Clinton*, Aug. 14, 1996, p. 1450.

[18] U.S. Department of State telegram, "Q's and A's on UNSCR 986," message reference No. 244800, Washington, DC, Nov. 27, 1996.

[19] The MOU sets out in detail the rights of the UN personnel and UN-appointed inspection agents tasked with implementing Resolution 986 inside Iraq, and the obligations of the Iraqi Government. It reaffirms the UN Iraq Sanctions Committee's obligations to monitor and approve sales of Iraqi petroleum and petroleum products originating in Iraq under Resolution 986. It also requires that independent observers monitor Iraqi oil exports at three designated sites: at Ceyhan in Turkey, Mina al-Bakr in Iraq, and a site on the Iraq-Turkey border. For further information, see President, "Letter to Congressional Leaders on Iraq," *Presidential Documents: Administration of William J. Clinton, 1996*, Aug. 14, 1996, p. 1450 and U.S. Department of State telegram, "Q's and A's on UNSCR 986," message reference No. 244800, Washington, DC, Nov. 27, 1996.

[20] The Distribution Plan was mandated by the MOU and included a categorized list of the items to be purchased, and provided details on how those items are to be distributed throughout Iraq. It gave responsibility for distributing humanitarian supplies in northern Iraq to the UN, while distribution in the rest of Iraq is to be carried out by Iraqi officials with UN observers in place to ensure that distribution is equitable. U.S. Department of State telegram, "Q's and A's on UNSCR 986," message reference No. 244800, Washington, DC, Nov. 27, 1996.

[21] Ibid.

[22] UN, "Daily Press Briefing of Office of Spokesman for Secretary-General," Nov. 27, 1996.

[23] UN, Department of Public Information, Central News Section, *Daily Highlights*, Dec. 9, 1996.

[24] U.S. Department of the Treasury, OFAC, "Iraqi Sanctions Regulations; Executory Contracts with the Government of Iraq," 61 F.R. 36627.

[25] U.S. Department of the Treasury, OFAC, "Iraq: What You Need to Know About the U.S. Embargo," Jan. 15, 1997, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[26] U.S. Department of the Treasury, OFAC, "Iraqi Sanctions Regulations; Licensing of Performance on Certain Contracts With the Government of Iraq; Final Rule," 61 F.R. 65311.

[27] U.S. Department of Commerce, International Trade Administration, "Frequently Asked Questions Regarding the Products List," found at U.S. Department of Commerce website, http:ita.doc.gov/mena/UNSCR986/html.

[28] U.S. Department of the Treasury, OFAC, "Iraq: What You Need to Know About the U.S. Embargo," Dec. 10, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[29] The United States has had no diplomatic relations with Cuba since 1961. U.S. Department of State, Bureau of Public Affairs, *Background Notes: Cuba*, November 1994.

[30] The Cuban Assets Control Regulations (31 CFR Part 515) implement these measures.

[31] Criminal penalties for violating the sanctions range up to 10 years in prison, $100,000 in corporate and $250,000 in individual fines. For more detailed information, see U.S. Department of the Treasury, OFAC, "Cuba: What You Need to Know About the U.S. Embargo," Aug. 8, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[32] Cuban Democracy Act of 1992, Public Law 102-484, title XVII, 106 Stat. 2757, 22 U.S.C. 6005.

[33] Public Law 101-114, 110 Stat. 785 (22 U.S.C. 6021 et seq.). Frequently referred to with reference to the two members of Congress who were the main sponsors of the legislation, Senator Jesse Helms (R-North Carolina) and Representative Dan Burton (R-Indiana).

[34] U.S. property nationalized by the Cuban Government was valued at approximately $1.8 billion in 1962. U.S. Department of State, Bureau of Public Affairs, *Background Notes: Cuba*, November 1994.

[35] For additional information, see U.S. Department of State, "Fact Sheet: Implementation of the Libertad Act," U.S. *Department of State Dispatch*, vol. 7, no. 15 (Aug. 8, 1996), p. 188.

[36] U.S. Department of State telegram, "Appointment of Special Representative of the President and Secretary of State for the Promotion of Democracy in Cuba," message reference No. 171344, Washington, DC, Aug. 17, 1996.

[37] Robert S. Greenberger, "U.S. Holds Up Cuba Suits, Pleasing Few," *Wall Street Journal*, Jan. 6, 1997, p. A9.

[38] U.S. Department of State telegram, "NAFTA Consultations on Libertad Act: Canadian Delegation and Objectives," message reference No. 01848, prepared by U.S. Embassy, Ottawa, Apr. 18, 1996 and "Helms-Burton: Proposed Date for Second

Round of NAFTA Consultations Acceptable to Canada," message reference No. 02307, prepared by U.S. Embassy, Ottawa, May 16, 1996.

[39] U.S. Department of State telegram, "EU Appreciates Helms-Burton Briefing; Remains Highly Critical of U.S. Policy," message reference No. 05002, prepared by U.S. Embassy, Brussels, May 28, 1996.

[40] U.S. Department of State telegram, "OECD: Trade Committee Delegation Report, May 2-3, 1996," message reference No. 10510, Paris, May 14, 1996.

[41] U.S. Department of State telegram, "OECD: Helms-Burton Debate at November 14 Joint Meeting of the Committee on Capital Movements and Invisible Transactions and the Committee on Investment and Multinational Enterprises," message reference No. 26642, prepared by U.S. Embassy, Paris, Nov. 22, 1996.

[42] For more information on the Canadian and Mexican positions, see the discussions of Canada and Mexico in ch. 4.

[43] "Canadian Law to Counter Helms-Burton Act," *Journal of Commerce*, Jan. 2, 1779, p. 3A.

[44] U.S. Department of State telegram, "Canada Moves to Strengthen Its Anti-Helms-Burton Legislation," message reference No. 04158, prepared by U.S. Embassy, Ottawa, Sept. 17, 1996 and "Cuban Legislative Panel Approves $Antidote' to the Helms-Burton Law," *Journal of Commerce*, *Knight-Ridder/Tribune Business News*, Comtex Scientific Corporation, NewsEDGE/LAN, Dec. 24, 1996.

[45] Lloyd Axworthy, Foreign Minister of Canada, "Newsmaker with Lloyd Axworthy," interview by Margaret Warner, Jan. 23, 1997, television transcript, Public Broadcasting System (PBS), found at PBS website, http://www1.pbs.org/newshour/bb/latin_america/january97/canada_1-23.html.

[46] For more information on the EU position, see the discussion of the EU in ch. 4.

[47] "EU Adopts Regulation in Defense Against Helms-Burton Act," *European Union News*, no. 62/96 (Oct. 29, 1996). The final text was formally adopted on November 22, 1996. U.S. Department of State, "Helms-Burton: EU in Holding Pattern," message reference No. 10074, prepared by U.S. Embassy, Brussels, Nov. 26, 1996.

[48] "European Union Spells Out Cuba Policy," *European Union News*, no. 72/96 (Dec. 3, 1996).

[49] "Aprobada Ley de Reafirmación de la Dignidad y Soberanía Cubana," *Granma*, Dec. 25, 1996, p. 3.

[50] Pascal Fletcher, "Havana's Assault on U.S. Sanctions Law," *Financial Times*, Dec. 27, 1996, p. 4.

[51] For more information on WTO dispute settlement panels, see the discussion of the WTO in ch. 1.

[52] U.S. Department of State telegram, "EU WTO Article XXIII Consultations Request on Cuba Libertad Act," message reference No. 04290, prepared by U.S. Embassy, Brussels, May 1, 1996 and "Active WTO Panels," WTO, Dec. 4, 1996, found at WTO website, http://www.wto.org/wto/dispute/bulletin.htm.

[53] "Active WTO Panels," WTO, Jan. 1, 1997, found at WTO website, http://www.wto.org/wto/dispute/bulletin.htm.

[54] U.S. Department of State telegram, "WTO Dispute Settlement Body Meeting, 16 October 1996: Instructions," message reference No. 216686, Washington, DC, Oct. 17, 1996 and "EU to Move Helms-Burton to WTO Dispute Settlement Panel," *European Union News*, no. 55/96 (Oct. 1, 1996).

[55] U.S. Department of State telegram, "WTO Dispute Settlement Body Meeting of 20 November 1996," message reference No. 09010, prepared by U.S. Embassy, Geneva, Nov. 25, 1996.

[56] "Eizenstat on Helms-Burton Waiver," U.S. Department of State, press conference transcript, Jan. 3, 1997.

[57] U.S. Department of State telegram, "President Renews Suspension of Right to File Suit Under Title III of Helms-Burton," message reference No. 03475, Washington, DC, Jan. 8, 1997.

[58] Ibid.

[59] "Fact Sheet: President's Title III Decision on Helms-Burton Act," White House, Office of the Press Secretary, Jan. 3, 1997.

[60] Robert S. Greenberger, "Washington Will Boycott WTO Panel," *Wall Street Journal*, Feb. 21, 1997, p. A2.

[61] U.S. Department of State telegram, "Press Guidance on WTO Panel Members for Helms Burton Case," message reference No. 33098, Washington, DC, Feb. 22, 1997.

[62] Stuart Eizenstat, Under Secretary of Commerce, Briefing Given in Washington on Clinton Administration Position on the EU's WTO Challenge to the Libertad Act, Feb. 20, 1997, found at USIA website, http://www.usia.gov/topical/econ/libertad/libwto.htm.

[63] Ibid.

[64] U.S. Department of State telegram, "U.S.-EU Helms-Burton Deal: Statement by Brittan," message reference No. 02721, prepared by U.S. Mission to the EU, Brussels, Apr. 15, 1997.

[65] U.S. Department of State telegram, "Text of Special Envoy Eizenstat's April 11 Statement on U.S.-European Commission Agreement on Libertad (Helms-Burton) Act," message reference No. 68456, prepared by U.S. Department of State, Washington, DC, Apr. 12, 1997

[66] Public Law 104-172 (50 U.S.C. 1701 note).

[67] President Clinton, "Remarks by the President On American Security in a Changing World," The White House, Office of the Press Secretary, Aug. 5, 1996 (press release).

[68] Additional information to clarify certain terms is provided in a separate *Federal Register* notice. Specifically, the term "investment" does not include the entry into, performance, or financing of a contract to sell or purchase goods, services, or technology. This Act applies only to investments entered into on or after the date of enactment of the Act and not to

existing contracts and investments entered into prior to the date of enactment. For further information, see U.S. Department of State, "Additional Information for the Iran and Libya Sanctions Act," 61 F.R. 66067.

[69] Iran and Libya Sanctions Act of 1996, sec. 5(a)-(c).

[70] Ibid., sec. 6.

[71] Ibid., sec. 9(b).

[72] U.S. Department of State telegram, "August 8 Demarche by EU on Iran and Libya Sanctions Act," message reference No. 167638, Washington, DC, Aug. 13, 1996.

[73] The United States has no diplomatic relations with Iran. U.S. Department of State, "Near East and North Africa: Diplomatic Relations," found at U.S. Department of State website, http://www.state.gov/www/regions/nea/relations.html.

[74] Some $12 billion in Iranian Government bank deposits, gold, and other properties were frozen under the Iranian Assets Control Regulations (Title 31 Part 535 CFR); the assets freeze eventually was expanded to a full trade embargo. U.S. Department of the Treasury, OFAC, "Iran: What You Need to Know About the U.S. Embargo," Oct. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[75] Claims by U.S. nationals against Iran or Iranian entities for products shipped or services rendered before the onset of the 1979 embargo or for losses sustained in Iran due to expropriation during that time are still being litigated in the Iran-United States Claims Tribunal at The Hague established under the Algiers Accords. U.S. Department of the Treasury, OFAC, "Iran: What You Need to Know About the U.S. Embargo," Oct. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[76] President, Executive Order 12613 of Oct. 28, 1987. The Iranian Transactions Regulations (31 CFR 560) implement these measures. Criminal penalties for violating the sanctions range up to 10 years in prison, $500,000 in corporate and $250,000 in individual fines. U.S. Department of the Treasury, OFAC, "Iran: What You Need to Know About the U.S. Embargo," Oct. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[77] As a result of Iranian sponsorship of international terrorism and its active pursuit of weapons of mass destruction, President Clinton issued two Executive Orders in 1995 prohibiting U.S. involvement with petroleum development in Iran and substantially tightening sanctions against Iran. President Clinton, "Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources," Executive Order 12957, White House press release, Mar. 15, 1995 and "Prohibiting Certain Transactions with Respect to Iran," Executive Order 12959, White House press release, May 8, 1995.

[78] For the most recent Notice to continue economic sanctions against Iran, see President, "Notice of October 29, 1996—Continuation of Iran Emergency," 61 F.R. 56107.

[79] Other than gifts valued at $100 or less and Iranian origin publications and materials imported for news publications or news broadcast dissemination. U.S. Department of the Treasury, OFAC, "Iran: What You Need to Know About the U.S. Embargo," Oct. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[80] There is an exception for feed grains, rice, wheat, cotton, peanuts, tobacco, dairy products, and oilseeds, provided that the underlying trade contract for their exportation was in place prior to May 7, 1995, and delivery occurred prior to Feb. 2, 1996, pursuant to the terms of the original contract. In addition, donations of articles intended to relieve human suffering (such as food, clothing, and medicine), gifts valued at $100 or less, and articles such as certain publications, films, photographs, microfilms, tapes, compact disks, CD ROMs, artwork, and news wire feeds are permitted. U.S. Department of the Treasury, OFAC, "Iran: What You Need to Know About the U.S. Embargo," Oct. 22, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[81] Although U.S. diplomatic relations with Libya have not been formally severed, relations with Libya were reduced in 1981 to the lowest level consistent with the maintenance of diplomatic relations, and there has been no bilateral dialogue with the Government of Libya since that time. U.S. Department of State, "Near East and North Africa: Diplomatic Relations," found at U.S. Department of State website, http://www.state.gov/www/regions/nea/relations.html.

[82] Criminal penalties for violating the sanctions range up to 10 years in prison, $500,000 in corporate and $250,000 in individual fines. The Libyan Sanctions Regulations (31 CFR 550) implement these measures. U.S. Department of the Treasury, OFAC, "Libya: What You Need to Know About the U.S. Embargo," Oct., 23, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[83] Among other things, those sanctions directed UN members to prohibit transfers of all types of military arms and equipment to Libya; to significantly reduce their diplomatic missions and consular posts in Libya; to deny permission to any aircraft to take off from, land in, or overfly their territory if it is destined to land in or has taken off from Libya; and to prevent the operation of all Libyan Arab Airlines offices. These actions were taken because of Libya's failure to cooperate with the United States and the United Kingdom in the extradition of Libyans suspected in the bombing of Pan Am flight 107, and with France in the investigation of the bombing of a UTA flight 772. UN Security Council, Resolution 731 of Jan. 21, 1992, and Resolution 748 of Mar. 31, 1992.

[84] UN Security Council Resolution 883 of Nov. 11, 1993.

[85] For the most recent Notice to continue economic sanctions against Libya, see President, "Notice of January 2, 1997—Continuation of Libyan Emergency," 62 F.R. 585.

[86] There is an exception for merchandise up to $100 in value in non-commercial quantities brought

for strictly personal use as accompanied baggage by an authorized traveler or sent as a gift, information materials, such as books, magazines, films, and recordings and donated articles such as food, clothing, medicine, and medical supplies intended to relieve human suffering. U.S. Department of the Treasury, OFAC, "Libya: What You Need to Know About the U.S. Embargo," Oct., 23, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[87] U.S. Department of the Treasury, OFAC, "Libya: What You Need to Know About the U.S. Embargo," Oct., 23, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html.

[88] Public Law 104-132, 110 Stat. 1214-1319, 18 U.S.C. 1 note.

[89] Regulations authorizing U.S. trade sanctions against North Korea date to the year 1950. Although recently modified as a result of commitments made to begin normalization of relations, the regulations are still in force and affect all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States, and all branches, subsidiaries, and controlled affiliates of U.S. organizations worldwide. For further information, see U.S. Department of the Treasury, OFAC, "North Korea: What You Need to Know About the U.S. Embargo, Oct. 23, 1996, found at OFAC website, http://www.ustreas.gov/treasury/services/fac/fac.html. During 1995 and 1996, the United States provided, through UN agencies, medical supplies and food to help alleviate civilian suffering that resulted from lower crop production and severe weather in parts of North Korea. Testimony of Mark Minton, Director of the Office of Korean Affairs, before the Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, Washington, DC, Sept. 12, 1996, found at U.S. Department of State website, http://www.state.gov/www/regions/eap/minton.html.

