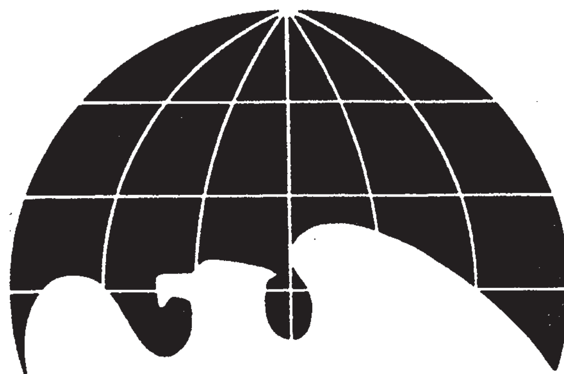
THE YEAR IN TRADE:

OPERATION OF THE TRADE AGREEMENTS PROGRAM DURING 1997

49th Report



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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 Industrial 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 49th in a series of reports submitted to the U.S. Congress under section 163(c) 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.

Chapter 1 summarizes selected trade events and trade agreements during the year and provides an overview of the 1997 international economic environment. Chapter 2 focuses on the 1997 activities of the World Trade Organization (WTO) and the Organization for Economic Cooperation and Development (OECD). Chapter 3 discusses developments in regional forums and describes initiatives on Africa launched in 1997. Chapter 4 focuses on bilateral trade agreements concluded during the year, as well as other selected activities, between the United States and its major trading partners—the European Union (EU), Canada, Japan, Mexico, Korea, Taiwan, and China. Chapter 5 discusses the administration of U.S. trade laws, regulations, and programs. The report covers the 1997 calendar year, and occasionally, early 1998 events. The report also has a statistical appendix.

Summary of 1997 Trade Agreements Activities

U.S. trade agreements activities continued in 1997 within multilateral, regional, and bilateral forums (figure 1-1). Particularly pertinent to the trade agreements program was an unsuccessful effort to renew the President's "fast track" authority to negotiate trade agreements.

The Constitution vests the Congress with the power "to regulate commerce with foreign nations." However, since the Reciprocal Trade Agreements Act of 1934, the Congress has periodically delegated authority to the President to negotiate and to proclaim reductions in tariffs under reciprocal trade agreements, subject to certain conditions, generally subject to Congressional action or approval.[3] Over the years, the President's negotiating authority was expanded to include nontariff barriers to trade, which had risen in importance as obstacles to U.S. exports as tariff barriers were reduced. Agreements addressing such barriers tend to require changes in domestic law and practice, which must in turn be passed by Congress.[4]

Fast track was created to preserve Congress' constitutional role in the regulation of foreign commerce, while ensuring that the President can negotiate with considerable authority. Recent fast track authority has had two distinct components: first, a grant by Congress to the President of authority to negotiate trade agreements, usually in accordance with certain specified negotiating objectives and subject to certain limitations; and, second, a commitment from

[1] Section 163(c) 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. 25, 1975.

[3] U.S. House of Representatives, Committee on Ways and Means, "Reciprocal Trade Agreements," *Overview and Compilation of U.S. Trade Statutes*, WMCP No. 105-4, June 25, 1997, pp. 185-219.

[4] For further background, see, Vladimir N. Pregelj, *Trade Agreements: Renewing the Negotiating and Fast-Track Implementing Authority*, Aug. 1, 1997, CRS Issue Brief, No. IB97016.

Figure 1-1
Selected trade events, 1997

JANUARY	
Jan. 15	The United States Trade Representative (USTR) announces Clinton Administration's decision to withdraw 50 percent of the trade benefits granted to Argentina under the U.S. Generalized System of Preferences (GSP) as a result of the "out-of-cycle" review under the U.S. Government's "Special 301" program.
Jan. 24	The United States and Japan resolve a dispute over protection of U.S. sound recordings as Japan adopts amendments to the Japanese Copyright Law to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
FEBRUARY	
Feb. 2	The United States and China agree to a four-year textile trade pact extending current quota arrangements in Chinese textiles and apparel exports to the United States, and reducing quotas in areas of repeated transshipment violations.
Feb. 10	WTO Appellate Body rules that the United States cannot impose import restraints on underwear produced in Costa Rica.
Feb. 15	WTO Basic Telecom Services Agreement concluded and expected to enter into force on January 1, 1998.
Feb. 25	WTO panel formed to examine complaints by India, Malaysia, Pakistan, and Thailand against the United States concerning U.S. embargo of imports of certain shrimp.
Feb. 28	The United States and Pakistan resolve a matter concerning Pakistan's TRIPS obligations regarding patent protection of pharmaceutical and agricultural chemical products.
	The United States and Taiwan sign a draft agreement abolishing limitations on the number of airlines flying between the two nations and the frequency of flights and number of destinations in each country, and also granting the right of unrestricted extension of flights to third countries.
MARCH	
Mar. 8	In response to a petition filed by the U.S. wheat gluten industry, USTR initiates a section 301 investigation of certain subsidies of the European Union that are allegedly adversely affecting U.S. modified starch exports to Europe.
Mar. 11	U.S. tariff-rate quota allocations of raw cane sugar are increased by 200,000 metric tons.
Mar. 14	WTO finds in favor of the United States regarding Canada's policies on imports of U.S. periodicals.
Mar. 20	Fourth meeting of the North American Free Trade Agreement (NAFTA) Commission concludes with agreements to implement tariff acceleration by July 1, 1997.
Mar. 21	European Union (EU) Commission proposes $2.1 billion in subsidies for shipyards in Spain, Germany, and Greece.
Mar. 26	Forty countries finalize the Information Technology Agreement (ITA) to eliminate tariffs on information technology products by the year 2000.
APRIL	
Apr. 1	USTR requests WTO consultations regarding the implementation by the Philippines of its tariff-rate quotas for pork and poultry.
Apr. 3	The United States and Jordan agree to a Bilateral Investment Treaty, providing guarantees to investors in both countries.
Apr. 7	USTR requests WTO consultations to challenge the Japanese practices of quarantining certain U.S. agricultural exports.
	WTO financial services negotiations resumed.
Apr. 11	EU suspends its WTO case against the enactment by the United States of title III of the Cuban Liberty and Democratic Solidarity (Libertad) Act pending consultations to develop binding disciplines on dealings in property confiscated in Cuba.
Apr. 24	African Growth and Opportunity Act introduced in Congress.
Apr. 30	The United States withdraws its request for a WTO dispute settlement panel regarding EU obligations on imports of grains.

Figure 1-1—*Continued*
Selected trade events, 1997

MAY

May 2	USTR terminates a GSP worker rights review of Guatemala and initiates GSP reviews of worker rights in Belarus and Swaziland.
May 12	USTR announces allocation of the 200,000 metric ton increase in the amount available under the U.S. raw cane sugar tariff-rate quota.
May 13-16	Trade ministers agree to formally launch Free Trade Area of the Americas (FTAA) negotiations in April 1998 at the third FTAA Trade Ministerial Meeting in Belo Horizonte, Brazil.
May 20	In accordance with NAFTA, the United States and Mexico reach an agreement to afford national treatment to each country's telecommunications equipment test data by allowing for private sector agreements between Mexican and U.S. testing laboratories.
May 22	USTR initiates a review of the Philippines' eligibility to qualify for GSP benefits in response to a petition by the U.S. meat industry.
May 29	As part of the General Agreement on Trade in Services (GATS), WTO adopts guidelines for recognition of qualifications in the accountancy sector to facilitate accountants' abilities to serve foreign markets.
May 30	Over 1,700 products from least-developed beneficiary developing countries (LDBDCs) are designated for duty-free treatment under the GSP program.

JUNE

June 13	The United States and the EU agree to a package of mutual recognition agreements affecting six industries and approximately $50 billion in two-way trade.
June 17	President Clinton announces the Partnership for Growth and Opportunity in Africa.
June 19	Hong Kong accedes to the WTO Agreement on Government Procurement.
	The United States and Japan agree to an enhanced initiative on deregulation and competition policy.
June 20	European Union files WTO complaint against the United States concerning selective procurement measures enacted by the Commonwealth of Massachusetts to discourage companies from doing business with Burma.
June 27	The United States and Vietnam sign their first ever bilateral copyright agreement affording U.S. copyrighted works the same protection that Vietnamese nationals receive in Vietnam.
June 30	WTO dispute settlement panel finds in favor of the United States with regard to the European Union's ban on the use of growth promoting hormones on cattle.

JULY

July 15	The United States requests WTO dispute settlement consultations with India regarding the phase-out of Indian quantitative restrictions on consumer and agricultural goods.
July 23	The United States and Korea conclude negotiations on trade in telecommunications goods and services.

AUGUST

Aug. 5	President Clinton signs into law the retroactive renewal of the GSP through June 30, 1998.
Aug. 13	The United States and Laos conclude negotiations on a bilateral trade agreement and a bilateral investment treaty.
Aug. 15	President Clinton signs into law the International Dolphin Conservation Program Act, providing for an end to embargoes of imports of certain yellowfin tuna that had been required by statute, effective when a legally binding international dolphin conservation program is formalized.
Aug. 19	Executive Order 13059 confirms that virtually all trade and investment activities with Iran by U.S. persons, wherever located, are prohibited.

SEPTEMBER

Sept. 4	The U.S. Federal Maritime Commission imposes sanctions of $100,000 per voyage on container vessels owned or operated by Japanese companies entering the United States in retaliation for Japan's failure to reform its harbor services practices to allow for greater market access for foreign shippers.
	The United States requests WTO dispute settlement consultations regarding actions by Mexico in its antidumping investigation on high-fructose corn syrup.
Sept. 5	WTO dispute panel finds in favor of the United States with regard to India's failure to provide intellectual property rights protection.
Sept. 8	The United States and Canada agree to a settlement on the sugar-containing products re-export program as well as a suspension of Canada's tariff-rate quota on barley and barley-containing products from the United States.

Figure 1-1—*Continued*
Selected trade events, 1997

Sept. 9	The WTO Appellate Body upholds the claims of the United States, Ecuador, Honduras, and Mexico that EU banana subsidies violate WTO rules.
Sept. 16	Clinton Administration submits proposal on renewing “fast-track” negotiating authority.
Sept. 26	USITC finds that the U.S. vector supercomputer industry is threatened with material injury due to unfairly traded Japanese vector supercomputers.
OCTOBER	
Oct. 1	The United States and Japan agree to improve and extend the 1994 Nippon Telegraph and Telephone (NTT) Procurement Procedures arrangements until 1999.
	USTR announces that Korea’s barriers to imported automobiles have been identified as a priority foreign country practice under the “Super 301” provisions of U.S. trade law.
Oct. 24	The United States and China reach an interim agreement on market access for foreign financial information companies in China.
Oct. 27	Panama removed from the Special 301 “watch list” with regard to its WTO TRIPS obligations.
	The United States and Japan reach final agreement to end a dispute over port practices.
NOVEMBER	
Nov. 4	Executive Order 13067 imposes comprehensive U.S. economic and trade sanctions against Sudan.
Nov. 5	Taiwan agrees not to implement an earlier decision to adopt capital reserve requirements that would have severely restricted operations of U.S. insurance companies in Taiwan.
Nov. 10	President Clinton requests the House to refrain from voting on “fast track” legislation until passage can be assured.
Nov. 22	Asia-Pacific Economic Cooperation (APEC) Trade Ministers meeting in Vancouver agree to finalize trade liberalization plans in the first half of 1998, with implementation to begin in 1999, in nine sectors: environmental goods and services, medical equipment, chemicals, energy, forest products, fish and fish products, toys, gems and jewelry, and telecommunications (a mutual recognition arrangement). In addition, Ministers directed that work to develop proposals proceed in six additional sectors: oilseeds and oilseed products, food products, natural and synthetic rubber, fertilizers, automotive, and civil aircraft.
Nov. 25	WTO dispute settlement panel rules in favor of the United States with regard to duties and taxes assessed by Argentina on U.S. textile and apparel products.
DECEMBER	
Dec. 4	WTO Appellate Body rules in favor of the United States with regard to India’s failure to provide intellectual property rights protection to pharmaceutical and agricultural companies as required by the WTO TRIPS Agreement.
Dec. 5	WTO issues an interim decision in favor of Japan regarding the United States’ complaint about access to the Japanese photographic film and paper market.
	The United States and the EU reach agreement on global electronic commerce at the U.S.-EU Summit.
Dec. 12	WTO Financial Services negotiations conclude with 102 WTO member countries committing to market opening in financial services sectors effective January 1999.
Dec. 15	The United States and Japan settle a WTO dispute regarding Japan’s taxation of distilled spirits.
Dec. 16	The United States and Nicaragua conclude a Bilateral Property Rights Agreement extending protection to copyrights, patents, trademarks, trade secrets, semiconductor layout designs, encrypted satellite signals, and geographical indications as well as providing for enforcement.
Dec. 17	Thirty-four countries sign the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
Dec. 18	Fifty-five WTO Members agree to meet to consider the date of entry into force of the WTO Basic Telecom Agreement.
	The United States and the EU sign an Agreed Minute that develops technical specifications for fur-bearing animal trap performance, suggests guidelines for further research into trap design, and envisions the phasing out of certain trapping devices currently in use.
Dec. 19	The United States and Turkey resolve a section 301 investigation and WTO dispute by ensuring equal treatment of U.S. films shown in Turkey.
Dec. 23	Pursuant to their 1985 Free Trade Agreement (FTA), the United States and Israel agree to lower fees charged by Israel on imports of U.S. almonds.

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

Congress that it will hold an "up or down" vote within a specified time on legislation to approve and implement the resulting agreements. The quid pro quo is active consultation with Congress before, during, and after negotiations. The rationale was that foreign partners will only provide their best "bottom line" offers if they know that the deals negotiated by the U.S. Executive will not be amended piecemeal when submitted for Congressional approval. Indeed, most partners refuse to begin serious negotiations until the U.S. team has clear authority in hand. Since 1974, all Presidents have had such authority, which is generally granted for limited periods of time and for specified purposes. Fast track approval was most recently used to implement the North American Free Trade Agreement (NAFTA) and the Uruguay Round of multilateral trade negotiations. The latest grant of fast track authority expired in 1994.

President Clinton initiated his fast track campaign on September 10, 1997, highlighting the need for a renewal of broad negotiating authority that would allow an expansion of trade with Latin America, Asia, within the WTO, and at the sectoral level. The President unveiled his specific legislative proposal for such authority on September 16, 1997, in a bill entitled the "Export Expansion and Reciprocal Trade Agreements Act of 1997." The bill proposed to extend trade agreement negotiating authority for agreements regarding tariff and nontariff barriers until October 1, 2001, and, with extension, until October 1, 2005.

In presenting his fast track proposal to the Congress, President Clinton argued that the United States has much to gain from continued trade liberalization. The United States is the world's leading exporter. Fast-growing foreign markets, particularly in the developing world, offer lucrative opportunities. Because foreign barriers to U.S. exports and investment remain high, and U.S. barriers are comparatively low, the United States has a clear economic stake in "leveling the playing field" through trade agreements. Fast track is also needed for the United States to effectively influence global and regional trade rules, according to the President's statement.[5] In testimony before the House Ways and Means Committee, U.S. Trade Representative (USTR) Charlene Barshefsky indicated that fast track would be used to pursue an ambitious trade agenda including bilateral, regional, multilateral, and sectoral trade negotiations. She added that these talks offer the promise of knocking down barriers to highly competitive U.S. goods and services, especially in emerging economies, supporting U.S. growth and job creation.[6]

Fast track renewal proved controversial, in part due to disagreement over the goals, conditions, and limitations that would be attached to the procedure. Particularly sharp disagreement emerged over what links, if any, should be made among the goals of expanded trade, improved worker protection, and strengthened environmental protection. In cooperation with the Administration, the Senate and the House crafted their own fast track bills, S. 1269 and H.R. 2621, seeking to clearly define the areas where linkage among the three areas of policy could be pursued under fast track.

In a statement following the postponement on November 10, 1997, of a vote on H.R. 2621, President Clinton expressed optimism that a compromise ultimately would be reached that would enable a strong majority of both parties to support fast track renewal. However, he said, time was needed to address the issues that had emerged in the debate over the measure.[7] In his January 27, 1998, State of the Union address, President Clinton renewed his request for fast track authority, arguing that, "We must shape this global economy, not shrink from it."[8]

Highlights of the other activity described later in the report are presented below.

The World Trade Organization

The final phase of the Uruguay Round of multilateral trade negotiations came to an end on December 12, 1997, as 102 WTO member states agreed to a most-favored-nation (MFN)-based agreement on market access, national treatment, and broader liberalization of global financial services—insurance, banking, securities, pensions and investment management services, financial information providers, and all related financial services. Member states have until January 1999 to ratify the protocol that will give effect to the agreement.

[5] "Message to the Congress Transmitting the Proposed 'Export Expansion and Reciprocal Trade Agreements Act of 1997,' " Sept. 16, 1997, *Weekly Compilation of Presidential Documents*, Sept. 22, 1997, pp. 1344-5.

[6] USTR, Testimony of U.S. Trade Representative Charlene Barshefsky, Renewal of Fast Track Authority, before the House Ways and Means Trade Subcommittee, Sept. 30, 1997.

[7] The White House, "Statement by the President," regarding fast track authority, White House Press Release, Nov. 10, 1997.

[8] "Address Before a Joint Session of the Congress on the State of the Union," Jan. 27, 1998, *Weekly Compilation of Presidential Documents*, Feb. 2, 1998, p. 132.

In February 1997, negotiations regarding basic telecommunications concluded with an agreement to provide market access for local, long-distance, and international service. Negotiations arising out of the 1996 WTO Singapore Ministerial Conference regarding the Information Technology Agreement (ITA) concluded in March 1997, with 43 countries agreeing to eliminate most tariffs on these products by 2000. The ITA entered into force on July 1, 1997, covering nearly 95 percent of world trade in information technology products.

Dispute settlement and implementation of existing agreements also were important focal points for WTO activity. During 1997, the number of WTO dispute settlement cases surpassed 100, considered to be an indicator that WTO members actively support the rules of the multilateral trading system and have confidence in the integrated and more automatic dispute-settlement mechanism that came into effect in 1995. By the start of 1998, the WTO had received 115 requests for consultations on 80 distinct matters. In October and November 1997, the WTO Council for Trade in Goods heard from the Textiles Monitoring Body on the first major review of the implementation of the WTO Agreement on Textiles and Clothing (ATC). Developing countries expressed dissatisfaction with the review, accusing the importing countries of concentrating on a narrow, legalistic definition of ATC obligations that refused to deal with the concerns of the developing countries. The importing countries insisted, and the Textiles Monitoring Body agreed, that they had met their ATC obligations.

The WTO also undertook new initiatives. In October 1997, the WTO sponsored a High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development. The meeting brought together the 48 UN-designated least-developed countries with the core multilateral organizations, and others, in an effort to promote growth in the least-developed countries. Better coordination of national and international aid efforts, appropriate macroeconomic policies, and improved market access and supply-side measures are among the steps being pursued. Examination of three "new issues" got underway in mid-1997 with the initiation of the three WTO Working Groups called for at the December 1996 Singapore Ministerial Conference, covering (1) the interaction between trade and competition policy, (2) the relationship between trade and investment, and (3) transparency in government procurement. The General Council will determine after two years how the work of each body should proceed.

The Organization for Economic Cooperation and Development

In November 1997, the OECD adopted the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the most recent in a series of measures taken to address the issue of corruption. The convention was signed by the 29 OECD member states, as well as by 5 nonmember countries. It addresses corruption in the form of promising or giving a bribe ("active" bribery), as opposed to receiving one ("passive" bribery).

Although final agreement on a Multilateral Agreement on Investment (MAI) was not achieved by the target date of May 1997, progress was made in establishing an overall framework to cover all forms of investment coming from all signatory investors, including the establishment and activities of enterprises that are foreign-owned or -controlled. Negotiations continued into 1998 over the most contentious issues—national reservations and other similar exceptions or exemptions. The MAI is to be a free-standing treaty, open to accession by nonmembers.

The OECD has led international efforts to examine regulatory reform issues, which can have important implications for market access. In 1997, the OECD released its report examining Member governments' experiences with reform, which aims to enhance competition, reduce regulatory costs, boost efficiency, lower prices, stimulate innovation, and help economies remain competitive. The report set out seven policy recommendations on regulatory reform.

Regional Trade Initiatives

Regional initiatives continued to assume importance in overall U.S. trade policy. During 1997, there were two major initiatives on Africa, one sponsored by Congress and the other by the President. The African Growth and Opportunity Act was introduced in Congress on April 24, 1997. The proposed legislation would provide for increased trade benefits for countries in Sub-Saharan Africa, allow duty-free and quota-free imports of textiles and apparel from those countries, and provide an opportunity for these countries to enter into Free Trade Agreement (FTA) negotiations with the United States. The other initiative, the Partnership for Economic Growth and Opportunity in Africa, was announced by the President on June 17, 1997. The Partnership initiative would involve increased access to the U.S. market for African exports, increased technical assistance to Sub-Saharan Africa, increased private investment, efforts to

eliminate bilateral debt, and annual economic meetings at the cabinet/ministerial level. Under both programs, countries that adopt reforms and open their markets would be eligible for the most benefits.

During 1997, the Asia-Pacific Economic Cooperation (APEC) forum continued to work towards the goals of free and open trade and investment in the Asia-Pacific region by 2010 for developed economies and 2020 for developing economies. A major focus of APEC's work was on early voluntary sectoral liberalization. At the APEC Ministerial in November 1997, nine sectors were selected for immediate work including: environmental goods and services, the energy sector, fish and fish products, toys, forest products, gems and jewelry, medical equipment and instruments, chemicals, and telecommunications (a mutual recognition arrangement). APEC's work in the areas of trade and investment facilitation and economic cooperation and development continued throughout the year.

At the May 13-16, 1997, Third Free Trade Area of the Americas (FTAA) Trade Ministerial Meeting in Belo Horizonte, Brazil, Trade Ministers from the 34 participating countries agreed to formally launch FTAA negotiations at the second hemispheric Summit meeting in Santiago, Chile, in April 1998. Key differences remained, however, over the scope and timing of the FTAA negotiations. A Preparatory Committee was established, and throughout the year, the participants in the 12 FTAA working groups continued to lay the groundwork for the planned FTAA negotiations. The working groups focused on compiling inventories of hemispheric practices, identifying areas of commonality and divergence, and providing recommendations on how to proceed in the construction of the FTAA in each respective area.

Regarding NAFTA, a March 1997 meeting of the NAFTA Free Trade Commission served as the venue for NAFTA Trade Ministers to act upon a number of outstanding issues. Among other things, the Ministers agreed to implement accelerated elimination of tariffs for a list of several dozen items, announced plans to begin a second round of tariff acceleration talks, and received and approved reports from the working groups and committees charged with overseeing NAFTA's day-to-day implementation. In July, the President submitted a required report to Congress on NAFTA's first three years' operation and effects, prompting other efforts to assess the accord. Agriculture, standards, and intellectual property rights issues required ongoing attention by NAFTA officials in 1997. Dispute settlement activity, meanwhile, included first-ever cases under NAFTA's innovative investor-state dispute settlement mechanism.

Bilateral Trade Relations

Canada

During the final year of the tariff implementation stage of the free trade agreement between Canada and the United States, economic and trade relations between the two countries were relatively smooth. However, a dispute developed over Canada's system of milk pricing. In November 1997, the United States formally complained to the WTO about alleged export subsidies for dairy products granted by Canada. Bilateral consultations failed to resolve the dispute, and a request to establish a WTO dispute settlement panel was made in early 1998.

Tension continued to build during 1997 in an ongoing dispute between the United States and Canada over bilateral allocations of benefits and costs of the Pacific salmon fishery. In the spring of 1997, the Canadian Government seized several U.S.-flag fishing vessels, followed by a blockade by British Columbia fishing vessels of a U.S.-flag ferry. Efforts to resolve the dispute continued into 1998.

During 1997, the United States was successful in its challenge before the WTO over Canada's policy on magazines. The United States had filed a complaint in 1996 over Canadian actions prohibiting or restricting imports of certain periodicals and the tax treatment of split-run periodicals, alleging that these measures violated General Agreement on Tariffs and Trade (GATT) rules. On July 30, 1997, the WTO Dispute Settlement Body adopted the Appellate Body Report and the Panel report finding Canadian violations.

European Union

U.S.-EU trade relations in 1997 were marked by two distinct components: ongoing cooperation towards the creation of a transatlantic marketplace characterized by the free movement of goods, services, and investment, as envisaged when the New Trans-Atlantic Agenda was launched in 1995, and the eruption of numerous bilateral trade disputes over matters ranging from agriculture to computers. Reflecting a high level of cooperation over regulatory matters, the United States and the EU announced a Mutual Recognition Agreement (MRA) package that should substantially reduce standards-related obstacles to $40 billion worth of EU-U.S. trade. A high-level business forum known as the Trans-Atlantic Business

Dialogue (TABD), meanwhile, served as the catalyst for a U.S.-EU initiative on global electronic commerce, along with other joint projects.

The United States won several WTO dispute settlement cases against the EU, including those covering beef hormones and bananas, both longstanding issues on the bilateral agenda.

Japan

Transportation-related issues dominated U.S. relations with Japan in 1997. The United States continued to monitor progress under the 1995 U.S.-Japan Automotive Agreement with bilateral discussions focused on the slow pace of change in Japan in the areas of expanded dealership opportunities, auto sales, and deregulation in the parts aftermarket. As a result of these discussions, Japan agreed to take some measures in each of these areas. During 1997, the United States and Japan also engaged in a series of bilateral negotiations on air cargo and passenger services, resulting in an agreement on January 30, 1998, addressing "beyond rights," additional flights and slots, and third-country code sharing.

In October 1997, Japan narrowly averted having its ships detained by the U.S. Coast Guard and Customs Service for failing to pay fines imposed by the Federal Maritime Commission (FMC). On February 26, the FMC had cited restrictions on and requirements for use of Japanese ports in imposing fees on Japanese carriers. Following promises by Japan to address concerns of U.S. shipping carriers, the sanctions were postponed until September, when they were reinstated. The two countries reached a final agreement on October 27 after Japan agreed to pay $1.5 million in fees and reform its port practices.

Mexico

Two presidential meetings marked U.S.-Mexican relations during 1997. In May, President Clinton and Mexican President Ernesto Zedillo presided over the closing session of the 14th U.S.-Mexico Binational Commission meeting in Mexico City, where 11 agreements were signed in areas of agricultural trade, financial and commercial matters, and border issues. In November, President Zedillo's visit to Washington, DC, resulted in Mexico's commitment to facilitate the prosecution of fugitive drug traffickers in Mexico, a U.S. commitment to discourage illegal sales of weapons to Mexico, and the resolution of a long-standing maritime dispute on the Gulf of Mexico. The August signing of U.S. legislation that would partially lift the U.S. embargo on tuna imports, imposed in 1991 because of dolphin killings associated with catching tuna, also improved the bilateral trade atmosphere. The embargo primarily affects tuna imported from Mexico.

Mexico's administration of antidumping investigations was the subject of bilateral discussions in 1997. In February, Mexico's Secretariat of Commerce and Industrial Development (SECOFI) initiated an antidumping investigation on behalf of an association of sugar producers in Mexico, charging sales at less than fair value of high-fructose corn syrup (HFCS) imports from the United States. In June, SECOFI imposed preliminary antidumping duties on U.S.-made HFCS. The dispute between Mexican sugar producers and U.S. HFCS producers escalated further when, in September, the United States requested WTO dispute settlement consultations regarding this antidumping action. In March, SECOFI initiated an antidumping investigation on behalf of the Regional Agricultural Union of Fruit Producers of the Mexican state of Chihuahua, alleging sales at less than fair value of imports of red delicious and golden delicious apples from the United States. In September, SECOFI imposed a preliminary antidumping duty on the imports in question.

China

Economic and trade relations between China and the United States in 1997 centered on China's efforts to accede to the WTO. Throughout the year, China introduced a number of market-opening measures, including tariff reductions, selective elimination of import quotas, and reductions in phase-out periods for nontariff measures. China also pledged not to reintroduce export subsidies on agricultural products. China and the United States remain at odds over Chinese offers on tariffs and nontariff barriers, market access, intellectual property rights, guarantees of national treatment for foreign companies, statutory inspection and a restrictive sanitary regime, transparency and judicial review, customs valuations, subsidies, agricultural trade practices, and trade in services.

U.S. negotiators maintain that China continues to protect its agricultural sector with unscientific sanitary and phytosanitary measures, high tariffs, and the ability of state trading companies to control market access for imports. The United States noted that China still uses restrictive phytosanitary measures to bar imports of U.S. oranges, apples, lemons, grapefruit, plums, grapes, tobacco, and Pacific Northwest wheat.

The United States and China concluded several bilateral agreements during 1997 that included the extension of the U.S.-China maritime agreement until June 1998, and market-access agreements for textiles, sweet cherries, and grapes. On October 24, 1997, the USTR announced that China and the United States had successfully concluded an interim agreement that secured market access for foreign financial information companies such as Dow Jones and Reuters. Also in October 1997, the United States and China's National Space Agency agreed to add language to the U.S.-China Bilateral Agreement on Space Launch Services that established clear guidelines on pricing of China's commercial space launch services.