[90] Multilateral and primarily diplomatic sanctions against Sudan, in light of that country's continued sponsorship of international terrorism and role as a safe haven for terrorist groups, including terrorists allegedly linked to a 1995 assassination attempt against Egyptian President Hosni Mubarak, were implemented by UN Security Council Resolution 1054 of Apr. 26, 1996 and Resolution 1070 of Aug. 16, 1996. Those resolutions directed UN member states to: reduce the level of diplomatic representation in Sudan, restrict entry of transit of officials of the Government and armed forces of Sudan; not convene any conference in Sudan; and deny entry, exit, or overflight of any aircraft registered in Sudan or substantially owned or controlled by entities in Sudan.

[91] U.S. trade sanctions against Syria date to 1979 as a response to that country's involvement with international terrorism. Sanctions were expanded in 1986, following Syria's implication in the attempted bombing of an Israeli airliner at London's Heathrow Airport. Among the affected items are exports of aircraft, aircraft parts, and computers of U.S. origin or containing U.S.-origin components and technology. Under the 1986 sanctions, Syria is ineligible for the U.S. export enhancement program and the commodity credit corporation program for all agricultural products. A Syrian-U.S. bilateral aviation agreement expired in 1987 and has not been renewed; Export-Import Bank and Overseas Private Investment Corporation (OPIC) loan and insurance programs in Syria also have been suspended since that time. U.S. Department of State telegram, "Syria's 1997 Trade Act Report," message reference No. 05963, Damascus, Nov. 17, 1996.

[92] U.S. Department of the Treasury, OFAC, "Terrorism List Governments Sanctions Regulations; Implementation of Section 321 of the Antiterrorism and Effective Death Penalty Act of 1996," 61 F.R. 43462.

[93] "Press Briefing by Mike McCurry," The White House, Office of the Press Secretary, Jan. 23, 1997.

[94] Public Law 101-162, title VI, sec. 609, Nov. 21, 1989, 103 Stat. 1037, 16 U.S.C. 1537.

[95] For countries with both Caribbean and Pacific coasts, this requirement was interpreted to apply only on the Caribbean side. In 1995, Suriname, French Guiana, and Trinidad and Tobago did not receive certification, and exports to the United States from those nations were embargoed; Trinidad and Tobago eventually received certification in 1995 after addressing deficiencies in enforcement of its regulations requiring TEDs. U.S. Department of State telegram, "Sea Turtle Conservation—Annual Certification to Congress Under Section 609 of Public Law 101-162," message reference No. 011038, Washington, DC, Jan. 23, 1996.

[96] U.S. Department of State telegram, "TEDs Requirement Extended Worldwide—Shrimp Embargoes," message reference No. 02609, Washington, DC, Jan. 9, 1996.

[97] Those 36 certified countries were in three categories: (1) countries having sea turtle conservation programs that require the use of TEDs and are comparable to the U.S. program: Belize, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Mexico, Indonesia, Nicaragua, Panama, Trinidad and Tobago, and Venezuela; (2) countries with shrimping grounds only in cold waters, where there is no risk of taking sea turtles: Argentina, Belgium, Canada, Chile, Denmark, Germany, Iceland, Ireland, the Netherlands, New Zealand, Norway, Russia, Sweden, United Kingdom, and Uruguay; and (3) countries that only harvest shrimp using manual rather than mechanical means to retrieve nets: The Bahamas, Brunei, Dominican Republic, Haiti, Jamaica, Oman, Peru, and Sri Lanka. U.S. Department of State telegram, "Worldwide TEDs Requirement: Certification to Congress Under Section 609 of Public Law 101-162 for the International Conservation of Sea Turtles," message reference No. 96327, Washington, DC, May 9, 1996.

[98] The U.S. Department of State is authorized to lift embargoes of countries that have not been certified if those countries subsequently qualify for certification at any time during the year, and to revoke certification for countries whose programs no longer qualify for certification. Ibid.

[99] Such shipments must be accompanied by a Department of State DSP-121 form signed by the exporter and certified by a government official of the harvesting country. Ibid.

[100] U.S. Department of State telegram, "CIT Allows Additional Shrimp Imports from Uncertified Nations," message reference No. 245689, Washington, DC, Nov. 28, 1996.

[101] Honduras, Thailand, and China were added to the list of certified countries after the May 1, 1996 annual certification status announcement. U.S. Department of State telegram, "Worldwide TEDs Requirement—China Certified," message reference No. 260607, Washington, DC, Dec. 23, 1996.

[102] "Active WTO Panels," Jan. 7, 1997, found at WTO website, http://www.wto.org/wto/dispute/bulletin.htm. The WTO dispute settlement panels are discussed in more detail in ch. 1.

[103] In addition to the United States, participating in the negotiations were The Bahamas, Brazil, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, Saint Vincent, Saint Lucia, Suriname, Trinidad and Tobago, and Venezuela. U.S. Department of State telegram, "Third Meeting on Western Hemisphere Sea Turtle Convention, Caracas, April 24-26, 1996," message reference No. 99872, Washington, DC, May 14, 1996.

[104] U.S. Department of State telegram, "WTO Turtle/Shrimp Consultations—Follow-Up With Complainants," message reference No. 249789, Washington, DC, Dec. 5, 1996.

[105] Public Law 92-522, title III, sec. 305, as added by Public Law 102-523 sec. 2(a), Oct. 26, 1992, 106 Stat. 3428, 16 U.S.C. 1415.

[106] Dolphins, the marine mammals in question, are air-breathing, and generally swim above tuna. Purse seine nets dropped to catch tuna often catch dolphins as well, resulting in their death or maiming.

[107] Results of a bilateral effort to bring Mexico's tuna fishing standards into compliance with the MMPA are discussed in more detail in the section on Mexico in ch. 4.

[108] U.S. Department of State, "Embargo of Belizean ETP Yellowfin Tuna," message reference No. 228133, Washington, DC, Nov. 1, 1996.

[109] Bruce Odessey, "Import Bans Authorized on Bluefin Tuna from Three Countries," *USIA Washington File*, Dec. 3, 1996, found at U.S. Information Agency website, gopher://198.80.36.82:70/.../archives/1996/pdq.96.

APPENDIX
Statistical Tables

Table A-1
U.S. merchandise trade with Canada, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	5,106,293	5,301,201	5,499,424
1	Beverages and tobacco	176,064	203,469	232,888
2	Crude Materials, inedible, except fuels	3,467,934	4,259,158	3,758,615
3	Mineral fuels, lubricants and related materials	1,251,419	1,414,956	1,851,287
4	Animal and vegetable oils, fats and waxes	104,695	124,589	173,639
5	Chemicals and related products, nesi	9,415,595	10,360,727	11,334,840
6	Manufactured goods classified chiefly by material	13,486,923	15,417,848	16,058,037
7	Machinery and transport equipment	56,753,360	61,652,333	64,785,287
8	Miscellaneous manufactured articles	11,028,506	11,623,693	11,869,949
9	Commodities and transactions not classified elsewhere in SITC	2,852,041	2,903,166	3,558,877
	Total all commodities	103,642,830	113,261,142	119,122,843
			U.S. imports	
0	Food and live animals	5,328,174	5,646,490	6,663,389
1	Beverages and tobacco	703,823	677,665	750,345
2	Crude materials, inedible, except fuels	10,138,360	10,898,443	11,314,720
3	Mineral fuels, lubricants and related materials	12,501,798	13,665,083	16,775,287
4	Animal and vegetable oils, fats and waxes	309,632	339,184	404,754
5	Chemicals and related products, nesi	6,679,247	8,126,301	8,530,839
6	Manufactured goods classified chiefly by material	20,395,478	25,381,147	25,833,114
7	Machinery and transport equipment	57,940,204	63,645,520	67,327,222
8	Miscellaneous manufactured articles	6,535,452	7,760,633	8,992,086
9	Commodities and transactions not classified elsewhere in SITC	8,221,068	8,741,416	9,706,847
	Total all commodities	128,753,235	144,881,881	156,298,602

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-2
Leading exports to Canada by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	4,697,421	4,067,839	4,231,410
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 but not over 3,000 cc	2,803,956	3,092,099	3,509,281
8708.99	Parts and accessories of motor vehicles, nesi	3,312,026	3,120,899	3,126,957
9880.00[1]	Estimated "low value" shipments	1,854,117	1,962,846	2,413,696
8407.34	Reciprocating spark-ignition piston engines, of a cylinder capacity over 1,000 cc	1,846,383	2,095,128	2,347,422
8542.13	Metal oxide semiconductors	([2])	([2])	2,042,655
8708.40	Gear boxes for motor vehicles	2,010,474	2,127,987	2,041,641
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight not exceeding 5 mt	1,703,729	1,711,633	2,027,978
8473.30	Parts and accessories for automated data processing machines and units	1,230,634[3]	[3]1,438,221	1,387,637
8409.91	Parts for spark-ignition internal-combustion piston engines, nesi	935,755	846,317	1,094,039
8471.50	Digital processing units, nesi	([4])	([4])	1,053,101
8708.39	Brakes and servo-brakes and parts for motor vehicles	871,153	931,266	989,663
8701.20	Road tractors for semi-trailers	1,027,276	1,020,135	789,893
8803.30	Parts of airplanes or helicopters, nesi	662,710	679,482	770,964
7606.12	Rectangular plates, sheets and strip, over 0.2 mm thick, of aluminum alloy	693,876	889,408	756,696
4901.99	Printed books, brochures, leaflets and similar printed matter, other than in single sheets	720,487	753,069	731,383
9032.89	Automatic regulating or controlling instruments and apparatus, nesi.	693,671	794,389	710,810
8536.50	Electrical switches for voltage not exceeding 1,000 v, nesi	498,691	574,127	700,503
4902.90	Newspapers, etc. appearing less than 4 times per week	592,804	619,465	631,020
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude	457,271	535,857	620,363
9401.90	Parts of seats (except medical, barber, dental, etc.)	478,794	640,318	619,510
8408.20	Compression-ignition internal-combustion piston engines	687,290	836,374	612,196
8471.49	Other digital automated data processing machines, entered in the form of systems	([5])	([5])	611,969
8704.21	Trucks, nesi, diesel engine, gross vehicle weight not exceeding 5 mt	387,030	533,064	575,001
	Total of items shown	31,872,376	33,520,119	38,806,105
	Total other	71,770,454	79,741,023	80,316,739
	Total all commodities	103,642,830	113,261,142	119,122,843

[1] Special "Census Use Only" reporting number estimating low-valued imports.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[4] Prior to 1996, exports reported under *Schedule B* 8471.91 part.
[5] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-3
Leading imports from Canada, by *HTS* items, 1994-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	17,651,764	20,578,804	19,372,032
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	4,916,983	6,139,318	7,367,016
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm	5,544,330	4,952,193	6,251,623
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	5,002,381	5,485,905	5,847,162
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight. not exceeding 5 mt	6,198,105	6,119,187	5,839,170
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	3,819,082	2,826,323	5,087,297
4801.00	Newsprint, in rolls or sheets	3,296,140	4,371,269	4,019,150
2711.21	Natural gas, in gaseous state	3,902,744	3,246,194	3,914,607
8708.99	Parts and accessories of motor-vehicles, nesi	3,513,213	3,120,298	3,198,181
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; and preparations, nesi	1,574,702	1,680,425	2,482,415
8473.30	Parts and accessories for automated data processing machines and units	[1]2,080,433	[1]2,870,644	2,364,805
8542.13	Metal oxide semiconductors	([2])	([2])	1,809,672
8407.34	Spark-ignition reciprocating piston engine, of a cylinder capacity exceeding 1,000 cc	1,097,227	986,352	1,712,136
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood	1,408,898	2,402,625	1,654,302
7108.12	Nonmonetary gold (including gold plated with platinum), unwrought, excluding powder	1,427,457	1,256,180	1,631,647
8708.29	Parts and accessories of bodies of motor vehicles, nesi	1,036,101	1,144,186	1,599,083
9999.95[3]	Estimated “low value” shipments	1,252,538	1,425,914	1,530,975
8701.20	Road tractors for semi-trailers	1,125,879	1,582,605	1,337,175
7601.20	Unwrought aluminum alloys	1,089,532	1,219,414	1,187,692
4802.60	Paper nesi, over 10% (weight) fiber obtained by a mechanical process	655,028	1,043,735	1,049,533
7601.10	Unwrought aluminum, not alloyed	995,909	1,306,148	1,032,873
0102.90	Bovine animals, live, nesi	798,276	862,118	1,000,004
8802.30	Airplanes and aircraft, of unladen weight over 2,000 kg but not over 15,000 kg	688,044	588,733	996,569
8517.90	Parts of telephonic or telegraphic apparatus	570,314	585,788	902,454
2716.00	Electrical energy	960,328	855,698	901,670
	Total of items shown	70,605,403	76,650,055	84,089,244
	Total other	58,147,832	68,231,827	72,209,358
	Total all commodities	128,753,235	144,881,881	156,298,602

[1] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[2] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Special “Census Use Only” reporting number estimating low-valued imports.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-4
U.S. merchandise trade with the European Union, by SITC nos. (revision 3), 1994-96
(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	4,047,790	4,647,714	4,745,961
1	Beverages and tobacco	2,701,340	2,777,735	2,575,617
2	Crude materials, inedible, except fuels	5,699,411	7,805,881	7,049,765
3	Mineral fuels, lubricants and related materials	1,939,684	2,520,936	2,697,421
4	Animal and vegetable oils, fats and waxes	248,073	290,816	260,594
5	Chemicals and related products, nesi.	12,867,710	14,897,383	15,018,280
6	Manufactured goods classified chiefly by material	5,915,381	7,950,361	7,864,553
7	Machinery and transport equipment	49,034,079	55,281,021	57,328,374
8	Miscellaneous manufactured articles	12,974,630	14,573,830	15,106,614
9	Commodities and transactions not classified elsewhere in SITC	5,884,876	5,570,285	7,072,131
	Total all commodities	101,312,973	116,315,962	119,719,310
			U.S. imports	
0	Food and live animals	2,568,761	2,692,243	2,860,308
1	Beverages and tobacco	2,823,439	3,093,861	3,474,811
2	Crude materials, inedible, except fuels	1,245,292	1,366,382	1,350,670
3	Mineral fuels, lubricants and related materials	4,962,892	3,703,626	4,254,085
4	Animal and vegetable oils, fats and waxes	271,884	353,750	461,232
5	Chemicals and related products, nesi	13,573,819	16,259,157	19,085,053
6	Manufactured goods classified chiefly by material	18,239,303	19,008,897	20,026,561
7	Machinery and transport equipment	51,619,832	59,361,285	62,442,613
8	Miscellaneous manufactured articles	16,669,193	18,850,594	20,389,556
9	Commodities and transactions not classified elsewhere in SITC	5,669,962	6,145,518	7,109,629
	Total all commodities	117,644,377	130,835,313	141,454,518

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-5
Leading exports of the European Union, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
8473.30	Parts and accessories for automated data processing machines and units	[1]4,861,526	[1]6,217,129	6,566,543
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	4,911,241	3,675,047	3,927,581
8803.30	Parts of airplanes or helicopters, nesi	2,753,071	3,157,807	3,533,272
9880.00[2]	Estimated "low value" shipments	2,538,529	2,937,221	3,097,566
7108.12	Nonmonetary gold (including gold plated with platinum), unwrought, excluding powder	1,937,506	1,211,941	2,426,527
1201.00	Soybeans, whether or not broken	1,582,530	2,006,425	2,348,784
8708.99	Parts and accessories of motor vehicles, nesi	1,603,684	2,342,959	2,345,029
8471.49	Other digital automated data processing machines, entered in the form of systems	([3])	([3])	2,137,038
8411.91	Parts for turbojets and turbopropellers	1,768,375	1,860,525	2,050,435
8471.80	Other units of automated data processing machines	([4])	([4])	1,912,643
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	1,315,137	1,739,033	1,745,058
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 but not over 3,000 cc	1,255,661	1,092,091	1,514,978
8542.13	Metal oxide semiconductors	([5])	([5])	1,391,811
2402.20	Cigarettes containing tobacco	1,738,660	1,711,912	1,329,419
9018.90	Medical, surgical, dental or veterinary sciences instruments, appliances, and parts, nesi	871,674	905,086	1,057,761
3822.00	Composite diagnostic or laboratory reagents, except pharmaceuticals	729,550	888,130	980,463
8479.89	Machines and mechanical appliances having individual functions, nesi	[6]526,259	[6]877,150	805,617
8802.30	Airplanes and aircraft, of an unladen weight over 2,000 kg but not over 15,000 kg	376,322	128,028	750,933
9018.19	Electro-diagnostic apparatus nesi, and parts etc..	[7]665,209	[7]795,988	742,264
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	([8])	([8])	742,041
2303.10	Residues of starch mfr and similar residues	695,309	690,478	690,102
9018.39	Medical needles, nesi, catheters etc. and parts etc.	417,888	479,853	625,393
8411.12	Turbojets of a thrust exceeding 25 kN	1,377,563	638,551	619,574
2401.20	Tobacco, partly or wholly stemmed or stripped	441,884	540,957	610,060
8411.99	Gas turbine parts, nesi	505,189	552,822	605,805
	Total of items shown	32,872,767	34,449,132	44,556,696
	Total other	68,440,206	81,866,830	75,162,614
	Total all commodities	101,312,973	116,315,962	119,719,310

[1] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[2] Special "Census Use Only" reporting number estimating low-valued exports.
[3] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.
[4] Prior to 1996, exports reported under *Schedule B* 8471.99 part.
[5] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[6] Prior to 1996, products now reported under *Schedule B* 8479.50 were covered by 8479.89.90.40 in 1994 and 8479.89.95.40 in 1995. Trade data were adjusted to insure consistency of reporting.
[7] Prior to 1996, exports under this item included products now reported elsewhere.
[8] Prior to 1996, exports reported under *Schedule B* 8471.93 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-6
Leading imports from the European Union, by *HTS* items, 1994-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	4,411,539	5,766,953	6,300,869
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	5,019,476	5,771,437	6,242,758
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	4,048,646	4,139,393	4,959,995
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude.	2,008,864	1,253,320	2,476,395
8411.91	Parts for turbojets and turbopropellers	1,642,464	1,804,395	2,268,191
8542.13	Metal oxide semiconductors	([1])	([1])	1,692,771
7102.39	Nonindustrial diamonds, nesi	1,329,293	1,352,182	1,501,938
8473.30	Parts and accessories of automated data processing machines and units	1,287,867[2]	1,795,847[2]	1,473,023
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	2,763,264	2,261,093	1,462,831
9999.95[3]	Estimated “low value” shipments	1,154,195	1,285,327	1,378,694
9701.10	Paintings, drawing and pastels, executed entirely by hand, framed or not framed	1,024,540	1,213,840	1,331,901
3004.90	Certain medicaments put up in measured doses or in forms or packings for retail sale, nesi	958,358	944,141	1,311,324
7113.19	Articles of jewelry and parts thereof, of precious metal (excluding silver)	1,289,199	1,282,348	1,310,687
8803.30	Parts of airplanes or helicopters, nesi	1,067,423	1,061,887	1,277,437
8708.99	Parts and accessories of motor-vehicles, nesi	1,070,245	1,106,516	1,177,007
8411.12	Turbojets of a thrust exceeding 25 kN	2,207,676	1,111,990	1,154,345
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,479,997	1,370,524	1,133,982
2934.90	Heterocyclic compounds nesi	293,124	728,793	1,098,064
8802.30	Airplane and aircraft, of an unladen weight over 2,000 kg but not over 15,000 kg	1,126,029	967,825	1,069,409
2204.21	Wine nesi of fresh grapes or fortified wine, in containers not over 2 liters	614,479	695,222	838,615
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	([4])	([4])	816,556
8471.80	Other units of automated data processing machines	([5])	([5])	812,560
6403.99	Footwear, outer sole of rubber, plastics, or leather and leather upper, nesi	548,880	652,373	771,720
6403.59	Footwear, outer sole and upper of leather, nesi	568,993	631,352	742,413
2203.00	Beer made from malt	609,577	673,532	735,128
	Total of items shown	36,524,128	37,870,289	45,338,612
	Total other	81,120,249	92,965,024	96,115,906
	Total all commodities	117,644,377	130,835,313	141,454,518

[1] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[3] Special ”Census Use Only” reporting number estimating low-valued imports.
[4] Prior to 1996, imports reported under *HTS* 8471.93 part.
[5] Prior to 1996, imports reported under *HTS* 8471.99 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-7
U.S. merchandise trade with Japan, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	8,908,032	10,397,196	10,795,879
1	Beverages and tobacco	2,181,149	2,182,517	2,051,428
2	Crude materials, inedible, except fuels	6,019,942	6,912,015	6,308,149
3	Mineral fuels, lubricants and related materials	861,992	971,920	1,107,921
4	Animal and vegetable oils, fats and waxes	104,719	119,791	114,567
5	Chemicals and related products, nesi	5,201,033	6,023,907	5,769,207
6	Manufactured goods classified chiefly by material	2,920,846	3,776,236	3,758,885
7	Machinery and transport equipment	17,443,971	21,600,126	23,466,945
8	Miscellaneous manufactured articles	6,395,686	7,722,469	9,015,383
9	Commodities and transactions not classified elsewhere in SITC	1,024,059	1,255,366	1,196,440
	Total all commodities	51,061,430	60,961,543	63,584,804
			U.S. imports	
0	Food and live animals	318,456	298,413	279,857
1	Beverages and tobacco	32,014	32,722	34,428
2	Crude materials, inedible, except fuels	205,034	222,763	211,687
3	Mineral fuels, lubricants and related materials	203,350	226,802	180,145
4	Animal and vegetable oils, fats and waxes	19,252	19,649	19,222
5	Chemicals and related products, nesi	4,181,354	5,091,865	5,575,384
6	Manufactured goods classified chiefly by material	6,875,872	6,901,462	6,768,200
7	Machinery and transport equipment	93,764,696	97,353,374	89,143,404
8	Miscellaneous manufactured articles	10,123,786	10,337,852	10,385,310
9	Commodities and transactions not classified elsewhere in SITC	1,807,781	1,917,376	2,164,619
	Total all commodities	117,531,595	122,402,280	114,762,256

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-8
Leading exports to Japan, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
1005.90	Corn (maize), other than seed corn	1,352,186	1,905,821	2,454,811
8473.30	Parts and accessories for automated data processing machines and units	[1]1,331,012	[1]1,634,852	1,927,463
4403.20	Coniferous wood in the rough, not treated	1,728,365	1,668,956	1,640,238
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 not over 3,000 cc	1,247,148	2,059,662	1,604,034
2402.20	Cigarettes containing tobacco	1,428,168	1,467,013	1,523,004
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	2,156,829	1,496,438	1,375,657
8542.13	Metal oxide semiconductors	([2])	([2])	1,265,932
8803.30	Parts of airplanes or helicopters, nesi	826,860	958,177	1,143,732
1201.00	Soybeans, whether or not broken	837,694	983,029	1,142,637
8479.89	Machinery and mechanical appliances having individual functions, nesi	[3]441,117	[3]762,846	876,988
8471.49	Other digital automated data processing machines, entered in the form of systems	([4])	([4])	838,537
0201.30	Meat of bovine animals, boneless, fresh or chilled	620,441	911,976	763,590
9880.00[5]	Estimated "low value" shipments	577,367	698,087	745,691
8529.90	Parts, except antenna, for transmission, radar, radio, television, etc., nesi	414,351	722,640	735,428
8471.80	Other units of automated data processing machines	([6])	([6])	656,381
4407.10	Coniferous wood sawn, sliced etc, over 6 mm thick	626,745	620,084	651,846
1001.90	Wheat and meslin, excluding durum wheat	573,514	511,099	644,957
0202.30	Meat of bovine animals, boneless, frozen	640,307	663,563	633,658
8471.50	Digital processing units, nesi	([7])	([7])	607,563
8708.99	Parts and accessories of motor vehicles, nesi	236,540	380,247	556,841
2844.20	Uranium enriched in U235 plutonium and their compounds, etc	683,183	606,579	554,280
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc.	543,773	587,147	536,320
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	391,048	461,280	414,650
9018.90	Medical, surgical, dental or veterinary sciences instruments, appliances, and parts, nesi	282,877	396,679	405,668
0203.19	Meat of swine, nesi, fresh or chilled	204,913	344,482	375,249
	Total of items shown	17,144,439	19,840,658	24,075,153
	Total other	33,916,991	41,120,885	39,509,651
	Total all commodities	51,061,430	60,961,543	63,584,804

[1] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, products now reported under *Schedule B* 8479.50 were covered by 8479.89.90.40 in 1994 and 8479.89.95.40 in 1995. Trade data were adjusted to insure consistency of reporting.
[4] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.
[5] Special "Census Use Only" reporting number estimating low-valued exports.
[6] Prior to 1996, exports reported under *Schedule B* 8471.99 part.
[7] Prior to 1996, exports reported under *Schedule B* 8471.91 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-9
Leading imports from Japan, by *HTS* number, 1994-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	24,542,425	22,551,851	19,189,833
8542.13	Metal oxide semiconductors	([1])	([1])	6,174,903
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	3,201,129	3,618,119	6,101,828
8473.30	Parts and accessories for automated data processing machines and units	[2]4,269,503	[2]4,558,014	4,375,585
8471.60	Input or output units of automated data processing machines	([3])	([3])	4,233,546
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	([4])	([4])	3,370,690
8525.40	Still image video cameras and other video camera recorders	([5])	([5])	1,712,237
8708.99	Parts and accessories of motor-vehicles, nesi	1,528,375	1,552,817	1,475,146
9009.12	Electrostatic photocopying apparatus, operating by reproducing the original image via an intermediate onto the copy (indirect process)	1,413,737	1,570,281	1,376,542
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	970,660	1,033,807	1,322,975
9504.10	Video games used with television receiver and parts and accessories	1,064,236	780,642	1,224,379
8479.89	Machines and mechanical appliances having individual functions, nesi	[6]719,623	[6]949,858	1,016,430
9009.90	Parts and accessories of photocopying apparatus	1,114,339	1,010,942	948,755
8521.10	Magnetic tape-type video recording or reproducing apparatus	995,236	907,558	811,372
8409.91	Spark-ignition internal-combustion piston engine parts, nesi	707,505	728,457	777,974
8703.22	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine over 1,000 but not over 1,500 cc	1,742,785	1,634,530	771,448
9999.95[7]	Estimated “low value” shipments	786,281	828,004	759,186
8517.90	Parts of telephonic or telegraphic apparatus	525,969	745,595	750,504
8803.30	Parts of airplanes or helicopters, nesi	430,063	465,370	739,935
8471.49	Other automated data processing machines, entered in the form of systems	([8])	([8])	704,514
9102.11	Wrist watches, battery, mechanical display, base metal	617,719	627,007	653,728
8708.40	Gear boxes for motor vehicles	670,576	742,415	650,966
8708.29	Parts and accessories of bodies of motor vehicles, nesi	651,644	662,772	633,049
8457.10	Machining centers for working metal	379,977	506,832	586,973
8542.90	Parts for electronic integrated circuits and microassemblies	413,404	636,718	570,933
	Total of items shown	46,745,186	46,111,587	60,933,433
	Total other	70,786,409	76,290,693	53,828,823
	Total all commodities	117,531,595	122,402,280	114,762,256

[1] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[3] Prior to 1996, imports reported under *HTS* 8471.92 part.
[4] Prior to 1996, imports reported under *HTS* 8471.93 part.
[5] Prior to 1996, imports reported under *HTS* 8525.30.90 part.
[6] Prior to 1996, products now reported under *HTS* 8479.50 were covered by 8479.89.95.40. Trade data were adjusted to insure consistency of reporting.
[7] Special “Census Use Only” reporting number estimating low-valued imports.
[8] Prior to 1996, imports reported under *HTS* 8471.91 part, .92 part, .93 part, and .99 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-10
U.S. merchandise trade with Mexico, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	3,173,114	2,138,786	3,547,511
1	Beverages and tobacco	170,436	73,805	67,654
2	Crude materials, inedible, except fuels	2,088,369	2,100,857	2,455,237
3	Mineral fuels, lubricants and related materials	1,009,634	1,275,450	1,504,694
4	Animal and vegetable oils, fats and waxes	244,283	362,045	322,546
5	Chemicals and related products, nesi	4,359,814	4,211,068	5,062,163
6	Manufactured goods classified chiefly by material	6,679,912	6,426,529	8,049,697
7	Machinery and transport equipment	22,840,998	20,068,705	25,080,540
8	Miscellaneous manufactured articles	6,344,476	5,437,018	6,316,266
9	Commodities and transactions not classified elsewhere in SITC	2,225,009	1,936,892	2,279,557
	Total all commodities	49,136,046	44,031,155	54,685,865
			U.S. imports	
0	Food and live animals	2,862,953	3,828,492	3,650,835
1	Beverages and tobacco	332,884	400,955	528,479
2	Crude materials, inedible, except fuels	774,197	1,093,025	961,686
3	Mineral fuels, lubricants and related materials	4,975,874	6,012,906	8,024,077
4	Animal and vegetable oils, fats and waxes	10,434	18,845	22,813
5	Chemicals and related products, nesi	1,022,243	1,299,219	1,578,881
6	Manufactured goods classified chiefly by material	3,582,623	4,919,612	5,628,895
7	Machinery and transport equipment	26,480,892	33,208,578	40,596,350
8	Miscellaneous manufactured articles	6,543,989	8,329,981	10,237,485
9	Commodities and transactions not classified elsewhere in SITC	2,019,170	2,609,387	2,949,618
	Total all commodities	48,605,259	61,721,000	74,179,119

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-11
Leading exports to Mexico, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
9880.00[1]	Estimated "low value" shipments	1,756,361	1,624,591	1,951,768
8708.99	Parts and accessories of motor vehicles, nesi	1,775,818	1,605,286	1,868,127
1005.90	Corn (maize), other than seed corn	345,189	364,450	1,011,698
8708.29	Parts and accessories of bodies (including cabs) of motor vehicles, nesi	1,498,549	1,350,015	1,007,352
2710.00	Petroleum and oils obtained from bituminous minerals, other than crude	689,668	764,615	988,223
8540.11	Cathode-ray television picture tubes, color, including monitors.	471,568	567,622	917,180
3926.90	Articles of plastics, nesi	664,476	656,829	880,137
1201.00	Soybeans, whether or not broken	536,717	485,346	858,812
8473.30	Parts and accessories for automated data processing machines and units	[2]631,536	[2]599,517	834,572
8538.90	Parts for electrical apparatus for electrical circuits; for electrical control nesi	368,575	447,577	697,303
8544.30	Insulated ignition wiring sets for vehicles, ships or aircraft	719,065	557,949	685,678
8703.24	Passenger motor vehicles with spark-ignition internal-comb reciprocating piston engine, cylinder capacity over 3,000 cc	354,163	179,264	590,874
8542.30	Other monolithic integrated circuits	([3])	([3])	566,752
7326.90	Articles of iron or steel nesi	303,940	385,506	536,455
8534.00	Printed circuits	192,632	426,788	528,647
8536.90	Electrical apparatus for switching or protecting electrical circuits, nesi	368,833	493,976	522,885
8542.40	Hybrid integrated circuits	([4])	([4])	494,690
4819.10	Cartons, boxes and cases corrugated paper and paperboard	364,681	442,815	471,489
8504.90	Parts for electric transformers, static converters, and inductors	[5]514,832	[5]543,527	442,410
9401.90	Parts of seats (except medical, barber, dental, etc.)	402,683	427,819	442,382
7318.15	Threaded screws and bolts nesi of iron or steel	196,799	245,759	422,776
8409.91	Parts for spark-ignition internal-combustion piston engines, nesi	284,232	387,374	392,166
8503.00	Parts of electric motors, generators and sets	311,522	302,755	390,693
8529.90	Parts, nesi, for radar, radio, televison, etc. transmission, except antennas	487,175	571,486	340,256
8471.50	Digital processing units, nesi	([6])	([6])	337,634
	Total of items shown	13,239,015	13,430,867	18,180,959
	Total other	35,897,031	31,449,910	36,504,906
	Total all commodities	49,136,046	44,880,776	54,685,865