On July 1, 1997, Hong Kong reverted to Chinese sovereignty after 150 years of British rule. On that date, the Hong Kong Special Administrative Region of the People's Republic of China was created. Hong Kong retains autonomy in the conduct of trade.

Taiwan

There were positive developments during 1997 in U.S.-Taiwan relations on intellectual property rights (IPR) and civil aviation, but limited progress on Taiwan's WTO application. On April 30, 1997, USTR announced its annual "Special 301" list for countries violating U.S. copyrights and, for the first time since 1988, Taiwan was not named. On February 28, 1997, Taiwan and the United States signed a draft agreement that abolished limitations on the number of airlines flying between the two nations and the frequency and number of destinations in each country, and also grants the right of unrestricted extension of flights to third countries. During October bilateral talks between the United States and Taiwan, negotiators were unable to reach a definitive agreement on Taiwan's accession to the WTO. Among the remaining key issues are: full access to Taiwan's agricultural market (especially pork, chicken, rice, and offal), privatization of the government's tobacco and wine monopoly, tariffs and quotas on automobiles, and Taiwan's government procurement practices.

Korea

There were two major bilateral trade issues involving the United States and Korea in 1997. In July, USTR Barshefsky announced the revocation of Korea's designation as a "priority foreign country" under section 1374 of the 1988 Trade Act following the successful conclusion of a year of negotiations in which the United States had sought to open the telecommunications market in Korea for U.S. equipment and services suppliers. In October, USTR identified Korea's barriers to imported automobiles as a priority foreign country practice under the "Super 301" provisions of U.S. trade law. Negotiations are expected to begin in the Spring of 1998.

Administration of U.S. Trade Laws and Regulations

Developments in U.S. trade programs during the year included the following:

- The Department of Labor instituted 1,280 investigations for trade adjustment assistance to workers in FY 1997, down somewhat from the number instituted in FY 1996. Additionally, 774 petitions were filed under the U.S. NAFTA-related transitional adjustment assistance program for workers. This figure represents a small increase over the number of such filings in the previous fiscal year. The Department of Commerce certified 159 firms as eligible to apply for trade adjustment assistance during FY 1997, a slight increase over the number in FY 1996.

- Following final affirmative determinations by the Commission and the Department of Commerce, 11 new antidumping orders were issued in 1997. No new countervailing duty orders were issued.

- The Commission's section 337 caseload was dominated by investigations involving complex technologies, particularly in the computer and telecommunications fields. The Commission concluded fifteen investigations under section 337 during the year, and issued exclusion orders in six of those investigations.

- USTR initiated six section 301 investigations in 1997. These included investigations on EU circumvention of export subsidy commitments on dairy products and on Japan's market access barriers to agricultural products.

- The U.S. Generalized System of Preferences (GSP) expired on May 31, 1997, but was renewed retroactively through June 30, 1998, by legislation signed by the President on August 5, 1997; an additional 1,783 Harmonized Tariff System (HTS) subheadings were designated for duty-free treatment under the GSP for products of countries which have been designated as a

least-developed beneficiary developing country. Cambodia was added as a beneficiary developing country and designated as a least-developed beneficiary developing country.

- The United States' market access agreement with China went into effect in early 1998 whereby China substantially reduced its tariffs for a number of textile and apparel products. The United States-China bilateral trade agreement on silk products expired on December 31, 1997. Silk products can now be imported from China into the United States free of quota.

- The USITC conducted an investigation concerning the likely impact of providing quota-free and duty-free entry to textiles and apparel from Sub-Saharan Africa (SSA). The Commission estimated that allowing duty-free and quota-free entry for textiles and apparel from SSA would result in minimal effects on the domestic industry and its workers.

- 1997 tariff preference levels (TPLs) for wool apparel from Canada were filled primarily with men's and boys' wool suits as they had been in 1996. H.R. 2432, a bill to provide relief for domestic producers of tailored wool apparel from increased imports of such apparel from Canada was introduced in Congress.

- The United States agreed to create some exemptions to its statutorily-based rules of origin for textile and apparel products in order to avoid adversely affecting trade in fabrics, scarves, and other "flat goods." Marking requirement exemptions for imported silk scarves and silk fabrics and exemptions for discharge printed fabrics from quotas under the ATC went into effect on January 1, 1998, resolving a problem with the EU.

Trade Sanctions Activities

Some U.S. sanctions were tightened in 1997 and efforts to address concerns by U.S. trading partners over U.S. unilateral sanctions continued. An Executive Order issued on May 21, 1997, prohibits new investment in Burma by U.S. persons, adding to other sanctions against Burma already in place. The United States also tightened economic sanctions against Iran and Sudan. On June 20, 1997, the EU filed a complaint with the WTO against the United States concerning the selective procurement measures enacted by the Commonwealth of Massachusetts against companies that do business in Burma. Meanwhile, the United States and the EU worked to resolve an EU complaint before the WTO over the Libertad (Helms-Burton) Act imposing further economic sanctions on companies that do business in Cuba and that deal in U.S. property confiscated in Cuba. On August 15, 1997, President Clinton signed into law the International Dolphin Conservation Program Act, which provides for an end to the unilateral embargoes on imports of yellowfin tuna required by existing U.S. law, effective when a legally binding international dolphin conservation program is formalized.

The International Economic Environment and World Trade in 1997

International Economic Environment

World economic expansion has been supported by continued solid growth with low inflation in the United States, the United Kingdom, and Canada, and strengthened growth in Western Europe.[9] World real output is estimated to have grown by 4.2 percent in 1997 compared with 4.1 percent in 1996.[10] Tight monetary policies and commitments to reduce budget deficits in a number of countries, including the United States, Canada, and most EU members, have played a major role in keeping inflation low and inducing stable, albeit moderate, rates of economic expansion. Table 1-1 shows economic indicators for the United States and selected trading partners.

During the year under review, the U.S. economy grew to near full capacity as real output expanded buoyantly. Real gross domestic product (GDP) grew by 3.8 percent in 1997 compared with an increase of 2.8 percent in 1996. Inflation, as measured by the GDP price deflator, declined to 2.0 percent in 1997 compared with 2.3 percent in 1996. Unemployment dipped below 5.0 percent for the first time since 1973. Conditions in U.S. financial markets bolstered growth. Long-term interest rates were near their lowest levels since the early 1970s. The stock market registered

[9] International Monetary Fund (IMF), *World Economic Outlook*, Oct. 1997, p. 1.

[10] Ibid.

Table 1-1
Comparative economic indicators of the United States and specified major trading partners, 1996-97

Country	Real GDP		Inflation rate[1]		Unemployment rate[2]		Government budget balances[3]		Merchandse trade balances		Current account balance[3]	
	1996	1997	1996	1997	1996	1997	1996	1997	1996	1997	1996	1997
	Percent change from previous year				*Percent*		*Percent*		*Billion dollars*		*Percent*	
G-7 countries												
United States	2.8	3.8	2.4	2.0	5.4	4.9	-1.1	-0.0	-191.2	-198.9	-1.9	-2.1
Canada	1.5	3.6	1.2	1.5	9.7	9.2	-1.8	0.4	30.1	19.4	-0.5	-1.0
Japan	3.5	0.5	0.2	1.7	3.4	3.4	-4.4	-2.8	83.6	98.9	1.4	2.2
Germany	1.4	2.4	2.0	2.0	10.3	11.4	-3.4	-3.0	71.3	78.0	-0.6	-0.3
United Kingdom	2.3	3.4	2.6	2.0	8.0	6.9	-4.7	-2.3	-19.7	-20.6	-0.1	0.3
France	1.5	2.3	1.8	1.3	12.3	12.4	-4.1	-3.1	15.0	29.8	1.3	2.3
Italy	0.7	1.3	4.5	2.2	12.1	12.3	-6.7	-3.0	60.7	54.6	3.4	3.6
European Union	1.7	2.6	2.7	2.0	11.4	11.3	-4.3	-2.7	164.0	178.1	1.1	1.4
Mexico	5.1	6.7	34.0	20.9	5.5	4.1	([4])	([4])	6.5	1.6	-0.6	-1.6
Total OECD	2.8	3.0	4.6	4.1	7.5	7.3	-2.7	-1.4	69.0	81.9	0.1	0.0
China	9.7	9.2	6.1	3.0	([4])	([4])	([4])	([4])	([4])	([4])	0.9	1.3
Taiwan	5.7	6.0	3.1	2.5	([4])	([4])	([4])	([4])	17.5	9.8	3.9	1.4
Korea	7.1	6.2	6.0	4.5	2.0	2.5	4.9	3.9	-15.3	-5.7	-4.8	-2.6
Hong Kong	4.9	5.4	6.0	6.2	([4])	([4])	([4])	([4])	-18.4	-20.0	-1.0	-1.2
Singapore	7.0	6.5	1.4	2.5	([4])	([4])	([4])	([4])	-0.5	-1.0	15.0	13.0
Thailand	6.7	1.0	5.8	11.0	([4])	([4])	([4])	([4])	-16.2	-9.5	-8.0	-5.0
Malaysia	8.2	7.0	3.5	3.7	([4])	([4])	([4])	([4])	3.4	2.0	-5.2	-6.6

[1] Private consumption deflators.
[2] Percent of total labor force.
[3] Financial balances as a percent of nominal GDP.
[4] Not available.

Note.—1997 data are estimates of the OECD.

Source: *OECD Economic Outlook*, 62, December 1997, and official statistics of the U.S. Department of Commerce.

all-time highs during the year, and credit remained readily available to investors. This combination of growth and low inflation reflected the favorable influences of declining commodity prices and a strong dollar, but was also attributable to more durable changes in the product market and the flexibility of U.S. labor markets. Gains in competitiveness in labor and product markets and rapid, technology-driven gains in efficiency have supported brisk economic growth and low inflation.[11]

Major U.S. trading partners experienced slower output growth than the United States. Canadian real output grew at an annual rate of 3.6 percent, up from 1.5 percent in 1996. Canada's economic growth in 1997 was underpinned by tight fiscal policies that reduced budget deficits, and relaxed monetary policy that lowered interest rates. This mix of fiscal and monetary policy encouraged domestic investment and boosted domestic demand. Moreover, foreign demand for Canada's exports rose in response to the depreciation of the Canadian dollar over most of the year, thus improving Canada's international competitive position.[12]

Among EU members, with the exception of the United Kingdom, output growth was weak and unemployment remained high.[13] A slowdown in domestic and public investment spending weakened economic growth, and monetary policy was eased in an attempt to countervail public spending cuts. Aggregate domestic demand remained sluggish due to eroded consumer and business confidence. As a result, new investment was too slow to spur growth and reduce unemployment. Nonetheless, foreign exchange markets within the EU stabilized and reductions of fiscal deficits required for the upcoming European Monetary Union (EMU) were achieved in most, if not all, of the EU members. However, uncertainties about the feasibility of the EMU weakened consumer and investor confidence. In addition, the rigidity of EU labor markets increased labor costs and may have served to dampen growth and employment.[14]

In Japan, the OECD estimated that economic growth slowed from 3.5 percent in 1996 to 0.5 percent in 1997. The decline in the rate of growth resulted from a slow rise in domestic demand, reflecting a slowdown in public sector investment and housing construction.[15] Following a surge in early 1997, economic activity declined sharply in the second quarter, partly because of a reversal of the first-quarter surge in consumption in anticipation of an increase in the consumption tax in April. Japan's financial sector has suffered from bad-debt problems, although the severity of the Japanese problem is much less than in other Asian economies. Nonetheless, bad debt problems have led to the shutdown of several banks and security firms. These developments have led to further deterioration in consumer confidence and spending.

Growth prospects in developing and emerging economies in 1997 were mixed. In Latin America (including Mexico and the countries of the Caribbean, Central America, and South America), economic growth that started in mid-1996 continued to gather momentum, especially in Argentina, Brazil, and Peru. Inflows of foreign investment and lower domestic interest rates created favorable conditions for broad-based growth. In Mexico, the combination of lower interest rates and inflows of foreign investment helped to stimulate substantial economic growth.[16]

Asian financial crisis

In the Pacific Rim, economic activity continued to expand in 1997, particularly in China, Korea, Taiwan, and Singapore; but financial and bank debt problems and trade and fiscal imbalances arising near mid-year, first in Thailand, then in Korea, Malaysia, and Indonesia, have caused currency uncertainties, throughout East Asia. The currencies of Thailand, Korea, Malaysia, and Indonesia collapsed as foreign investors started to withdraw their short-term investment funds. Stock market indexes plummeted, reaching their lowest levels in years. As the crisis unfolded, political uncertainties and doubts about the commitment and ability of authorities to implement the necessary adjustments and reforms exacerbated pressures on currency and stock markets.

In many respects, Thailand, Indonesia, Malaysia, and Korea face similar problems. Each has suffered a loss of confidence and a sharp currency depreciated. Moreover, in each country, weak financial systems, excessive unhedged foreign borrowing by the domestic private sector, and a lack of transparency about the ties

[11] *Economic Report of the President*, February 1998; U.S. Bureau of Labor Statistics, Productivity and Costs, Fourth quarter, 1997; and *International Economic Review* (*IER*), Jan./Feb.1998.

[12] *OECD Economic Outlook*, 62, December 1997, pp. 92-95.

[13] Ibid., pp. 67-71.

[14] IMF, *World Economic Outlook*, pp. 1-6.

[15] *OECD Economic Outlook*, 62, pp. 67-71.

[16] Ibid., pp. 117-119.

between government, business, and banks have contributed to the crisis and complicated efforts to defuse it. Korea, Thailand, and Indonesia called on the International Monetary Fund (IMF) for assistance. IMF-supported reform programs have been implemented to varying degrees.[17]

Although not yet clear, the financial crisis in South Asia is expected to have some effects on the U.S. trading position with these economies. For example, U.S. exports to these countries could decline because of the liquidity crunch and the appreciation of the U.S. dollar in terms of the Asian currencies. Also, U.S. imports could increase due to the relatively higher U.S. growth rates and the decline in import prices from these countries as the value of the dollar rises.

The OECD assessed the impact of the Asian financial crisis on other economies. According to OECD estimates, the crisis will reduce U.S. GDP growth by 0.3 percent in 1997 and 0.7 percent in 1998. Net U.S. exports will decline by 0.1 percent in 1997 and by 0.3 percent in 1998.[18] The IMF predicted that the impact of the Asian crisis will be felt mostly by these countries themselves and by Japan, since fully 18.2 percent of Japan's trade is conducted with emerging economies in Asia. This compares with 11.3 percent for the United States and 3.8 percent for Germany.[19]

[17] "Fischer Presents IMF Perspective of Origins, Implications of Asian Crisis," *IMF Survey*, vol. 27, Jan. 26, 1998, pp. 21-22.

[18] *OECD Economic Outlook*, 62, p 6.

[19] IMF, *World Economic Outlook*, pp. 1-6.

U.S. Balance of Payments Position[20]

In 1997, the United States ranked as the world's largest merchandise exporter followed by Germany and Japan. Exports of goods (on balance of payments basis) rose from $612.1 to $678.3 billion, but imports increased considerably more, to $877.3 billion from $803.2 billion in 1996, as shown in table 1-2. The strengthening of domestic demand for imports due to relatively higher rates of U.S. growth led to a widening of the 1997 merchandise trade deficit to $198.9 billion.

The U.S. current account deficit grew to $166.4 billion in 1997. The deficits on the merchandise trade and investment income were partially offset by an increase in the surplus on services. The balance on investment income shifted to a deficit of $14.3 billion in 1997 from a surplus of $2.8 billion in 1996 as payments on foreign assets in the United States increased to $250.3 billion, whereas income receipts from U.S. assets abroad increased to $236.0 billion. Net inflows of foreign capital into the United States increased in 1997 to $263.6 billion from $195.2 billion in 1996.

In 1997, the U.S. surplus on services trade rose to $85.3 billion. U.S. trade in services grew in almost every category. U.S. total services trade (exports plus

[20] U.S. Department of Commerce, Bureau of Economic Analysis, *U.S. International Transactions: Fourth Quarter and Year, 1997*, BEA 98-06.

Table 1-2
U.S. trade and current account balances, 1996-97

(Billion dollars)

	1996	1997
Merchandise exports	612.1	678.4
Merchandise imports	-803.2	-877.3
Balance on merchandise trade	-191.2	-198.9
Balance on services	80.1	85.3
Balance on goods and services	-111.0	-113.6
Income receipts on U.S. assets abroad	206.4	236.6
Income payments on foreign assets in the United States	-203.6	-250.3
Balance on investment income	2.8	-14.3
Balance on goods, services, and income	-108.2	-127.9
Unilateral transfers	-40.0	-38.5
Balance on current account	-148.2	-166.5
U.S. assets abroad, net, outflow (-)	-352.4	-426.9
Foreign assets in the U.S., net, inflow (+)	547.6	690.5
Net capital inflows (+), outflows (-)	195.2	263.6

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *U.S. International Transactions: Fourth Quarter and Year, 1997*, BEA 98-06.

imports) reached $421.1 billion in 1997, a $27.8 billion increase over 1996. U.S. exports of services in 1997 totaled $253.2 billion dollars, imports rose to $167.9 billion. The U.S. deficit on goods and services was $113.6 billion.

U.S. Trade in 1997

U.S. merchandise exports reached a record $678.3 billion in 1997. Imports rose to $877.3 billion up from $803.2 billion in 1996. The U.S. merchandise trade deficit with the world rose to $198.9 billion in 1997 from $191.2 billion in 1996. As shown in figure 1-2, the majority of U.S. exports consisted of manufactured goods, which accounted for 70.8 percent of U.S. exports in 1997. Chemicals accounted for 10.8 percent of exports; food, 7.4 percent; fuel and raw materials, 7.2 percent; and all other goods, 3.8 percent. The majority of U.S. imports were manufactured goods, 74.4 percent; followed by fuel and raw materials, 11.2 percent; chemicals, 6.0 percent; food, 4.6 percent; and all other goods, 3.7 percent.

Figure 1-3 shows U.S. merchandise exports, imports, and trade balances with major trading partners. Leading U.S. exports to, and imports from, major U.S. trading partners are highlighted in the appendix. In 1997, U.S. trade with NAFTA countries accounted for about 30.6 percent of total U.S. exports and imports. Japan accounted for $58.4 billion of the U.S. merchandise trade deficit in 1997, followed by China ($49.5 billion), Canada ($33.1 billion), the EU ($24.1 billion), Mexico ($16.6 billion), and Taiwan ($13.6 billion). The United States registered a trade surplus of $1.4 billion with Korea in 1997.

Total U.S. exports and imports grew by about 9.7 percent in 1997 compared with the previous year, as exports grew by 10.5 percent and imports grew by 9.1 percent. U.S. exports to Mexico rose by 25.1 percent, and U.S. exports to Canada rose by 13.2 percent. U.S. exports to Japan declined, U.S. exports to China rose slightly, and U.S. exports to Taiwan grew by 11.6 percent. U.S. imports from Japan rose by 5.0 percent to $120.5 billion and imports from China rose by 21.1 percent to $62.0 billion. The U.S. trade deficit with Japan and China totaled $107.9 billion or 49 percent of the total U.S. trade deficit in goods.

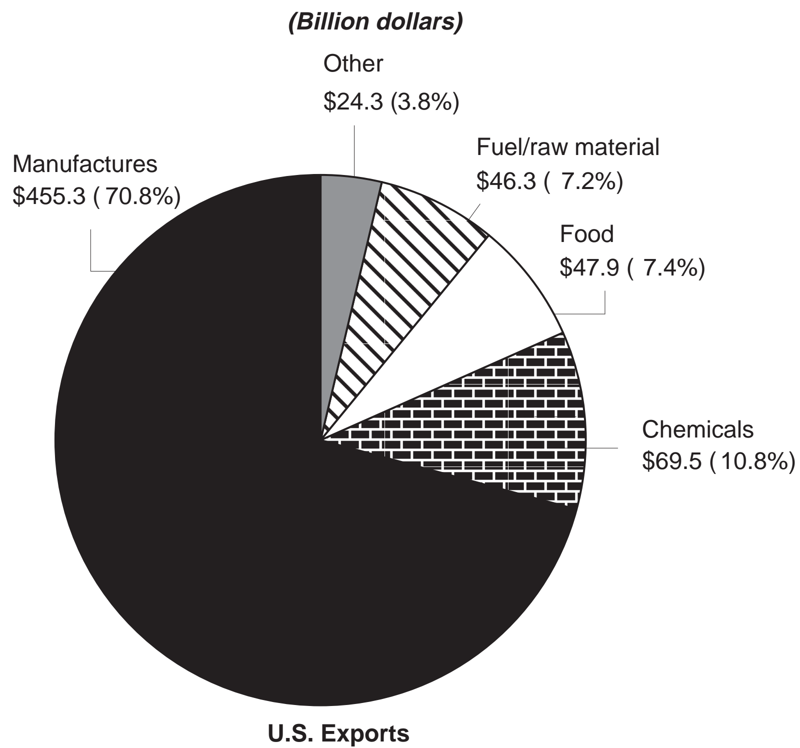
World Trade

The United States ranked as the world's largest merchandise exporter in 1997, followed by Germany and Japan. World trade in goods and services grew at a faster rate than world output in 1997 according to IMF forecasts. World trade volume is estimated to have grown by 7.7 percent in 1997. Trade growth in 1997, however, was above the average annual gains of the previous ten years, and far outstripped the 4.2 percent growth in world output.[21]

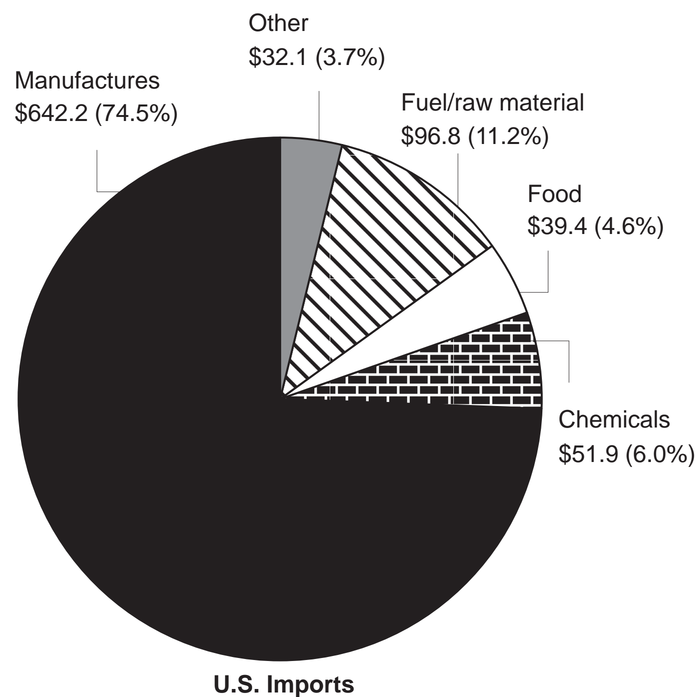
[21] IMF, *World Economic Outlook*, pp. 147 and 175.

Figure 1-2
U.S. merchandise trade with the world, by product sectors, 1997

(Billion dollars)



U.S. Exports

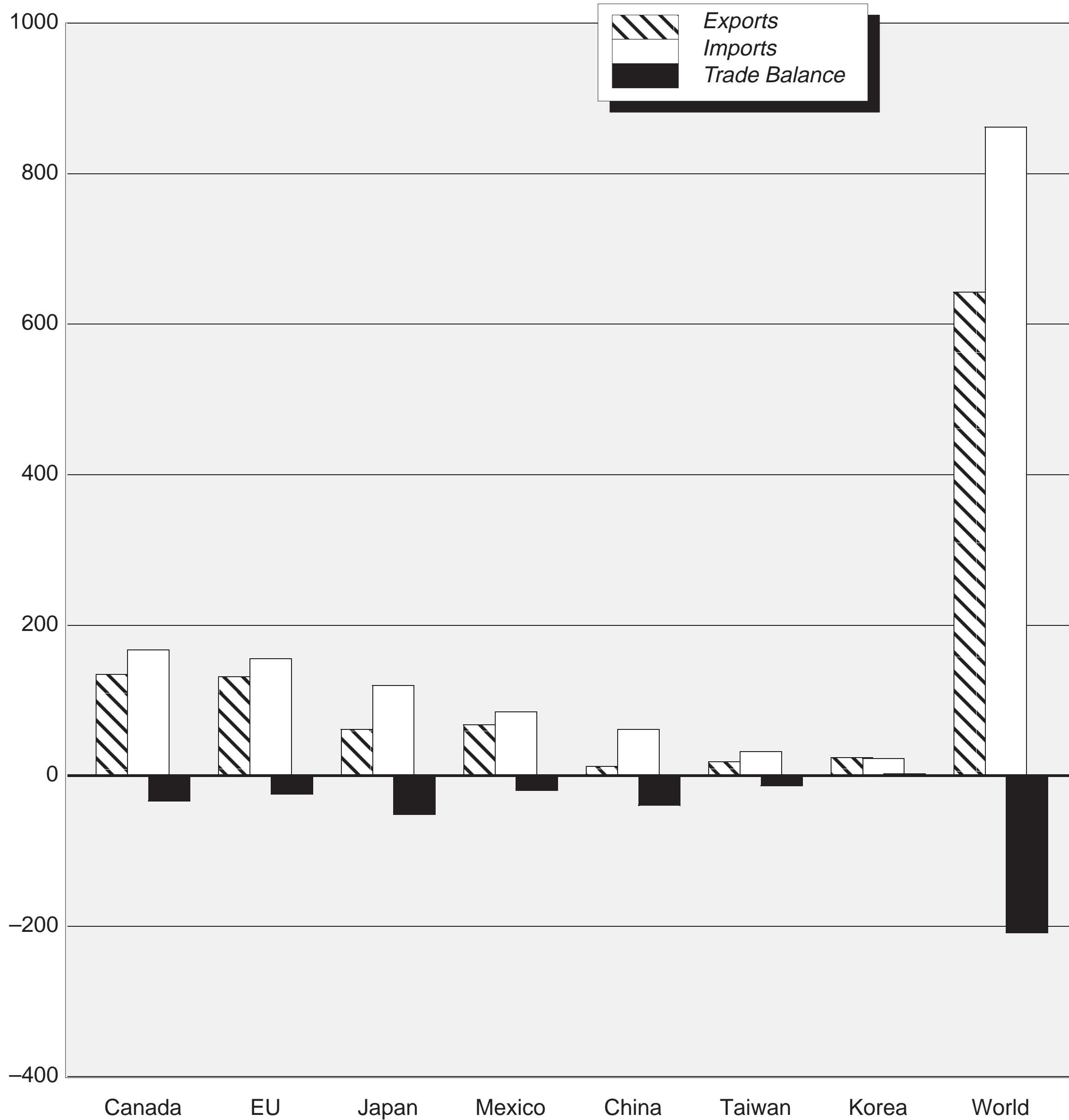


U.S. Imports

Note.—Because of rounding, figures may not add up to the totals shown. Exports are domestic exports, f.a.s. Imports are imports for consumption, customs value.

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

Figure 1-3
U.S. merchandise exports, imports, and trade balance with major trading partners, 1997



Major trading partners	*Exports*	*Imports*	*Trade balance*
Canada	$134.8	$167.9	$-33.1
EU	131.8	155.9	-24.1
Japan	62.1	120.5	-58.4
Mexico	68.4	85.0	-16.6
China	12.5	62.0	-49.5
Taiwan	18.9	32.5	-13.6
Korea	24.3	22.9	1.4
World	643.2	862.4	-219.2

CHAPTER 2
Trade Activities In The WTO And The OECD In 1997

This chapter reviews select activities of the World Trade Organization (WTO) and the Organization for Economic Cooperation and Development (OECD) in 1997. The WTO is the principal multilateral body for negotiation, implementation, and settlement of disputes regarding international trade agreements, with 132 members as 1997 ended. Among developments in 1997, ongoing negotiations held under WTO auspices concluded for financial services, basic telecommunications, and information technology products. High-level consultations were also held between core multilateral agencies and a number of the least-developed countries in an initial effort to create a more integrated approach to providing these countries with multilateral and bilateral assistance. Dispute cases brought under WTO rules surpassed 100 during 1997, which is seen as an indication of members' support for the multilateral dispute settlement system.

The OECD provides a forum for consultation and policy coordination on economic and trade issues of interest to its 29 industrialized member countries. In 1997, negotiations over a multilateral agreement on investment largely settled on the overall framework provisions, only to become bogged down in negotiations over detailed individual country reservations, exceptions, and exemptions, as well as questions over the agreement's possible reach and jurisdiction beyond the national government level. OECD member countries and others also signed a multilateral convention on combating bribery as part of ongoing efforts to prevent trade barriers in the private sector from replacing those reduced by governments under the Uruguay Round.