[1] Special "Census Use Only" reporting number estimating low-valued exports.
[2] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[3] Prior to 1996, exports reported under *Schedule B* 8542.11part, .19 part, .20 part, and .80 part.
[4] Prior to 1996, exports reported under *Schedule B* 8542.20 part.
[5] Prior to 1996, products now reported under this item, also were reported under *Schedule B* 8473.30 part.
[6] Prior to 1996, exports reported under *Schedule B* 8471.91 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-12
Leading imports from Mexico, by *HTS* items, 1994-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	4,594,008	5,681,586	7,032,759
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	4,054,241	5,478,466	5,972,387
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	2,504,442	2,717,792	3,013,814
8528.12	Incomplete or unfinished color reception apparatus for televisions	(1)	(1)	2,725,954
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	934,475	871,675	2,267,745
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight not exceeding 5 mt	523,216	1,297,014	2,176,852
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	1,471,917	1,923,081	2,043,373
8407.34	Reciprocating spark-ignition piston engines, of a cylinder capacity over 1,000 cc	561,675	1,275,846	1,372,663
8525.10	Transmission apparatus for radio or television	528,632	806,657	1,081,821
8471.30	Portable digital automated data processing machines not exceeding 10 kg, with at least a CPU, keyboard and display	(2)	(2)	1,034,153
8527.21	Radiobroadcast receivers for motor vehicles	474,496	918,188	1,005,551
9401.90	Parts of seats (except medical, barber, dental, etc.)	721,486	765,097	938,360
8473.30	Parts and accessories for automated data processing machines and units	[3]587,567	[3]810,082	924,133
8704.21	Trucks, nesi, diesel engine, gross vehicle weight not exceeding 5 mt	119,864	466,836	818,695
8529.90	Parts, except antenna, for transmission, radar, radio, television, etc., nesi	807,396	874,170	782,156
8708.99	Parts and accessories of motor-vehicles, nesi	488,672	680,803	774,685
6203.42	Men's or boys' trousers, bib and brace overalls, breeches and shorts, not knitted or crocheted, of cotton	371,952	593,094	745,376
8708.21	Safety seat belts for motor vehicles	881,559	646,788	702,186
8471.60	Input or output units for automated data processing machines	(4)	(4)	601,535
0702.00	Tomatoes, fresh or chilled	315,448	406,081	580,349
9999.95[5]	Estimated "low value" shipments	343,085	425,357	498,012
8504.40	Static converters	[6]322,380	[6]388,721	480,035
8415.90	Parts, nesi, of air conditioning machines	240,347	315,754	478,880
0901.11	Coffee, not roasted, not decaffeinated	267,474	508,372	472,674
6204.62	Women's or girls' trousers, bib and brace overalls, breeches and shorts, not knitted or crocheted, of cotton	220,493	330,493	451,217
	Total of items shown	21,334,826	28,181,955	38,975,364
	Total other	27,270,433	33,539,045	35,203,755
	Total all commodities	48,605,259	61,721,000	74,179,119

[1] Prior to 1996, imports reported under *HTS* 8528.10 part.
[2] Prior to 1996, imports reported under *HTS* 8471.20 part.
[3] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[4] Prior to 1996, imports reported under *HTS* 8471.92 part.
[5] Special "Census Use Only" reporting number estimating low-valued imports.
[6] Prior to 1996, products now reported under this item, were reported under *HTS* 8471.99.32 and .34. Trade data were adjusted to reflect this coverage.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-13
U.S. merchandise trade with China, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	273,038	1,305,359	769,631
1	Beverages and tobacco	6,388	8,582	3,173
2	Crude materials, inedible, except fuels	1,151,459	1,674,633	1,871,381
3	Mineral fuels, lubricants and related materials	61,123	25,287	67,587
4	Animal and vegetable oils, fats and waxes	134,790	395,186	113,629
5	Chemicals and related products, nesi	1,505,270	2,008,017	1,722,182
6	Manufactured goods classified chiefly by material	402,371	662,385	783,853
7	Machinery and transport equipment	5,050,630	4,747,820	5,464,882
8	Miscellaneous manufactured articles	480,407	633,556	847,386
9	Commodities and transactions not classified elsewhere in SITC	112,408	151,721	157,540
	Total all commodities	9,177,884	11,612,547	11,801,243
			U.S. imports	
0	Food and live animals	529,927	594,807	655,224
1	Beverages and tobacco	13,409	11,753	15,168
2	Crude materials, inedible, except fuels	248,685	332,770	376,751
3	Mineral fuels, lubricants and related materials	373,499	430,685	462,465
4	Animal and vegetable oils, fats and waxes	3,111	2,537	7,549
5	Chemicals and related products, nesi	740,668	893,699	1,077,181
6	Manufactured goods classified chiefly by material	3,318,280	4,234,204	4,548,265
7	Machinery and transport equipment	8,905,939	11,879,776	13,813,261
8	Miscellaneous manufactured articles	24,131,343	26,585,800	29,819,465
9	Commodities and transactions not classified elsewhere in SITC	307,636	403,953	434,046
	Total all commodities	38,572,496	45,369,985	51,209,376

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-14
Leading exports to China, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,657,606	870,672	1,310,778
3100.00[1]	Fertilizers	944,121	1,204,154	891,052
5201.00	Cotton, not carded or combed	644,986	828,811	727,497
1001.90	Wheat and meslin, excluding durum wheat	166,228	506,093	426,381
1201.00	Soybeans, whether or not broken	8,645	50,657	414,476
8803.30	Parts of airplanes or helicopters, nesi	121,040	104,712	166,991
8529.90	Parts nesi for transmission, radar, radio, television, etc., excluding antennas	110,060	15,663	157,737
8525.20	Transmission apparatus incorporating reception apparatus	[2]195,722	[2]144,972	144,873
8479.89	Machines and mechanical appliances having individual functions, nesi	[3]87,477	[3]114,598	136,439
8802.60	Spacecraft including satellites spacecraft launch vehicles	[4]64,864	[4]133,790	121,674
8517.90	Parts of telephonic or telegraphic apparatus	116,934	162,208	120,077
2304.00	Soybean oilcake and other solid residue, whether or not ground	0	0	116,700
8431.39	Parts for lifting, handling, loading or unloading machines nesi	39,652	69,160	110,360
9504.90	Game machines except coin-operated; board games; mah-jong; dominoes; dice	5,127	58,357	109,586
8523.20	Unrecorded magnetic discs	4,589	23,364	102,477
4804.11	Kraftliner, uncoated unbleached in rolls or sheets	84,146	51,754	102,362
1507.10	Soybean oil and fractions, crude, whether or not degummed	104,192	298,680	99,135
4101.21	Whole raw hides and skins of bovine animals, nesi, fresh or wet-salted	40,082	87,590	91,569
8431.43	Parts for boring or sinking machinery, nesi	76,459	68,359	85,537
3901.10	Polyethylene having a specific gravity under 0.94	16,175	94,278	85,344
4703.21	Chemical woodpulp, soda, or sulfate, other than dissolving grades, semi-bleached and bleached coniferous wood	23,584	55,831	82,917
8471.49	Other digital automated data processing machines, entered in the form of systems	([5])	([5])	76,641
5502.00	Artificial filament tow	50,667	114,768	76,357
9880.00[6]	Estimated “low value” shipments	52,332	73,743	73,117
9801.10	Value of repaired or altered articles previous imported	40,380	63,493	69,422
	Total of items shown	4,655,070	5,395,705	5,899,500
	Total other	4,522,815	6,216,842	5,901,743
	Total all commodities	9,177,884	11,612,547	11,801,243

[1] Special “Census Use Only” reporting number aggregating certain fertilizer products to prevent disclosure.
[2] Prior to 1996, products now reported under *Schedule B* 8517.11 were covered by 8525.20.50. Trade data were adjusted to insure consistency of reporting.
[3] Prior to 1996, products now reported under *Schedule B* 8479.50 were covered by 8479.89.90.40 in 1994 and 8479.89.95.40 in 1995. Trade data were adjusted to insure consistency of reporting.
[4] Prior to 1996, exports reported under *Schedule B* 8802.50.
[5] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.
[6] Special “Census Use Only” reporting number estimating low-valued exports.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-15
Leading imports from China, by *HTS* number, 1994-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	1,571,605	1,856,584	2,122,236
6402.99	Footwear with outer soles and upper of rubber or plastics, nesi	1,149,805	1,292,246	1,472,666
9503.90	Other toys and models, nesi	1,019,753	1,227,590	1,436,373
8473.30	Parts and accessories for automated data processing machines and units	[1]561,900	[1]974,800	1,351,827
9502.10	Dolls representing only human beings and parts and accessories thereof, whether or not dressed	600,005	794,796	998,797
9503.41	Stuffed toys representing animals or non-human creatures and parts and accessories	616,054	735,428	994,784
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	901,211	915,444	953,078
9505.10	Articles for Christmas festivities and parts and accessories thereof	538,512	715,175	755,140
8427.13	Other radiobroadcast apparatus combined with sound recording or reproducing apparatus	([2])	([2])	693,448
8471.60	Input or output units for automated data processing machines	([3])	([3])	674,960
4203.10	Articles of apparel of leather or composition leather	656,368	603,023	600,275
6110.90	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of textile materials, nesi	758,095	547,383	599,558
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	([4])	([4])	580,485
4202.92	Trunks, cases, bags and similar containers, with outer surface of plastic sheeting or of textile materials	497,494	548,358	565,907
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesi	429,205	512,838	550,345
9503.49	Toys representing animal and nonhuman creatures and parts and accessories	338,352	378,643	529,105
6402.91	Footwear covering the ankle, with outer soles and uppers of rubber or plastics, excluding waterproof footwear	547,584	544,490	516,885
8517.11	Line telephone sets with cordless handsets	[5]565,215	[5]522,419	490,597
9503.70	Toys, put up in sets or outfits and parts and accessories, nesi	293,055	347,603	442,619
9504.90	Game machines	423,319	396,478	441,154
8504.40	Static converters	[6]258,986	[6]380,633	434,200
6702.90	Artificial flowers, foliage and fruit and parts thereof, and articles made up of artificial flowers, foliage or fruit, of materials other than plastics	434,517	471,990	410,477
4202.22	Handbags with outer surface of plastic sheet or text materials	353,295	374,977	386,913
9503.80	Toys and models with a motor, and parts and accessories, nesi	284,293	323,838	380,784
6404.11	Sports footwear, tennis shoes, basketball shoes, with outer soles of rubber, plastics, or leather and uppers of textile materials	209,984	271,484	370,570
	Total of items shown	13,008,609	14,736,219	18,753,181
	Total other	25,563,888	30,633,767	32,456,195
	Total all commodities	38,572,496	45,369,985	51,209,376

[1] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[2] Prior to 1996, imports reported under *HTS* 8527.11 part.
[3] Prior to 1996, imports reported under *HTS* 8471.92 part.
[4] Prior to 1996, imports reported under *HTS* 8471.93 part.
[5] Prior to 1996, products now reported under this item, were reported under *HTS* 8425.20.50.
[6] Prior to 1996, products now reported under this item, were reported under *HTS* 8471.99.32 and .34. Trade data were adjusted to reflect this coverage.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-16
U.S. merchandise trade with Taiwan, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	1,363,145	1,559,987	1,888,389
1	Beverages and tobacco	146,291	127,356	122,744
2	Crude materials, inedible, except fuels	1,306,015	1,665,421	1,602,357
3	Mineral fuels, lubricants and related materials	374,434	293,480	370,772
4	Animal and vegetable oils, fats and waxes	19,942	27,432	13,702
5	Chemicals and related products, nesi	2,430,521	2,873,580	2,307,854
6	Manufactured goods classified chiefly by material	937,915	1,278,447	1,067,385
7	Machinery and transport equipment	7,452,355	8,228,400	7,631,698
8	Miscellaneous manufactured articles	1,343,865	1,314,096	1,444,697
9	Commodities and transactions not classified elsewhere in SITC	865,795	667,457	470,701
	Total all commodities	16,240,279	18,035,656	16,920,298
			U.S. imports	
0	Food and live animals	286,335	282,413	278,041
1	Beverages and tobacco	5,942	6,163	6,305
2	Crude materials, inedible, except fuels	98,779	114,708	105,751
3	Mineral fuels, lubricants and related materials	733	2,833	1,128
4	Animal and vegetable oils, fats and waxes	2,972	3,470	3,399
5	Chemicals and related products, nesi	398,247	396,896	402,112
6	Manufactured goods classified chiefly by material	3,719,700	3,781,827	3,756,175
7	Machinery and transport equipment	13,941,947	16,667,647	18,032,603
8	Miscellaneous manufactured articles	7,779,121	7,237,730	6,736,369
9	Commodities and transactions not classified elsewhere in SITC	351,731	380,885	475,152
	Total all commodities	26,585,506	28,874,572	29,797,035

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-17
Leading exports to Taiwan, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
1005.90	Corn (maize), other than seed corn	566,132	770,817	962,061
1201.00	Soybeans, whether or not broken	441,804	600,467	776,798
8542.13	Metal oxide semiconductors	(1)	(1)	769,423
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	902,429	1,201,660	662,099
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 but not over 3,000 cc	946,394	781,545	482,805
8479.89	Machines and mechanical appliances having individual functions, nesi	[2]170,908	[2]358,161	470,327
8803.30	Parts of airplanes or helicopters, nesi	472,469	459,192	394,120
8542.30	Other monolithic integrated circuits	(3)	(3)	363,400
8542.14	Circuits obtained by bipolar technology	(4)	(4)	263,679
8473.30	Parts and accessories for automated data processing machines and units	[5]160,387	[5]230,286	248,316
8456.91	Machine tools nesi for dry etching patterns on semiconductor materials	[6]73,134	[6]165,622	228,526
9306.90	Bombs, grenades, torpedoes, mines, missiles, etc., and parts	194,173	145,692	214,913
1001.90	Wheat and meslin, excluding durum wheat	155,390	155,240	214,490
9880.00[7]	Estimated “low value” shipments	198,347	219,934	213,897
2902.50	Styrene	323,741	439,550	185,261
2710.00	Petroleum oil and oils obtained from bituminous minerals, except crude	207,402	153,633	185,052
8471.49	Other digital automated data processing machines, entered in the form of systems	(8)	(8)	176,131
4101.21	Whole raw hides and skins of bovine animals, nesi, fresh or wet-salted	166,040	200,376	173,731
2903.15	1,2-dichloroethane (ethylene dichloride)	103,170	108,024	157,991
8548.90	Other waste and scrap of primary cells, primary batteries, etc.	(9)	(9)	129,973
7403.11	Refined copper cathodes and sections of cathodes	132,510	203,059	127,812
8543.11	Ion implanters for doping semiconductor materials	(10)	(10)	127,481
8479.90	Parts of machines and mechanical appliances having individual functions, nesi	72,314	93,234	118,737
2905.31	Ethylene glycol (ethanediol)	69,148	126,284	113,807
9803.20	Exports of military equipment, not identified	171,120	127,171	112,710
	Total of items shown	5,527,011	6,539,947	7,873,540
	Total other	10,713,267	11,495,709	9,046,758
	Total all commodities	16,240,279	18,035,656	16,920,298

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, products now reported under *Schedule B* 8479.50 were covered by 8479.89.90.40 in 1994 and 8479.89.95.40 in 1995. Trade data were adjusted to insure consistency of reporting.
[3] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[4] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[5] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[6] Prior to 1996, exports reported under *Schedule B* 8456.90.50.40.
[7] Special “Census Use Only” reporting number estimating low-valued exports.
[8] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.
[9] Prior to 1996, exports reported under *Schedule B* 8548.00 part.
[10] Prior to 1996, exports reported under *Schedule B* 8543.10 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-18
Leading imports from Taiwan, by *HTS* number, 1994-1996

(1,000 dollars)

HTS No.	Description	1994	1995	1996
8473.30	Parts and accessories for automated data processing machines and units	[1]2,436,566	[1]3,536,231	3,832,695
8471.60	Automated data processing input or output units	([2])	([2])	2,150,889
8542.13	Metal oxide semiconductors	([3])	([3])	2,031,877
8471.30	Portable digital automated data processing machines lot exceeding 10 kg, with at least a CPU, keyboard and display	([4])	([4])	984,759
8542.30	Other monolithic integrated circuits	([5])	([5])	565,027
8534.00	Printed circuits	301,267	442,414	506,159
9506.91	Gymnasium, playground or other exercise articles and equipment; parts and accessories thereof	249,264	240,435	399,401
8504.40	Static converters	[6]375,537	[6]398,082	373,709
8525.10	Transmission apparatus for radio or television	205,180	231,679	351,014
8471.80	Other units of automated data processing machines	([7])	([7])	347,292
8712.00	Bicycles and other cycles (including delivery tricycle) not motorized	322,367	373,356	320,944
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man-made fibers	339,537	327,084	298,539
7318.15	Threaded screws and bolts, of iron or steel, nesi, whether or not with their nuts or washers	246,342	292,388	287,754
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	159,187	163,191	243,168
8414.51	Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of and output not exceeding 125 W	321,189	250,595	242,661
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	([8])	([8])	229,545
8517.50	Other apparatus for carrier-current line systems or for digital line systems	[9]153,900	[9]132,606	228,471
9403.60	Wooden furniture, other than of a kind used in the bedroom	318,134	273,797	227,416
8481.80	Taps, cocks, valves and similar appliances, nesi	197,670	215,006	226,360
8471.49	Other automated data processing machines, entered in the form of systems	([10])	([10])	216,019
9999.95[11]	Estimated “low value” shipments	183,933	200,727	211,169
9403.20	Metal furniture, other than of a kind used in offices	261,602	234,410	208,055
7318.14	Self-tapping screws of iron or steel	158,159	194,343	201,473
4202.92	Trunks, cases, bags and similar containers, with outer surface of plastic sheeting or of textile materials	166,539	194,850	185,200
7318.16	Nuts of iron or steel	156,976	178,743	167,812
	Total of items shown	6,553,348	7,879,939	15,037,407
	Total other	20,032,158	21,994,633	14,759,629
	Total all commodities	26,585,506	28,874,572	29,797,035