WTO

Ongoing Negotiations

During 1997, sectoral negotiations under the aegis of the WTO were concluded that address financial services, basic telecommunications, and information technology. The first two issues were the last remaining ongoing negotiations of the Uruguay Round.[1]

Financial Services

On December 12, 1997, all the major compacts of the Uruguay Round finally ended with the successful conclusion of the twice-extended negotiations on financial services.[2] The negotiations produced the WTO Agreement on Financial Services, which covers insurance, banking, securities, pensions and investment management services, financial information providers, and all related financial services. The Agreement covers 95 percent of the global financial services market as measured by revenue.[3] Of 132 WTO members,

[1] At the December 1993 conclusion of the Uruguay Round, participants agreed that multilateral negotiations would continue for certain service sectors. These ongoing negotiations addressed the movement of natural persons, financial services, basic telecommunications, and maritime transport services. On June 30, 1995, negotiations on the movement of natural persons concluded, clarifying issues under the Uruguay Round General Agreement on Trade in Services (GATS) about regulation of the entry and temporary stay of services personnel within the national territory of GATS signatories. On June 30, 1996, negotiations on maritime transport services were scheduled to conclude, but were suspended on June 28, 1996, because certain participants believed an insufficient number of acceptable offers had been submitted. The talks are to resume and conclude as part of the comprehensive negotiations on trade in services in the year 2000, called for under 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.

[2] U.S. Department of State telegram "WTO Financial Services Agreement Reached," message reference No. 08651, prepared by U.S. Mission, Geneva, Dec. 16, 1997; and U.S. Department of State telegram "WTO Financial Services Agreement: Treasury Secretary Rubin and USTR Ambassador Barshefsky Press Release," message reference No. 008652, prepared by U.S. Mission, Geneva, Dec. 16, 1997.

[3] White House, Office of the Press Secretary, *Statement by Secretary Rubin and Ambassador Barshefsky Regarding the Successful Conclusion of WTO Financial Services Negotiations*, Dec. 13, 1997.

102[4] made market-opening commitments, including new or improved offers from 70 countries in the 1997 round of negotiations.[5] The commitments encompass $17.8 trillion in global securities assets; $38 trillion in global (domestic) bank lending; and $2.2 trillion in worldwide annual insurance premiums.[6] Across all insurance sectors, encompassing life, nonlife, reinsurance, brokerage and auxiliary services, 52 countries agreed to provide broad market access to foreign financial services producers. In banking, 59 countries permit 100 percent ownership of subsidiaries or branches to foreign bankers. In securities, 44 countries agreed to permit 100 percent ownership of subsidiaries or branches.[7] WTO member states have until January 29, 1999, to ratify the Agreement,[8] which is officially known as the Fifth Protocol to the General Agreement on Trade in Services.

Background

The liberalization of financial services, including guarantees of market access and national treatment[9] for foreign firms into other countries' markets, was identified as a broad goal at the outset of the Uruguay Round of negotiations in Punta del Este. At the formal end of the Round in April 1994, however, ministers of the member states of the newly created WTO agreed that four services industries needed further work and authorized continued negotiations.[10] In the case of financial services, such negotiations were extended until June 30, 1995. The scope of these negotiations was broad, including banking, investment, insurance, and all other financial services related to these three areas. The negotiations excluded services performed by central banks and other monetary authorities, agencies governing social security and other public retirement plans, and other services performed by entities acting on behalf of member governments.[11] The objective of the request/offer process employed in the negotiations was to develop liberalizing commitments on market access and national treatment that could be extended to all parties on a most-favored-nation (MFN) basis.[12] More broadly, extended negotiations on financial services required negotiators to strike an acceptable balance between greater liberalization and prudential regulation. All countries enforce the latter in order to protect consumers and ensure the solvency of financial systems. Because prudential regulations predominantly focus on establishment of commercial presences,[13] the negotiations to liberalize financial service markets ultimately focused most intensely on rights to invest in and establish a commercial presence in foreign markets.

The extended negotiations of 1995 resulted only in an interim agreement.[14] Realizing the importance of financial services to all international trade transactions, however, WTO member states agreed to yet another extension of these negotiations, which resumed formally in April 1997 and ended on December 12, 1997.[15] On the latter date, negotiations concluded with a permanent agreement, based on the MFN principle.

Scope and Structure

The Uruguay Round's General Agreement in Trade in Services (GATS) includes all service sectors in the broad GATS "Framework" agreement signed in Marrakesh in April 1994, which took effect on

[4] Seventy member states offered revised (new or improved) schedules during the period July-Dec. 1997. Thirty-two other WTO member states submitted financial services schedules in 1993 or 1995 and left them on the table, choosing not to revise them in 1997.

[5] White House, *Statement by Secretary Rubin and Ambassador Barshefsky*, Dec. 13, 1997.

[6] Ibid.

[7] Ibid.

[8] WTO, Committee on Trade in Financial Services, *Fifth Protocol to the General Agreement on Trade in Services*, Dec. 12, 1997. There are provisions as to alternative actions if some members fail to ratify the Protocol. See the WTO, Council for Trade in Services, *Decision of December 1997 on Commitments in Financial Services*, S/C/W/32, Dec. 13, 1997. Such measures include a period of 60 days beginning on March 1, 1999, when members could modify or withdraw all or part of the commitments on financial services inscribed in their Schedules of Commitments.

[9] Market access determines the conditions under which companies may enter a given market. National treatment confers on foreign firms essentially the same rights and obligations enjoyed by domestic firms.

[10] In addition to financial services, extended negotiations focused on basic telecommunications, the movement of natural persons, and maritime transport services. The basic telecommunications negotiations were successfully concluded in February 1997, and took effect (after an agreed upon delay) on Feb. 5, 1998. See "Date agreed for telecoms pact," *Financial Times*, and "WTO telecom pact effective Feb. 5," *Journal of Commerce*, both on Jan. 27, 1998.

[11] GATT Secretariat, *The Results of the Uruguay Round of Multilateral Trade Negotiations* (Geneva: GATT Secretariat, 1995), p. 355.

[12] The MFN principle states that whatever trade liberalizing commitments a nation makes to one trading partner it must also make to all other WTO member states.

[13] Ingo Walter, *Global Competition in Financial Services* (Cambridge: Ballinger Publishing Co., 1988), p. 182.

[14] For a discussion of the financial services negotiations through June 30, 1995, see USITC, "Financial Services: An Overview of the World Trade Organization's Negotiations," *Industry, Trade, and Technology Review*, USITC publication 2942, Dec. 1995, pp. 1-12.

[15] See WTO, Council for Trade in Services, "Second Decision on Financial Services," adopted July 21, 1995 (S/L/9). The originally agreed date for completion of the extended/renewed negotiations was December 31, 1997. In April 1997, WTO members unanimously agreed to move this deadline to December 12.

January 1, 1995. For with all sectors, including those of the financial sector, the individual country offers to its trading partners are defined in each country's "schedule of specific commitments." These schedules delineate the market access and national treatment commitments that are to apply equally to its trading partners, including the MFN exceptions and local reservations it withholds (a bottom-up approach). The negotiation of these country schedules on a bilateral "request/offer" basis contributed to the protracted Uruguay Round negotiations, not least in financial services. More than 100 nations made individual requests for liberalized trade to every other partner, which then decided if the request could be met on an MFN basis, in each of four different "modes" of delivery of the service for both market access and national treatment. These four modes were cross-border delivery of services, consumption abroad, commercial presence, and the presence of natural persons.

Objective of the Negotiations

In essence, the negotiation's agreements provide guarantees regarding the conditions under which foreign financial services providers may operate in WTO members' territories. A list of such guarantees could be expected to lead to comparative rankings of the degree to which foreign investors and financial services providers are welcome in a given nation.[16] At the same time, negotiators recognized that the 1997 agreement was only a basic foundation for global trade in financial services; time would determine if a considerably grander infrastructure might eventually be constructed.[17]

The broad objective of all services negotiations under the GATS has been to create a rule-based global system that could be enforced by impartial WTO expert panels.[18] The system would include (1) transparent national rules; (2) MFN-based national commitments that could not be withdrawn penalty free without unanimous agreement of WTO members (or, if withdrawn unilaterally, penalties paid); (3) effective access by foreign services providers to other WTO member country markets; (4) foreign financial services providers to receive essentially the same treatment as domestic producers;[19] (5) use of the WTO dispute resolution mechanism to resolve disagreements on interpretation and enforcement of commitments; and (6) progressive liberalization of commitments over time.[20] These would in turn provide financial institutions around the world with a written, enforceable set of rules for international trade in financial services, giving them a level of certainty and predictability in planning for foreign investment and operations that they never had before.

During the 1995 financial services negotiations, the United States decided that the financial services schedules of a number of key countries were not sufficiently liberalizing to warrant guaranteeing current and future access to the U.S. market on an MFN basis.[21] Thus the final 1995 U.S. schedule, which took effect on June 30, 1995, guaranteed only the level of market access associated with the current activities of foreign firms already in the U.S. market. However, these companies' opportunities to expand, for example, by taking advantage of 1994 legislation for interstate bank branching, possible future Glass-Steagall reform on integrated banking, and opportunities for new companies to enter the U.S. market, were not guaranteed and could be conditioned on reciprocal access being accorded U.S. firms in the company's home market.[22] It was due in part to this U.S. position and the resulting broad MFN exemptions written into the U.S. schedule of commitments that led to the 1995 interim agreement and the decision to further extend the negotiation to 1997. In

[16] USITC staff conversations with WTO negotiators, Geneva, 1992-1997.

[17] Ibid.

[18] This enforcement mechanism differentiates the General Agreement on Trade in Services (GATS/WTO) from the old General Agreement on Tariffs and Trade (GATT) system, which required unanimous consent to act. Under the new GATS, this is totally reversed: action is automatic unless there is unanimous consent that the WTO should not act. Once a WTO panel has reached a decision, only a unanimous vote of the WTO's Council for Trade in Services can overturn it. There is also a modest formal appellate procedure, which is aimed at insuring that panel decisions form, over time, a cohesive set of rulings. Additionally, financial services panels must include members with expertise in financial matters. See WTO, "Dispute Settlement," at Internet address http://www.wto.org/wto/dispute/dispute.htm, retrieved Apr. 6, 1998.

[19] Rules and regulations of any country may provide special rules for foreign providers of services, often for prudential regulatory reasons. But adverse discrimination based on nonprudential considerations should be avoided.

[20] A WTO member can undertake such progressive liberalization unilaterally at any time and bind it in its schedule. The next formal WTO services negotiations are scheduled for the year 2000.

[21] For a discussion of the financial services negotiations through June 30, 1995, see U.S. International Trade Commission (USITC), "Financial Services: An Overview of the World Trade Organization's Negotiations," *Industry, Trade, and Technology Review*, USITC publication 2942, Dec. 1995, pp. 1-12.

[22] U.S. Department of State telegram, "WTO Financial Services Negotiations," message reference No. 5108, prepared by U.S. Mission, Geneva, June 30, 1995. Also U.S. Department of State telegram, "WTO Financial Services Negotiation," reference No. 165936, prepared by U.S. Department of State, Washington, DC, July 11, 1995.

short, it was broadly acknowledged by negotiators and industry representatives that a WTO financial services agreement that did not include an unambiguous MFN-based commitment by the United States, the world's largest financial services trading nation, would tend to undermine the fundamental premise of the agreement and not meet the initial goal of liberalizing global trade and investment in this key sector.[23]

In early 1997, U.S. negotiators met with U.S. financial services regulators and industry representatives in order to determine broadly what additional commitments the United States would need from the extended negotiations in order to agree to a permanent MFN-based agreement. At the end of March 1997, the United States forwarded a formal request to each of its trading partners (with the exception of Canada, the European Union (EU), Mexico, and Switzerland), listing the improvements the United States wanted to see in each trading partners' 1995 offer. Trading partners who had no financial services offer on the table were invited to submit one. In addition to specific requests based on broad GATS principles, and items such as improved scope of offers to include additional financial services subsectors and the elimination of economic needs tests,[24] the United States requested its trading partners to make commitments that would broadly:

- allow foreign services providers in WTO member countries to establish and operate in the form of their choice, i.e., as a subsidiary, branch, or joint venture;
- permit full majority ownership;
- guarantee the existing rights of foreign financial services providers;[25] and
- provide substantially full national treatment.[26]

[23] USITC staff conversations with global trade negotiators and industry representatives, 1992-1997.

[24] Economic needs tests assess the impact of new market entrants on the indigenous industry. Such assessments may result in a negative determination if market entry is considered likely to have a detrimental effect on market structure, profitability, population density, geographic distribution, and job creation.

[25] Such existing rights would include the equity percentage held in joint ventures, or other treatment. Once a stipulation is gained, it should not be withdrawn. Companies would not be forced to divest such provisions, even if more onerous conditions are imposed on new market entrants.

[26] USTR and U.S. Dept. of the Treasury, letters to WTO financial services trading partners, March 31, 1997.

Summary of Commitments on Financial Services

The Quad and OECD member states

As with many multilateral negotiations in Geneva, the "Quad" trading partners (the United States, the European Union, Japan, and Canada) informally led the overall negotiation by placing their schedules on the table early, sharing information and coordinating their requests to all trading partners, and exchanging views frequently in regard to the progress and problems of the negotiation. All four Quad partners, plus Switzerland and several other nations, had their new (revised) "best" offers on the table by July 1997, attempting to encourage other countries to finalize and submit their own schedules. The United States, for example, withdrew its broad MFN exemptions from its 1995 schedule. These early schedules, with all subsequent ones, were made on a conditional basis, subject to withdrawal or modification pending the satisfactory completion of the whole negotiation.[27]

The Quad partners are the primary providers of global financial services simply due to the size of their markets and the existing trade between them, although these markets are relatively mature.[28] Between 1994 and 1995 (latest available figures) the overall U.S. insurance market grew by only 1.1 percent, and the figure for the G7 countries[29] was 3.3 percent. Conversely, the emerging world economies were growing at a much faster pace. For example, the insurance markets of the five original members[30] of the Association of South East Asian Nations (ASEAN) grew by 12.8 percent in real terms during the same period.[31] Such growth indicators caused negotiators to focus on establishing improved rules for investment and the conduct of global financial services in emerging economies at a time when the globalization of these economies, for trading in both good and services, was still in its relative infancy. Such globalization is dependent on financial services in nearly all its aspects. Moreover, although OECD financial services guidelines are generally liberal ones, the OECD has no formal enforcement mechanism. Therefore, binding OECD commitments in the WTO is important because it brings such commitments under the WTO dispute resolution mechanism.

[27] See WTO, Committee on Trade in Financial Services, minutes of meetings, Geneva, July and Sept., 1997.

[28] For example, annual insurance premiums for the four Quad markets represented over 86 percent of the global total in 1995, which is the latest figure available. Swiss Re, *Sigma*, No. 4/1997, p. 18.

[29] The G7 countries are the United States, Canada, Germany, United Kingdom, France, Italy, Japan.

[30] The five original members of ASEAN were Indonesia, Malaysia, Philippines, Thailand, and Singapore.

[31] Swiss Re, *Sigma*, p. 26.

The United States made the decision early in 1997 that it would make no additional requests for improvements to the schedules of the European Union, Canada, or Mexico.[32] Cross-investment and trade between the United States and these three trading partners was already extensive. For Canada and Mexico, the North American Free Trade Agreement (NAFTA) had primarily resolved or gone beyond the WTO financial services issues in Geneva, while negotiations with the European Union were carried out in 1993 and 1995.[33]

The United States presented a similar situation vis-a-vis most of its other OECD trading partners. The founder OECD member states already had generally acceptable WTO schedules from previous financial services negotiations in 1993 and 1995, which largely reflected a "standstill" position of their existing laws and regulations. The newer OECD trading partners, including Mexico, Hungary, Poland, and the Czech Republic, generally were willing to bind the OECD accession commitments made since the 1995 interim agreement in their 1997 WTO schedules, thus producing considerably liberalized financial services schedules.[34]

Japan and Korea

The exceptions among the OECD member states were Japan and Korea.[35] Japan was perceived as presenting a particular problem. Although its WTO schedule generally reflected a liberalized financial services regime, Japan's trading partners were of the view that the internal regulatory controls and practices of Japan[36] effectively limited foreign commercial participation in Japan's financial markets. The United States had attempted to resolve this problem with extended "Framework" bilateral negotiations on both insurance and pensions/investment rules. In two complex, separate sets of talks in the period 1994 to 1996, agreements in these areas had been reached.[37] Prolonged disagreements subsequently ensued, however, as to precisely what obligations had been undertaken and implemented. In the case of insurance, for example, it took another year of talks and an additional formal agreement to clarify the obligations of the earlier text.[38] Having encountered similar difficulties with these kinds of bilateral agreements with Japan, the United States, the EU, and other trading partners sought to include the provisions of these agreements as "additional commitments" in the Japanese WTO schedule, thus binding them and subjecting interpretation and enforcement of their provisions to the WTO dispute settlement mechanism in case of further disagreement.[39] Japan strongly resisted such an inclusion,[40] but finally agreed to include them during the final hours of the negotiation.[41] The United States agreed to include its own obligations from these bilateral texts in its own schedule, also as "additional commitments."[42] Some WTO observers believe that this ability to include items that fall outside the GATS traditional purview in WTO schedules, such as regulatory practices, is a sign that the WTO can address "real" trade liberalization deterrents in future negotiations.[43]

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[32] The converse was not true. The EU did present a request list to the United States, headed by the request that the United States withdraw its broad MFN exemptions from its 1995 offer. See USTR and U.S. Dept. of the Treasury, letters to WTO financial services trading partners requesting revisions to WTO schedules, March 31, 1997.

[33] Also see later comments on Latin and North America.

[34] See WTO Financial Services final schedules for the OECD member states, Geneva, Dec. 1997.

[35] Ibid.

[36] These practices included the *keiretsu* system of interlocking company directorates and an informal system of regulatory practices whereby written or oral "administrative guidance," technically nonbinding but perceived as a government mandate, was provided to Japanese firms in lieu of formal, transparent rulings of law which could be appealed.

[37] USTR, *Measures by the Government of the United States and the Government of Japan Regarding Insurance*, October 11, 1993; and U.S. Treasury Department, *Measures by the Government of the United States and the Government of Japan Regarding Financial Services*, Feb. 3, 1994. Both the United States and Japan pledged to multilateralize these agreements in public statements to the WTO's Committee on Financial Services in 1995. The European Union thus joined the United States and several other countries in requesting Japan to list the obligations undertaken in the agreements in their WTO schedules.

[38] USTR, *Supplementary Measures by the Government of the United States and the Government of Japan Regarding Insurance*, Dec. 24, 1996.

[39] USITC staff interviews with financial services executives, Washington and Geneva, May 1997.

[40] The initial WTO revised schedule by Japan, tabled in Geneva on July 11, 1997, made no mention of these provisions.

[41] WTO, Committee on Trade in Financial Services, *Communication from Japan, Revised Offer on Financial Services*, Dec. 12, 1997.

[42] As opposed to highly specific Japanese additional commitments, the U.S. obligations are general in nature, e.g., "Taking note of principles of federalism under the United States Constitution, recognizing that insurance has been regulated at the state government level since the beginning of insurance regulation in the United States, ...the Government of the United States welcomes efforts by the National Association of Insurance Commissioners ('NAIC') to promote the harmonization of state insurance regulation, through such steps as its Accreditation Program and the preparation of model insurance laws." See WTO, Committee on Trade in Financial Services, *Communication from the United States of America, Revised Offer on Financial Services*, Dec. 12, 1997.

[43] USITC staff conversations with WTO financial services negotiators and financial services executives, Geneva, Dec. 5-12, 1997.

Korea posed other difficulties. Korea acceded to the OECD in 1996 and undertook various financial liberalization promises to be introduced over time. The United States and other WTO trading partners requested that Korea, at a minimum, bind all of these commitments, plus additional ones, in its WTO schedule.[44] Korea refused, arguing that the presidential elections in Korea in December 1997 made further improvement politically impossible,[45] and bound only its OECD commitments that had taken effect through August 1997. Thus, although Korea's schedule does reflect considerable liberalization over its 1995 offer, including removal of its economic needs test, the schedule does not guarantee foreign firms access to pensions, brokerage, joint-ventures with Korean insurance firms, and other items that its trading partners had requested and that were part of Korea's OECD (eventual) accession commitments.[46]

Eastern Europe

Eastern European countries scheduled significant trade liberalizing commitments during the 1997 negotiation, partially because they were starting from a low base. Nations such as Hungary, Poland, the Czech Republic, and Bulgaria,[47] and to a somewhat lesser degree the Slovak Republic, Slovenia, and Romania had provided truncated schedules in 1995 but had passed new liberalizing domestic legislation in the intervening period. These nations now proved ready to guarantee the levels of access associated with the liberalized rules to both domestic and foreign investors via WTO bindings. Indeed, several of these states had acceded to the OECD, and proved willing to bind their OECD commitments on an MFN basis.[48]

Southeast Asia

One of the greatest question marks to a successful negotiation was the degree to which the member states of ASEAN would be willing to liberalize their financial services sectors in regard to market access and national treatment.[49] These states had burgeoning markets for financial services, created by economic growth rates of about 10 percent annually for the past decade. The 1995 financial services negotiation had pointed to several ASEAN problem areas as seen by developed market economies.[50] Furthermore, during the progress of the 1997 negotiation, Thailand, Indonesia, the Philippines, and Malaysia (plus Korea) faced a series of currency devaluations and financial crises.[51] This led to claims that there was no time to deal with financial services liberalization.[52] The United States, the European Union, and other WTO member states noted, however, the existence of the stringent and broad provisions for prudential regulatory relief within the GATS, as well as the fact that the negotiation was not about either monetary policy or currency exchange rates;[53] rather, it was about guarantees of market access and national treatment for foreign investors. Further, some contended that if foreign competition in Asian domestic financial markets had been allowed earlier, the crises might well have been mitigated, as evidenced by the largely unaffected economic performance of such economies as Hong Kong and Singapore.[54]

The most significant problem with ASEAN countries for the OECD members in general, and the United States in particular, concerned the Malaysian insurance schedule.[55] Malaysia's 1997 offer was somewhat

[44] See USTR and U.S. Dept. Of the Treasury, letter to Korea requesting revisions to its WTO schedule, March 31, 1997.

[45] See Korea's revised WTO financial services offer, Geneva, Sept. 4, 1997.

[46] During the ratification process extending through January 1999, Korea's trading partners are expected to encourage Korea to bind further liberalizations in its formal WTO schedule. Korea's acceptance of International Monetary Fund loans, helping it to stabilize its currency and financial system, is considered likely to assist this effort to broaden further its formal WTO financial services commitments.

[47] Bulgaria acceded to the WTO only in December 1996. It is the only known non-OECD country that agreed to submit its schedule in accordance with the "Understanding on Commitments in Financial Services," thus indicating an enhanced willingness to open its financial markets more widely to foreign market access and national treatment.

[48] See WTO Financial Services final schedules for the various nations, Geneva, December 1997.

[49] WTO, Committee on Trade in Financial Services, Minutes of meetings, Geneva, Jan.-June 1995, and Apr.-Dec. 1997.

[50] See USITC, "Financial Services: An Overview of the World Trade Organization's Negotiations," *Industry, Trade, and Technology Review*, USITC publication 2942, Dec. 1995, pp. 1-12.

[51] These had started in Thailand in April 1997, and gradually spread through much of the region.

[52] See WTO, Committee on Trade in Financial Services, Minutes, Statement by Thailand, June 1997.

[53] See WTO Secretariat study, *Open Markets in Financial Services and the Role of the GATS,* Geneva, Sept. 15, 1997. Also, letter of U.S. Treasury Secretary Robert E. Rubin to WTO Director General Renato Ruggiero, dated Aug. 15, 1997; and U.S. Dept. of the Treasury, press release, "Building a Global Financial Services System for the 21st Century," remarks by Deputy Treasury Secretary Lawrence H. Summers to the Congressional Economic Leadership Council, Aug. 12, 1997.

[54] Ibid.

[55] WTO, Committee on Trade in Financial Services, Minutes of meetings, Geneva, Apr.-Dec. 1997.

improved over its 1995 one. The main improvements were an increase to 51 (from 49) percent foreign equity allowance for life and nonlife (property/casualty) insurance companies already established in Malaysia,[56] and the creation of seven new nonlife and six new life reinsurance licenses[57] that would be issued before June 2005, subject to certain criteria. The problem, however, was Malaysia's retention of a provision forcing nine foreign insurance companies to divest their equity holdings exceeding 51 percent[58] to Malaysian partners no later than June 1998. Failure to do so could mean that their acquired rights would be forcibly divested to a maximum 30 percent equity share. As a matter of principle, this was unacceptable to the United States and to other WTO trading partners.[59] In 1995, the United States had indicated to Malaysia that such a tactic was inconsistent with the core purpose of the GATS. Rather than promoting trade liberalization, the United States argued, Malaysia was attempting to use an enforceable multilateral trade agreement to formally enshrine a regressive action. Nevertheless, despite negotiations at very high levels, Malaysia did not move on this question. After much discussion in the final hours of the negotiation, both in Washington and Geneva, the United States added a narrowly drafted MFN exception to its schedule stating that it reserved its right to retaliate against any nation that attempted to forcibly divest a company's historically acquired rights after December 12, 1997.[60] Malaysia was the only country in the negotiation that placed such a regressive provision in its schedule. The United States made clear that it hoped it could ". . . resolve outstanding issues in this area so as to avoid the necessity of retaining this exception."[61]

On the same issue, in contrast to the Malaysian position, a major impetus to a successful conclusion of the negotiation was obtained as the Philippines,[62] Indonesia, and Singapore (as well as non-ASEAN nations Pakistan and Argentina) formally and unambiguously grandfathered the acquired rights of foreign firms operating in their markets.[63] Additionally, Indonesia came forth with a schedule guaranteeing 100 percent foreign ownership in stock-exchange listed foreign subsidiaries. The United States considered the ASEAN country schedules of Singapore, the Philippines, and Indonesia to be broadly acceptable, while those of Malaysia and Thailand contained unacceptable major restrictions.[64]

Latin America

Broadly, the Latin American schedules reflected considerable domestic liberalization since 1995, irrevocably guaranteeing, for example, 100 percent ownership for foreign financial services firms in Brazil, Bolivia, Chile, Columbia, Ecuador, Peru, Uruguay, and Venezuela.[65] Brazil again failed to amend Article 159

[56] New foreign entrants to the Malaysian market are capped at a 30 percent equity holding.

[57] Six new reinsurance licenses (unspecified) had been promised in the 1995 Malaysia schedule.

[58] See WTO, revised Malaysian financial services schedule, Geneva, Dec. 1997. Such historical equity share holdings are known as "acquired rights" in the jargon of international trade negotiations. At least one company under pressure to divest was a wholly-owned subsidiary of a U.S. insurance company.

[59] U.S. Deputy Trade Representative Jeffery Lang, remarks to the Conference on Insurance and the WTO, International Insurance Council, Washington, D.C., Mar. 10, 1998.

[60] Remarks by U.S. Deputy Trade Representative Ambassador Jeffrey Lang to the WTO Committee on Trade in Financial Services, Dec. 12, 1997. The exemption applies only to insurance, is for an indefinite period, and is justified as the "need to protect existing U.S. ownership of service suppliers operating in other Members." (sic) The exemption reads as follows: "Measures according differential treatment in regard to the expansion of existing operations, the establishment of a new commercial presence or the conduct of new activities, in a circumstance in which a Member adopts or applies a measure that compels, or has the effect of compelling, a person of the United States, on the basis of its nationality, to reduce its share of ownership in an insurance services provider operating in the Member's territory to a level below that prevailing on 12/12/97." WTO, Committee on Trade in Financial Services, *Communication from the United States of America, Revised Offer on Financial Services*, S/FIN/W/12/Add.5/Rev.2, Dec. 12, 1997.

[60]*—Continued*

[61] WTO, Committee on Trade in Financial Services, final plenary session, statement by U.S. Representative Ambassador Jeffrey M. Lang, Dec. 12, 1997.

[62] The Phillippines had grandfathered existing acquired rights in its 1995 schedule.

[63] See the final WTO schedules of financial services commitments for these nations, WTO Secretariat, Geneva, Dec. 12, 1997. It should be noted that some nations take the position that grandfathering acquired rights is not desirable, in that such provisions create two tiers of investors--those already established and future investors--with perhaps different rules governing them. Australia was one quiet proponent of this position early in the 1997 extended negotiation.

[64] USITC staff conversations with USTR officials and U.S. financial services executives, Geneva, Dec. 10-15, 1997. In addition to the Malaysian problem on acquired rights, the Thai insurance offer, for example, did not budge from the guaranteed 25 percent foreign equity limit on life, nonlife, and brokerage, even though current Thai practice permits considerably more. Overall, the United States devoted an extraordinary amount of time and effort to negotiations with the ASEAN member states, with two special trips to the region by U.S. negotiators, and many other forms of conversations and communications in varied forums. These included the 1997 APEC Senior Officials meeting in August, the IMF/World Bank annual meeting in September in Hong Kong, and the Vancouver APEC Leaders' Meeting in November, among others.

[65] Argentina currently allows 100 percent ownership in insurance in some circumstances, but did not bind this com-

of its Constitution, as promised over several years of the negotiation and which would permit guarantees of significant liberalization in its financial services market for foreign producers.[66] Brazil did note in writing, however, its intention to bind such liberalization in its WTO schedule within two years of the passage of necessary legislation.[67]

North America

Although it had no impact on the United States because of rights it already enjoys under the NAFTA, Canada did liberalize its WTO offer by allowing bank branching on an MFN basis. Similarly, WTO trading partners encouraged liberalization of Mexican financial markets, and Mexico did so by raising the allowable aggregate foreign participation levels in domestic financial sectors from 30 percent to 40 percent for insurance companies, and by extending the scope of its commitments to include pension funds. This would make Mexican investment more attractive to some non-NAFTA financial services providers. Moreover, many large foreign financial service companies already had subsidiaries in the United States or Canada, and thus already were eligible for NAFTA benefits by entering the Mexican market via these entities.

Other countries

India's position on insurance disappointed many WTO members and private-sector financial executives from several OECD nations.[68] The insurance market of India remains a state-owned monopoly, despite serious consideration of privatization since 1993;[69] India thus made no significant commitments on insurance in its schedule. However, India did improve slightly its banking and securities offer, and removed an MFN exemption requiring reciprocal treatment for Indian firms in other WTO countries. Pakistan and Egypt produced improved offers over 1995, but those had started from meager foreign participation provisions—several financial services sectors in those nations still await liberalization.[70] In other areas, Turkey and South Africa made significantly liberalized trade offers, as did several other smaller nations, including, for example, Israel, Bahrain, and Cuba.[71] Several African and Caribbean area WTO member states also submitted improved offers.[72]

Impact on the United States

President Clinton, U.S. Trade Representative Barshefsky, Secretary of the Treasury Rubin, and the U.S. financial services industry all hailed the successful conclusion of the agreement.[73] In the words of Deputy U.S. Trade Representative Jeffrey Lang who headed the U.S. negotiating team in these talks in both 1995 and 1997:

65—*Continued*
mitment in its schedule. Some countries allow 100 percent foreign ownership as either formal subsidiary companies or as branch operations. Some restrict 100 percent foreign ownership to subsidiary operations only. Among the latter for insurance are Brazil, Chile, and Venezuela. For banks, 100 percent foreign ownership is guaranteed in Argentina, Brazil, Bolivia, Chile, Colombia, Ecuador, and Uruguay.

66 See, for example, WTO, Committee on Trade in Financial Services, Minutes of meetings, Geneva, Nov.-Dec. 1997.

67 WTO, Committee on Trade in Financial Services, *Communication from Brazil, Revised Offer on Financial Services*, Dec. 12, 1997. In insurance, Brazil promised to bind the dissolution of the national reinsurance company, IRB, prior to the two-year window after the passage of the necessary legislation. Brazil's trading partners will likely monitor legislative activity during the protocol ratification period, with the view towards insisting that Brazil incorporate and bind new liberalizing legislation in its schedule.

68 See, for example, comments by the United States, EU, and Canadian delegations to the WTO Committee on Trade in Financial Services, Minutes of meetings, Geneva, April-Dec. 1997. Also, USITC staff interviews with financial services executives, Geneva, Dec. 10-14, 1997.

69 In November 1993, a Government of India-appointed study commission (Moholtra) recommended that private investment and foreign participation in the insurance sector be permitted. This proposal is highly politically sensitive, due principally to the large numbers of people employed in this state sector who fear loss of their jobs. Subsequent Indian governments have not yet found it possible to carry legislation that would permit private investment in India's insurance market, although an insurance regulatory agency has been created (previously unneeded due to the nationalized system).

70 WTO, Committee on Trade in Financial Services, financial services revised schedules, Dec. 12, 1997.

71 Ibid.

72 Ibid. Among these were Nigeria, Kenya, Tunisia, Costa Rica, Mauritius, Senegal, Jamaica, and the Dominican Republic. Conversely, the Cote D'Ivoire submitted a new, regressive table of MFN exemptions dealing primarily with CFA franc zone restrictions.

73 See, for example, The White House, Office of the Press Secretary, "Statement by the President on Financial Services Agreement," Dec. 12, 1997; The White House, Office of the Press Secretary, "Statement by Secretary Rubin and Ambassador Barshefsky Regarding the Successful Conclusion of WTO Financial Services Negotiations," Dec. 13, 1997; remarks by Timothy Geithner, Assistant Treasury Secretary for International Affairs, at the Coalition of Service Industries Briefing, Washington, DC, Jan. 13, 1997 (Reported in LEGI-SLATE Report for the 105th Congress, Federal Information Systems Corporation, Transcript 980130016). Also, industry comment as found in "BankAmerica Response to WTO Financial Services Agreement," Business Wire, Dec. 13, 1997, NewsEdge; and the letter by the International Insurance Council (Washington, D.C.) to the President of the United States, Dec. 13, 1997 commending the United States on the successful completion of the negotiations.

> Financial services is one of the fastest growing areas of the global economy. It's also one of our most competitive industries here in the United States, with significant U.S. domestic employment. We export nearly seven times what we import in financial services.
>
> Given this competitive advantage, we made clear that we wouldn't sign on to a deal unless other countries made commercially meaningful commitments to open their markets . . . . The deal reached in December goes a long way to achieving those objectives. . . . In fact, when we began negotiating on financial services, most of the countries that are part of the deal today only had limited foreign participation in their markets. But the agreement we reached guarantees access to nearly every significant financial market in the world.[74]

Basic Telecommunications Services

Negotiators concluded the Agreement on Basic Telecommunications Services on April 30, 1996, but extended negotiations concerning specific commitments until February 15, 1997. As detailed fully in the 1996 edition of this report, the agreement was concluded among 72 countries and covers nearly 93 percent of world revenues in telecommunications.[75] It provides market access for local, long-distance, and international service through any means of network technology. In all, 69 countries scheduled commitments that allow, or will phase in, foreign ownership or control of many or all telecommunications service providers and facilities, with 57 trading partners adopting procompetitive regulatory principles.[76]

The agreed deadline for acceptance of the telecommunications agreement and associated national schedules of specific commitments was December 1, 1997, and the agreement's entry-into-force was to be January 1, 1998. However, given the considerably reduced implementation period available following the extension of negotiations into February 1997, several parties had difficulties completing their acceptances by the December date, forcing the original entry-into-force date to be postponed. On December 19, 1997, WTO Members that had accepted the agreement (50 that had accepted formally, plus another 5 that indicated their acceptances were ready) met in Geneva to consider a new effective date for the agreement. At that time, the following participants had not accepted the agreement's protocol: Argentina, Belgium, Bolivia, Brazil, Brunei, Bulgaria, Chile, Dominica, Dominican Republic, Ghana, Guatemala, Papua New Guinea, the Philippines, Poland, and Romania. Negotiators met again on January 26, 1998, and agreed that the Agreement on Basic Telecommunications Services would enter into force on February 5, 1998.[77]

Information Technology Agreement

On March 26, 1997, 39 countries concluded an Information Technology Agreement (ITA), as agreed at the WTO Singapore Ministerial Conference in December 1996.[78] The ITA entered into force on July 1, 1997, covering nearly 95 percent of world trade in information technology products with participation rising to 43 countries. In most cases, tariffs will be eliminated on these products by 2000. The information technology sector accounts for roughly $1 trillion in global production and $500 billion in trade flows.[79] Participants in the ITA agreed to complete negotiations in mid-1998 to expand coverage and implement the results of the negotiation beginning in January 1999. In January 1998, most of these participants announced that they were prepared to begin negotiations in the WTO on an "ITA-II" that would extend coverage more fully into product areas that are driven by information technology, such as computer-based scientific and analytical equipment, global positioning systems, and related inputs and manufacturing equipment such as for the production of printed circuit boards.[80] In addition, China pledged in November 1997 to participate in the ITA as part of its accession negotiations.

High-Level Meeting on Least-Developed Countries

At the WTO Singapore Ministerial Conference in December 1996, Ministers adopted the "Comprehen-

[74] Remarks by Ambassador Jeffrey Lang, Deputy U.S. Trade Representative, at the Coalition of Service Industries Briefing, Washington, DC, Jan. 13, 1997 (Reported in LEGI-SLATE Report for the 105th Congress, Federal Information Systems Corporation, Transcript 980130125).

[75] WTO, "WTO Telecoms Deal Will Ring in the Changes on 5 February 1998," PRESS/87, Jan. 26, 1998.

[76] For further details, see section on "Telecommunications Services Negotiations" in USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 36-39.

[77] USTR, "WTO Sets February 5, 1998 for Entry into Force Date of Global Telecommunications Agreement," press release 98-06, Jan. 26, 1998.

[78] For further detail, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 20-23.

[79] USTR, "U.S. Ready to Lead in 'ITA II' Negotiations to Expand Sweeping Information Technology Trade Agreement," press release 98-07, Jan. 27, 1998, p. 2.

[80] Ibid. The President is required to obtain advice regarding such expanded coverage, forthcoming in the USITC investigation, Advice on the Proposed Expansion of the Information Technology Agreement (Investigation No. 332-390).

sive and Integrated Plan of Action for Least-Developed Countries." Its aim is to provide an overall, coordinated approach for measures taken in favor of these countries. The Plan of Action focuses on four specific areas: (1) implementation of the Uruguay Round Agreements Decision on Measures in Favour of Least-Developed Countries; (2) human and institutional capacity-building; (3) market access; and (4) other initiatives. One element of the Singapore Ministerial Declaration called for a meeting with the United Nations Conference on Trade and Development (UNCTAD) and the International Trade Centre "as soon as possible in 1997, with the participation of aid agencies, multilateral financial institutions, and least-developed countries to foster an integrated approach to assisting these countries in enhancing their trading opportunities."[81]

The LDC Plan of Action foresees closer cooperation between the WTO and other multilateral agencies that are engaged in promoting growth in the least-developed countries (LDCs[82]) to coordinate various national and international aid efforts, ensure appropriate macroeconomic policies, and create improved market access and supply-side measures. In June 1997, preparations were made for a high-level meeting (HLM) on least-developed countries that would first bring together six core multilateral financial and aid organizations involved with the LDCs—the International Monetary Fund (IMF), International Trade Centre, UNCTAD, United Nations Development Program (UNDP), World Bank, as well as the WTO.

The High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development was held October 27-28, 1997, bringing together LDCs with the core multilateral organizations as well as interested WTO Members, observers, and other intergovernmental organizations (IGOs) involved in this area. In May 1997, the WTO Director-General sent invitations to all 48 LDCs to participate in the HLM, based on each such country's completion of a comprehensive assessment of its needs for trade-related technical assistance and for human and institutional capacity building. To help in each LDC's self-assessment, the invitation included a checklist concerning trade-related technical cooperation that encompassed areas of trade policy, impediments to expanding LDC trade, trade promotion efforts and support services, and communication and other technological assistance. The WTO drew up a list of leading products exported by LDCs to assist with market-access initiatives. On September 25-26, 1997, prior to the HLM, a Joint WTO-UNCTAD Symposium on Trade-Related Issues Affecting Least-Developed Countries was held in Geneva to gather the views of nongovernmental organizations (NGOs) concerning building capacity to trade and encouraging investment in the LDCs.[83]

Agenda

The HLM agenda included initiatives to improve market access for LDCs, country-specific roundtables, and thematic roundtables. The country roundtables featured 12 LDCs that had completed their national needs assessments. These countries were Bangladesh, Chad, Djibouti, Guinea, Haiti, Madagascar, Mali, Nepal, Tanzania, Uganda, Vanuatu, and Zambia. The country roundtables were intended to identify actions that the LDCs (individually or regionally) and aid agencies can take to overcome supply-side constraints to increased participation by LDCs in the multilateral trading system and world trade.

The thematic roundtables focused on two subjects: (1) building the capacity to trade in least-developed countries and (2) encouraging investment in least-developed countries. Their goal was to identify actions that the LDCs (individually or regionally) and aid agencies can take to promote private domestic and foreign direct investment in the tradeable goods and services sectors of LDC economies.

Outcome

Trade Ministers from 38 LDCs participated in the HLM along with the six intergovernmental agencies and delegates from other WTO and UNCTAD member governments. Announcements of existing or improved preferential market-access measures for LDCs were made by 19 developed and developing countries. These participants included Australia, Bulgaria, Canada, Egypt, the EU, Hungary, India, Japan, Korea, Malaysia, Mauritius, Morocco, Norway, Singapore, South Africa, Switzerland, Thailand, Turkey, and the United States. In addition, Hong Kong (China) said it will donate $1.25 million to the WTO trust fund for technical assistance.[84] The announcements of improved market access are to apply for the most part from the beginning of 1998. According to press reports, major

[81] WTO, "Singapore Ministerial Declaration," reprinted in *Focus*, No. 15, Jan. 1997, pp. 7-10.

[82] The abbreviation "LDC" has also been widely employed for "less-developed country" meaning a developing country as distinct from a developed country. In some cases, the abbreviation "LLDC" has at times been used to distinguish the 48 LLDC least-developed countries designated by the United Nations from other developing countries.

[83] WTO, "WTO, UNCTAD Get NGO Inputs," *Focus*, No. 23, Oct. 1997, p. 8.

[84] WTO, "Inter-Agency Trade Assistance Programme Launched for Least-Developed Countries," PRESS/83, Oct. 30, 1997.

announcements included the following: (1) the EU announced its extension of duty-free access under the Lomé Convention to LDCs that do not belong to the group of African, Caribbean, and Pacific (ACP) countries—the former colonies of EU member states—that are the original beneficiaries of the convention's preferences; (2) the United States announced that it had added 1,743 duty-free tariff lines that will apply solely to LDCs under its Generalized System of Preferences (GSP) program;[85] (3) Norway announced it would provide zero duty treatment for most agricultural and industrial products including textiles from LDCs beginning in 1998; and (4) Canada said it would remove all duties below 2 percent ad valorem on products from LDCs as well as accelerate tariff reductions on others.

A number of emerging economies, including Egypt, Korea, Morocco, Thailand, and Turkey, announced more modest initiatives. Egypt said it would reduce duties by 10 to 15 percent on roughly 100 product lines. India said it would grant preferential access under 574 tariff lines, as well as remove quantitative restrictions applicable under 180 tariff lines, for LDCs. Indonesia and Malaysia announced they are working on a tariff-elimination package for the LDCs. Korea said it would introduce a GSP program. Morocco said it would grant duty-free access and exemptions from other charges to less-developed African countries in early 1998. Singapore said it will maintain zero-rate tariff duties on 107 products aimed at LDCs. Commitments to cut or eliminate tariffs or other plans aimed at products from LDCs were also made by Chile, Hungary, Mauritius, and others.

Although pledges to increase market access for products from the LDCs were praised, most participants recognized that market-access commitments are not alone sufficient. Rather, a capacity is needed within the LDCs to produce a broader range of goods, to increase exports of value-added goods, and to institute reforms that establish sound financial institutions, policies, and practices. Strengthened infrastructure for transport and telecommunications networks is also required.[86]

In this respect, the aim of the October 1997 HLM was to begin a process that is to be continued through recognized development channels, where technical assistance resources and mechanisms for coordination already exist, such as the consultative groups and ongoing development roundtables on LDCs within the World Bank and UNDP. LDCs that were not reviewed at or did not complete an individual needs assessment in time for the HLM can then be reviewed through these development channels as part of the integrated framework process. A group of 22 additional LDCs have asked to participate since the HLM, bringing to 34 the number of countries benefiting from the program.[87] The six intergovernmental agencies are to review the needs assessments of these countries by March 15, 1998, following which these agencies will develop an integrated package of technical assistance activities for these LDCs. Bilateral donors for each LDC are to be integrated fully into this process as certain donors often have special experience in assistance to particular countries, such as the EU assisting LDCs that were once EU member-state colonies or dependencies. The WTO Secretariat is pursuing discussions with the other intergovernmental agencies involved on the establishment of a follow-up mechanism to the HLM. The WTO Director-General will prepare a report of the outcome of the HLM for the WTO Ministerial conference in May 1998.[88]

A second element in the ongoing HLM process is to expand the focus of consultative groups and LDC development roundtables within the integrated technical-assistance framework to include investment considerations. A third element is likely to be ensuring a major emphasis on effective liberalization, institution-building, and improving LDC management skills for an expanded role in international trade and investment activities.

Select WTO Committee Activity

The World Trade Organization 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, including its so-called built-in agenda of future negotiations. 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

[85] This change to the GSP program was accomplished in 1997. For further detail, see section on GSP in ch. 5 of this report.

[86] Frances Williams, "Poor Nations Win Trade Concessions," *Financial Times*, Oct. 28, 1997, p. 5; John Zarocostas, "Rich, Emerging Nations Vow More Market Access," *Journal of Commerce*, Oct. 28, 1997, p. 4A; John Zarocostas, "Poor Nations Praise Trade Progress but Ask Developed Countries for More," *Journal of Commerce*, Oct. 29, 1997, p. 3A.

[87] WTO, "Follow-up to the High Level Meeting: 22 More LDCs to Benefit from the Progamme," *Focus*, No. 26, Jan. 1998, p. 8.

[88] WTO, "Inter-Agency Trade Assistance Programme Launched for Least-Developed Countries," PRESS/83, Oct. 30, 1997.

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 (TPRB)

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

- Council for Trade in Goods (CTG)
- Council for Trade in Services (GATS Council)
- Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council)

General Council[89]

During 1997, the General Council met eight times and discussed items put forward for its consideration, including observer status for intergovernmental organizations, various waivers of obligations for requesting Members, particular trade policy actions by certain Members, accessions, as well as matters internal to the WTO. The General Council agreed to regularize observer status for intergovernmental organizations that previously was granted on an ad hoc basis. The General Council appointed officers for 1997 to the various council and committee chairs, as well as to the three Working Groups (on Trade and Competition, Investment, and Transparency in Government Procurement) that were established by the Singapore Ministerial Declaration in December 1996. The General Council extended for one year the Working Party established under the Council for Trade in Goods to conduct the review of the Agreement on Preshipment Inspection.

In 1997, the General Council acted on requests for waivers from different Members for various reasons, including waivers of obligations regarding nomenclature changes to the Harmonized System (HS),[90] renegotiation of national schedules,[91] agricultural export subsidy commitments,[92] as well as preferential treatment for developing countries under national import programs. It took note of four Members acceding to the WTO in 1997, and considered items concerning other countries in the process of accession. Thirty accession working parties were outstanding at the end of 1997. (See table 2-1 for WTO membership in 1997 and table 2-2 for WTO accession working parties in 1997.) The General Council agreed to delete from the WTO Agreement (Annex 4) the International Dairy Agreement and the International Bovine Meat Agreement, following the termination of both at the end of 1997. (For further details, see section in this chapter on "Plurilateral Agreements.") The General Council also heard from Members regarding phaseout of India's balance-of-payments restrictions under GATT Article XVIII:B, criticism regarding Korean anti-import actions (so-called "frugality" campaign), and complaints concerning Brazil's import financing restrictions.

Finally, the General Council considered matters relating to the current term of service for WTO Deputy Directors-General, conditions of service for other WTO staff, the budget, and acceptance of the symbol used at the first WTO Ministerial conference as a logo for the WTO. In July 1997, the WTO General Council scheduled the second full WTO Ministerial meeting for May 18-20, 1998, in Geneva, Switzerland. The conference will be followed by a one-day meeting to commemorate the 50th anniversary of the multilateral trading system.

Council for Trade in Goods[93]

During 1997, the CTG met 14 times. The CTG appointed officers and heard recommendations on various rules of procedure and the status of notifications. The CTG opened discussions on trade facilitation and on the first major review of the Agreement on Textiles and Clothing as well as referred notification of free-trade agreements to the Committee on Regional Trade Agreements, among other actions. The CTG also heard other business regarding Members' bilateral trade practices.

Trade Facilitation.—Based on a proposal by the EU, the December 1996 Singapore Ministerial Decla-

[89] WTO, General Council, "General Council - Annual Report," WT/GC/10, Jan. 7, 1998; available through the WTO Document Dissemination Facility (DDF) found at Internet address http://www.wto.org/wto/ddf/. For the full reports of the WTO bodies mentioned in this section, see WTO, "Annual Reports (1997) - Volume I," and "Annual Reports (1997) - Volume II," WT/L/256, Jan. 21, 1998, retrieved from the DDF Jan. 29, 1998.

[90] Waivers to change HS tariff classifications were granted in 1997 to Bangladesh, Bolivia, Nicaragua, Sri Lanka, and Zambia.

[91] Senegal and Zambia.

[92] A waiver from its agricultural export subsidy obligations was granted in 1997 to Hungary following negotiations with Argentina, Australia, New Zealand, and the United States.

[93] WTO, Council for Trade in Goods, "Report (1997) of the Council for Trade in Goods," G/L/213, Dec. 9, 1997.

Table 2-1
WTO membership in 1997

Angola	Germany	Niger
Antigua and Barbuda	Ghana	Nigeria
Argentina	Greece	Norway
Australia	Grenada	Pakistan
Austria	Guatemala	Panama
Bahrain	Guinea	Papua New Guinea
Bangladesh	Guinea-Bissau	Paraguay
Barbados	Guyana	Peru
Belgium	Haiti	Philippines
Belize	Honduras	Poland
Benin	Hong Kong, China	Portugal
Bolivia	Hungary	Qatar
Botswana	Iceland	Romania
Brazil	India	Rwanda
Brunei Darussalam	Indonesia	Saint Kitts and Nevis
Bulgaria	Ireland	Saint Lucia
Burkina Faso	Israel	Saint Vincent and the Grenadines
Burundi	Italy	Senegal
Cameroon	Jamaica	Sierra Leone
Canada	Japan	Singapore
Central African Republic	Kenya	Slovak Republic
Chad	Korea	Slovenia
Chile	Kuwait	Solomon Islands
Colombia	Lesotho	South Africa
Congo[1]	Liechtenstein	Spain
Congo, Democratic Republic of[2]	Luxembourg	Sri Lanka
Costa Rica	Macau	Suriname
Cote d'Ivoire	Madagascar	Swaziland
Cuba	Malawi	Sweden
Cyprus	Malaysia	Switzerland
Czech Republic	Maldives	Tanzania
Denmark	Mali	Thailand
Djibouti	Malta	Togo
Dominica	Mauritania	Trinidad and Tobago
Dominican Republic	Mauritius	Tunisia
Ecuador	Mexico	Turkey
Egypt	Mongolia	Uganda
El Salvador	Morocco	United Arab Emirates
European Union	Mozambique	United Kingdom
Fiji	Myanmar (Burma)	United States
Finland	Namibia	Uruguay
France	Netherlands and N. Antilles	Venezuela
Gabon	New Zealand	Zambia
Gambia	Nicaragua	Zimbabwe

[1] Acceded as the Republic of Congo.
[2] Acceded as Zaire, now the Democratic Republic of the Congo.

Source: WTO, "Members," found at Internet address http://www.wto.org/wto/about/organsn6.htm, retrieved Feb. 13, 1998.

Table 2-2
WTO accession working parties in 1997[1]

Albania	Estonia	Oman
Algeria	Georgia	Russian Federation
Andorra	Jordan	Saudi Arabia
Armenia	Kazakhstan	Seychelles
Azerbaijan	Kyrgyz Republic	Sudan
Belarus	Latvia	Tonga
Cambodia	Lithuania	Ukraine
China	Macedonia	Uzbekistan
Chinese Taipei (Taiwan)	Moldova	Vanuatu
Croatia	Nepal	Vietnam

[1] Acceding countries have WTO observer status. In addition, Ethiopia and the Holy See (Vatican) have observer status, but without the expectation of acceding to the WTO at this time.

Source: WTO, "Members," found at Internet address http://www.wto.org/wto/about/organsn6.htm, retrieved Feb. 13, 1998.

ration called for the CTG to "undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area."[94] In June 1997, the WTO Secretariat presented a background note on work being done on trade facilitation in other organizations. Discussions among Members during the second half of 1997 led to a proposal to hold a WTO symposium in 1998, to assess the scope for possible WTO rules in the area of trade facilitation. Some delegations expressed concern that the symposium might detract from efforts on trade facilitation already under way in the WTO Agreements on Rules of Origin and on Customs Valuation.[95] The symposium was held March 9-10, 1998, to help identify the main areas where traders face obstacles when moving goods across borders, providing a direct interface between the practical level (traders) and trade policy level (officials in capitals and at the WTO in Geneva).[96] The symposium sought to examine trade facilitation in a more comprehensive way, although there is no agreement in the WTO about the meaning of "trade facilitation," despite the consensus that the WTO's work should not duplicate similar work in other institutions.[97]

Review of the WTO Textiles Agreement.—Beginning in October 1997, the CTG heard from the Textiles Monitoring Body (TMB) on the first major review of the implementation of the WTO Agreement on Textiles and Clothing (ATC) during the first stage of the integration process. Developing countries expressed extreme dissatisfaction with the summary of the four formal meetings devoted to the ATC review as well as any recommendations or conclusions reached at those meetings. These countries claimed that importing countries were ignoring provisions of the ATC and thereby impairing the balance of rights and obligations under the agreement. They accused the importing countries of concentrating on a narrow, legalistic definition of ATC obligations that refused to deal with the concerns of the developing countries. The developing countries insisted that the review of the ATC could not be considered closed and indicated that the issue would reappear at the Ministerial conference. The importing countries insisted that they met their ATC obligations and that the exporting countries were attempting to renegotiate the agreement. The importing countries said that the first-stage review was complete regardless of whether or not participants could agree on a summary of deliberations or conclusions and recommendations.[98]

Council for Trade in Services[99]

During 1997, the GATS Council considered observer status for intergovernmental organizations, heard the report from the negotiating group following conclusion of the Agreement on Basic Telecommunications and verified the commitment schedules, discussed the possible establishment of a WTO standing committee on telecommunications, and received various notifications—notably those regarding modifications to services regulations affecting specific commitments.

The GATS Council discussed elements of the work programs underway and adopted proposals from the standing subsidiary bodies that report to it—the Committee on Financial Services, Committee on Specific Commitments, Working Party on GATS Rules, and Working Party on Professional Services. The GATS Council advanced the deadline for the negotiations on financial services from December 30 to December 12, 1997, on recommendation from the Committee on Financial Services. The GATS Council agreed in principle to the proposal from the Committee on Specific Commitments to establish a system of electronically consolidated and updated schedules of commitments.

In May 1997, the GATS Council adopted Guidelines for the Recognition of Qualifications in the accountancy sector proposed by the Working Party on Professional Services. These nonbinding guidelines are intended to be used by governments seeking to negotiate agreements that confer mutual recognition of professional qualifications. The thrust of the guidelines is to allow parties to focus on overcoming bilateral differ-

[94] WTO, Singapore Ministerial Declaration, Singapore, Dec. 13, 1996, par. 21.

[95] U.S. Department of State telegram, "WTO Council for Trade in Goods Meeting on November 19," message reference No. 8104, prepared by U.S. Mission, Geneva, Nov. 21, 1997.

[96] WTO, "Symposium Set on Trade Facilitation," *Focus*, No. 26, Jan. 1998, p. 8.

[97] U.S. Department of State telegram, "OECD Trade Committee Grapples with How to Keep Liberalization on Track," message reference No. 004947, prepared by the U.S. Embassy, Paris, Mar. 3, 1998; and WTO, Council for Trade in Goods, "Statement by H. E. Mr. R. Saborio Soto, Chairman of the Council for Trade in Goods, under Item I (Trade Facilitation)," G/L/226, Mar. 18, 1998, found at Internet address http://www.wto.org/wto/goods/chair.htm, retrieved Apr. 2, 1998.

[98] U.S. Department of State telegram, "WTO Council for Trade in Goods Meeting on November 19," message reference No. 8580, prepared by U.S. Mission, Geneva, Dec. 11, 1997.

[99] WTO, Council for Trade in Services, "Council for Trade in Services - Report to the General Council on Activities during 1997," S/C/5, Nov. 28, 1997.

ences in education, examination standards, experience requirements, regulatory influence, as well as other matters, following which additional parties may negotiate their own accession to or the extension of the bilateral agreement to their own situations and thereby extend mutual recognition more broadly.

In November 1997, the GATS Council also adopted a decision proposed by the Working Party on GATS Rules to extend negotiations regarding emergency safeguard measures for services to June 30, 1999. A number of delegates emphasized the need for coordination with the Working Group on Transparency in Government Procurement, established by the Singapore Ministerial Conference in December 1996, where negotiations over government procurement of services is concerned (Article XIII). The GATS Council also approved the questionnaire on the exchange of information set out at the Singapore conference to help prepare for the services negotiations set out as part of the Uruguay Round built-in agenda. The GATS Council largely concluded that 1997 was too early to begin consideration of a work program regarding the next services round in 2000 (Article XIX).

Also during 1997, the GATS Council heard complaints from the EU against Brazil alleging violation of standstill commitments concerning freight discrimination in the area of maritime transport services.

Council for Trade-Related Aspects of Intellectual Property Rights[100]

During 1997, the TRIPS Council considered various notifications, reviews of national legislation regarding intellectual property rights (IPR), implementation of TRIPS obligations under various articles, technical cooperation, observer status for intergovernmental organizations, dispute developments elsewhere in the WTO concerning IPR, and preliminary work on negotiations over geographical indications.