[1] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[2] Prior to 1996, imports reported under *HTS* 8471.92 part.
[3] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[4] Prior to 1996, imports reported under *HTS* 8471.20 part.
[5] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[6] Prior to 1996, products now reported under this item, were reported under *HTS* 8471.99.32 and .34. Trade data were adjusted to reflect this coverage.
[7] Prior to 1996, imports reported under *HTS* 8471.99 part.
[8] Prior to 1996, imports reported under *HTS* 8471.93 part.
[9] Prior to 1996, products under this *HTS* were reported under *HTS* 8517.40.
[10] Prior to 1996, imports reported under *HTS* 8471.91 part, .92 part, .93 part, and .99 part.
[11] Special “Census Use Only” reporting number estimating low-valued imports.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-19
U.S. merchandise trade with Korea, by SITC nos. (revision 3), 1994-96

(1,000 dollars)

SITC section No.	Description	1994	1995	1996
			U.S. exports	
0	Food and live animals	1,137,203	2,249,909	2,490,823
1	Beverages and tobacco	139,373	188,052	197,183
2	Crude materials, inedible, except fuels	2,466,423	3,201,465	2,645,975
3	Mineral fuels, lubricants and related materials	561,255	649,323	736,105
4	Animal and vegetable oils, fats and waxes	57,824	107,502	59,588
5	Chemicals and related products, nesi	1,867,528	2,602,781	2,576,711
6	Manufactured goods classified chiefly by material.	1,021,271	1,667,959	1,454,480
7	Machinery and transport equipment	8,407,669	11,458,695	12,316,061
8	Miscellaneous manufactured articles	1,532,907	1,906,648	2,245,938
9	Commodities and transactions not classified elsewhere in SITC	307,677	450,615	710,541
	Total all commodities	17,499,129	24,482,948	25,433,405
			U.S. imports	
0	Food and live animals	146,102	148,026	143,845
1	Beverages and tobacco	8,426	10,576	16,527
2	Crude materials, inedible, except fuels	127,593	155,977	143,846
3	Mineral fuels, lubricants and related materials	149,058	134,829	93,944
4	Animal and vegetable oils, fats and waxes	1,472	1,181	1,397
5	Chemicals and related products, nesi	364,773	438,134	494,916
6	Manufactured goods classified chiefly by material	2,129,282	2,219,552	2,200,218
7	Machinery and transport equipment	11,746,617	16,485,315	15,437,528
8	Miscellaneous manufactured articles	4,689,339	4,178,715	3,555,100
9	Commodities and transactions not classified elsewhere in SITC	184,472	253,399	444,275
	Total all commodities	19,547,134	24,025,703	22,531,596

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”
Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-20
Leading exports to South Korea, by *Schedule B* number, 1994-96

(1,000 dollars)

Schedule B No.	Description	1994	1995	1996
8802.40	Airplane and other aircraft, of an unladen weight exceeding 15,000 kg	922,481	1,255,114	1,393,126
1005.90	Corn (maize), other than seed corn	251,815	1,110,315	1,259,806
8542.13	Metal oxide semiconductors	(1)	(1)	923,321
8479.89	Machines and mechanical appliances having individual functions, nesi	2259,914	2852,306	873,948
8803.30	Parts of airplanes or helicopters, nesi	654,175	737,852	643,830
8525.20	Transmission apparatus incorporating reception apparatus	3388,104	3435,540	529,926
4101.21	Whole raw hides and skins of bovine animals, nesi, fresh or wet-salted	539,079	614,210	457,249
1201.00	Soybeans, whether or not broken	228,443	335,769	438,684
8542.14	Circuits obtained by bipolar technology	(4)	(4)	419,652
8479.90	Parts of machinery and mechanical appliances having individual functions, nesi	300,121	241,862	385,349
8473.30	Parts and accessories for automated data processing machines and units	5215,883	5275,404	365,600
7108.12	Nonmonetary gold (including gold plated with platinum), unwrought, excluding powder	27,962	106,503	346,092
1001.90	Wheat and meslin, excluding durum wheat	227,732	260,308	328,082
8471.49	Other digital automated data processing machines, entered in the form of systems	(6)	(6)	305,280
7204.49	Ferrous waste and scrap nesi	231,656	331,702	281,587
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude	319,523	345,269	264,407
8406.90	Parts for steam and other vapor turbines	107,450	178,229	263,025
5201.00	Cotton, not carded or combed	316,561	361,490	256,601
9880.007	Estimated “low value” shipments	161,271	228,475	244,075
8708.99	Parts and accessories of motor vehicles, nesi	166,936	247,798	225,418
2709.00	Crude oil from petroleum and bituminous minerals	1,513	0	173,180
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	143,247	164,385	161,192
0202.30	Meat of bovine animals, boneless, frozen	187,047	233,199	155,447
8542.30	Other monolithic integrated circuits	(8)	(8)	154,148
8529.90	Parts, nesi, for radar, radio, televison, etc. transmission, except antennas	83,917	147,109	147,848
	Total of items shown	5,734,829	8,462,839	10,996,874
	Total other	11,764,300	16,020,109	14,436,531
	Total all commodities	17,499,129	24,482,948	25,433,405

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, products now reported under *Schedule B* 8479.50 were covered by 8479.89.90.40 in 1994 and 8479.89.95.40 in 1995. Trade data were adjusted to insure consistency of reporting.
[3] Prior to 1996, products now reported under *Schedule B* 8517.11 were covered by 8525.20.50. Trade data were adjusted to insure consistency of reporting.
[4] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[5] Prior to 1996, exports under this item included products now reported under *Schedule B* 8473.50 part.
[6] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 part, and .99 part.
[7] Special “Census Use Only” reporting number estimating low-valued exports.
[8] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-21
Leading imports from Korea, by *HTS* number, 1995-96

(1,000 dollars)

HTS No.	Description	1994	1995	1996
8542.13	Metal oxide semiconductors	[1]	[1]	5,479,323
8473.30	Parts and accessories for automated data processing machines and units	[2]1,183,375	[2]2,383,535	1,940,961
8471.60	Input or output units for automated data processing machines	[3]	[3]	1,487,729
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	772,907	1,100,581	1,259,739
8703.22	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine over 1,000 but not over 1,500 cc	696,204	549,750	586,827
8542.30	Other monolithic integrated circuits	[4]	[4]	401,436
8516.50	Microwave ovens of a kind used for domestic purposes	390,883	399,302	385,822
9801.00	U.S. articles exported and returned, not advanced or improved in condition	125,289	179,807	360,447
8521.10	Magnetic tape-type video recording or reproducing apparatus	604,555	561,632	272,659
8471.70	Magnetic disk drive storage units diameter exceeding 21 cm	[5]	[5]	231,475
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man-made fibers	275,038	209,507	182,541
6201.93	Men's and boys' jackets and windbreakers of man-made fibers, not knitted or crocheted	218,313	190,379	180,870
8525.20	Transmission apparatus incorporating reception apparatus	[6]226,748	[6]382,511	176,416
8471.49	Other automated data processing machines, entered in the form of systems	[7]	[7]	163,700
8523.13	Prepared unrecorded magnetic tapes or sound recording, of a width exceeding 6.5 mm	132,989	157,340	146,984
4202.92	Container bags, cases, etc. nesi, plastic/textile materials	124,330	144,139	122,080
5407.61	Other woven fabrics at least 85 percent by weight of non-textured polyester filaments	[8]	[8]	122,002
8534.00	Printed circuits	58,137	89,882	119,600
7208.38	Flat-rolled products of iron or nonalloy steel in coils nesi, of a thickness of 3 mm or more but less than 4.75 mm	[9]	[9]	115,737
8429.52	Self-propelled mechanical shovels and excavators, with a 360-degree revolving superstructure	41,536	73,654	115,381
7208.39	Flat-rolled products of iron or nonalloy steel in coils nesi, of a thickness less than 3 mm	[10]	[10]	112,468
6205.30	Men's or boys' shirts, not knitted or crocheted, of man-made fibers	143,742	141,738	110,212
8458.11	Numerically controlled horizontal lathes for removing metal	31,899	75,854	104,047
8542.40	Hybrid integrated circuits	[11]	[11]	101,452
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	190,928	129,041	99,786
	Total of items shown	5,216,873	6,768,651	14,379,697
	Total other	14,330,261	17,257,057	8,151,900
	Total all commodities	19,547,134	24,025,703	22,531,596

[1] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, imports under this item included products now reported under *HTS* 8473.50 part.
[3] Prior to 1996, imports reported under *HTS* 8471.92 part.
[4] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[5] Prior to 1996, imports reported under *HTS* 8471.93 part.
[6] Prior to 1996, products now reported under *HTS* 8517.11 were covered by 8525.20.50. Trade data were adjusted to insure consistency of reporting.
[7] Prior to 1996, imports reported under *HTS* 8471.91 part, .92 part, .93 part, and .99 part.
[8] Prior to 1996, imports reported under *HTS* 5407.60 part.
[9] Prior to 1996, imports reported under *HTS* 7208.13.50 part and 7208.23.50 part.
[10] Prior to 1996, imports reported under *HTS* 7208.14.50 part and 7208.24.50 part.
[11] Prior to 1996, imports reported under *HTS* 8542.20 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-22
Antidumping cases active in 1996, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation number

(Affirmative (A); Partial Affirmative (P); Negative (N); Suspension Agreement (S); Terminated (T))

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action[2]
				Commission	ITA[1]	ITA[1]	Commission	
				Affirmative				
731-TA-726	Polyvinyl alcohol	China	Mar. 9, 1995	A	A	A	A	May 14, 1996
731-TA-727	Polyvinyl alcohol	Japan	Mar. 9, 1995	A	A	A	A	May 14, 1996
731-TA-729	Polyvinyl alcohol	Taiwan	Mar. 9, 1995	A	A	A	A	May 14, 1996
731-TA-734	Certain pasta	Italy	May 12, 1995	P	A	A	A	July 24, 1996
731-TA-735	Certain pasta	Turkey	May 12, 1995	P	A	A	A	July 24, 1996
731-TA-736	Large newspaper printing presses	Germany	Jun. 30, 1995	A	A	A	A	Sept. 4, 1996
731-TA-737	Large newspaper printing presses	Japan	June 30, 1995	A	A	A	A	Sept. 4, 1996
731-TA-739	Clad steel plate	Japan	Sept. 29, 1995	A	A	A	A	July 2, 1996
				Negative				
731-TA-728	Polyvinyl alcohol	Korea	Mar. 9, 1995	N	(3)	(3)	(3)	(3)
731-TA-731	Bicycles	China	Apr. 5, 1995	A	A	A	N	June 12, 1996
731-TA-732	Circular welded non-alloy steel pipe	Romania	Apr. 26, 1995	A	A	A	N	June 27, 1996
731-TA-733	Circular welded non-alloy steel pipe	South Africa	Apr. 26, 1995	A	A	A	N	June 27, 1996
				Suspended				
731-TA-747	Fresh tomatoes	Mexico	Apr. 1, 1996	A	S	(3)	(3)	(3)
				Terminated				
731-TA-738	Foam extruded PVC and polystyrene framing stock	United Kingdom	Sept. 8, 1995	A	A	A	T	Nov. 8, 1996
				In Progress				
731-TA-740	Sodium azide	Japan	Jan. 16, 1996	A	A	(3)	(3)	(3)
731-TA-741	Melamine institutional dinnerware	China	Feb. 6, 1996	A	A	(3)	(3)	(3)
731-TA-742	Melamine institutional dinnerware	Indonesia	Feb. 6, 1996	A	A	(3)	(3)	(3)
731-TA-743	Melamine institutional dinnerware	Taiwan	Feb. 6, 1996	A	A	(3)	(3)	(3)
731-TA-744	Certain brake drums and rotors	China	Mar. 7, 1996	A	A	(3)	(3)	(3)
731-TA-745	Steel concrete reinforcing bars	Turkey	Mar. 8, 1996	A	A	(3)	(3)	(3)
731-TA-746	Beryllium and high-beryllium alloys	Kazakhstan	Mar. 14, 1996	A	A	(3)	(3)	(3)

See footnotes at end of table.

Table A-22—*Continued*

Antidumping cases active in 1996, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation number

(Affirmative (A); Partial Affirmative (P); Negative (N); Suspension Agreement (S); Terminated (T))

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action[2]
				Commission	ITA[1]	ITA[1]	Commission	
				In Progress				
731-TA-748	Engineered process gas turbo-compressor systems	Japan	May 8, 1996	A	A	(3)	(3)	(3)
731-TA-749	Persulfates	China	July 11, 1996	A	A	(3)	(3)	(3)
731-TA-750	Vector supercomputers	Japan	July 29, 1996	A	(3)	(3)	(3)	(3)
731-TA-751	Open-end spun rayon singles yarn	Austria	Aug. 20, 1996	A	(3)	(3)	(3)	(3)
731-TA-752	Crawfish tail meat	China	Sept. 20, 1996	A	(3)	(3)	(3)	(3)
731-TA-753	Cut-to-length carbon steel plate	China	Nov. 5, 1996	A	(3)	(3)	(3)	(3)
731-TA-754	Cut-to-length carbon steel plate	Russia	Nov. 5, 1996	A	(3)	(3)	(3)	(3)
731-TA-755	Cut-to-length carbon steel plate	South Africa	Nov. 5, 1996	A	(3)	(3)	(3)	(3)
731-TA-756	Cut-to-length carbon steel plate	Ukraine	Nov. 5, 1996	A	(3)	(3)	(3)	(3)
731-TA-757	Collated roofing nails	China	Nov. 26, 1996	(3)	(3)	(3)	(3)	(3)
731-TA-758	Collated roofing nails	Korea	Nov. 26, 1996	(3)	(3)	(3)	(3)	(3)
731-TA-759	Collated roofing nails	Taiwan	Nov. 26, 1996	(3)	(3)	(3)	(3)	(3)

[1] U.S. Department of Commerce, International Trade Administration (ITA).
[2] For cases in which the final action was taken by the ITA, the date shown is the *Federal Register* notice date of that action.
[3] Not applicable.

Source: Compiled by the staff of the U.S. International Trade Commission.