Notifications largely concerned national laws, regulations, and IPR contact points, as well as exceptions to MFN treatment and responses to the IPR enforcement checklist. The TRIPS Council also received notifications on contact points, as well as information regarding technical cooperation activities that developed-country Members (for the most part) might afford to developing-country Members.

As a followup to the November 1996 review of national IPR legislation, the TRIPS Council focused on copyrights, trademarks, geographical indications, and industrial designs. In May 1997, the TRIPS Council began consideration of forthcoming reviews regarding patents, integrated circuit designs (topographies), protection of undisclosed information, and control of anticompetitive practices in contracts. In November 1997, the TRIPS Council also reviewed IPR enforcement and considered so-called mailbox notifications under TRIPS Article 70.8 and 70.9 that require Members to provide a contact point with which patent holders of rights concerning agricultural chemicals and pharmaceuticals may register in countries where no applicable patent law yet exists.

The council granted observer status in the TRIPS Council to organizations that received observer status from the General Council, and agreed to consult on other requests not yet considered. The TRIPS Council also noted that Bulgaria, Mongolia, and Panama—recently acceded to the WTO—would apply the TRIPS Agreement without a transition period.

In 1997, the TRIPS Council heard developments relating to IPR that were later brought to the WTO Dispute Settlement Body. In April 1997, the EU requested consultations with India regarding patent protection for agricultural chemical and pharmaceutical products. In May 1997, the United States requested consultations with Ireland regarding measures affecting the grant of copyright and related (so-called neighboring) rights; and, also in May 1997, the United States requested consultations with Denmark and Sweden regarding the enforcement of IPR. In September 1997, the dispute panel released its report regarding a U.S. complaint against India concerning patent protection for agricultural chemical and pharmaceutical products (Article 70.8 and 70.9 mailbox provisions).

The TRIPS Council also undertook informal consultations over how to proceed with negotiations on geographical indications, called for under TRIPS Article 24.2 as part of the Uruguay Round "built-in" agenda.

Dispute Settlement[101]

During 1997, the number of WTO dispute settlement cases surpassed 100, considered to be an indicator that WTO members actively support the rules of the multilateral trading system and have confidence in the integrated and more automatic dispute-settlement mechanism that came into effect in 1995 under the

[100] WTO, Council for Trade-Related Aspects of Intellectual Property Rights, "Annual Report (1997) of the Council for TRIPS," IP/C/9, Nov. 28, 1997.

[101] WTO, "Overview of the State-of-Play of WTO Disputes," found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, dated Jan. 8, 1998, retrieved Jan. 9, 1998.

WTO. By the start of 1998, the WTO had received 115 requests for consultations on 80 distinct matters. Consultations represent the opening stage of any dispute-settlement case, which upon request of the complainant proceeds automatically to the second stage of establishing a dispute panel if consultations fail to resolve the contested issue. Following completion of a panel report, either the complainant or respondent may request the WTO Appellate Body to review issues of law and legal interpretation in the report. (For further details, see table 2-3 for a summary of WTO dispute settlement stages.) Of the disputes since the WTO began on January 1, 1995, that have concluded with a final panel report, nine have been appealed. Seven Appellate Reports have been adopted, while two reports on different subjects are pending. Table 2-4 on Dispute Panel activity and table 2-5 on Appellate Body activity provide a brief summary of cases active in 1997.[102]

[102] For the most timely and authoritative source regarding WTO disputes see "Overview of the State-of-Play of WTO Disputes" at the WTO Internet website http://www.wto.org/wto/dispute/bulletin.htm.

Trade Policy Review Body[103]

During 1997, the Trade Policy Review Body reviewed the trade policies of the following Members—Fiji, Cyprus, Paraguay, Benin, Chile, Mexico, the EU, and Malaysia. The WTO Trade Policy Review Mechanism, which the TPRB oversees, is designed to facilitate the smooth functioning of the multilateral trade system by carrying out surveillance of members' national trade policies and thereby enhancing the transparency of these policies.

[103] WTO, Trade Policy Review Body, "Trade Policy Review Mechanism - Report of the Trade Policy Review Body for 1997," WT/TPR/41, Nov. 28, 1997; and WTO, "Press Releases with Summary Observations," found at Internet address http://www.wto.org/wto/reviews/tpr.htm, dated Dec. 9, 1997, retrieved Jan. 13, 1998.

Table 2-3
Summary of dispute settlement stages

Timeline		
Period	**Stage**	**Action**
60 days	Consult	Consultations, mediation.
45 days	Panel	Panel set up and panelists appointed. Panel must be established following second panel request.
180 days	Exam	Panel examination and final report issued to parties.
21 days	Circulation	Final panel report circulated to all WTO Members.
60 days	Adoption	Dispute Settlement Body adopts panel report or panel report appealed.
60-90 days	Appeal	Appellate Body examination.
30 days	Adoption	Dispute Settlement Body adopts appeals report.
Approximate total time elapsed:	12 months to panel report adoption. 15 months to Appellate Body report adoption.	

All disputants are encouraged to consult and settle their differences before reaching WTO dispute settlement procedures. Accordingly, some given times are maximums, others minimums, some binding, some not, making possible only an approximate dispute schedule without referring to a particular dispute's terms of reference and its individual dispute calendar.

Source: WTO, "Settling Disputes - How Long to Settle a Dispute?," found at Internet address http://www.wto.org/wto/about/dispute1.htm, dated Feb. 6, 1998, retrieved Apr. 20, 1998; and WTO, "Settling Disputes - The Panel Process," found at Internet address http://www.wto.org/wto/about/dispute2.htm, dated Feb. 6, 1998, retrieved Apr. 20, 1998.

Table 2-4
Dispute Panel activity

Complainant	Respondent	Complaint	Outcome
United States	Argentina	Certain measures affecting imports of footwear, textiles, apparel, and other items	The United States brought a complaint against Argentina regarding imposition of specific duties on these items in excess of the bound rate. The United States alleges that these measures violate GATT Articles II, VII, VIII, and X, as well as provisions of the TBT Agreement, Import Licensing Agreement, and Textiles Agreement. Following U.S. request, a dispute panel was established on February 25, 1997. The panel circulated its report on November 25, 1997, that found that the minimum specific duties imposed by Argentina on textiles and apparel are inconsistent with the requirements of Article II of GATT 1994 and that the imposed statistical tax of 3 percent ad valorem is inconsistent with Article VIII. On January 21, 1998, Argentina notified its intention to appeal.
United States	EU	Customs classification of certain computer equipment	The United States brought a complaint against the EU, as well as separately against Ireland and the United Kingdom, regarding the reclassification for tariff purposes of certain Local Area Network (LAN) adapter equipment and personal computers with multimedia capability. The United States alleges that these measures violate GATT Article II. Following U.S. request, a dispute panel was established on February 25, 1997, and the complaints against Ireland and the United Kingdom were incorporated on March 20, 1997.
Brazil	EU	Measures affecting importation of certain poultry products	Brazil brought a complaint against the EU that the regime for the import of certain poultry products and the implementation of the EU tariff-rate quota for these products might be inconsistent with GATT Articles X and XXVII, as well as provisions of the WTO Agreement on Import Licensing Procedures. Following Brazil's request, a dispute panel was established on July 30, 1997.
United States	Japan	Measures affecting consumer photographic film and paper	The United States brought a complaint against Japan regarding laws, regulations, and requirements affecting the distribution, offering for sale, and internal sale of imported consumer photographic film and paper. The United States alleges that imported film and paper is treated less favorably by these means in violation of GATT Articles III and X, and also alleges the nonviolation claim that these measures nullify or impair benefits accruing to the United States. Following U.S. requests, a dispute panel was established on October 16, 1996. The panel circulated its confidential interim report to the parties involved on December 5, 1997.

Table continued on next page

Table 2-4—Continued
Dispute Panel activity

Complainant	Respondent	Complaint	Outcome
United States	Japan	Measures affecting consumer photographic film and paper—Continued	Press reports indicate that the panel rejected on various grounds the U.S. arguments citing 21 separate measures that nullify the benefits of tariff concessions that Japan granted in the Kennedy (1963-67), Tokyo (1973-79), and Uruguay (1986-93) Rounds of trade negotiation. The panel reportedly rejected some of these measures on procedural grounds, and found that other measures were never applied, were voluntary, or did not adversely affect the competitive conditions for foreign products. In addition, the panel considered that the United States should have known of the preexistence of some of these measures and so could not claim that expected benefits had been nullified. For further detail, see chapter 4 on Japan in this and previous reports.
EU	United States	The Cuban Liberty and Democratic Solidarity Act (“Helms/Burton” law)	The EU brought a complaint against the United States regarding the Cuban Liberty and Democratic Solidarity Act of 1996 (commonly known as the “Helms/Burton” law). The EU alleges that U.S. restrictions under the act on goods of Cuban origin, as well as the possible exclusion of non-U.S. nationals from U.S. territory, violate GATT Articles I, III, V, XI, and XIII as well as GATS Articles I, III, VI, XVI, and XVII, and may also nullify or impair benefits accruing to the EU. Following EU requests, a dispute panel was established on November 20, 1996. The panel suspended its work following an EU request to do so on April 25, 1997. For further details, see chapter 4 on the European Union in this and previous reports.
India, Malaysia, Pakistan, and Thailand	United States	Import prohibition of certain shrimp and shrimp products	India, Malaysia, Pakistan, and Thailand brought a complaint against the United States regarding a ban on the import of shrimp and shrimp products under U.S. Public Law 101-62, section 609. These complainants allege a nonviolation claim that these measures nullify or impair benefits accruing to them. Following requests by several complainants, a dispute panel was established on February 25, 1997.
Mexico	Guatemala	Antidumping investigation of imports of Portland cement from Mexico	Mexico brought a complaint against Guatemala regarding an antidumping investigation begun on imports of Portland cement from Mexico. Mexico alleges that the investigation violates the Antidumping Agreement, Articles 2, 3, 5, and 7.1. Following Mexican request, a dispute panel was established on March 20, 1997.
Canada	Australia	Measures affecting the importation of salmon	Canada brought a complaint against Australia regarding its prohibition of salmon imports based on quarantine regulations. Canada alleges that the prohibition is inconsistent with GATT Articles XI and XIII, as well as the SPS Agreement. Following Canadian request, a dispute panel was established on April 10, 1997. For further details, see chapter 4 in this report on Canada.

Table continued on next page

Table 2-4—Continued
Dispute Panel activity

Complainant	Respondent	Complaint	Outcome
EU, Japan, and the United States	Indonesia	Certain measures affecting the automobile industry	The EU, Japan, and the United States brought separate complaints against Indonesia regarding duty and luxury tax exemption for imports of "national vehicles" and their components. Japan alleged that these measures violate GATT Articles I and III, as well as provisions of the TRIMS and Subsidies Agreements. Following Japanese request, a dispute panel was established on June 12, 1997, incorporating all three complainants.
EU and the United States	Korea	Taxes on alcoholic beverages	The EU and the United States brought separate complaints against Korea regarding internal taxes imposed on certain alcoholic beverages under its Liquor Tax Law and Education Law. The EU and the United States allege that these two laws appear inconsistent with GATT Article III. Following an EU request, a dispute panel was established on October 16, 1997, incorporating the U.S. complaint as well.
EU	Argentina	Measures affecting textiles, clothing, and footwear	The EU brought a complaint against Argentina regarding imposition of specific duties on these items in excess of the bound rate. The EU alleges that these measures violate GATT Article II, as well as provisions of the WTO Agreement on Textiles and Clothing. Following an EU request, a dispute panel was established on October 16, 1997.
EU	India	Patent protection for agricultural chemical and pharmaceutical products	The EU brought a complaint against India regarding the absence of patent protection for agricultural chemical and pharmaceutical products under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The EU claims that India has failed to fulfill its obligations under TRIPS Article 70 to provide a "mailbox" notification mechanism for registering patents for these products. Following an EU request, a dispute panel was established on October 16, 1997.
EU	Chile	Taxes on alcoholic beverages	The EU brought a complaint against Chile alleging Chile's Special Sales Tax on spirits imposes a higher tax on imported spirits than on a locally brewed spirit (Pisco). The EU contends that this differential treatment violates GATT Article III:2. The EU requested a dispute panel, which was established November 18, 1997.
United States	India	Quantitative restrictions on imports of agricultural, textile, and industrial products	The United States brought a complaint against India concerning quantitative restrictions on a large number of agricultural, textile, and industrial products which, the United States alleges, are inconsistent with India's obligations under GATT Articles XI and XVIII, as well as provisions of the Agriculture Agreement and Import Licensing Agreement. The United States requested a dispute panel, which was established November 18, 1997.

Table continued on next page

Table 2-4—Continued
Dispute Panel activity

Complainant	Respondent	Complaint	Outcome
United States	Japan	Measures affecting agricultural products	The United States brought a complaint against Japan concerning its prohibition of imports of agricultural products under quarantine provisions. The United States alleges violations of GATT Article XI, the Agriculture Agreement, the SPS Agreement, as well as nullification and impairment of benefits. The United States requested a dispute panel, which was established on November 18, 1997.
New Zealand	EU	Measures affecting butter products	New Zealand brought a complaint against the EU regarding customs decisions that exclude certain butter from New Zealand's country-specific tariff quota established under the EU's WTO Schedule of Commitments. New Zealand alleges violations of GATT Articles II, X, and XI, as well as violations of the TBT Agreement and the Import Licensing Agreement. New Zealand requested a dispute panel, which was established on November 18, 1997.

Source: WTO, "Overview of the State-of-Play of WTO Disputes," found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, dated Mar. 16, 1998, retrieved Mar. 17, 1998.

Table 2-5
WTO Appellate Body activity

Complainant	Respondent	Complaint	Outcome
United States	Japan	Taxes on alcoholic beverages	The Appellate Body circulated its report modifying the panel report on October 4, 1996, which was adopted on November 1, 1996. The United States applied for binding arbitration to determine the reasonable period of time for implementation by Japan of the Appellate Body recommendations. The Arbitrator's report, which was circulated February 14, 1997, found the reasonable period for implementation to be 15 months.
Costa Rica	United States	Restrictions on imports of cotton and man-made fiber underwear	Costa Rica brought a complaint against the United States concerning restrictions on textile imports and alleging violation of the WTO Agreement on Textiles and Clothing (ATC). The panel circulated its report in November 1996 that found U.S. restraints in violation of the ATC. Costa Rica notified its decision to appeal one aspect of the panel report on November 11, 1996. The Appellate Body adopted its report on February 25, 1997. The United States notified the WTO Dispute Settlement Body (DSB) that the measures in questions had expired March 27, 1997, in effect, complying with the recommendations of both panel and appeals reports.
Philippines	Brazil	Measures affecting desiccated coconut	The Philippines brought a complaint against Brazil alleging that countervailing duties applied to Philippine exports of desiccated coconut were inconsistent with GATT and WTO rules. The panel circulated its report in October 1996 that found that the rules cited were not applicable to the dispute. The Philippines notified its decision to appeal certain aspects of the panel report on December 16, 1996. The Appellate Body circulated its report modifying the panel report on February 21, 1997, which was adopted March 20, 1997.
India	United States	Measures affecting imports of woven wool shirts and blouses	India brought a complaint against the United States alleging that transitional safeguard measures on textile imports were in violation of the WTO ATC, Articles 2, 6, and 8. The panel circulated its report on January 6, 1997, that found that the U.S. measure violated the ATC. India notified its decision to appeal certain aspects of the panel report on February 24, 1997. The Appellate Body report was adopted May 23, 1997, upholding the Panel report.

Table continued on next page

Table 2-5—Continued
WTO Appellate Body activity

Complainant	Respondent	Complaint	Outcome
United States	Canada	Certain measures concerning periodicals	The United States brought a complaint against Canada alleging that measures prohibiting or restricting the import of certain periodicals were thought to violate the GATT Article III. The panel circulated its report on March 14, 1997, that found that the Canadian measures violate GATT rules. Canada notified its decision to appeal certain issues of law and interpretation of the panel report on April 29, 1997. The Appellate Body circulated its report on June 30, 1997, which upheld the Panel report, and was adopted on July 30, 1997. For further detail, see chapter 4 on Canada in this and previous reports.
Ecuador, Guatemala, Honduras, Mexico, and the United States	EU	Regime for the importation, sale, and distribution of bananas	Ecuador, Guatemala, Honduras, Mexico, and the United States brought a complaint against the European Union (EU) that the EU regime for import, sale, and distribution of bananas might be inconsistent with GATT Articles I, II, III, X, XI, and XIII, as well as provisions of the WTO Agreements on Agriculture, Import Licensing, Trade-Related Investment Measures (TRIMS), and the General Agreement on Trade in Services (GATS). The panel circulated its report on May 22, 1997, that found that the EU measures violate GATT import rules as well as licensing procedures. The panel further found that the Lomé Convention waiver waives the inconsistecy with GATT Article XIII, but not the inconsistencies arising from the banana licensing system. The EU notified its decision to appeal certain issues of law and interpretation of the panel report on June 11, 1997. The Appellate Body circulated its report on September 9, 1997, which upheld the panel report, and was adopted on September 25, 1997. On November 17, 1997, the complainants requested that the “reasonable period of time” to implement the DSB recommendations be determined through binding arbitration. On December 1, 1997, the complainants formally requested that the WTO appoint an arbitrator. The EU and the United States presented their case to the arbitrator on December 17, 1997. The arbitrator circulated his report on January 7, 1998, finding the reasonable period of time for implementation to be the period from September 25, 1997, to January 1, 1999. For further detail, see chapter 4 on the European Union in this and previous reports.

Table continued on next page

Table 2-5—Continued
WTO Appellate Body activity

Complainant	Respondent	Complaint	Outcome
Canada and the United States	EU	Measures affecting meat and meat products (hormones)	Canada and the United States brought separate complaints against the European Union regarding measures affecting meat and meat products relating to hormones. The United States claims that measures under the EC Council directive prohibiting the use in livestock farming of certain substances having a hormonal action are inconsistent with GATT Articles III or XI, as well as the WTO Agreements on Agriculture, Sanitary and Phytosanitary Measures (SPS), and Technical Barriers to Trade (TBT). Canada made essentially the same claims. The panel circulated its report on August 18, 1997, that found that the EU ban on imports of meat and meat products from cattle treated with any of six specific hormones for growth promotion purposes was inconsistent with the SPS Agreement. The EU notified its decision to appeal certain issues of law and interpretation of the panel report on September 24, 1997. The Appellate Body report was circulated January 16, 1998, and adopted on February 13, 1998. For further detail, see chapter 4 on the European Union in this and previous reports.
United States	India	Patent protection for agricultural chemical and pharmaceutical products	The United States brought a complaint against India regarding the absence of patent protection for agricultural chemical and pharmaceutical products under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The United States claims that India has failed to fulfill its obligations under TRIPS Articles 27, 65, and 70, to provide a “mailbox” notification mechanism for registering patents for these products. The panel circulated its report on September 5, 1997, that found that India has not complied with its obligations. India notified its decision to appeal certain issues of law and interpretation of the panel report on October 15, 1997. The Appellate Body circulated its report on December 19, 1997, which upheld the panel report with modifications regarding Articles 70.8 and 70.9. The Appellate Body report was circulated December 19, 1997, and adopted on January 16, 1998.

Source: WTO, “Overview of the State-of-Play of WTO Disputes,” found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, dated Mar. 16, 1998, retrieved Mar. 17, 1998.

Other Committees

Committee on Trade and Environment[104]

The Committee on Trade and Environment (CTE) met three times[105] during 1997 to continue its work program set out in the April 1994 Marrakesh Ministerial Decision on Trade and Environment and reaffirmed at the December 1996 Singapore Ministerial Conference. The committee addressed market access issues, items related to links between multilateral environment and trade agreements, and trade in services and the environment as well as inter- and nongovernmental organizations. In May 1997, the committee held a symposium with NGOs to exchange views relating to WTO work on trade, the environment, and sustainable development. In September 1997, the committee exchanged information and views with the secretariats of seven multilateral environmental agreements and two environmental financial mechanisms. In 1997, the CTE also extended observer status to several intergovernmental bodies—the United Nations Framework Convention on Biological Diversity, the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), and the Latin American Economic System.[106]

Committee on Trade and Development[107]

In 1997, the Committee on Trade and Development, and especially its Subcommittee on Least-Developed Countries, devoted activity largely to preparations and followup for the October 1997 High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development. (For further detail, see section on "High-Level Meeting on Least-Developed Countries" in this chapter.) The committee also focused on other matters regarding the committee's Manual on Technical Cooperation and Training Activities and its Three-Year Plan for these activities.

[104] WTO, Committee on Trade and Development, "Report (1997) of the Committee on Trade and Development," WT/COMTD/13, Nov. 21, 1997.

[105] May 21-22, Sept. 22-24, and Nov. 24-26, 1997.

[106] WTO, "WTO Committee on Trade and Environment Adopts 1997 Report," *Trade and Environment Bulletin*, PRESS/TE 020, Dec. 3, 1997.

[107] WTO, Committee on Trade and Environment, "Report (1997) of the Committee on Trade and Environment," WT/CTE/2, Nov. 26, 1997.

Committee on Regional Trade Agreements[108]

In 1997, the Committee on Regional Trade Agreements made progress in examining both the "backlog" of 32 agreements carried over from the GATT as well as 13 newly notified regional trade agreements. Of the 45 regional trade agreements (RTAs) referred to the committee since it was established by the General Council in 1995, 37 have come from the Council for Trade in Goods, 7 from the Council for Trade in Services, and 1 from the Committee on Trade and Development. To streamline the examination process, the committee developed two sets of guidelines—in 1996, a "Standard Format for Information on Regional Trade Agreements;" and in 1997, a "Standard Format for Information on Economic Integration Agreements." As called for in its terms of reference, the committee continued consideration of the systemic implications of RTAs. The committee is developing a checklist of issues arising out of examinations, discussions, and written submissions, and is considering approaches for analyzing them, such as legal analysis of relevant WTO provisions, comparisons of RTAs, and debate on the context and economic aspects of RTAs.

During 1997, the committee received notifications for bilateral free-trade agreements (FTAs) concerning trade in goods under GATT Article XXIV between the following sets of trading partners:

- Bulgaria and Czech Republic
- Bulgaria and Slovak Republic
- Canada and Chile
- Moldova and Romania
- Slovenia and Bulgaria
- Slovenia and Estonia
- Slovenia and Latvia
- Slovenia and Lithuania
- Slovenia and Macedonia

During 1997, the committee received notifications for FTAs concerning trade in services under GATS Article V between the following trading partners:

- Australia and New Zealand
- Canada and Chile

In addition, the EU gave notification of an "interim association agreement" between the EU and the Palestine Liberation Organization for the West Bank and Gaza Strip.

[108] WTO, Committee on Regional Trade Agreements, "Report (1997) of the Committee on Regional Trade Agreements to the General Council," WT/REG/3, Nov. 28, 1997.

Committee on Balance-of-Payments Restrictions[109]

During 1997, the chairman of the Committee on Balance-of-Payments Restrictions held consultations with Bangladesh, Bulgaria, the Czech Republic, India, Nigeria, Pakistan, the Slovak Republic, and Tunisia. Of note was a proposal by India to phase out its balance of payments (BOP) restrictions following a statement from the IMF saying that Indian trade restrictions based on BOP considerations were no longer justified. India indicated to the General Council that negotiations with its trading partners on a phaseout period may result in a 6-year plan to end BOP restrictions. Members also agreed to a plan by Tunisia to phase out its BOP restrictions by July 1, 2000. The Czech Republic reported that it had eliminated an import deposit scheme in August 1997. BOP consultations with Nigeria, however, were suspended when some Members objected to a proposed 8-year phaseout plan for import prohibitions. Bangladesh and Pakistan were reported to be facing serious BOP situations.[110] Bulgaria lowered an import surcharge in July 1997 such that the committee deemed Bulgaria in compliance with its WTO obligations. The Slovak Republic reinstituted an import surcharge in July 1997 that had been eliminated in January 1997 on BOP grounds.

New Issues

Ministers at the WTO Singapore Ministerial Conference in December 1996 established three working groups to study and analyze the new issues regarding trade and its relationship to competition policy, investment, and transparency in government procurement. In April 1997, the General Council agreed on chairmen for the groups. The General Council will determine after two years how the work of each body should proceed.

Working Group on the Interaction between Trade and Competition Policy[111]

In the Singapore Ministerial Declaration, Ministers called upon the WTO Members to "establish a working group to study issues raised by Members relating 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."[112] The Working Group on the Interaction between Trade and Competition Policy held its first meeting July 7-8, 1997, under the chairmanship of Professor Frédéric Jenny of France. The group received 19 written contributions from participants at its first meeting which, along with discussions, yielded a checklist of issues for possible consideration. (See table 2-6 for the checklist of issues regarding trade and competition.) The Working Group held its second meeting September 16-17, 1997. At its third meeting, November 27-28, 1997, the group began discussions concerning the various relationships between trade and competition (first checklist topic) and an analysis of existing instruments, standards, and activities regarding trade and competition (second checklist topic).[113]

Working Group on the Relationship between Trade and Investment[114]

The Singapore Ministerial Declaration called for the establishment of "a working group to examine the relationship between trade and investment." The Working Group on the Relationship between Trade and Investment held its first meeting on June 2-3, 1997, under the chairmanship of Ambassador Krirk-Krai Jirapaet of Thailand. The chairman summarized the discussions, yielding a checklist of issues for possible consideration. (See table 2-7 for a checklist of issues regarding trade and investment.)

At its second meeting on October 6-7, 1997, the group heard papers suggesting that foreign direct investment promotes economic growth and development. Organizations including the IMF, OECD, UNCTAD, United Nations Industrial Organization, and World Bank presented papers, as did country representatives including Japan, Hong Kong (China), and

[109] WTO, Committee on Balance-of-Payments Restrictions, "Report (1997) of the Committee on Balance-of-Payments Restrictions," WT/BOP/R/37, Nov. 12, 1997.

[110] WTO, "WTO Focus - BOP Consultations," *Focus*, No. 24, Nov. 1997, p. 8.

[111] WTO, Working Group on the Interaction between Trade and Competition Policy, "Report (1997) to the General Council," WT/WGTCP/1, Nov. 19, 1997.

[112] WTO, Singapore Ministerial Declaration, Singapore, Dec. 13, 1996, par. 20.

[113] U.S. Department of State telegram, "Working Group on the Interaction between Trade and Competition Policy," message reference No. 7705, prepared by U.S. Mission, Geneva, Nov. 6, 1997; Bureau of National Affairs, "WTO Working Group Begins Examination of Competition Rules," *BNA International Trade Daily*, Bureau for National Affairs, Inc., article No. 43351002, Dec. 1, 1997.

[114] WTO, Working Group on the Relationship between Trade and Investment, "Report (1997) to the General Council," WT/WGTI/1, Nov. 25, 1997.

Table 2-6
Checklist of issues regarding trade and competition

I. Relationship between the objectives, principles, concepts, scope and instruments of trade and competition policy. In addition:
  - their relationship to development and economic growth.

II. Stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policy, including of experience with their application:
  - national competition policies, laws and instruments as they relate to trade;
  - existing WTO provisions;
  - bilateral, regional, plurilateral and multilateral agreements and initiatives.

III. Interaction between trade and competition policy:
  - the impact of anti-competitive practices of enterprises and associations on international trade;
  - the impact of state monopolies, exclusive rights and regulatory policies on competition and international trade;
  - the relationship between the trade-related aspects of intellectual property rights and competition policy;
  - the relationship between investment and competition policy;
  - the impact of trade policy on competition.

IV. Identification of any areas that may merit further consideration in the WTO framework.

Source: WTO, "Trade and Competition Policy—Many Submissions Mark First Meeting," *Focus*, No. 20, June-July 1997, p. 3.

Table 2-7
Checklist of issues regarding trade and investment

I. Implications of the relationship between trade and investment for development and economic growth, including:
  - economic parameters relating to macroeconomic stability, such as domestic savings, fiscal position and the balance of payments;
  - industrialization, privatization, employment, income and wealth distribution, competitiveness, transfer of technology and managerial skills;
  - domestic conditions of competition and market structures.

II. The economic relationship between trade and investment:
  - the degree of correlation between trade and investment flows;
  - the determinants of the relationship between trade and investment;
  - the impact of business strategies, practices and decision-making on trade and investment, including through case studies;
  - the relationship between the mobility of capital and the mobility of labor;
  - the impact of trade policies and measures on investment flows, including the effect of the growing number of bilateral and regional arrangements;
  - the impact of investment policies and measures on trade;
  - country experiences regarding national investment policies, including investment incentives and disincentives;
  - the relationship between foreign investment and competition policy.

III. Stocktaking and analysis of existing international instruments and activities regarding trade and investment:
  - existing WTO provisions;
  - bilateral, regional, plurilateral and multilateral agreements and initiatives;
  - implications for trade and investment flows of existing international instruments.

IV. On the basis of the work above:
  - identification of common features and differences, including overlaps and possible conflicts, as well as possible gaps in existing international instruments;
  - advantages and disadvantages of entering into bilateral, regional and multilateral rules on investment, including from a development perspective;
  - the rights and obligations of home and host countries and of investors and host countries;
  - the relationship between existing and possible future international cooperation on investment policy and existing and possible future international cooperation on competition policy.