Table A-23
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Argentina:	
Oil country tubular goods	Aug. 11, 1995
Seamless pipe	Aug. 3, 1995
Silicon metal	Sept. 26, 1991
Rectangular tubing	May 22, 1989
Barbed wire and barbless wire strand	Nov. 13, 1985
Carbon steel wire rod	Nov. 23, 1984
Armenia: Solid urea	July 14, 1987
Australia:	
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
Canned Bartlett pears	Mar. 23, 1973
Austria: Railway track equipment	Feb. 17, 1978
Azerbaijan: Urea	July 14, 1987
Bangladesh: Cotton shop towels	Mar. 20, 1992
Belarus-Baltic: Urea	July 14, 1987
Belgium:	
Cut-to-length carbon steel plate	Aug. 19, 1993
Industrial phosphoric acid	Aug. 20, 1987
Sugar	June 13, 1979
Brazil:	
Seamless pipe	Aug. 3, 1995
Stainless steel bar	Feb. 21, 1995
Silicomanganese	Dec. 22, 1994
Ferrosilicon	Mar. 14, 1994
Stainless steel wire rod	Jan. 28, 1994
Cut-to-length carbon steel plate	Aug. 19, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
Circular welded non-alloy steel pipe	Nov. 2, 1992
Silicon metal	July 31, 1991
Industrial nitrocellulose	July 10, 1990
Frozen concentrated orange juice	May 5, 1987
Brass sheet and strip	Jan. 12, 1987
Carbon steel butt-weld pipe fittings	Dec. 17, 1986
Malleable cast iron pipe fittings	May 21, 1986
Iron construction castings	May 9, 1986
Canada:	
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
Cut-to-length carbon steel plate	Aug. 19, 1993
Pure alloy magnesium	Aug. 31, 1992
New steel rails	Sept. 15, 1989
Color picture tubes	Jan. 7, 1988
Brass sheet and strip	Jan. 12, 1987
Oil country tubular goods	June 16, 1986
Iron construction castings	Mar. 5, 1986
Red raspberries	June 24, 1985
Sugar and syrups	Apr. 9, 1980
Racing plates	Feb. 27, 1974
Elemental sulphur	Dec. 17, 1973
Steel jacks	Sept. 13, 1966
Chile: Fresh cut flowers	Mar. 20, 1987
China:	
Polyvinyl alcohol	May 14, 1996
Manganese metal	Feb. 6, 1996

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
China—*Continued:*	
Furfuryl alcohol	June 21, 1995
Pure magnesium	May 12, 1995
Glycine	Mar. 29, 1995
Coumarin.	Feb. 9, 1995
Cased pencils	Dec. 28, 1994
Silicomanganese	Dec. 22, 1994
Paper clips	Nov. 25, 1994
Garlic	Nov. 16, 1994
Sebacic acid	July 14, 1994
Helical spring lock washers	Oct. 19, 1993
Compact ductile iron waterworks fittings	Sept. 7, 1993
Ferrosilicon	Mar. 11, 1993
Sulfanilic acid	Aug. 19, 1992
Carbon steel butt-weld pipe fittings	July 6, 1992
Tungsten ore concentrates	Nov. 21, 1991
Chrome-plated lug nuts	Sept. 20, 1991
Sparklers	June 18, 1991
Silicon metal	June 10, 1991
Sodium thiosulfate	Feb. 19, 1991
Heavy forged handtools	Feb. 19, 1991
Industrial nitrocellulose	July 10, 1990
Tapered roller bearings	June 15, 1987
Porcelain-on-steel cookware	Dec. 2, 1986
Candles	Aug. 28, 1986
Iron construction castings	May 9, 1986
Paint brushes	Feb. 14, 1986
Barium chloride	Oct. 17, 1984
Chloropicrin	Mar. 22, 1984
Potassium permanganate	Jan. 31, 1984
Cotton shop towels	Oct. 4, 1983
Printcloth	Sept. 16, 1983
Colombia: Fresh cut flowers	Mar. 18, 1987
Ecuador: Fresh cut flowers	Mar. 18, 1987
Estonia: Solid urea	July 14, 1987
Finland:	
Cut-to-length carbon steel plate	Aug. 19, 1993
France:	
Calcium aluminate flux	June 13, 1994
Stainless steel wire rod	Jan. 28, 1994
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
Antifriction bearings	May 15, 1989
Brass sheet and strip	Mar. 6, 1987
Industrial nitrocellulose	Aug. 10, 1983
Sorbitol	Apr. 9, 1982
Anhydrous sodium metasilicate	Jan. 7, 1981
Sugar	June 13, 1979
Large power transformers	June 14, 1972
Georgia:	
Solid urea	July 14, 1987
Germany:	
Large newspaper printing presses	Sept. 4, 1996
Seamless pipe	Aug. 3, 1995
Cold-rolled carbon steel flat products	Aug. 19, 1993
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
Cut-to-length carbon steel plate	Aug. 19, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Germany—*Continued:*	
Rayon yarn	June 30, 1992
Sodium thiosulfate	Feb. 19, 1991
Industrial nitrocellulose	July 10, 1990
Industrial belts (except synchronous and V-belts)	June 14, 1989
Antrifriction bearings	May 15, 1989
Urea	July 14, 1987
Brass sheet and strip	Mar. 6, 1987
Barium carbonate, precipitated	June 25, 1981
Sugar	June 13, 1979
Animal glue and inedible gelatin	Dec. 22, 1977
Greece: Electrolytic manganese dioxide	Apr. 17, 1989
Hong Kong: Sweaters of manmade fiber	Sept. 24, 1990
Hungary: Tapered roller bearings	June 19, 1987
India:	
Stainless steel bar	Feb. 21, 1995
Forged stainless steel flanges	Feb. 9, 1994
Stainless steel wire rod	Dec. 1, 1993
Sulfanilic acid	Mar. 2, 1993
Welded carbon steel pipes and tubes	May 12, 1986
Iran: Pistachio nuts	July 17, 1986
Israel:	
Industrial phosphoric acid	Aug. 19, 1987
Oil country tubular goods	Mar. 6, 1987
Italy:	
Certain pasta	July 24, 1996
Oil country tubular goods	Aug. 11, 1995
Seamless pipe	Aug. 3, 1995
Grain-oriented electric steel	Aug. 12, 1994
Synchronous industrial belts and V-belts	June 14, 1989
Antifriction bearings	May 15, 1989
Granular polytetrafluoroethylene resin	Aug. 30, 1988
Brass sheet and strip	Mar. 6, 1987
Brass fire protection equipment	Mar. 1, 1985
Pressure sensitive tape	Oct. 21, 1977
Large power transformers	June 14, 1972
Japan:	
Large newspaper printing presses	Sept. 4, 1996
Clad steel plate	July 2, 1996
Polyvinyl alcohol	May 14, 1996
Oil country tubular goods.	Aug. 11, 1995
Stainless steel bar.	Feb. 21, 1995
Grain-oriented electric steel	June 10, 1994
Defrost timers	Mar. 2, 1994
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
Electric cutting tools	July 12, 1993
Lenses	Apr. 15, 1992
EL flat panel displays	Sept. 4, 1991
Gray portland cement and cement clinker	May 10, 1991
Benzyl paraben	Feb. 13, 1991
Laser light-scattering instruments	Nov. 19, 1990
Industrial nitrocellulose	July 10, 1990
Mechanical transfer presses	Feb. 16, 1990
Drafting machines	Dec. 29, 1989
Telephone systems	Dec. 11, 1989
Industrial belts	June 14, 1989

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Japan—*Continued:*	
Antifriction bearings	May 15, 1989
Electrolytic manganese dioxide	April 17,1989
Microdisks	Mar. 30, 1989
Granular polytetrafluoroethylene resin	Aug. 28, 1988
Brass sheet and strip	Aug. 12, 1988
Nitrile rubber	June 16, 1988
Forklift trucks	June 7, 1988
Stainless steel butt-weld pipe fittings	Mar. 25 1988
Color picture tubes	Jan. 7, 1988
Tapered roller bearings over 4 inches	Oct. 6, 1987
Malleable cast-iron pipe fittings	July 6, 1987
Butt-weld pipe fittings	Feb. 10, 1987
Cellular mobile telephones	Dec. 19, 1985
Calcium hypochlorite	Apr. 18, 1985
Titanium sponge	Nov. 30, 1984
Stainless steel pipes and tubes, seamless	Apr. 1, 1983
High powered amplifiers	July 20, 1982
Steel wire strand	Dec. 8, 1978
Impression fabric of man-made fibers	May 25, 1978
Melamine	Feb. 2, 1977
Acrylic sheet	Aug. 30, 1976
Tapered roller bearings 4 inches and under	Aug. 18, 1976
Polychloroprene rubber	Dec. 6, 1973
Steel wire rope	Oct. 15, 1973
Synthetic methionine	July 10, 1973
Roller chain other than bicycles	Apr. 12, 1973
Bicycle speedometers	Nov. 22, 1972
Large power transformers	June 14, 1972
Fishnetting of man-made fiber	June 9, 1972
Television receiving sets	Mar. 10, 1971
Kazakstan:	
Ferrosilicon	Apr. 7, 1993
Solid urea	July 14, 1987
Titanium sponge	Aug. 28, 1968
Kenya: Fresh cut flowers	Apr. 23, 1987
Korea:	
Oil country tubular goods	Aug. 11, 1995
Cold-rolled carbon steel flat products	Aug. 19, 1993
Corrosion-resistant carbon steel flat products	Aug. 19, 1993
DRAMS	May 10, 1993
Carbon steel wire rope	Mar. 26, 1993
Stainless steel butt-weld pipe fittings	Feb. 23, 1993
Welded stainless steel pipes	Dec. 30, 1992
Circular welded non-alloy pipe	Nov. 2, 1992
PET film	June 5, 1991
Industrial nitrocellulose	July 10, 1990
Telephone systems	Feb. 7, 1990
Color picture tubes	Jan. 7, 1988
Stainless steel cookware	Jan. 20, 1987
Brass sheet and strip	Jan. 12, 1987
Malleable cast iron pipe fittings	May 23, 1986
Photo albums	Dec. 16, 1985
Television receiving sets	Apr. 30, 1984
Kyrgyzstan: Urea	July 14, 1987
Latvia-Baltic: Urea	July 14, 1987
Lithuania: Urea	July 14, 1987
Malaysia: Extruded rubber thread	Oct. 7, 1992

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Mexico:	
Oil country tubular goods	Aug. 11, 1995
Cut-to-length carbon steel plate	Aug. 19, 1993
Carbon steel wire rope	Mar. 25, 1993
Circular welded non-alloy pipe	Nov. 2, 1992
Gray portland cement and cement clinker	Aug. 30, 1990
Fresh cut flowers	Apr. 23, 1987
Porcelain-on-steel cookware	Dec. 2, 1986
Moldova: Solid urea	July 14, 1987
Netherlands:	
Aramid fiber	June 27, 1994
Cold-rolled carbon steel flat products	Aug. 19, 1993
Brass sheet and strip	Aug. 12, 1988
New Zealand:	
Fresh kiwifruit	June 2, 1992
Brazing copper wire and rod	Dec. 4, 1985
Norway: Atlantic salmon	Apr. 12, 1991
Poland: Cut-to-length carbon steel plate	Aug. 19, 1993
Romania:	
Cut-to-length carbon steel plate	Aug. 19, 1993
Ball bearings	May 15, 1989
Urea	July 14, 1987
Tapered roller bearings	June 19, 1987
Russia:	
Ferrovanadium and nitrided vanadium	July 10, 1995
Pure magnesium	May 12, 1995
Ferrosilicon	June 24, 1993
Solid urea	July 14, 1987
Titanium sponge	Aug. 28, 1968
Singapore:	
Industrial belts	June 14, 1989
Antifriction bearings	May 15, 1989
Color picture tubes	Jan. 7, 1988
Rectangular pipes and tubes	Nov. 13, 1986
South Africa:	
Furfuryl alcohol	June 21, 1995
Brazing copper wire and rod	Jan. 29, 1986
Spain:	
Stainless steel bar	Mar. 2, 1995
Cut-to-length carbon steel plate	Aug. 19, 1993
Potassium permanganate	Jan. 19, 1984
Sweden:	
Cut-to-length carbon steel plate	Aug. 19, 1993
Antifriction bearings	May 15, 1989
Seamless stainless steel hollow products	Dec. 3, 1987
Brass sheet and strip	Mar. 6, 1987
Stainless steel plate	June 8, 1973
Taiwan:	
Polyvinyl alcohol	May 14, 1996
Forged stainless steel flanges	Feb. 9, 1994
Helical spring lockwashers	June 28, 1993
Stainless steel butt-weld pipe fittings	June 16, 1993

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Taiwan—*Continued:*	
Welded stainless steel pipes	Dec. 30, 1992
Circular welded non-alloy pipe	Nov. 2, 1992
Chrome plated lug nuts	Sept. 20, 1991
Telephone systems	Dec. 11, 1989
Rectangular tubing	Mar. 27, 1989
Stainless steel cookware	Jan. 20, 1987
Butt-weld pipe fittings	Dec. 17, 1986
Porcelain-on-steel cookware	Dec. 2, 1986
Oil country tubular goods	June 18, 1986
Malleable cast iron pipe fittings	May 23, 1986
Circular pipes and tubes	May 7, 1984
Television receiving sets	Apr. 30, 1984
Carbon steel plate	June 13, 1979
Tajikistan: Solid urea	July 14, 1987
Thailand:	
Furfuryl alcohol	July 25, 1995
Canned pineapple	July 18, 1995
Butt-weld pipe fittings	July 6, 1992
Malleable cast iron pipe fittings	Aug. 20, 1987
Circular welded pipes and tubes	Mar. 11, 1986
Turkey:	
Certain pasta	July 24, 1996
Aspirin	Aug. 25, 1987
Pipes and tubes	May 15, 1986
Turkmenistan: Urea	July 14, 1987
Ukraine:	
Pure magnesium	May 12, 1995
Uranium	Aug. 30, 1993
Ferrosilicon	Apr. 7, 1993
Urea	July 14, 1987
Titanium sponge	Aug. 28, 1968
United Kingdom:	
Cut-to-length carbon steel plate	Aug. 19, 1993
Lead and bismuth steel	Mar. 22, 1993
Sodium thiosulfate	Feb. 19, 1991
Industrial nitrocellulose	July 10, 1990
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Forged steel crankshafts	Sept. 23, 1987
Water circulating pumps	July 7, 1976
Uzbekistan: Solid urea	July 14, 1987
Venezuela:	
Ferrosilicon	June 24, 1993
Circular welded non-alloy pipe	Nov. 2, 1992
Yugoslavia:	
Industrial nitrocellulose	Oct. 16, 1990
Suspension agreements in effect:	
Canada: Potassium chloride	Jan. 19, 1988

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Suspension agreements in effect—*Continued:*	
Japan:	
Color negative photo paper	Aug. 12, 1994
Erasable programmable read-only memory chips	Aug. 6, 1986
Small electric motors	Nov. 6, 1980
Kazakhstan: Uranium	Oct. 30, 1992
Kyrgyzstan: Uranium	Oct. 30, 1992
Mexico: Fresh tomatoes	Nov. 1, 1996
China: Honey	Aug. 16, 1995
Russia: Uranium	Oct. 30, 1992
Urkraine: Silicomanganese	Dec. 22, 1994
Uzbekistan: Uranium	Oct. 30, 1992
Venezuela: Cement	Feb. 27, 1992

[1] The U.S. Department of Commerce conducts a periodic review of outstanding antidumping duty orders and suspension agreements, upon request, to determine if the amount of the net margin of underselling has changed. If a change has occurred, the imposed antidumping duties are adjusted accordingly. The results of the periodic review must be published together with a formal notice of any antidumping duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

Source: Compiled by staff of the U.S. International Trade Commission from data maintained by the U.S. Department of Commerce (International Trade Administration).

Table A-24
Countervailing cases active in 1996, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation number

(Affirmative (A); Partial Affirmative (P); Negative (N))

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action[2]
				Commission	ITA[1]	ITA[1]	Commission	
				Affirmative				
701-TA-365	Certain pasta	Italy	May 12, 1995	P	A	A	A	July 24, 1996
701-TA-366	Certain pasta	Turkey	May 12, 1995	P	A	A	A	July 24, 1996
				Negative				
701-TA-367	Certain laminated hardwood flooring	Canada	Mar. 7, 1996	A	N	(3)	(3)	(3)

1 U.S. Department of Commerce, International Trade Administration (ITA).
2 For cases in which the final action was taken by the ITA, the date shown is the *Federal Register* notice date of that action.
3 Not applicable.

Note.—The U.S. International Trade Commission (USITC) conducts preliminary and final investigations under section 701 if the imports originate in a country that has signed the GATT Code on Subsidies and Countervailing Duties (formally known as the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade) or has undertaken comparable obligations. Similarly, USITC conducts preliminary and final investigations under section 303 if the imports enter the United States free of duty and the international obligations of the United States so require. With respect to dutiable imports from those countries that have neither signed the Subsidies Code nor undertaken substantially equivalent obligations, countervailing duties may be imposed after an affirmative finding by the Department of Commerce under section 303 of the Tariff Act of 1930 without an injury investigation by the USITC. Exceptions are granted in instances in which the exporting country becomes a signatory to the code or to an equivalent agreement during the investigation.

Source: Compiled by the staff of the U.S. International Trade Commission.

Table A-25
Countervailing-duty orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Argentina:	
Leather	Oct. 2, 1990
Oil country tubular goods	Nov. 27, 1984
Wool	Apr. 4, 1983
Belgium: Cut-to-length carbon steel plate	Aug. 17, 1993
Brazil:	
Cut-to-length carbon steel plate	Aug. 17, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
Brass sheet and strip	Jan. 8, 1987
Heavy construction castings	May 15, 1986
Agricultural tillage tools	Oct. 22, 1985
Pig iron	Apr. 4, 1980
Cotton yarn	Mar. 15, 1977
Certain castor oil products	Mar. 16, 1976
Canada:	
Pure and alloy magnesium	Aug. 31, 1992
New steel rails	Sept 22, 1989
Live swine	Aug. 15, 1985
Chile: Fresh cut flowers	Mar. 19, 1987
European Union:[2] Sugar	July 31, 1978
France:	
Corrosion-resistant carbon steel flat products	Aug. 17, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
Brass sheet and strip	Mar. 6, 1987
Germany:	
Cold-rolled carbon steel flat products	Aug. 17, 1993
Corrosion-resistant carbon steel flat products	Aug. 17, 1993
Cut-to-length carbon steel flat products	Aug. 17, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
India:	
Sulfanilic acid	Mar. 2, 1993
Certain iron-metal castings	Oct. 18, 1980
Iran:	
Roasted pistachios	Oct. 7, 1986
Raw pistachios	Mar. 11, 1986
Israel:	
Industrial phosphoric acid	Aug. 19, 1987
Oil country tubular goods	Mar. 6, 1987
Italy:	
Certain pasta	July 24, 1996
Oil country tubular goods	Aug. 10, 1995
Seamless pipe	Aug. 8, 1995
Grain-oriented electric steel	June 7, 1994
Korea:	
Cold-rolled carbon steel flat products	Aug. 17, 1993
Corrosion-resistant carbon steel flat products	Aug. 17, 1993
Stainless steel cookware	Jan. 20, 1987
Malaysia:	
Extruded rubber thread	Aug. 25, 1992

See footnote at end of table.

Table A-25—*Continued*
Countervailing-duty orders and findings in effect as of Dec. 31, 1996

Country and commodity	Effective date of original action[1]
Mexico:	
Cut-to-length carbon steel flat products	Aug. 17, 1993
Porcelain-on-steel cookware	Dec. 12, 1986
Netherlands: Fresh cut flowers	Mar. 12, 1987
Norway: Atlantic salmon	Apr. 12, 1991
Pakistan: Cotton shop towels	Mar. 9, 1984
Peru: Fresh cut flowers	Apr. 23, 1987
Spain:	
Cut-to-length carbon steel flat products	Aug. 17, 1993
Stainless steel wire rod	Jan. 3, 1983
Sweden:	
Cut-to-length carbon steel flat products	Aug. 17, 1993
Certain carbon steel products	Oct. 11, 1985
Viscose rayon staple fiber	May 15, 1979
Taiwan: Stainless steel cookware	Jan. 20, 1987
Thailand:	
Steel wire rope	Sept 11, 1991
Turkey:	
Certain pasta	July 24, 1996
Pipes and tubes	Mar. 7, 1986
United Kingdom:	
Cut-to-length carbon steel flat products	Aug. 17, 1993
Hot-rolled lead and bismuth carbon steel products	Mar. 22, 1993
Venezuela: Ferrosilicon	May 10, 1993
Suspension agreements in effect:	
Argentina: Carbon wire rod	Sept 27, 1982
Brazil:	
Tool steel	Mar. 21, 1983
Colombia:	
Cut flowers	Jan. 13, 1987
Textiles	Oct. 22, 1993
Peru: Cotton shop towels	Sept 12, 1984
Singapore: Compressors	Nov. 7, 1983
Venezuela: Gray portland cement and cement clinker	Mar. 17, 1992

[1] The U.S. Department of Commerce conducts a periodic review of outstanding countervailing-duty orders and suspension agreements, upon request, to determine if the amount of the net subsidy has changed. If a change has occurred, the imposed countervailing duties are adjusted accordingly.

[2] Includes Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom.

Source: Compiled by staff of the U.S. International Trade Commission from data maintained by the U.S. Department of Commerce (International Trade Administration).

Table A-26
Section 337 investigations completed by the U.S. International Trade Commission during 1996 and those pending on Dec. 31, 1996

Status of Investigation	Article	Country[1]	Commission determination
Completed:			
337-TA-315	Certain Plastic Encapsulated Integrated Circuits	No foreign respondents	Formal enforcement proceeding terminated; referral to Dept. of Justice of allegations of false statements to Commission.
337-TA-370	Certain Salinomycin Biomass and Preparations Containing Same	Germany	Terminated based on a finding of no violation.
337-TA-371	Certain Memory Devices With Increased Capacitance and Products Containing Same	Japan, Korea	Terminated based on a finding of no violation.
337-TA-372	Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same	People's Republic of China, Hong Kong, Taiwan	Issued a general exclusion order and a cease and desist order.
337-TA-374	Certain Electrical Connectors and Products Containing Same	Taiwan	Issued a limited exclusion order and a cease and desist order.
337-TA-376	Certain Variable Speed Wind Turbines and Components Thereof	Germany	Issued a limited exclusion order.
337-TA-377	Certain Microprocessors Having Alignment Checking and Products Containing Same	Hong Kong	Terminated based on a consent order and withdrawal of the complaint as to the remaining respondent.
337-TA-378	Certain Asian-Style Kamaboko Fish Cakes	Japan	Issued a limited exclusion order and cease and desist orders.
337-TA-379	Certain Starter Kill Vehicle Systems	Taiwan	Terminated based on withdrawal of the complaint.
337-TA-384	Certain Monolithic Microwave Integrated Circuit Downconverters and Products Containing the Same, Including Low Noise Block Downconverters	Japan	Terminated based on a settlement agreement.
337-TA-386	Certain Global Positioning System Coarse Acquisition Code Receivers and Products Containing Same	Canada	Terminated based on a settlement agreement.
337-TA-387	Certain Self-Powered Fiber Optic Modems	Israel	Terminated based on a settlement agreement.
Pending:			
337-TA-334	Certain Condensers, Parts Thereof and Products Containing Same Including Air Conditioners for Automobiles	Japan	Remand from the Federal Circuit; pending before the Commission.
337-TA-370	Certain Salinomycin Biomass and Preparations Containing Same	Germany	Ancillary sanctions proceeding pending before the ALJ.

Table A-26—*Continued*
Section 337 investigations completed by the U.S. International Trade Commission during 1996 and those pending on Dec. 31, 1996

Status of Investigation	Article	Country[1]	Commission determination
Pending:			
337-TA-372	Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same	People's Republic of China	Formal enforcement proceeding pending before the Commission.
337-TA-380	Certain Agricultural Tractors Under 50 Power Take-Off Horsepower	Japan	Pending before the Commission.
337-TA-381	Certain Electronic Products, Including Semiconductor Products, Manufactured by Certain Processes	Korea	Pending before the ALJ.
337-TA-382	Certain Flash Memory Circuits and Products Containing Same	Korea	Pending before the ALJ.
337-TA-383	Certain Hardware Logic Emulation Systems and Products Containing Same	France	Pending before the ALJ; temporary limited exclusion order and temporary cease and desist order issued.
337-TA-385	Certain Random Access Memories, Processes for the Manufacture of Same, and Products Containing Same	Japan, Singapore	Pending before the ALJ.
337-TA-388	Certain Dynamic Random Access Memory Controllers and Certain Multi-Layer Integrated Circuits, as Well as Chipsets and Products Containing Same	Taiwan	Pending before the ALJ.
337-TA-389	Certain Diagnostic Kits for the Detection and Quantification of Viruses	Netherlands	Pending before the ALJ.
337-TA-390	Certain Transport Vehicle Tires	Korea	Pending before the ALJ.
337-TA-391	Certain Toothbrushes and Packaging Thereof	People's Republic of China, Taiwan	Pending before the ALJ.
337-TA-392	Certain Digital Satellite System (DSS) Receivers and Components Thereof	No foreign respondents	Pending before the ALJ.

[1] This column lists the countries of the foreign respondents named in the investigation.
Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-27
Outstanding sec. 337 exclusion orders as of Dec. 31, 1996

Investigation No.	Article	Country[1]	Date patent expires[2]
337-TA-55	Certain Novelty Glasses	Hong Kong	Nonpatent
337-TA-59	Certain Pump-Top Insulated Containers	Korea, Taiwan	June 6, 1997[3]
337-TA-69	Certain Airtight Cast-Iron Stoves	Taiwan, Korea	Nonpatent
337-TA-74	Certain Rotatable Photograph and Card Display Units and Components Thereof	Hong Kong	Nonpatent
337-TA-87	Certain Coin-Operated Audio-Visual Games and Components Thereof	Japan, Taiwan	Nonpatent
337-TA-105	Certain Coin-Operated Audio-Visual Games and Components Thereof	Japan, Taiwan	Nonpatent
337-TA-112	Certain Cube Puzzles	Taiwan, Japan, Canada	Nonpatent
337-TA-114	Certain Miniature Plug-In Blade Fuses	Taiwan	Nonpatent
337-TA-118	Certain Sneakers With Fabric Uppers and Rubber Soles	Korea	Nonpatent
337-TA-137	Certain Heavy-Duty Staple Gun Tackers	Taiwan, Hong Kong, Korea	Nonpatent
337-TA-140	Certain Personal Computers and Components Thereof	Taiwan, Hong Kong, Singapore, Switzerland	Apr. 11,1997[3] July 14, 1998
337-TA-143	Certain Amorphous Metal Alloys and Amorphous Metal Articles	Japan, Germany	Sept. 9, 1997
337-TA-146	Certain Canape Makers	No foreign respondents	Mar. 22, 1997
337-TA-152	Certain Plastic Food Storage Containers	Hong Kong, Taiwan	Nonpatent
337-TA-167	Certain Single Handle Faucets	Taiwan	Nonpatent
337-TA-170	Certain Bag Closure Clips	Israel	Aug. 25, 2000[3] May 26, 2001[3]
337-TA-174	Certain Woodworking Machines	South Africa, Taiwan	Mar. 27, 1998[3] Sept. 17, 2001[3]
337-TA-195	Certain Cloisonne Jewelry	Taiwan	Nonpatent
337-TA-197	Certain Compound Action Metal Cutting Snips and ComponentsThereof	Taiwan	Nonpatent
337-TA-228	Certain Fans With Brushless DC Motors	Japan	Sept. 30, 2002[3]
337-TA-229	Certain Nut Jewelry and Parts Thereof	Philippines, Taiwan	Nonpatent
337-TA-231	Certain Soft Sculpture Dolls, Popularly Known as “Cabbage Patch Kids,” Related Literature, and Packaging Therefor	No foreign respondents	Nonpatent
337-TA-240	Certain Laser Inscribed Diamonds and the Method of Inscription Thereof	Israel	Dec. 23, 2000[3]
337-TA-242	Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same	Japan, Korea	Aug. 6, 2002 Sept. 24, 2002

See footnotes at end of table.

Table A-27—*Continued*
Outstanding sec. 337 exclusion orders as of Dec. 31, 1996

Investigation No.	Article	Country[1]	Date patent expires[2]
337-TA-254	Certain Small Aluminum Flashlights and Components Thereof	Hong Kong, Taiwan	June 6, 2004[3]
337-TA-266	Certain Reclosable Plastic Bags and Tubing	Singapore, Taiwan, Korea, Thailand, Hong Kong	Nonpatent
337-TA-276	Certain Erasable Programmable Read Only Memories, Components Thereof, Products Containing Such Memories and Processes for Making Such Memories	Korea	Feb. 13, 1999[3] Dec. 23, 2000[3] June 17, 2002[3] June 7, 2005[3]
337-TA-279	Certain Plastic Light Duty Screw Anchors	Taiwan	Nonpatent
337-TA-285	Certain Chemiluminescent Compositions and Components Thereof and Methods of Using, and Products Incorporating, the Same	France	Nonpatent Feb. 2, 1999
337-TA-287	Certain Strip Lights	Taiwan	Nonpatent Apr. 7, 2000[3]
337-TA-293	Certain Crystalline Cefadroxil Monohydrate	Italy, Spain, Switzerland	Mar. 12, 2002
337-TA-295	Certain Novelty Teleidoscopes	Hong Kong	Nonpatent
337-TA-308	Certain Key Blanks For Keys of High Security Cylinder Locks	Korea	Jan. 13, 2004 June 19, 2005[3]
337-TA-314	Certain Battery-Powered Ride-On Toy Vehicles and Components Thereof	Taiwan	Sept. 22, 2001 Jan. 31, 2003 Dec. 6, 2003[3] Jan. 27, 2004 Sept. 22, 2006[3]
337-TA-319	Certain Automotive Fuel Caps and Radiator Caps and Related Packaging and Promotional Materials	Taiwan	Nonpatent Oct. 4, 1998[3] July 22, 2006[3] June 22, 2006[3]
337-TA-320	Certain Rotary Printing Apparatus Using Heated Ink Composition, Components Thereof, and Systems Containing Said Apparatus and Components	France, Spain	Apr. 30, 2004[3]
337-TA-321	Certain Soft Drinks and Their Containers	Colombia	Nonpatent
337-TA-324	Certain Acid-Washed Denim Garments and Accessories	Hong Kong, Taiwan, Brazil, Chile	Oct. 22, 2006[3]
337-TA-333	Certain Woodworking Accessories	Taiwan	Mar. 2, 2008[3]
337-TA-337	Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus	Taiwan	May 18, 2001
337-TA-344	Certain Cutting Tools For Flexible Plastic Conduit and Components Thereof	Taiwan	Aug. 1, 2000[3]
337-TA-354	Certain Tape Dispensers	Hong Kong, Taiwan	Apr. 7, 2001
337-TA-360	Certain Devices For Connecting Computers Via Telephone Lines	Taiwan	Feb. 13, 2007

See footnotes at end of table.

Table A-27—*Continued*
Outstanding sec. 337 exclusion orders as of Dec. 31, 1996

Investigation No.	Article	Country[1]	Date patent expires[2]
337-TA-364	Certain Fluoroelastomer Compositions and Precursors Thereof	Italy	Sept. 1, 1998
337-TA-365	Certain Audible Alarm Devices For Divers	Taiwan	Aug. 21, 2007[3] Oct. 12, 2008[3]
337-TA-366	Certain Microsphere Adhesives, Process For Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes	Taiwan	Aug. 17, 1997[3]
337-TA-372	Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same	People's Republic of China, Hong Kong, Taiwan	May 20, 2005[3]
337-TA-374	Certain Electrical Connectors and Products Containing Same	Taiwan	Jan. 22, 2008
337-TA-376	Certiain Variable Speed Wind Turbines and Components Thereof	Germany	Feb. 1, 2011[3]
337-TA-378	Certain Asian-Style Kamaboko Fish Cakes	Japan	Nonpatent

[1] This column lists the countries of the foreign respondents named in the investigation.
[2] Multiple dates indicate the expiration dates of separate patents within the investigation.
[3] Patent term extended pursuant to 35 U.S.C.§ 154(c).

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-28
U.S. imports for consumption of leading GSP-duty-free imports, 1996

(1,000 dollars)

HTS Rank	*HTS* item No.	Description	Total U.S. imports for consumption[1]	Imports of GSP articles	
				GSP-eligible[2]	GSP duty-free[3]
1	8521.10.60	Color, cartridge or cassette magnetic tape-type video	2,582,783	1,049,211	677,334
2	8517.11.00	Line telephone sets with cordless handsets	1,441,569	719,529	666,622
3	8527.31.40	Reception apparatus for radiotelephony, not capable of recording	860,077	529,966	379,294
4	9403.60.80	Wooden (except bent-wood) furniture, other than seats	1,634,025	442,120	366,945
5	1701.11.10	Raw sugar not containing added flavoring or color	900,754	775,246	366,941
6	8527.39.00	Radiobroadcast receivers, nesi, including apparatus	493,653	338,086	285,032
7	2909.19.10	Ethers of monohydric alcohols	859,127	224,701	212,433
8	8517.19.80	Telephone sets; videophones nesi	1,067,543	290,711	212,280
9	4015.11.00	Surgical, medical clothing (including gloves) of vulcanized rubber	734,662	693,456	198,652
10	8516.50.00	Microwave ovens	672,620	197,076	195,094
11	7202.41.00	Ferrochromium containing more than 3 percent of carbon	202,432	190,037	173,921
12	9401.69.60	Parts of seats of a kind used for motor vehicles	437,211	193,169	163,094
13	8531.20.00	Indicator panels incorporating liquid crystal devices	759,773	243,438	161,082
14	8517.80.10	Telephonic apparatus; intercom systems nesi	347,341	164,466	157,701
15	4104.31.40	Upholstery leather, of bovine and equine leather	357,879	175,186	145,926
16	8415.10.00	Air conditioning machines; window or wall types, self contained	395,021	144,662	142,592
17	8544.30.00	Ignition wiring sets, other wiring sets of a kind used in vehicles, aircraft	3,733,386	478,197	134,727
18	8527.21.10	Radio tape player combinations	1,688,066	350,744	132,082
19	7113.11.50	Articles of jewelry, parts, of silver, whether or not plated or clad, nesi	347,318	135,535	121,706
20	7202.30.00	Ferrosilicon manganese	187,881	120,854	120,854
		Total, above items	19,703,122	7,456,390	5,014,312
		Total, all GSP items	281,460,050	29,839,352	16,921,952

[1] Excludes imports into the U.S. Virgin Islands.