Source: WTO, "Trade and Investment—the Growing Impact of Investment on Trade," *Focus*, No. 20, June-July 1997, p. 2.

Poland. The WTO Secretariat presented a survey of current thinking on the economic relation between trade and investment, and will prepare an overview of issues covered in existing bilateral, regional, and plurilateral investment agreements.[115]

At its third meeting on December 8, 1997, the group looked at implications of the relationship between trade and investment, growth, and development. The group also began its next phase to examine existing international investment instruments and activities regarding trade and investment. Topics suggested for consideration included the definition of investment, investment incentives, performance requirements, the role of regional trade agreements, the effect of trade measures on foreign direct investment, and determinants of investment decisions by firms.[116]

Working Group on Transparency in Government Procurement[117]

The Singapore Ministerial Declaration called for the establishment of 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."[118] The Working Group on Transparency in Government Procurement held its first meeting May 23, 1997, under the chairmanship of Ambassador Werner Corrales Leal of Venezuela. At the first meeting, the group heard from the United Nations Commission on International Trade Law and the World Bank about their work in the area of government procurement.

At its second meeting July 21, 1997, the group identified the following aspects of "transparency" for future study:

- access to procurement laws,
- information on supplier qualifications,
- information on award criteria and decisions (including national preferences),
- adequate time limits for bid submission,
- procurement entities and threshold values that are subject to transparency requirement,
- mechanisms for domestic review, and
- procedures for dispute settlement between governments if needed.

Canada and the United States presented papers suggesting guiding principles that might be important for transparency in government procurement, while the EU outlined its procurement procedures and practices. The group chairman called for all delegations to provide information on national procedures and practices.

The group held its third meeting November 3-4, 1997. The WTO Secretariat presented a paper comparing elements of transparency contained in existing international instruments of government procurement, those in nonprocurement WTO agreements, as well as offering information on procurement practices in individual WTO members drawn from a variety of sources. Substantive discussions revealed differences over issues such as whether there should be a review or appeal mechanism in any agreement on transparency in government procurement; whether transparency requires more than simple publication of government procurement laws, regulations, opportunities, etc.; and how dispute settlement should apply to obligations under a transparency agreement. The chairman suggested he would prepare a checklist of issues to focus future discussions.[119]

Multilateral Trade Agreements

Beyond the Marrakesh Protocol where national schedules of commitments are lodged, the Council for Trade in Goods oversees 12 separate multilateral trade agreements that help comprise the General Agreement on Tariffs and Trade 1994 (GATT 1994). A brief summary of activities follows on the committees and other bodies that report to the CTG, based on annual committee reports issued largely before November 1997.

[115] WTO, "News Briefs--Trade and Investment," *Focus*, No. 23, Oct. 1997, p. 4.

[116] U.S. Department of State telegram, "Next Up: Study Investment Agreements: WTO Trade and Investment Working Group Continues Work," message reference No. 8553, prepared by U.S. Mission, Geneva, Dec. 11, 1997.

[117] WTO, Working Group on Transparency in Government Procurement, "Report (1997) to the General Council," WT/WGTGP/1, Nov. 19, 1997.

[118] WTO, Singapore Ministerial Declaration, Singapore, Dec. 13, 1996, par. 21.

[119] U.S. Department of State telegram, "Third Meeting of the WTO Working Group on Transparency in Government Procurement," message reference No. 8247, prepared by U.S. Mission, Geneva, Nov. 28, 1997.

Marrakesh Protocol Market-Access Commitments[120]

The Committee on Market Access met five times in 1997, focusing on the impact of changes to the Harmonized System (HS) that were introduced on January 1, 1996. However, the General Council has granted successive waivers that have postponed the effect of a number of these changes through April 30, 1998—changes such as duty rate consequences for the goods concerned, where schedules of concessions provide for different treatment. At present, 38 members have submitted these 1996 HS changes, 39 members have been granted waivers from making these 1996 HS changes, and an additional 4 members have waivers through April 1998 regarding conversion of their pre-Uruguay Round market-access schedules to the HS system.

Agreement on Agriculture[121]

The Committee on Agriculture met four times in 1997 to review the progress of the Uruguay Round agricultural reform program. Reviews focused on required export subsidy and domestic support notifications, the number of which received by the WTO increased from 193 in 1996 to 242 in 1997. Nonetheless, the committee still considers compliance regarding notification unsatisfactory.

Agreement on the Application of Sanitary and Phytosanitary Measures[122]

The Committee on Sanitary and Phytosanitary Measures met three times in 1997 to consider notifications of national sanitary and phytosanitary measures and their regulatory frameworks. The committee also considered the status of agricultural problems such as foot-and-mouth disease, transmissible spongiform encephalopathies, and fruit-fly infestations. Notifications were updated regarding national enquiry and notification authorities. The committee adopted a provisional procedure to monitor the use of international standards, as well as agreed on a procedure for conducting the scheduled review of the implementation of the Agreement in 1998.

Agreement on Textiles and Clothing[123]

The Textiles Monitoring Body (TMB) met 19 times in 1997. In July 1997, it adopted a comprehensive report on the first stage integration under the Agreement on Textiles and Clothing (ATC). (For further details, see "Review of the WTO Textiles Agreement" under the "Council for Trade in Goods" section in this chapter.) The TMB also reviewed notifications regarding the quantitative restrictions carried over from the Multifiber Arrangement (MFA), second stage of ATC integration of products into GATT 1994, early integration of products and elimination of non-MFA restrictions, as well as other arrangements and communications. The TMB reviewed notifications from several Members concerning consultations held over transitional safeguard measures taken under the Agreement.

Agreement on Technical Barriers to Trade[124]

The Committee on Technical Barriers to Trade (TBT) met four times in 1997 to review notification of laws and regulations concerning technical barriers to trade, and to carry out the Second Annual Review of the implementation of the Agreement on Technical Barriers to Trade and the Code of Good Practice as well as the First Triennial Review of the operation of the Agreement. No amendment to the text of the TBT resulted from the triennial review. However, the committee adopted a number of decisions, recommendations, and arrangements, with a view toward improving the operation and implementing the Agreement, and to frame future discussions in the committee.[125] A Technical Group was established to study certain guides produced by the International Standards Organization (ISO) and International Electrotechnical Commission.

Agreement on Trade-Related Investment Measures[126]

The Committee on Trade-Related Investment Measures met twice in 1997 to examine notifications of

[120] WTO, Committee on Market Access, "Report (1997) of the Committee on Market Access," G/L/215, Dec. 3, 1997.

[121] WTO, Committee on Agriculture, "Committee on Agriculture: General Council Overview of WTO Activities (1997)," G/L/211, Nov. 24, 1997.

[122] WTO, Committee on Sanitary and Phytosanitary Measures, "Report (1997) of the Committee on Sanitary and Phytosanitary Measures," G/L/197, Oct. 27, 1997.

[123] WTO, Textiles Monitoring Body, "Report (1997) of the Textiles Monitoring Body," G/L/206, Nov. 18, 1997.

[124] WTO, Committee on Technical Barriers to Trade, "Report (1997) of the Committee on Technical Barriers to Trade," G/L/207, Nov. 19, 1997.

[125] WTO, Committee on Technical Barriers to Trade, "First Triennial Review of the Operation and Implication of the Agreement on Technical Barriers to Trade," G/TBT/5, Nov. 18, 1997.

[126] WTO, Committee on Trade-Related Investment Measures, "Report (1997) of the Committee on Trade-Related Investment Measures," G/L/193, Oct. 15, 1997.

trade-related investment measures in place that are inconsistent with the Agreement. Since March 31, 1995, 24 countries have submitted notifications of such measures. An additional 11 countries have volunteered notifications that they maintain no investment measures inconsistent with the Agreement.

Agreement on Antidumping Measures[127]

The Committee on Anti-Dumping Practices held two regular meetings in 1997 to review notifications of domestic antidumping (AD) laws and regulations. The committee concluded that 55 members had notified their AD legislation, 22 had notified that they have no AD legislation, and that 40 members, roughly 34 percent, had failed to notify by October 1997.[128] Members are also required to submit semiannual reports on AD actions.[129] The committee concluded in this regard that 23 members had notified their semiannual AD actions for second half 1996, 30 members had notified that no AD actions were taken during that period, and 64 members or roughly 55 percent had failed to notify. For notification of semiannual AD actions taken in first half 1997, 22 members had notified actions, 23 members had notified no actions, and 72 members, roughly 62 percent, had failed to notify by October 1997.

[127] WTO, Committee on Anti-Dumping Practices, "Report (1997) of the Committee on Anti-Dumping Practices," G/L/204, Nov. 6, 1997.

[128] Although there were 132 WTO members at the end of 1997, the total number of notifications may number only 117 when the Commission for the European Communities (EC) submits a single notification for the 15 member countries of the European Union (EU-15). Although individual EU member countries are WTO members in their own right, the EC Commission exercises sole responsibility for EU member countries regarding matters involving trade in goods and joint responsibility with EU member countries regarding other matters such as trade in services or intellectual property rights.

[129] The notifications to the WTO Antidumping and Subsidies Committees have been available to the public since July 1996 through the database dissemination facility found at the WTO Internet address http://www.wto.org. Prior to the WTO, the GATT Antidumping and Subsidies Agreements required similar notifications until these two GATT agreements were terminated at the end of 1995. The final 1995 notifications to these counterpart GATT committees can be found in a special edition of the USITC's *International Economic Review* as a concluding note to these two agreements. It should be noted that the WTO Antidumping and Subsidies Agreements apply to all WTO members whereas their GATT counterpart agreements (also called "codes") bound only 25 signatories under the GATT Antidumping Code and 26 signatories under the GATT Subsidies Code at the end of 1995.

Agreement on Customs Valuation[130]

The Committee on Customs Valuation met twice in 1997 to examine national laws and regulations regarding customs valuation, focusing on six members—Bulgaria, Fiji, Liechtenstein, Mexico, India, and Singapore. To date, 13 members have submitted new national legislation, 15 members have notified the WTO that previous legislation on customs valuation submitted under the Tokyo Round Agreements remained valid, and 38 members have failed to notify.

Agreement on Preshipment Inspection[131]

The Independent Entity, an organizational body created to help conduct independent investigations regarding preshipment inspection, was established in December 1995 to carry out investigations as requested under the Agreement. Procedures were put in place by April 1996 although, to date, the Entity has received no requests to investigate.

Agreement on Rules of Origin[132]

The Committee on Rules of Origin met four times in 1997 to review reports from the Technical Committee on Rules of Origin. The committee adopted a management plan to help schedule technical work, and endorsed product-specific rules for a number of HS chapters (25, 26, 27, 41, 43, and 91). The committee also reached consensus on the origin criteria of a number of HS headings and subheadings as well. To date, 56 members have notified nonpreferential rules of origin, while 58 have notified preferential rules.

Agreement on Import Licensing[133]

The Committee on Import Licensing met twice in 1997. Since January 1995, 44 Members have notified laws, regulations, and procedures regarding import

[128]*—Continued*
USITC, "1995 Termination of GATT Antidumping and Subsidies Codes," *International Economic Review*, USITC publication 3078, Nov./Dec. 1997, pp. 12-14 and tables A-1 and A-2.

[130] WTO, Committee on Customs Valuation, "Report of the Committee on Customs Valuation to the Council for Trade in Goods," G/L/205, Nov. 18, 1997.

[131] WTO, Agreement on Preshipment Inspection, Independent Entity, "Report (1997) of the Independent Entity to the Council for Trade in Goods," G/L/208, Nov. 19, 1997.

[132] WTO, Committee on Rules of Origin, "Report (1997) of the Committee on Rules of Origin," G/L/210, Nov. 27, 1997.

[133] WTO, Committee on Import Licensing, "Report of the Committee on Import Licensing," G/L/203, Nov. 7, 1997.

licensing; 45 have notified responses to the Questionnaire on Import Licensing Procedures.

Agreement on Subsidies and Countervailing Measures[134]

The Committee on Subsidies and Countervailing Measures reviewed notifications received in 1997 actions.[135] Regarding notification of new and full subsidies, the committee concluded that 42 members had notified as required, 23 members had notified that they had no subsidies or countervailing measures (SCM) in place, and 52 members, over 44 percent, had failed to notify. By October 1997, the committee had received 40 updates for 1996 regarding subsidies and 20 updates for 1997. In October 1997, the committee adopted a common format for updating subsidy notifications.

Regarding notifications of domestic countervailing duty laws and regulations, the committee concluded that 72 members had notified such legislation but that 45 members, roughly 39 percent, had failed to notify. Regarding semiannual notification of SCM for 1996 second half, 8 members notified SCM actions taken, 46 members notified that no actions were taken, and 63 members, roughly 54 percent, failed to notify. For 1997 first half, 7 members notified SCM actions taken, 41 members notified that no actions were taken, and 69 members, nearly 60 percent, had failed to notify by October 1997. No nonactionable subsidies were notified.

In 1997, the Philippines was identified as exceeding the $1,000 threshold entitling it to preferential treatment under Annex VII(b) of the Agreement. The Annex designates additional countries that may receive preferential treatment accorded to the least-developed countries under the Subsidies Agreement. The committee also discussed the possible inclusion of Honduras in the Annex, making it likely that the Philippines will be removed and Honduras added.

The Permanent Group of Experts (PGE) made no progress in 1997 on adopting the Draft Rules of Procedure that were circulated in April 1996. The PGE was established to provide assistance on request to a dispute panel regarding whether a measure is considered a prohibited subsidy under the Agreement, as well as advisory opinion on the existence or nature of subsidies.

The Informal Group of Experts (IGE) circulated a report in July 1997 with 21 recommendations that the committee is now considering. The IGE was created in June 1995 to provide guidance on whether a presumption of serious prejudice exists when calculating the total ad valorem subsidization described in Annex IV of the Agreement.

Agreement on Safeguards[136]

The Committee on Safeguards met twice in 1997 to review notifications of national laws and regulations on domestic safeguards and to discuss the state of noncompliance with notifications. Safeguards permit a country to impose import restrictions when increased imports are found to cause or threaten to cause serious injury to a domestic industry. All members were required to notify their domestic safeguards legislation by March 15, 1995. By October 1997, 19 members had notified pre-WTO safeguards legislation, 12 had notified new safeguards legislation, and 41 had notified that they had no safeguards legislation in place, with the remaining 45 members, nearly 39 percent, failing to notify.

In 1997, the committee received notifications of safeguard investigations initiated, of investigations of serious injury or the threat thereof, of investigations terminated, and of nonapplication of safeguards measures to developing-country members below thresholds set under Article 9.1. These notifications included ones on the initiation of an investigation by the United States on wheat gluten and the nonapplication of safeguards measures by the United States concerning broom corn brooms. Four of five members with outstanding measures—the EU, Korea, Slovenia, and South Africa—reported progress on eliminating preexisting Article XIX (safeguards) measures and the fifth—Cyprus—reported that it would provide the committee with a written report.

[134] WTO, Committee on Subsidies and Countervailing Measures, "Report (1997) of the Committee on Subsidies and Countervailing Measures," G/L/201, Oct. 30, 1997.

[135] The notifications to the WTO Antidumping and Subsidies Committees have been available to the public since July 1996 through the database dissemination facility found at the WTO Internet address http://www.wto.org. Prior to the WTO, the GATT Antidumping and Subsidies Agreements required similar notifications, before these two GATT agreements were terminated at the end of 1995. The final 1995 notifications to these counterpart GATT committees can be found in a special edition of the USITC's *International Economic Review* as a concluding note to these two agreements. It should be noted that the WTO Antidumping and Subsidies Agreements apply to all WTO Members whereas their GATT counterpart agreements (also called "codes") bound only 25 signatories under the GATT Antidumping Code and 26 signatories under the GATT Subsidies Code at the end of 1995. USITC, "1995 Termination of GATT Antidumping and Subsidies Codes," *International Economic Review*, USITC publication 3078, Nov./Dec. 1997, pp. 12-14 and tables A-1 and A-2.

[136] WTO, Committee on Safeguards, "Report (1997) of the Committee on Safeguards," G/L/200, Oct. 28, 1997.

State Trading Enterprises[137]

The Working Party on State Trading Enterprises was established in February 1995 to review notifications of state trading enterprises (STEs), to improve the 1960 GATT questionnaire on STEs, and to develop an illustrative list of these enterprises for use in applying Article XVII (State Trading Enterprises). New and full notifications are required in the first and fourth years, with changes notified in the second and third years. Since 1995, 55 new and full notifications have been made; in 1996, 28 updates were received; and in 1997, 16 updates were received. During 1997, the Working Party reviewed notifications of a number of countries, and discussed possible improvements to the questionnaire.

Plurilateral Trade Agreements

Termination of the WTO Meat and Dairy Agreements[138]

On September 30, 1997, signatories agreed to terminate the International Bovine Meat Agreement and the International Dairy Agreement, and the councils overseeing them, at the end of 1997 in the interest of economy and efficiency. The WTO Committee on Agriculture and Committee on Sanitary and Phytosanitary Measures are likely to assume the agreements' functions regarding trade in meat and dairy products.

The two agreements originally entered into force January 1, 1980, as part of the nine plurilateral agreements agreed during the 1973-79 GATT Tokyo Round and often known as the Tokyo Round codes.[139] The International Meat Council oversaw the bovine meat-agreement, evaluating the world supply and demand situation for meat and providing a forum for regular consultation on matters affecting trade in bovine meat (beef, veal, and live cattle). The International Dairy Council oversaw the dairy agreement and set minimum export prices for international trade in certain dairy products (certain milk powders, milk fat including butter, and certain cheeses). However, in October 1995, the Dairy Council suspended operation of these minimum export prices because these had become untenable due to the limited membership in the agreement and nonparticipation by some key dairy exporting countries.[140]

Agreement on Government Procurement[141]

In 1997, the Committee on Government Procurement overseeing the Agreement on Government Procurement met three times, considering applications for observership, modifications to the appendices to the agreement, a loose-leaf system for appendices to the agreement, notifications of national implementing legislation, modalities for the three-year review of the agreement, accessions completed and in progress, as well as other business involving national actions concerning procurement.

Hong Kong became a signatory to the agreement in June 1997. Liechtenstein became a signatory to the agreement in September 1997. Chinese Taipei (Taiwan) continued consultations with signatories regarding its bid for accession. Three recent WTO members—Bulgaria, Mongolia, and Panama—indicated their intent to seek accession to the agreement. In June 1997, Panama applied for accession to the agreement, tabling an initial offer of its government procurement entities. (See table 2-8 for a list of the signatories to the WTO plurilateral trade agreements in 1997.)

[137] WTO, Working Party on State Trading Enterprises, "Report (1997) of the Working Party on State Trading Enterprises," G/L/198, Nov. 17, 1997.

[138] WTO, International Dairy Council, "International Dairy Council - Report to the General Council," WT/L/245, Nov. 21, 1997; WTO, International Meat Council, "International Meat Council - Report to the General Council," WT/L/237, Oct. 16, 1997.

[139] The original nine Tokyo Round agreements covered subjects involving antidumping, subsidies, customs valuation, import licensing, product standards, civil aircraft, government procurement, bovine meat, and dairy products. These agreements were known as "codes" because they were "plurilateral" agreements, meaning that they were binding only on those signatories that agreed to each code's particular set of rights and obligations. Under the WTO, the first five of these codes became "multilateral" agreements, that is, binding on all WTO members. With the termination of the meat and dairy codes, two Tokyo Round codes remain, covering civil aircraft and government procurement. Technically, the Tokyo Round codes concerning meat and dairy were "arrangements" entitled the Arrangement Regarding Bovine Meat and the International Dairy Arrangement whereas, under the WTO, they were renamed as "agreements" entitled the International Bovine Meat Agreement and the International Dairy Agreement.

[140] WTO, "Signatories Terminated WTO Plurilateral Agreements on Meat and Dairy Products," press release, PRESS/78, Sept. 30, 1997.

[141] WTO, Committee on Government Procurement, "Report (1997) of the Committee on Government Procurement," GPA/19, Oct. 29, 1997.

Table 2-8
Signatories to the WTO Plurilateral Trade Agreements in 1997

AGREEMENT ON GOVERNMENT PROCUREMENT	
Aruba, Netherlands	Korea
Canada	Liechtenstein
European Union	Norway
Hong Kong, China	Singapore
Israel	Switzerland
Japan	United States
AGREEMENT ON TRADE IN CIVIL AIRCRAFT[1]	
Austria	Luxembourg
Belgium	Macau
Bulgaria	Netherlands
Canada	Norway
Denmark	Portugal
European Union	Romania
Egypt	Spain
France	Sweden
Germany	Switzerland
Ireland	United Kingdom
Italy	United States
Japan	
INTERNATIONAL DAIRY AGREEMENT	
Argentina	New Zealand
Bulgaria	Norway
Chad	Romania
European Union	Switzerland
Japan	Uruguay
INTERNATIONAL BOVINE MEAT AGREEMENT	
Argentina	New Zealand
Australia	Norway
Brazil	Paraguay
Bulgaria	Romania
Canada	South Africa
Colombia	Switzerland
European Union	United States
Japan	Uruguay

[1] Greece is a signatory of the Agreement on Trade in Civil Aircraft pending ratification.

Source: WTO, Committee on Government Procurement, "Report (1997) of the Committee on Government Procurement," GPA/19, Oct. 29, 1997; WTO, Committee on Trade in Civil Aircraft, "Report (1997) of the Committee on Trade in Civil Aircraft," WT/L/247, Nov. 26, 1997; WTO, International Dairy Council, "International Dairy Council - Report to the General Council," WT/L/245, Nov. 21, 1997; WTO, International Meat Council, "International Meat Council - Report to the General Council," WT/L/237, Oct. 16, 1997.

Agreement on Trade in Civil Aircraft[142]

During 1997, the Committee on Trade in Civil Aircraft continued its consideration of the status of the 1979 Agreement on Trade in Civil Aircraft (Aircraft Agreement) under the WTO. Since the conclusion of the Uruguay Round, a number of proposals have been advanced to adapt the Aircraft Agreement to the WTO structure, but without success. One proposal consists of a draft protocol of technical amendments to the Aircraft Agreement and a draft decision on the relationship between the amended Aircraft Agreement and the Agreement on Subsidies and Countervailing Measures. A second proposal consists of two draft decisions, the first considering technical changes to the Aircraft Agreement and the second considering application of the WTO Dispute Settlement Understanding (DSU) to consultations and dispute-settlement proceedings under the Aircraft Agreement. A third proposal suggests certain amendments to Article 8.8 (Surveillance, Review, Consultation, and Dispute Settlement) of the Aircraft Agreement that are said to largely preserve the balance of rights and obligations under the agreement.

The balance of rights and obligations under the Aircraft Agreement forms the central issue of the relationship between the Aircraft Agreement and the WTO structure. Under the GATT, some signatories to the Aircraft Agreement—notably the EU—considered it to be the sole agreement that applied to disputes involving aircraft subsidies, whereas other signatories—most notably the United States—considered the Agreement on Subsidies and Countervailing Measures to also be applicable. Under the WTO, however, the integrated framework automatically considers the WTO Agreement on Subsidies and Countervailing Measures applicable in dispute cases under the DSU, thereby altering the previous balance of rights and obligations. (See table 2-8 for a list of the signatories to the WTO plurilateral trade agreements in 1997.)

Trade Activities in the Organization for Economic Cooperation and Development in 1997

This section describes the trade-related activities of the OECD in 1997. The OECD provides a forum for consultation and policy coordination on economic and

[142] WTO, Committee on Trade in Civil Aircraft, "Report (1997) of the Committee on Trade in Civil Aircraft," WT/L/247, Nov. 26, 1997.

trade issues of interest to members.[143] The annual OECD Ministerial meeting, where Ministers adopt completed work and review ongoing efforts, was held May 26-27, 1997. In 1997, Ministers adopted anticorruption measures, worked on the framework elements of a Multilateral Agreement on Investment (MAI), and developed policy recommendations on ways to reform the regulatory regimes in their countries. In addition, work continued under the rubric of the "new trade agenda," including research on the interaction between trade policy and policies traditionally considered domestic in nature, including those on the environment, investment, competition (antitrust) policy, and labor.[144]

Multilateral Agreement on Investment

After several years of preliminary study in the OECD Committee on Investment and Multilateral Enterprises (CIME) and Committee on Capital Movements and Invisible Transactions (CMIT), Ministers asked the OECD in May 1995 to begin negotiations aimed at reaching a Multilateral Agreement on Investment (MAI) that would:

- provide a broad framework for international investment with high standards for the liberalization of investment regimes and investment protection and with effective dispute settlement procedures; and
- be a free-standing international treaty open to all OECD Members and the European Communities, and to accession by non-OECD Member countries.[145]

Although the initial deadline for reaching an agreement was extended from May 1997 to April 1998, given the range of issues that remain to be addressed, some participants believe a further extension may be needed.[146] Negotiators made rapid progress in the first two years, developing the overall framework disciplines, but since then, negotiations have slowed and continued into 1998 over individual national reservations and other similar exceptions or exemptions.

The draft MAI extends beyond traditional foreign direct investment (FDI) to encompass portfolio investment and intangible assets.[147] Treatment and protection of investors and investments under the draft MAI includes a broad definition of investor and investment, fair and nondiscriminatory treatment for foreign investors, high standards of investment protection, and an effective dispute-settlement mechanism. Special topics dealt with in the MAI include performance requirements and investment incentives, temporary stay and work of investors and key personnel, and privatization and monopolies. Other matters include environment and labor issues, and the OECD guidelines for multinational enterprises. The draft MAI is not expected to create obligations that conflict with other international agreements, or the IMF or WTO, and will have its own institutional arrangements. The MAI will be a free-standing treaty, open to accession by nonmembers.[148] (See table 2-9 for subjects covered in the OECD Multilateral Agreement on Investment.)

In addition, MAI negotiations have also become the venue for seeking resolution of differences over investment in confiscated property and secondary boycotts, issues arising under the U.S. Helms-Burton law, and those regarding sanctions against countries supporting terrorism such as Iran and Libya. (For further detail, see the section on the EU in chapter 4 of this report.)

Final agreement on the draft MAI depends on reaching a balance of commitments among participants that include exceptions, derogations, and national reservations. In addition, participants still have concerns regarding provisions in the consolidated text of the draft framework agreement. U.S. objectives include protection of U.S. investors abroad from discrimination, reaching agreement on an appropriate level of protection for U.S. investments afforded by host coun-

[143] At the end of 1997, the 29 OECD member countries were Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

[144] For further details, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 43-45; USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 20-21; USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 73-75.

[145] OECD, *A Multilateral Agreement on Investment--Report by the Committee on International Investment and Multinational Enterprises (CIME) and the Committee on Capital Movements and Invisible Transactions (CMIT)*, OCDE/GD(95)65, General Distribution, OECD: Paris, 1995; can be found at Internet address http://www.oecd.org/daf/cmis/mai/mairpt95.htm, retrieved Dec. 12, 1997.

[146] USTR, "Multilateral Agreement on Investment Negotiations in 1997," *1998 Trade Policy Agenda and 1997 Annual Report*, pp. 159-161.

[147] OECD, "The Multilateral Agreement on Investment - Report by the MAI Negotiating Group - May 1997," found at Internet address http://www.oecd.org/daf/cmis/mai/MAIRPT97.HTM, retrieved Dec. 12, 1997.

[148] For further detail, see documents associated with OECD, "The Multilateral Agreement on Investment," found at Internet address http://www.oecd.org/daf/cmis/mai/maindex.htm, retrieved Dec. 12, 1997.

Table 2-9
Subjects covered in the OECD Multilateral Agreement on Investment

I. General Provisions
- Preamble

II. Scope and Application
- Definitions
- Geographical Scope of Application
- Application to Overseas Territories

III. Treatment of Investors and Investments
- National Treatment and Most Favored Nation Treatment
- Transparency
- Special Topics
  - Temporary entry, stay and work of Investors and Key Personnel
  - Senior Management and Board of Directors
  - Employment Requirements
  - Performance Requirements
  - Privatization
  - Monopolies/State Enterprises/Concessions
  - Investment Incentives
  - Corporate Practices
  - Technology R&D
  - Intellectual Property
  - Public Debt
  - Not Lowering Standards

IV. Investment Protection
- General Treatment
- Expropriation and Compensation
- Protection from Strife
- Transfers
- Subrogation
- Protecting Existing Investments

V. Dispute Settlement
- State-State Procedures
- Investor-State Procedures

VI. Exceptions and Safeguards
- General Exceptions
- Transactions in Pursuit of Monetary and Exchange Rate Policies
- Temporary Safeguard

VII. Financial Services
- Prudential Measures
- Recognition Arrangements
- Authorization Procedures
- Transparency
- Information Transfer and Data Processing
- Membership of Self-regulatory Bodies and Associations
- Payments and Clearing Systems/Lender of Last Resort
- Dispute Settlement
- Definition of Financial Services

VIII. Taxation

IX. Reservations
- Lodging of Country-Specific Reservations

X. Relationship to other International Agreements
- Obligations under the Articles of Agreement of the International Monetary Fund
- The OECD Guidelines for Multinational Enterprises

XI. Implementation and Operation
- The Preparatory Group
- The Parties Group

Table 2-9—Continued
Subjects covered in the OECD Multilateral Agreement on Investment

XII. Final Provisions
- Signature
- Acceptance and Entry Into Force
- Accession
- Non-Applicability
- Review
- Amendment
- Withdrawal
- Depositary
- Status of Annexes
- Authentic Texts
- Denial of Benefits

Source: OECD, "Multilateral Agreement on Investment - Consolidated Text," table of contents, DAFFE/MAI(97)1/REV2, May 13, 1997.

tries, and creating new opportunities for U.S. firms abroad by removing investment barriers in such areas as privatization. The United States continues to seek a "state-of-the-art" agreement that meets or exceeds the investment standards found in U.S. bilateral investment treaties or the NAFTA. Some of these key elements include:

- the better of national or most-favored-nation treatment, with only limited exceptions;
- disciplines for performance requirements that distort trade and investment;
- freedom of investment-related transfers;
- expropriation standards consistent with U.S. law and practice, including prompt, adequate, and effective compensation; and
- access to binding international arbitration in investor-state disputes.[149]

Bribery Convention

As the world economy becomes more integrated, bribery has become an increasingly important issue because it hinders competition, distorts trade, and harms consumers, taxpayers, and honest traders. (See table 2-10 for background on international efforts against bribery and corruption.) On November 21, 1997, the members of the OECD adopted the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the most recent in a series of measures taken to address the problem. The convention was signed by the 29 OECD member states, as well as by 5 nonmember countries—Argentina, Brazil, Bulgaria, Chile, and the Slovak Republic. The convention addresses corruption involved in promising or giving a bribe ("active" bribery), as opposed to receiving one ("passive" bribery). The convention seeks a functional equivalence among measures taken by signatories against the bribery of foreign public officials.[150]

The OECD has taken a number of other steps in recent years to fight corruption. In May 1994, OECD members adopted the 1994 Recommendation on Bribery in International Business Transactions. The recommendation enjoins each member country to take concrete and meaningful steps in a number of areas[151] to deter, prevent, and combat bribery of foreign public officials in connection with international business transactions. The OECD Committee on International Investment and Multinational Enterprises (CIME) was instructed to review the recommendations made and national steps taken to implement them, and to report back to the Ministers in three years. In Autumn 1995, the CIME Working Group on Bribery in International Business Transactions began to analyze the criminalization of bribery of foreign public officials. In May 1996, the OECD Council adopted the 1996 Recommendation on the Tax Deductibility of Bribes of Foreign Public Officials, and endorsed the CIME's

[149] USTR, "Multilateral Agreement on Investment Negotiations in 1997," *1998 Trade Policy Agenda and 1997 Annual Report*, p. 160.

[150] OECD, "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions Adopted," found at Internet address http://www.oecd.org/news_and_events/release/nw97104a.htm, retrieved Nov. 26, 1997.

[151] Areas such as criminal law; civil, commercial, and administrative law; tax legislation, company accounting requirements; banking provisions; laws and regulations regarding public subsidies, licenses, government procurement contracts; and the like. See OECD, *OECD Actions to Fight Corruption*, OCDE/GD(97)131, 1997, p. 5.

Table 2-10
International efforts against bribery and corruption

Since the passage of the United States Foreign Corrupt Practices Act (FCPA) in 1977, it has been a violation of American law for American firms to pay bribes to foreign officials. However, although domestic bribery is illegal virtually everywhere, very few countries have laws similar to the FCPA prohibiting payment of bribes to foreigners. Many governments have dismissed the U.S. efforts to condemn corruption as naive and unrealistic, but more recently have begun to recognize the costs—in moral, political, and economic terms—of failing to oppose commercial bribery. A growing number of business leaders and policymakers have begun to see from international corruption scandals in the 1980s and 1990s that bribery and corruption threaten vital interests and impose a number of costs—

- Bribery distorts markets and hinders economic development. It substitutes graft for quality, performance, and suitability in global markets. It sustains rent-seeking behavior at the expense of efficient channeling of resources to productive activity.
- Bribes undermine democratic accountability. Weak governments are further weakened by corruption, and emergent democracies are threatened by such graft.
- Bribery creates essentially a nontariff barrier to trade that disadvantages companies with legitimate business practices that refuse to engage in the practice.

International resolve is building to combat the bribery of foreign public officials in international business transactions. The OAS Interamerican Convention Against Corruption of March 1996 was the first binding international commitment in this area. In December 1996, the United Nations General Assembly approved the Declaration Against Bribery and Corruption in International Business Transactions, which called for the criminalization of such bribery and the elimination of tax deductibility for the suppliers of bribes. In 1996, the multilateral financial institutions, such as the International Monetary Fund and the World Bank, called on governments to demonstrate their intolerance for all forms of corruption.

The major multilateral focus against corruption however is in the OECD. In May 1994, the OECD adopted a Recommendation Against Bribery in International Business Transactions. The recommendation called on OECD members to "take concrete and meaningful steps ... to deter, prevent and combat bribery" of foreign public officials in international business transactions. In 1996, OECD Ministers endorsed an agreement reached by the OECD Council that members eliminate tax-deductibility of bribes. Also in 1996, following persistent U.S. pressure, OECD members agreed "in principle" to the criminalization of foreign bribery, the first major breakthrough regarding bribery and corruption with the United States' main commercial competitors since passage of the U.S. Foreign Corrupt Practices Act. The agreement stipulates that a bribery working group will examine the "modalities and appropriate international instruments" to achieve criminalization and make proposals to Ministers at the spring 1997 Ministerial meeting.

In the WTO, the United States has set its sights on ensuring that the international procurement process is open and transparent. The WTO Government Procurement Agreement (GPA) satisfies this standard, but it is limited with signatories at present representing only 26 countries largely because few countries can meet its rigorous procedural requirements. Nevertheless, the United States will continue to press for universal accession to the GPA. At the WTO Singapore Ministerial Conference in December 1997, Ministers called for the establishment of the Working Group on Transparency in Government Procurement, which began its work in May 1997 to study the transparency in government procurement practices with the aim of developing elements regarding transparent procurement that might be included at some future date in an appropriate agreement.

Source: U.S. Department of State telegram, "Background Paper on Bribery and Corruption for U.S.-GCC Economic Dialogue Working Group 1 Meeting," message reference No. 036529, prepared by U.S. Department of State, Feb. 27, 1997; and Paolo Mauro, "Why Worry About Corruption," *Economic Issues,* No. 6, International Monetary Fund, Feb. 1997.

conclusion that it is necessary to criminalize the bribery of foreign public officials in a coordinated fashion. Also in May 1996, the OECD Development Assistance Committee approved the 1996 Recommendation Concerning Anticorruption Proposals for Bilateral Aid Procurement.

On May 23, 1997, at the OECD Ministerial meeting in Paris, Ministers agreed to the 1997 Revised Recommendation on Combating Bribery in International Business Transactions, expanding on their 1994 work. The 1997 Revised Recommendation includes provisions concerning the criminalization of bribery of foreign public officials, the disallowance of tax deductibility of bribes to foreign public officials, accounting requirements and external/internal audit controls for companies, public procurement, as well as provisions regarding international cooperation, institutional arrangements, cooperation with nonmembers, and relations with inter- and nongovernmental organizations.

In May 1997, Ministers reaffirmed their commitment to criminalize bribery of foreign public officials in an effective and coordinated manner by endorsing the Revised Recommendation. They agreed that an international convention was an appropriate instrument to attain such criminalization rapidly, leading to the convention ultimately adopted in November 1997. Ministers recognized that achieving progress in this field requires not only efforts by individual countries but multilateral cooperation, monitoring, and follow-up. They recommended that member countries submit criminalization proposals to their legislative bodies by April 1, 1998, and seek their enactment by the end of 1998. Ministers urged the prompt implementation of the 1996 Recommendation on the tax deductibility of such bribes. Stressing the global relevance of bribery in international business transactions, the Ministers called on non-OECD countries to join forces with them to fight this phenomenon.[152]

Regulatory Reform

In 1995, Ministers asked the OECD to examine the significance, direction, and means of reform in regulatory regimes in OECD member countries. The regulatory reform work program aimed to develop conclusions and recommendations from Member governments' experiences with reform so as to enhance competition, reduce regulatory costs, and thereby boost efficiency, lower prices, stimulate innovation, and help their economies remain competitive. At the May 1997 Ministerial conference, Ministers received the OECD report on regulatory reform. The report set out the following seven policy recommendations on regulatory reform.

1. Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.

2. Review regulations systematically to ensure that they continue to meet their intended objectives efficiently and effectively.

3. Ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied.

4. Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy.

5. Reform economic regulations in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.

6. Eliminate unnecessary regulatory barriers to trade and investment by enhancing implementation of international agreements and strengthening international principles.

7. Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.[153]

The report undertook a number of sectoral and thematic studies to measure the economic gains resulting from regulatory reform. The sector studies reviewed financial services, professional services, telecommunications services, the agro-food sector, electricity sector, and product standards and conformity assessment. The thematic studies covered the effects of regulatory reform on the public sector, consumers and competition, industrial competitiveness and innovation, international market openness, as well as the economy-wide effects of regulatory reform. These studies suggested that price reductions following the elimination of economic regulation in specific industries amounted to significant gains in various member countries, such as—

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[152] OECD, "Commentaries on the Convention on Combating Bribery of Officials in International Business Transactions," found at Internet address http://www.oecd.org/daf/cmis/bribery/20nov2e.htm, retrieved Dec. 12, 1997.

[153] OECD, "The OECD Report on Regulatory Reform - Summary," found at Internet address http://www.oecd.org/subject/regreform/, retrieved Dec. 15, 1997.

Sector	Price reductions after elimination of economic regulation[1]
	(Percent)
Electricity sector	Japan (5), Norway (18 to 26), United Kingdom (9 to 15)
Financial services	United Kingdom (70), United States (30 to 62)
Telecommunications	Finland (66), Japan (41), Korea (10 to 30), Mexico (21), United Kingdom (63)
Air transport	Australia (20), Spain (30), United Kingdom (33), United States (33)
Road transport	France (20), Germany (30), Mexico (25), United States (19)

[1] Price reductions may be in part attributable to factors other than regulatory reform.

Source: OECD, *The OECD Report on Regulatory Reform—Synthesis Report*, OECD: Paris, 1997.

The report advises governments to systematically pursue ambitious regulatory reform, meaning both deregulation and better regulation, and warns that delaying such reform will prove costly. Deregulation will improve already flexible markets while high-quality regulation will be needed to protect public interests such as the environment, health, and safety. The study suggests for example that ambitious reform in key sectors could in the end boost GDP significantly, possibly as much as between 3 and 6 percent for the more heavily regulated countries in Europe and for Japan.[154]

Other New Trade Agenda Issues

Beginning in 1991 and 1992, Ministers directed the OECD to examine the relation between trade and a number of subjects that are traditionally a focus of domestic policy, such as the environment, competition policy, investment, and labor standards. Examination of these issues has advanced at different rates. Early examination of trade and investment issues resulted in the MAI, while examination of other issues, such as trade and competition policy, has taken longer.

In mid-1996, the OECD Joint Group on Trade and Competition was established to increase the coherence between trade and competition policies by strengthening the work that was carried out previously by separate efforts in the Trade Committee Working Party (TCWP) and the Competition Law and Policy Committee (CLP). The Joint Group held its first meeting for organizational purposes on July 8, 1996, following which the group proposed a two-year work program in October 1996 and held discussions in preparation for the WTO Singapore Ministerial Conference in December 1996.

In 1997, the group continued its work, focusing on—

- issues of transparency, due process, and nondiscrimination that arise during the domestic enforcement of competition laws;
- the consistencies and inconsistencies between trade and competition policy and how to enhance the coherence of these two policy areas; and
- the trade effects of exceptions to competition laws.

Ministers are expected to renew the Joint Group's mandate for a further two-year extension, essentially under current terms of reference, at the OECD Ministerial meeting in May 1998. Multilateral attention on other issues has largely moved on to other forums, such as the WTO for trade and the environment, and the International Labor Organization for trade and labor.

[154] OECD, "OECD New Issues - the OECD Reports on Regulatory Reform - Summary, Synthesis, Sectoral and Thematic Studies," Oct. 3, 1997, found at Internet address http://www.oecd.org/news_and_events/publish/pb97-20a.htm, retrieved Dec. 15, 1997.

CHAPTER 3
Regional Trade Activities

As in recent years, regional trade initiatives were an important component of U.S. trade policy during 1997. The United States participated in the North American Free Trade Agreement (NAFTA), in the Asia-Pacific Economic Cooperation (APEC) forum, and in ongoing discussions towards the Free Trade Areas of the Americas (FTAA). Several reports were issued in 1997 reviewing NAFTA at the three-year mark of operation. Building on the model of the World Trade Organization (WTO) Information Technology Agreement, APEC ministers agreed to pursue early voluntary sectoral liberalization in nine agreed-upon sectors. Hemispheric trade ministers met in 1997 and intensified preparations for formally launching FTAA negotiations in April 1998. Attention was also focused on the African continent, with the launching of U.S. initiatives aimed at fostering trade and development in that region.

The North American Free Trade Agreement

Implemented on January 1, 1994, NAFTA links the United States, Mexico, and Canada in a free trade agreement that incorporates much of the preexisting U.S.-Canada Free Trade Agreement (CFTA) and resulted 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. NAFTA phases out remaining tariffs over periods of up to 15 years from the agreement's entry into force, and provides for consideration of accelerated tariff elimination for products on a reciprocal basis. NAFTA also addresses a variety of nontariff 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 supplemental accords on environmental and labor cooperation, the first U.S. trade accord to be linked formally to such commitments.

The Free Trade Commission, made up of the trade ministers of each member country oversees NAFTA. 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. Following is a discussion of U.S. trade with NAFTA partners and a review of major developments under NAFTA in 1997, including the March 1997 meeting of the Free Trade Commission, the release of assessments of NAFTA's first three years of operation, efforts to resolve implementation issues, and activity under NAFTA's formal dispute settlement mechanisms.

U.S. Trade with NAFTA Partners

During 1997, U.S. trade with NAFTA partners continued to expand. U.S. exports to NAFTA partners grew by more than U.S. imports from NAFTA partners, and the combined U.S. trade deficit with Canada and Mexico narrowed to $49.7 billion (Table 3-1). U.S. exports to Mexico grew by 25 percent from 1996 to 1997, reaching $68.4 billion and making Mexico the United States' second most important single-country market (after Canada). U.S. imports from Mexico grew by 15 percent, to $85.0 billion. The bilateral deficit on merchandise trade with Mexico was $16.6 billion, down from $19.5 billion in 1996. U.S. exports to Canada rose by 13 percent, to $134.8 billion, while U.S. imports from Canada rose 7 percent, to $167.9 billion. The U.S. deficit on merchandise trade with Canada was $33.1 billion, less than the $37.2 billion deficit in 1996. In 1997, imports entering under NAFTA preferences accounted for 53 percent of U.S. imports from Canada and 74 percent of U.S. imports from Mexico.

Meeting of NAFTA Free Trade Commission

The NAFTA Free Trade Commission held its fourth meeting on March 20, 1997. At its conclusion,

Table 3-1
U.S. trade with NAFTA partners, 1995-97

(Billion dollars)

Year	NAFTA partner	Exports	Imports	Trade balance	Two-way trade
1995	Canada	113.3	144.9	-31.6	258.1
	Mexico	44.9	54.7	-9.8	99.6
	Canada and Mexico	158.1	206.6	-48.5	364.1
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
1997	Canada	134.8	167.9	-33.1	302.7
	Mexico	68.4	85.0	-16.6	153.4
	Canada and Mexico	203.2	252.9	-49.7	456.1

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

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

U.S. Trade Representative (USTR) Charlene Barshefsky, Canadian Trade Minister Arthur Eggleton, and Mexico's Secretary of Commerce and Industrial Development Hermino Blanco Mendoza issued a joint statement[1]—

- reaffirming their strong commitment to the NAFTA and its value in promoting trade, investment, economic growth, and jobs in all three countries and emphasizing the importance of the continued implementation of the NAFTA.

- announcing conclusion of the first round of tariff acceleration talks. Effective July 1, 1997, the NAFTA partners began eliminating tariffs more quickly than is called for under the NAFTA on a specified list of several dozen items.

- directing officials to initiate the second round of tariff acceleration by May 1, and to conclude negotiations by December 15, 1997.[2]

- adopting a recommendation from the trilateral Advisory Committee on Private Commercial Disputes[3] that supports the utilization of alternative dispute resolution.

- agreeing, in accordance with Article 513, to implement certain technical modifications to the NAFTA rules of origin (Annex 401) to establish consistency between Annex 401 of the NAFTA and the Parties' tariff laws.

- approving rules for remuneration of expenses to panelists regarding NAFTA Chapter 19 and 20 dispute settlement cases.

- recognizing receipt and adoption of reports regarding the work of the 20 trilateral Committees and Working Groups charged with day-to-day oversight of NAFTA implementation.

[1] USTR, "Joint Statement of Trade Ministers at the Fourth NAFTA Commission Meeting, Washington, DC, March 20, 1997," press release 97-23, Mar. 20, 1997.

[2] USTR later issued a Federal Register notice requesting comments by Dec. 12, 1997, on items proposed for consideration in the second round of accelerated tariff elimination talks (62 FR 54671, Oct. 21, 1997). USTR requested the

[2]—*Continued*
ITC's advice on Oct. 20, 1997. The ITC advice, which is confidential, was provided Feb. 17, 1998. Notices of the ITC's investigation were published at 62 FR 60100, Nov. 6, 1997, and 62 FR 64402, Dec. 5, 1997.

[3] This Committee was established pursuant to NAFTA Article 2022 and comprises both private sector members and government officials of each party. Its main task is to evaluate and promote the use of alternative means of dispute resolution for private commercial disputes.

- authorizing release of the report of the NAFTA trade remedies working groups. The report recommended adoption of procedural changes by NAFTA partners in the administration of antidumping and countervailing duty investigations.[4]

- acknowledging discussion of outstanding issues: telecommunications standards setting (in Mexico), cross-border transportation, temporary entry, government procurement, and sanitary and phytosanitary issues.

- agreeing that the next NAFTA Commission meeting at the Ministerial level will be held in Mexico in the first quarter of 1998.

In addition to reducing their tariffs on intra-NAFTA trade, Canada and Mexico each liberalized some most-favored-nation (MFN) tariffs during 1997. Mexico reduced applied tariffs on some 1,200 tariff lines of inputs and machinery.[5] On October 7, 1997, Canada submitted legislation to Parliament to implement a simplified customs tariff and the Information Technology Agreement (ITA). Among other things, the tariff changes would implement most Uruguay Round reductions scheduled for January 1, 1999, a year early, eliminate most duties under 2 percent, and reduce tariffs on a wide range of manufacturing inputs.[6]

Both countries also continued pursuit of trade agreements with other partners. The Canada-Chile FTA was implemented on July 5, 1997, after passage of legislation to implement the accord by the Chilean Senate and Canada's Parliament. The accord provides Canadian suppliers with immediate duty-free access for 75 percent of Canadian exports and eliminates Chile's 11 percent tariff on most remaining industrial and resource-based goods over a 5-year period.[7] Canada signed separate arrangements on trade and economic cooperation with Norway on December 3, 1997,[8] and with Switzerland on December 9, 1997.[9] On April 22, 1997, Canada and Brazil announced that they would work to expand their trade relations.[10] Mexico already has free trade agreements with Chile, Venezuela, Colombia, Bolivia, Costa Rica, and Nicaragua, and is negotiating NAFTA-like agreements with the rest of Central America, Ecuador, and Peru. It has begun preparatory talks with the EU on a comprehensive economic accord and continued ongoing talks with MERCOSUR.[11]

Three-Year Review of NAFTA's Operation and Effects

During 1997, legislatively mandated reports to Congress on NAFTA's impact provided an initial assessment of how the accord had shaped commerce among the United States, Canada, and Mexico in its first three years. In July 1997, President Clinton presented to Congress a report on NAFTA's operation and effects, as required by Sec. 512 of the NAFTA Implementation Act.[12]

Among other things, the President's study concluded that:

- Under NAFTA, Mexico reduced its trade barriers to U.S. exports significantly. The United States, which started with much lower tariffs, has made smaller reductions. For example, Mexico's average tariffs on American products dropped from 10 percent to approximately 2.9 percent ad valorem, whereas average U.S. tariffs on Mexican goods fell from 2.07 percent to 0.65 percent.[13]

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[4] Noting that the trade remedies working groups' work has been completed, NAFTA ministers stated, "The Governments will continue to consult, as appropriate under the NAFTA, on issues related to trade remedies with the objective of promoting fair trade and reducing the possibility of disputes, such as common problems posed by steel imports into the NAFTA countries."

[5] U.S. Department of State telegram, "Trade Policy Review for Mexico," message reference No. 7096, prepared by U.S. Mission, Geneva, Oct. 15, 1997.

[6] U.S. Department of State telegram, "Canadian Tariffs Eliminated on U.S. Goods, Many Others Unilaterally Reduced," message reference No. 241732, prepared by U.S. Embassy, Ottawa, Dec. 24, 1997.

[7] Department of Foreign Affairs and International Trade, Canada, "Canada-Chile Free Trade Agreement to be Implemented July 5," press release No. 113, July 3, 1997.

[8] Department of Foreign Affairs and International Trade, Canada, "Signature of Arrangement on Trade and Economic Cooperation Between Canada and Norway," press release No. 201, Dec. 3, 1997.

[9] Department of Foreign Affairs and International Trade, Canada, "Canada and Switzerland Sign an Arrangement on Trade and Economic Cooperation," press release No. 203, Dec. 9, 1997.

[10] Department of Foreign Affairs and International Trade, Canada, "Canada and Brazil Strengthen Co-Operation on Peacekeeping, Trade," press release No. 77, Apr. 22, 1997.

[11] U.S. Department of State telegram, "Information for WTO Trade Policy Review Mechanism—Mexico," message reference No. 9384, prepared by U.S. Embassy, Mexico City, Sept. 26, 1997. MERCOSUR is the Spanish acronym for the Southern Common Market, a subregional customs union operative since January 1, 1995, linking the economies of Argentina, Brazil, Paraguay, and Uruguay.

[12] President of the United States, *Study on the Operation and Effect of the North American Free Trade Agreement*, July 1997.

[13] Ibid., p. 1.

- U.S. trade with North American partners grew faster than overall U.S. trade during NAFTA's first 3 years.[14] U.S. exports to Mexico rose by 36.5 percent during 1993-96 despite a 3.3 percent contraction in Mexico's GDP during that period because of the peso crisis, which began in December 1994.[15] U.S. export growth to Mexico exceeded import growth from Mexico in 13 of the most recent 14 months reviewed.[16]
- NAFTA in isolation had a modest positive effect on U.S. exports, income, investment, and jobs supported by exports. As such, NAFTA contributed to the recent strong performance of the U.S. economy.[17]
- NAFTA protected U.S. exports and jobs during Mexico's devaluation-induced recession.[18]
- NAFTA-associated economic reforms played a part in Mexico's recovery from the 1995 crisis, which was considerably more rapid than that experienced after its 1982 crisis.[19]
- U.S. direct investment in Mexico remained small and did not significantly impact aggregate U.S. investment.[20]
- U.S. suppliers have maintained or enhanced their dominant position of the Mexican market since NAFTA was implemented:[21] U.S. market share rose in 9 of the 12 sectors examined,[22] with the size of market share gains positively correlated to the size of reductions in Mexican tariffs.[23]
- NAFTA's reduction in tariff and nontariff barriers contributed to increased U.S. exports of motor vehicles, electronic components, textiles and apparel, computers, chemicals, and a range of agricultural products, and were a factor in increased U.S. imports of Mexican textiles and apparel and light trucks.[24]
- U.S. imports from Mexico are in many instances displacing imports from Asia and elsewhere that contain low levels of U.S. content.[25] Many imports from Mexico—such as apparel, motor vehicles, computers, and telecommunications equipment—contain substantial levels of U.S. content.[26]
- NAFTA's supplemental agreements on labor and environment have fostered cooperation, enhanced oversight and enforcement of labor laws, and improved enforcement of Mexican environmental laws.[27]

In testimony discussing the President's report, Deputy U.S. Trade Representative Jeffrey Lang noted that "NAFTA is accomplishing what it was designed to do: gradually elimate tariff and nontariff barriers to trade and investment." In the first six months of 1997, Ambassador Lang observed, Canada and Mexico accounted for nearly half of overall U.S. export growth. During that period Mexico was the second leading destination for U.S. exports, moving ahead of Japan even though Mexico's economy is only one-twelfth the size of Japan's.[28] (For 1997 as a whole, increased exports to Canada and Mexico accounted for 48 percent of the total growth in U.S. exports from 1996 to 1997, according to official statistics of the U.S. Department of Commerce.)

The President's report was prepared with input from other agencies and outside analysts,[29] including a study by the ITC assessing NAFTA's impact on the U.S. economy and industries. In USTR's April 23, 1997, letter requesting the study, the ITC was asked to take into account economic effects associated with other events occurring during the phase-in of NAFTA. Complicating such an assessment were factors such as the limited period of time being reviewed, wide divergences in economic size and performance of the NAFTA economies, and other changes, such as the implementation of Uruguay Round-related tariff reductions starting January 1, 1995.

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[14] Ibid., p. i.
[15] Ibid., p. 1.
[16] Ibid., p. 9.
[17] Ibid., p. 5.
[18] Ibid., p. 3.
[19] Ibid., p. 4.
[20] Ibid., p. 4.
[21] Ibid., p. 35.
[22] Ibid., p. 34.
[23] Ibid., p. 36.
[24] Ibid., p. 43.
[25] Ibid., p. 31.
[26] Ibid., p. 44.
[27] Ibid., p. vi and vii.
[28] Ambassador Jeffrey Lang, Deputy USTR, "The North American Free Trade Agreement," hearing before the House Ways and Means Committee, Sept. 11, 1997, prepared testimony, p. 2.
[29] Among them was an effort to model the dynamic gains from NAFTA. See Michael A. Kouparitsas, "A Dynamic Macroeconomic Analysis of NAFTA," *Economic Perspectives*, Federal Reserve Bank of Chicago, Vol. 21, No. 1, Jan./Feb. 1997, pp. 14-35.

In its report, the Commission concluded, that NAFTA had, on balance, "positive, although modest, effects on the U.S. economy and individual industry sectors after three years."[30] At the same time, the Commission noted that "many of NAFTA's most important effects are not easily quantified or observed and the full effects of the Agreement will take many more years to make themselves known."[31] NAFTA was, for example, cited by numerous witnesses at the Commission's hearing as improving the climate for business and increasing awareness of opportunities for beneficial exchange.[32] Other observations and conclusions found in the Commission's report include the following:

- During 1993-96, imports from Canada and Mexico grew more rapidly than imports from the rest of the world, as did U.S. exports to Mexico compared with other trading partners.[33]

- NAFTA significantly affected the levels of U.S. trade with Mexico, but did not have a significant effect on aggregate U.S. trade with Canada. As a result of NAFTA, the volume of U.S. exports to Mexico was estimated to be 1.3 percent higher in 1994, 3.8 percent higher in 1995, and 3.2 percent higher in 1996. The volume of U.S. imports from Mexico was 1 percent higher in 1994, 5.7 higher in 1995, and 6.4 percent higher in 1996.[34]

- U.S. exports to Mexico increased significantly due to NAFTA in 13 industries accounting for about 9 percent of aggregate U.S. exports to Mexico; U.S. imports from Mexico increased significantly in 16 industries accounting for 15 percent of aggregate U.S. imports from Mexico and decreased significantly in 7 accounting for 1 percent of aggregate U.S. imports from Mexico. A greater number of industries (36 of the 78) significantly increased exports in 1994 because of NAFTA, but did not sustain those increases in 1995 and 1996.[35]

- The sharp devaluation of the Mexican peso and that country's resulting recession is widely acknowledged to have been the dominant factor shaping U.S.-Mexico trade flows in the period since the start of NAFTA in January 1994.[36]

- The 1982 debt crisis in Mexico was accompanied by a 50 percent decline in U.S. exports from 1981 to 1983.[37] Despite the December 1994 devaluation of the peso, the United States witnessed an increase in U.S. exports to Mexico of 35.8 percent between 1993 and 1996.[38] [Full year 1997 data, which were not available for analysis in the Commission's study, show that U.S. exports to Mexico rose another 25 percent, or by $13.7 billion in 1997 reflecting the recovery of the Mexican economy.]

- Compared with European and Asian exporters, North American exporters were less adversely affected by shrinking Mexican imports in 1995 and profited more from resurging Mexican imports in 1996.[39]

- Analysis of labor market data at the industry level indicates that 19 of the 120 manufacturing industries analyzed experienced some NAFTA-related change in hourly earnings or hours worked.[40] Hours worked were more often found to be positively related to NAFTA, while earnings were more often found to be negatively affected. Total employment in these industries amounts to 3.4 percent of the total nonfarm labor force and 17 percent of the total manufacturing labor force.[41] (Only a fraction of these workers was estimated to be affected by NAFTA.)