[2] These import data show total imports of the top 20 products reported under an *HTS* subheading that establishes eligibility for duty-free treatment under GSP. For a variety of reasons, all imports from beneficiary countries that are "eligible" for GSP do not always necessarily receive duty-free GSP treatment. Such "eligible" imports may not actually receive GSP duty-free treatment for at least four types of reasons: (1) the importer fails to claim GSP benefits affirmatively; (2) the imports are from a beneficiary country that has lost GSP on that product or category for exceeding the so-called "competitive need" limits; (3) the imports are from a beneficiary country that has lost GSP on that product because of a petition to remove that country from GSP for that product; and (4) the imports fail to meet the rules of origin or direct shipment requirements in the GSP statute.

[3] These import data show the total imports of the top 20 products that actually received duty-free treatment under the GSP program.

Note.—Because of rounding, figures may not add to the totals shown. The abbreviation, nesi, stands for "not elsewhere specified or included."

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-29
U.S. imports for consumption and imports eligible for GSP treatment, by import categories under the Harmonized Tariff Schedule (*HTS*), 1996

(Million dollars)

HTS section	Description	Total U.S. imports for consumption[1]	Imports of GSP articles	
			GSP-eligible[2]	GSP duty-free[3]
I	Live animals; animal products	10,283	167	84
II	Vegetable products	11,578	771	153
III	Animals or vegetable fats, and waxes	1,573	49	47
IV	Prepared foodstuffs, beverages, and tobacco	16,046	1,810	830
V	Mineral products	75,037	97	81
VI	Products of the chemical and allied industries	41,563	1,225	741
VII	Plastics and rubber, and articles thereof	20,932	1,766	923
VIII	Hides and skins; leather and articles thereof; travel goods, handbags, and similar containers	6,721	547	394
IX	Articles of wood, cork, or plaiting material	11,951	1,196	677
X	Wood pulp; paper, paperboard, and articles thereof	16,978	182	125
XI	Textiles and textile articles	48,891	226	148
XII	Footwear, and headgear, and artificial flowers	14,559	364	117
XIII	Articles of stone or ceramics; glass and glassware	7,890	541	470
XIV	Pearls; precious stones and metals; jewelry; coin	17,084	1,405	484
XV	Base metals and articles of base metal	42,597	2,554	1,707
XVI	Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	239,635	12,738	7,303
XVII	Vehicles, aircraft, and other transport equipment	120,046	916	706
XVIII	Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	26,950	1,509	506
XIX	Arms and ammunition; parts and accessories	597	33	26
XX	Miscellaneous manufactured articles	28,040	1,736	1,401
XXI	Works of art, collectors' pieces and antiques	2,772	-	-
XXII	Special classification provisions	25,904	-	-
	Total, above items	787,628	29,832	16,922

[1] Excludes imports into the U.S. Virgin Islands.

[2] These import data show total imports, by sector, that are reported under an *HTS* provision that establishes eligibility for duty-free entry under GSP. For a variety of reasons, all imports from beneficiary countries under *HTS* provisions that appear to be "eligible" for GSP do not always necessarily receive duty-free entry under GSP. Such "eligible" imports may not actually receive duty-free entry under GSP for at least 4 types of reasons: (1) the importer fails to claim GSP benefits affirmatively; (2) the goods are from a beneficiary country that has lost GSP benefits on that product for exceeding the so-called "competitive need" limits; (3) the goods are from a beneficiary country that has lost GSP benefits on that product because of a petition to remove that country from GSP for that product; and (4) the goods fail to meet the rule of origin or direct shipment requirements of the GSP statute.

[3] These import data show the total imports, by sector, that actually received duty-free entry under the GSP.

Note.—Because of rounding, figures may not add to the totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-30
U.S. imports for consumption of leading imports under CBERA, 1994-96

(1,000 dollars)

HTS No.	Commodity	1994	1995	1996
1701.11.10	Raw sugar not containing added flavoring or color	([1])	127,475	240,394
6406.10.65	Footwear uppers, other than formed, of leather	219,360	186,753	194,789
2402.10.80	Cigars, cheroots and cigarillos, each valued 23¢ or over	50,073	74,815	154,951
7113.19.50	Jewelry and parts of precious metal except silver, except necklaces and clasps	139,224	142,386	134,610
9018.90.80	Medical, surgical, or dental instruments and appliances	92,555	119,831	80,475
1701.11.20	Other sugar to be used for the production (other than distillation) of polyhydric alcohols	([2])	9,289	76,022
2905.11.20	Methanol (methyl alcohol), nesi	54,617	40,849	67,144
0807.19.20	Cantaloupes, fresh, not entered Aug. 1-Sept. 15	[3]43,963	[3]51,419	62,912
7213.91.30	Bars and rods, hot-rolled, not tempered or treated	[4]58,057	[4]57,279	60,491
2207.10.60	Undenatured ethyl alcohol for nonbeverage purposes	47,450	54,139	59,905
0302.69.40	Fresh or chilled fish, including sable, ocean perch, snapper, grouper, and monkfish	34,989	34,963	45,739
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates or other packages	35,885	35,240	43,017
8538.90.80	Terminals, electrical splices and couplings	31,086	37,201	41,320
0202.30.50	Frozen boneless beef, except processed	([5])	45,293	37,359
8516.31.00	Electrothermic hair dryers	28,99	42,923	36,830
8517.90.36	Printed circuit assemblies for telephonic apparatus for switching or terminal apparatus, nesi	0	0	35,938
8536.20.00	Automatic circuit breakers, for a voltage not exceeding 1,000 V	0	34,725	33,975
1703.10.50	Cane molasses, nesi	12,435	14,936	33,886
0201.30.50	Fresh or chilled boneless beef, except processed	([6])	51,598	33,403
8536.50.80	Switches for electrical apparatus for voltage not exceeding 1,000 V, excluding motor starter	23,917	31,892	32,236
2009.11.00	Frozen concentrated orange juice	14,483	19,095	31,571
4016.93.50	Nonautomotive gaskets, washers, and seals of vulcanized rubber	16,211	24,687	25,862
9506.69.20	Baseballs and softballs	22,100	21,886	21,896
0807.19.70	Other melons if not entered June 1-Nov. 30	[7]21,123	[7]25,502	21,621
6210.10.50	Other nonwoven disposable apparel designed for use in hospitals	([8])	15,705	21,001
	Total of items shown	946,466	1,299,880	1,627,349
	Total all commodities	2,050,158	2,261,407	2,791,055

[1] Prior to 1995, products under this *HTS* were reported under *HTS* 1701.11.01 part.
[2] Prior to 1995, products under this *HTS* were reported under *HTS* 1701.11.02 part and 1701.11.03 part.
[3] Prior to 1996, products under this *HTS* were reported under *HTS* 0807.10.20.
[4] Prior to 1996, products under this *HTS* were reported under *HTS* 7213.31.30 and 7213.41.30.
[5] Prior to 1995, products under this *HTS* were reported under *HTS* 0202.30.60 part.
[6] Prior to 1995, products under this *HTS* were reported under *HTS* 0201.30.60 part.
[7] Prior to 1996, products under this *HTS* were reported under *HTS* 0807.10.70.
[8] Prior to 1995, products under this *HTS* were reported under *HTS* 6210.10.40.30.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-31
U.S. imports for consumption under CBERA provisions, by country, 1992-96

(1,000 dollars)

Rank	Country	1992	1993	1994	1995	1996
1	Dominican Republic	567,738	657,673	751,028	845,356	932,413
2	Costa Rica	294,937	388,252	478,109	527,716	657,127
3	Guatemala	192,955	208,262	171,381	168,467	279,768
4	Honduras	112,512	127,399	139,838	156,840	207,289
5	Trinidad and Tobago	44,695	44,602	142,901	144,247	184,895
6	Nicaragua	40,018	74,408	80,554	78,543	116,007
7	Jamaica	48,156	76,496	69,316	87,330	95,965
8	El Salvador	27,249	26,530	41,126	68,550	91,254
9	Panama	23,753	38,524	35,141	39,357	51,352
10	Guyana	1,202	1,246	13,100	17,409	32,285
11	Haiti	19,151	33,378	15,770	26,522	30,223
12	Belize	23,733	12,526	13,112	16,676	24,760
13	Barbados	15,478	20,177	21,313	23,043	23,089
14	Bahamas	93,324	167,110	45,062	22,854	20,765
15	St. Kitts and Nevis	14,172	15,986	17,220	18,776	19,241
16	St. Lucia	3,937	4,463	6,077	6,503	7,129
17	Netherlands Antilles	2,964	3,490	3,214	4,468	4,357
18	Montserrat	41	271	886	1,488	3,962
19	St. Vincent and Grenadines	165	233	1,299	2,527	3,580
20	Dominica	1,008	1,293	2,112	2,200	2,204
21	Antigua	324	1,110	809	1,683	1,615
22	Grenada	1,081	144	768	724	1,007
23	British Virgin Islands	68	17	11	12	631
24	Aruba	10	21	12	114	138
	Total	1,528,690	1,903,613	2,050,158	2,261,407	2,791,055

Note.—Because of rounding, figures may not add to the totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-32
U.S. imports for consumption under ATPA, by country, 1994-96

(1,000 dollars)

Rank	Country	1994	1995	1996
1	Colombia	411,642	499,262	560,546
2	Peru	107,430	207,569	385,298
3	Ecuador	72,905	147,859	218,419
4	Bolivia	91,840	84,100	105,791
	Total	683,817	938,789	1,270,054

Note.—Because of rounding, figures may not add to the totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table A-33
U.S. Imports for consumption of leading imports under ATPA, 1994-96

(1,000 dollars)

HTS No.	Commodity	1994	1995	1996
0603.10.70	Chrysanthemums, standard carnations, anthuriums and orchids	121,036	147,875	161,918
0603.10.60	Roses, fresh cut	105,475	126,897	156,039
7113.19.10	Rope and chain for jewelry, of precious metal except silver	29,036	101,574	100,841
7403.11.00	Cathodes and sections of cathodes of refined copper	8,239	11,995	91,749
0603.10.80	Cut flowers and flower buds suitable for bouquets, nesi	45,187	64,388	81,386
1604.14.40	Tuna and skipjack, not in airtight containers.	13,802	36,524	57,933
7113.19.50	Articles of jewelry and parts thereof of precious metal except silver, except necklaces and clasps	85,205	46,810	57,383
1701.11.10	Raw sugar not containing added flavoring or color	([1])	31,860	54,635
0603.10.30	Miniature (spray) carnations, fresh cut	24,391	32,360	36,035
3921.12.11	Nonadhesive plates, sheets, film, foil, strip	28,260	29,967	33,598
7113.19.21	Rope necklaces and neck chains of gold	9,351	13,966	29,033
7901.11.00	Unwrought zinc	13,782	7,028	21,894
7108.13.50	Gold, in semimanufactured form, except gold leaf	0	329	[2]18,654
0709.20.90	Asparagus, fresh or chilled, not reduced in size, not entered Sept. 15-Nov. 15	8,760	12,868	15,285
7905.00.00	Zinc plates, sheets, strip and foil	0	0	15,112
0302.69.40	Fresh or chilled fish, including sable, ocean perch, snapper, grouper, and monkfish	17,055	19,174	14,471
7113.19.29	Gold necklaces and neck chains, other than rope or mixed link	10,493	10,926	11,676
7801.10.00	Refined lead, unwrought	12,114	12,982	11,335
4202.91.00	Leather golf bags, travel bags, sports bags, and cases	6,093	9,272	11,249
7108.13.70	Other semimanufactured forms of nonmonetary gold	([3])	([3])	[2]10,875
4421.90.98	Articles of wood, including pencil slats and others	([4])	10,682	10,166
1704.90.35	Confections ready for consumption	([5])	([5])	9,169
7115.90.10	Articles of gold, including metal clad with gold	0	0	9,115
4202.11.00	Leather trunks, suitcases, vanity cases, and briefcases	9,431	9,097	7,497
0804.50.40	Guavas, mangoes, and mangosteens, fresh, not entered June 1-Aug. 31	3,070	4,236	6,948
	Total of items shown	550,780	740,810	1,033,997
	Total all commodities	683,817	938,789	1,270,054

[1] Prior to 1995, imports reported under *HTS* 1701.11.01 part.
[2] In November 1996, imports under *HTS* 7108.13.50 were split between *HTS* 7108.13.55 and 7108.13.70.
[3] Prior to November 1996, products under this *HTS* were reported under *HTS* 7108.13.50 part.
[4] Prior to 1995, imports reported under *HTS* 4421.90.95 part.
[5] Prior to 1996, imports reported under *HTS* 1704.90.20 part.

Note.—Because of rounding, figures may not add to totals shown. The abbreviation, nesi, stands for “not elsewhere specified or included.”

Source: Compiled from official statistics of the U.S. Department of Commerce.

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Annual Statistical Report on U.S. Imports of Textiles and Apparel: 1996 (Inv. No. 332-343, USITC Publication 3038, April 1997). This report is the fifth in a series of annual statistical reports on imports of textiles and apparel. The first three reports contained statistics on U.S. imports of textiles and apparel covered by the Multifiber Arrangement (MFA), a multilateral agreement negotiated under the General Agreement on Tariffs and Trade. The MFA was replaced by the Uruguay Round Agreement on Textiles and Clothing, which provides for the liberalization and eventual elimination of quotas on textiles and apparel over a 10-year transition period ending on January 1, 2005. **(Also available on the ITC Internet server; see address below.)**

Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations, 1992-1995 (Inv. 332-237, USITC Publication 3032, April 1997) . This report, updated each year, assesses by industry sector the products and countries that make use of the production sharing provisions of the Harmonized Tariff Schedule of the United States, which provide reduced tariff treatment for eligible goods that are processed in foreign locations but contain U.S.-made components. This year's report also includes a special chapter that examines changes in the maquiladora industry in Mexico since the implementation of the NAFTA. **(Also available on the ITC Internet server; see address below.)**

General Agreement on Trade in Services (GATS): Examination of South American Trading Partners' Schedules of Commitments (Inv. 332-367, USITC Publication 3007, December 1996). Examines the GATS commitments scheduled by Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela. **(Also available on the ITC Internet server; see address below.)**

Shifts in U.S. Merchandise Trade in 1995 (Inv. 332-345, USITC Publication 2992, September 1996). Reviews U.S. trade performance in 1995, focusing on changes in imports, exports, and trade balances of key agricultural and manufactured products and on changes in U.S. bilateral trade with major trading partners. The report also profiles the U.S. industry and market for nearly 300 industry and commodity groups, providing estimated data for 1991-1995 on domestic consumption, production, employment, trade, and import penetration. **(Also available on the ITC Internet server; see address below.)**

U.S. Trade Shifts in Selected Industries: Services (Inv. 332-345, USITC Publication 2969, June 1996). Expands the scope of earlier annual ITC reports on trade shifts in selected industries, affording more comprehensive coverage of U.S. services trade performance. This report presents a statistical overview of U.S. trade in services and a discussion of major trends, followed by industry-specific analyses focused on trends in exports, imports, and trade balances during 1993-94. This year's report concludes with a discussion of the World Trade Organization's General Agreement on Trade in Services, which entered into force on January 1, 1995. **(Also available on the ITC Internet server; see address below.)**

Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers, Eleventh Report, 1995 (Inv. 332-227, USITC Publication 2994, September 1996). This publication highlights developments under the Caribbean Basin Economic Recovery Act (CBERA), which lowers duties for most products imported from designated Caribbean countries. The report is the primary government source of data on U.S. trade with the Caribbean and Central American region, providing product-by-product import data, identifying U.S. industries likely to face import competition from Caribbean suppliers, and analyzing investment in the region as an indicator of future trade flows. **(Also available on the ITC Internet server; see address below.)**

Annual Report on the Impact of the Andean Trade Preference Act on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution (Inv. 332-352, USITC Publication 2995, September 1996). The Andean Trade Preference Act was signed into law in December 1991 as part of the United States' "war on drugs" to promote broad-based economic development, stimulate investment in nontraditional industries, and diversify the export base of the four countries in the Andean mountain region of South America -- Bolivia, Colombia, Ecuador, and Peru -- that cultivate the coca plants from which most of the world's cocaine is produced. ATPA reduces or eliminates tariffs for over 6,000 Andean products. This is the ITC's third annual report in this series. **(Also available on the ITC Internet server; see address below.)**

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