[30] U.S. International Trade Commission, *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three Year Review* (investigation No. 332-381), USITC publication 3045, June 1997, p. xviii. The study included a review of NAFTA's key provisions and implementation status and economic performance by the three NAFTA partners and analyzed NAFTA's impact on the U.S. economy overall, U.S. trade with NAFTA partners, U.S. workers in industries competing with Mexican imports, and 68 specific sectors.

[31] Ibid.

[32] Ibid., p. xviii.

[33] Ibid., p. xix.

[34] Ibid., p. xxi.

[35] Ibid., p. xxii.

[36] Ibid., p. xxi.

[37] Ibid., p. xix.

[38] Ibid., p. xx.

[39] Ibid.

[40] Ibid., pp. 4-17 to 4-18. The industries identified as being affected by NAFTA were: meats and livestock; textile mill products; apparel and other finished textile products; paper products; industrial inorganic chemicals; soaps, detergents, and toiletries; plastic and rubber products; leather tanning and finishing; flat glass and glassware; vitreous china plumbing fixtures; steel products; nonferrous metals, wrought; fabricated metal products; industrial machinery; heavy electrical equipment; electrical lighting and wiring equipment; electronic components and accessories; measuring, analyzing, and control instruments; and games, toys, and children's vehicles, except dolls and bicycles.

[41] Ibid., p. 4-18.

- While NAFTA will have caused dislocations to some workers in the labor force, these are small relative to total job creation over the same period and relative to dislocations associated with other factors such as technological change.[42]

- The ITC's analysis of individual industries and groups indicates that NAFTA had a significant effect on the increase in U.S. trade in 9 of 68 sectors: (1) grains and oilseeds, (2) raw cotton, (3) textile mill products, (4) apparel, (5) women's footwear, (6) leather tanning and finishing, (7) household appliances, (8) motor vehicles, and (9) motor vehicle parts.[43] In the services sector, NAFTA had a significant effect on U.S. financial services firms, as Mexico removed limits on foreign investment in banking and securities.[44]

The U.S. Department of Agriculture (USDA) submitted its first biennial report on NAFTA's impact on agricultural commodities and rural communities in September 1997, as required by the NAFTA Implementation Act.[45] USDA said that its analysis of NAFTA's effects was complicated by the adoption of fundamental domestic agricultural reform measures in all three NAFTA countries as well as adverse weather, which has been a major factor in recent shifts in cross-border trade patterns. Nevertheless, USDA concluded that, "The impacts of NAFTA on U.S. agriculture and rural areas have been positive overall, but so far generally small." Specifically, the report stated—

- NAFTA has had a positive effect overall on U.S. agriculture, reinforcing the trend toward greater integration of markets in North America.

- NAFTA's agricultural provisions have had a modest positive impact on investment and employment in the U.S. rural economy to date.

- More-open trade has improved the competitiveness of the United States in a broad range of agricultural sectors and mitigated local production shortfalls, securing more stable supplies and reducing price volatility. Consumers in all three NAFTA countries have benefitted from more access to wider sources of supply.

- USDA estimated that U.S. exports to Mexico and Canada were 3 and 7 percent higher, respectively, in 1996 than they would have been without NAFTA; imports from Mexico and Canada were 3 and 5 percent higher respectively.

- USDA found that NAFTA's biggest impacts were in products that faced high initial barriers and rapid liberalization. For example, U.S. beef exports to Canada were 100 percent higher in 1996 because of NAFTA; and bilateral trade between the United States and Canada in wheat and wheat products and vegetable oils was 5 to 10 percent higher in 1996 than it would have been without the agreement.

- NAFTA played a relatively minor role in the increase in U.S. imports of winter vegetables. The peso crisis, technological shifts in tomato production, and unusual weather in Florida were far more important than NAFTA-induced tariff reductions, USDA concluded.

In September 1997 testimony, the U.S. General Accounting Office made the following general observations about NAFTA's impacts and implementation: (1) trade with NAFTA partners has accelerated; (2) sectoral impacts are diverse; (3) estimates of jobs "gained" or "lost" to NAFTA vary substantially and suffer from methodological limitations,[46] although in general, trade policies do not alter the overall employment level; (4) the effectiveness of NAFTA in locking in Mexico's long-term commitments to market reforms and

[42] Ibid., p. 4-19.

[43] Ibid., p. xxiii.

[44] Ibid., p. xxv.

[45] U.S. Department of Agriculture, Economic Research Service, *NAFTA: International Agriculture and Trade*, WRS-97-2, September 1997.

[46] Job "gain" and "loss" numbers are controversial and often crude estimates. Moreover, the number of jobs in the economy is primarily a function of macroeconomic conditions. Both opponents and proponents of NAFTA have relied on "jobs multipliers" to estimate job losses, but the multipliers themselves are controversial and they have at times been applied in ways that are not analytically sound, e.g., using a number for the average number of jobs supported by exports to assess the employment effect of imports.

The number of workers certified to receive NAFTA Trade Adjustment Assistance (TAA) is recognized as an imprecise measure of the number of workers losing jobs because of NAFTA. Workers do not have to be actually laid off to qualify for certification; and there is no requirement to demonstrate that NAFTA per se was the cause of increased imports or production shifts. Conversely, many NAFTA-impacted workers are unaware of NAFTA-TAA benefits or seek assistance under other adjustment assistance programs or accept alternative employment due to training requirements and time limits associated with NAFTA-TAA. So-called secondary workers that supply firms that relocate or close due to shifts in production to or increases in imports from NAFTA partners do not qualify for NAFTA-TAA.

promoting Mexican growth is not yet clear; and (5) NAFTA's system for avoiding and settling disputes has helped governments resolve important trade issues.[47]

The transmittal of these governmental reports sparked other efforts to assess the accord. Some found NAFTA's net effects to be so far, on balance, positive, others claimed the effects are negative; and still others suggested that the accord had virtually no impact.[48]

- Several major studies agreed with the President that, by lowering high Mexican trade barriers and helping to stabilize Mexico in the wake of the December 1994 peso crisis,[49] NAFTA had a modest positive effect on the U.S. economy and an even more important positive effect on Mexico and overall trade levels among NAFTA partners.[50] Indeed, NAFTA was seen by some as a far-reaching precedent, containing disciplines worthy of emulation in other trade liberalization initiatives.[51] These analysts maintained that the peso's crash and associated recession was the biggest reason for the expansion of the U.S. trade deficit with Mexico, but was not related to NAFTA.[52]

- Critics claimed that, contrary to "promises" by NAFTA proponents over job and export gains,[53] NAFTA destroyed U.S. job opportunities,[54] heightened pressures on U.S. wages and benefits,[55] widened the U.S. trade deficit,[56] had a disproportionate and negative affect on

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For additional background, see, David C. Datelle, NAFTA's Effect on U.S. Jobs, *Progressive Policy Institute Backgrounder*, Oct. 1997; and David C. Ranney and Robert R. Naiman, *Does Free Trade Create Good Jobs?* Institute for Policy Studies and Great Cities Institute, Jan. 23, 1997.

47 U.S. General Accounting Office, *North American Free Trade Agreement: Impacts and Implementation*, Testimony before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Sept. 11, 1997, GAO/T-NSIAD-97-256, pp. 2-3.

48 For a concise summary of this perspective see, Helene Cooper, "Experts' View of NAFTA's Impact: It's a Wash," *The Wall Street Journal*, June 17, 1997. One analysis falling into this category is Raul Hinojosa-Ojeda, Curt Dowds, Robert McCleery, Sherman Robinson, David Runsten, Craig Wolff, and Goetz Wolff, *North American Integration Three Years After NAFTA: A Framework for Tracking, Modeling and Internet Accessing the National and Regional Labor Market Impacts* (Los Angeles: UCLA, North American Integration and Development Center, Dec. 19, 1996).

49 Expanded integration of North American production and improved cooperation on a range of matters were also cited as evidence of NAFTA's role in improving productivity and fostering needed change by Mexico. See, for example, Sidney Weintraub, *NAFTA at Three: A Progress Report*, (Washington, DC: Center for Strategic and International Studies, 1997), and Nora Claudia Lustig, *NAFTA: Setting the Record Straight*, Brookings Policy Brief, May 1997.

50 See, for example, DRI, *The Impact of NAFTA on the North American Economy,* (Lexington, MA: DRI/McGraw-Hill, Jan. 1997); John Sweeney, *NAFTA's Three-Year Report Card: An "A" for North America's Economy*, (Washington, DC: The Heritage Foundaton, 1997); and U.S.-Mexico Chamber of Commerce, *NAFTA After Three Years: A Success*, 1997, which each reach similar conclusions to the President about NAFTA's overall positive effect and make similar arguments as to why that is the case. These views were echoed in opening remarks of Rep. Philip M. Crane (R-IL) before The Trade Subcommittee of the House Ways and Means Committee on Effects of NAFTA on the U.S. Economy, Sept. 11, 1997, LEGI-SLATE Report for 105th Congress, Sept. 15, 1997, Transcript 972540430, pp. 1-2.

51 See, for example, Rebecca Reynolds Bannister, *The NAFTA Success Story: More Than Just Trade*, Progressive Policy Institute, Sept. 1997.

52 See, for example, David M. Gould, "Distinguishing NAFTA from the Peso Crisis," *The Southwest Economy*, Federal Reserve Bank of Dallas, Sept./Oct. 1996, pp. 6-10.

53 Public Citizen's Global Trade Watch, *NAFTA's Broken Promises: Failure to Create Jobs*, (Washington, DC: Public Citizen, Feb. 1997). Using statements contained in business and government reports and congressional testimony, Public Citizen attempted to determine whether "promised" job creation or export growth made before NAFTA's passage actually materialized after its inception by surveying the companies involved (67 companies that "made promises" responded to their survey; 16 did not). As detailed in the report [p. 3], "89 percent of the companies that we contacted had not made any significant steps toward fulfilling their promises of U.S. job creation or export expansion."

54 See, for example, Jesse Rothstein and Robert E. Scott, *NAFTA's Casualties: Employment Effects on Men, Women, and Minorities*, Economic Policy Institute, Issue Brief No. 120, Sept. 19, 1997. Using an input-output model (rather than "jobs multipliers") the authors analyze how the reduction in net U.S. exports to NAFTA partners since 1993 affected U.S. job opportunities, finding that a disproportionate number of the jobs eliminated were manufacturing jobs, which pay relatively higher wages. They also examine exports and imports separately, finding that while increased exports to Mexico and Canada generated nearly 400,000 jobs, those job gains were offset by increased imports, which eliminated nearly 800,000 jobs. On balance, they conclude, NAFTA resulted in a net loss of 394,835 job opportunities in its first three years. The President's report [Executive Summary, p. i] indicates that the number of U.S. jobs supported by exports to Canada and Mexico increased by 311,000 since NAFTA's entry into force.

55 Kate Bronfenbrenner, *The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize*, Cornell University, Sept. 30, 1996. The study, commissioned by the U.S. Department of Labor but yet to be formally released by it, found evidence that since NAFTA's inception U.S. employers had increased resort to threats of relocation to Mexico when facing efforts by employees to form unions or to collectively bargain over wages and benefits. It should be noted that since 1993, improvements in real income were recorded at all quintiles of the U.S. income distribution, according to the President's report (p. 12).

56 Public Citizen, *Clinton Administration's NAFTA Report: Statement by Lori Wallach, Director, Public Citizen's Global Trade Watch*, July 11, 1997, p. 1.

minorities and rural communities,[57] compromisedfood safety, and worsened transborder problems such as environmental degradation, drug trafficking, and illegal immigration.[58] Analyzing NAFTA cannot be separated from the peso-induced recession of 1995,[59] from which Mexican wages have yet to recover, they said.[60] NAFTA was thus failing to assure a stable and prosperous Mexico, according to critics.[61]

- The Mexican government said NAFTA had had a postitive impact on Mexico's growth and competitiveness and contributed to its economic development. Among other things, NAFTA helped Mexico become the world's 10th largest exporter and 2nd largest developing-country recipient of foreign direct investment in 1996, the government reported. The benefits of Mexico's export growth are also becoming more dispersed: the number of small- and medium-sized businesses engaged in exports has increased by nearly 50 percent from 1993 to 1996 and more than half of the new *maquiladoras* established in Mexico during 1996 were outside the border region, the government reported.[62]

It should be noted that such assessments are preliminary. NAFTA's provisions are being phased in over a 15-year period that began on January 1, 1994, with many Mexican tariff reductions and certain other obligations yet to enter into effect. Thus, the reports present a snapshot of NAFTA's impact one-fifth of the way through its implementation period. Moreover, the 3-year period examined was marked by substantial divergence in economic performance among the three NAFTA partners. Mexico, in particular, experienced its worst recession in 60 years in the wake of the sharp depreciation of the peso's value on international currency markets that began in December 1994. The United States, meanwhile, enjoyed its longest peacetime expansion and began phasing in the results of the Uruguay Round, including its commitment to accomplish a 35 percent reduction in average U.S. tariffs.

Others believe that NAFTA per se has not likely had a major effect on the U.S. economy overall. The United States already had a free trade agreement with Canada that had largely been implemented; the value of Mexico's total annual output (GDP) is only about 3 or 4 percent of that of the United States; and before NAFTA, U.S. barriers were already generally low. To the extent NAFTA did cause difficulties for certain U.S. firms or workers, they were occuring in the context of a growing economy and expanding employment. While some jobs undoubtedly were lost to heightened competition after NAFTA's entry into force, over the 1993 to 1997 time frame, U.S. civilian employment increased by 8.3 million, dwarfing even the highest estimates of the employment effects of NAFTA.[63] The unemployment rate has steadily declined over the 1994-97 period, reaching a 24-year low of 4.9 percent in 1997.

Even so, lingering debate over the accord's effects spilled over into Congressional consideration of the President's September 1997 request for "fast track" authority to negotiate trade agreements,[64] including a proposed free trade agreement with Chile, despite Ambassador Barshefsky's appeal for Congress to look past NAFTA towards opportunities in Latin America, Asia,

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[57] See, for example, National Council of La Raza Office of Research, Advocacy and Legislation, *NAFTA Dislocated Workers: A Latino Perspective*, Washington, DC: National Council of La Raza, June 1997 and Raul Hinojoa Ojeda, Davin Runsten, and Craig Wolff, *The Labor Market Impacts of North American Economic Integration on Latino, Black, and White Workers*, Los Angeles: UCLA North American Integration and Development Center, July 1997.

[58] See, for example, International Brotherhood of Teamsters, "Clinton Report Glosses Over Harm NAFTA Has Caused Working Families: Carey," press release, July 11, 1997 and "Congressman David Bonoir, "NAFTA Isn't Getting Any Better With Age," press release, July 11, 1997.

[59] NAFTA's prospect also complicated stabilization policy in Mexico and in this indirect way, contributed to Mexico's 1995 financial crisis, according to DRI, *The Impact of NAFTA on the North American Economy*, Lexington, MA: DRI/McGraw-Hill, Jan. 1997, which otherwise finds that in actual operation NAFTA in isolation, i.e., after factoring out the peso's depreciation and Mexico's ensuring recession, increased actual and net U.S. exports to Mexico.

[60] NAFTA fueled speculative investments in Mexico and made it more vulnerable to sudden shifts in currency values, some suggested. See, for example, Robert Kuttner, "Why Clinton's 'Fast Track' Loss is a Win," *The Washington Post*, Nov. 16, 1997, pp. C-1 and C-2. Council on Hemispheric Affairs, "NAFTA's Failure to Deliver," press release 97-20, June 27, 1997. The President's report (p. 28) notes that in March 1997, real wages in Mexico were still 23 percent below their March 1994 level, before the peso crisis hit, but adds that workers in Mexico's export-oriented maquiladora industry experienced a smaller decline in real wages.

[61] See, for example, Alan Tonelson, "NAFTA Backers' Flawed Excuses," *The Washington Times*, Mar. 28, 1997, p. A17.

[62] Embassy of Mexico, SECOFI-NAFTA Office, "NAFTA Is Successful at Increasing Trade and Competitiveness," *NAFTA Works*, June 1997, pp. 1-5.

[63] This point was made in U.S. International Trade Commission, *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three Year Review*, June 1997, ITC investigation No. 332-381, USITC publication 3045, p. 4-19. For a discussion of the overall trends in the U.S. economy during NAFTA's first three years, see pp. 3-3 to 3-16 of that report.

[64] See, for example, Statement of Olympia Snowe (D-ME) on Fast-Track Authority, *Congressional Record*, p. S12631-33, Nov. 13, 1997, and Ileana Ros-Lehtinen (R-FL), "Why I Opposed 'Fast Track'," *Miami Herald*, Nov. 23, 1997.

and the WTO.[65] Specifically, opponents of "fast track" urged that future trade liberalization initiatives not use NAFTA as a model, given concerns they had that NAFTA was not safeguarding certain U.S. interests well enough. (As noted in chapter 1, the President ultimately requested that the House of Representatives refrain from voting on its fast track bill.) Indeed, bills were introduced in the House and Senate, but not further advanced that would preclude NAFTA's expansion and require its renegotiation if certain conditions were not met.[66]

NAFTA Implementation Issues

Implementation of NAFTA commitments on agriculture, intellectual property, and standards required ongoing attention in 1997. Agricultural issues were dealt with primarily in a bilateral context, and are thus discussed in the "Canada" and "Mexico" sections of chapter 4. Textile trade under NAFTA is discussed in chapter 5. Standards and IPR issues were discussed primarily in the NAFTA context.

Standards

Four key standards-related issues were addressed under NAFTA in 1997: (1) amendments to Mexico's law for developing and enforcing standards, (2) Mexico's new certification requirements, (3) implementation of new Mexican labeling requirements, and (4) the scheduled January 1, 1998, implementation of a unique feature of NAFTA: the requirement that Mexico recognize, on a national treatment basis, conformity assessment bodies located in the United States and Canada. Acceptance of standards as "equivalent" and of specified regions as disease-free, both innovative features of NAFTA, were also pursued. Finally, Mexico and Canada expressed concern about U.S. implementation of fastener quality standards and proposed country-of-origin marking rules for frozen vegetables.[67]

Changes to Mexico's standards development system

Mandatory, government-enforced standards play a much greater role in Mexico than they do in the United States. The Mexican government has been revamping its entire system for formulating standards since the early 1990s. During 1997, discussions continued over changes to Mexico's 1992 Federal Law on Metrology and Standardization that allow regulatory agencies to modify official standards without adhering to the normal notice and comment procedures, which are required by NAFTA and the WTO in order to ensure transparency.

The United States made clear its view that publication in draft and opportunity for comment are required by NAFTA and the WTO Agreement on Technical Barriers to Trade (TBT), pointing to the confusion caused by Mexican implementation of new textile-labeling requirements without advance notice. At April meetings, Mexico explained that only modifications "which are not new or do not include more restrictive requirements" would be promulgated under the streamlined procedures.[68] In July 10, 1997, meetings of the NAFTA Committee on Standards-Related Measures, Mexico assured the United States that exceptions to normal notice and comment procedures would be interpreted narrowly and only apply in rare circumstances.[69] However, there has been ongoing disagreement with Mexico over its compliance with NAFTA and TBT notice and comment requirements. During 1997, for example, in discussing U.S. concerns about the handling of health-related regulations by the Ministry of Health, Mexico asserted that implementing regulations for laws also do not have to be notified in draft or open for comment.[70]

On May 20, 1997, Mexico published more extensive changes to the 1992 Law on Metrology and Standardization. The new changes took effect on August 1, 1997. In general, the changes provide greater transparency and increased private sector participation in the standards and certification process.[71] The revision also

[65] Ambassador Charlene Barshefsky, testimony before the Senate Finance Committee, June 3, 1997.

[66] For example, H.R. 78, "NAFTA Renegotiation and WTO Dispute Settlement Review Commission Act," was introduced by Rep. Ralph Regula (R-OH) on Jan. 7, 1997 and S. 1514, the "NAFTA Accountability Act," was introduced by Sen. Byron Dorgan (D-ND) on Nov. 10, 1997.

[67] U.S. Department of State telegram, "NAFTA Committee on Standards-Related Measures: Report of the July 10 Meeting," message reference No. 144863, Aug. 2, 1997.

[68] U.S. Department of State telegram, "NAFTA Committee on Standards: Report of Ninth Meeting [April 10-11, 1997]," message reference No. 73257, prepared by U.S. Department of State, Washington, DC, Apr. 19, 1997.

[69] U.S. Department of State telegram, "NAFTA Committee on Standards-Related Measures: Report of the July 10 Meeting," message reference No. 144863, Aug. 2, 1997.

[70] U.S. Department of State telegram, "Information for WTO Trade Policy Review Mechanism—Mexico," message reference No. 9384, prepared by U.S. Embassy, Mexico City, Sept. 26, 1997. An April report put it this way, "SECOFI officials maintain that regulations pursuant to law, such as the implementing regulations of the 1984 health law, are not subject to the NAFTA transparency provisions of Ch. 9." U.S. Department of State telegram, "Overview of Bilateral Standards Issues," message reference No. 3394, prepared by U.S. Embassy, Mexico City, Apr. 9, 1997.

[71] U.S. Department of State telegram, "1997 Trade Act Report: Mexico," message reference No. 10605, prepared by U.S. Embassy, Mexico City, Oct. 31, 1997.

holds the potential for resolving specific U.S. concerns. For example, responses to comments must now be published at least 15 days prior to final publication of standards, and emergency standards can no longer be automatically renewed.[72]

Nevertheless, the United States expressed reservations about several features of the law.[73] Regarding transparency, U.S. negotiators sought assurances that new or modified conformity assessment procedures would be notified and comments taken into account. The United States was also concerned over how the new law's requirement to use international standards when formulating mandatory standards would affect U.S. market access to Mexico, given that U.S. sales often depend on market acceptance of standards developed by U.S. organizations. Finally, the United States was concerned about provisions of the law that would subject all future agreements on mutual recognition of conformity assessment, whether among private sector or governmental bodies, to approval by the Mexican government. Approval would be contingent on satisfying three conditions, including "reciprocity." The United States was concerned that this requirement would inhibit mutual recognition agreements (MRAs) and subject them to extraneous conditions.[74]

Certification requirements

Many U.S. exports to Mexico must demonstrate conformity with at least one mandatory standard by such means as laboratory tests and certifications.[75] In 1994, Mexico changed its testing and certification procedures to require more frequent testing of products. The new law's requirement that each importer (versus each producer) obtain its own standards certification caused problems for U.S. exporters.[76]

Proposed changes in Mexico's certification procedures were published in draft on January 3, 1997. At the April 1997 and July 1997 meetings of the NAFTA Committee on Standards-Related Measures, Canada and the United States both commented on the proposed changes.[77]

On October 24, 1997, Mexico published its final regulations.[78] They contained changes that could ease some of the difficulties with the 1994 procedures. Specifically, the new certification procedures allow foreign manufacturers to obtain a "dictamen," or notice, that its product has been tested to be in compliance with a Mexican standard; it appears that with a copy of the manufacturer's dictamen, any number of importers can obtain certification for the product.[79] However, to obtain that benefit, the manufacturers would have to undergo quality-system certification from a Mexican quality-system registrar, raising costs.[80] Echoing a concern voiced earlier by Canada,[81] at a November 17, 1997, meeting of the NAFTA Committee on Standards-Related Measures, the United States expressed concern that the new procedures appear to offer national producers more options than foreign manufacturers. NAFTA officials continue to discuss the certification options available under Mexico's new law.[82]

New labeling requirements

In 1997, Mexico adopted major changes in its general labeling requirements. Border enforcement of new

[72] U.S. Department of State telegram, "Mexico Revamps Standards Law," message reference No. 4958, prepared by U.S. Embassy, Mexico City, May 23, 1997.

[73] U.S. Department of State telegram, "BNC Trade and Investment Working Group: Sugar, Standards, Brooms," prepared by U.S. Embassy, Mexico City, May 2, 1997.

[74] USTR, informal communication, July 7, 1997.

[75] 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.

[76] U.S. Department of State telegram, "Information for WTO Trade Policy Review Mechanism—Mexico," message reference No. 9384, prepared by U.S. Embassy, Mexico City, Sept. 26, 1997.

[77] U.S. Department of State telegram, "NAFTA Committee on Standards: Report of Ninth Meeting," message reference No. 73257, prepared by U.S. Department of State, Washington, DC, Apr. 19, 1997.

[78] For background see, U.S. Department of Commerce, "New Draft Regulations on Product Certification in Mexico," NAFTA Facts Document 9015.

[79] U.S. Department of State telegram, "Review of Standards Issues," message reference No. 10826, prepared by U.S. Embassy, Mexico City, Nov. 7, 1997.

[80] U.S. Department of State telegram, "Mexican Certification Regulations: Giving with One Hand But Taking with the Other," message reference No. 11043, Nov. 14, 1997; and U.S. Department of State telegram, "NAFTA Committee on Standards: Report of Ninth Meeting," message reference No. 73257, prepared by U.S. Department of State, Washington, DC, Apr. 19, 1997.

[81] U.S. Department of State telegram, "NAFTA Committee on Standards-Related Measures: Report of the July 10 Meeting," message reference No. 144863, Aug. 2, 1997.

[82] According to participants, the issue was specifically discussed at the most recent meeting of the NAFTA Committee on Standards-Related Measures, held November 17, 1997, in Washington, DC.

labeling requirements for general consumer goods (NOM-050) began on March 1, 1997, and for processed foods and alcoholic beverages (NOM-051), on June 1, 1997.[83] However, "on the shelf" enforcement, to ensure that products sold in stores comply with the labeling requirements, which was to begin on July 1 and November 1, 1997, respectively, was postponed until January 1, 1998. Domestic enforcement is handled by Mexico's consumer protection agency, whereas border enforcement is handled by the Mexican Customs agency. Imports, therefore, are subject to dual inspection, first at the border and then at the retail level, whereas domestic products are subject only to retail enforcement. During 1997, only imports were subject to inspection.

Efforts under NAFTA continued in 1997 to resolve questions raised by U.S. business about the new rules, which were, according to a mid-April report, delaying or otherwise affecting an estimated 6.5 percent of Mexico's total imports or $5.8 billion worth of goods[84] and adding significantly to U.S. exporters' costs.[85] Mexico published clarifications to the new rules in the June, 2, 1997, *Diario Oficial* that resolved one major concern—the length of time documents certifying compliance with the labeling requirements would remain valid. On July 24, 1997, a directive was issued clarifying when goods not destined for final use by consumers are exempt from the labeling regulations,[86] addressing another problem in interpretation.[87]

Nevertheless, at the July 10 meeting of the NAFTA Committee on Standards-Related Measures, the United States said U.S. industry was continuing to experience practical difficulties with the requirements. Specifically, the "verification units" responsible for ensuring adequate labeling were overburdened, costly, and slow. By mid-year, only five verification units had been named and they were located in Mexico City rather than at border crossings. None of the entities was permitted to provide postentry verification services to new importers or small importers.[88] Customs enforcement was strict and often inconsistent,[89] and both verification units and Customs were interpreting narrowly the scope of "families of products" that could be grouped under one label. Documents known as "*constancias*" (providing preapproval of labels) were product- and importer-specific, forcing producers with multiple importers to submit the same label for approval multiple times.[90] Mexico's Secretariat of Commerce and Industrial Development (SECOFI) responded to all of these concerns prior to the November meeting of the Committee on Standards-Related Measures,[91] prompting the U.S. Embassy to commend the Mexican government for its increased willingness to work with U.S. industry to address implementation concerns.[92] Nevertheless, at a November 17, 1997, meeting, the United States expressed concern that the lag in "on-the-shelf" enforcement meant that Mexico's domestic producers had been given longer lead times to come into compliance. It also expressed concern that border enforcement, appears to be more rigorous than the domestic enforcement finally being undertaken. The U.S. Government urged Mexico to ensure nondiscriminatory enforcement.

Recognition of conformity assessment bodies

Effective January 1, 1998, NAFTA Art. 908.2 obligates Mexico to recognize U.S. and Canadian conformity assessment bodies on terms no less favorable than those accorded to conformity assessment bodies in

[83] For background see, "Verification Units and Mexico's New Labelling Rules," U.S. Department of Commerce, NAFTA Facts, Doc. 9016.

[84] The estimate was prepared by the National Association of Importers and Exporters of Mexico, and reported in Mary Sutter, "Mexico's Label Rules Draw Ire from Top Import-Export Group," *The Journal of Commerce*, Apr. 15, 1997.

[85] U.S. Department of State telegram, "NAFTA Committee on Standards: Report of the Ninth Meeting [April 10-11, 1997], message reference No. 73257, prepared by U.S. Department of State, Washington, DC, Apr. 19, 1997.

[86] Bureau of National Affairs, "Mexico Issues Directive Easing Attainment of Labeling Laws Exemption," *International Trade Reporter*, Vol 14, No. 31, p. 1325.

[87] U.S. Department of State telegram, "Overview of Bilateral Standards Issues," message reference No. 3394, prepared by U.S. Embassy, Mexico City, Apr. 9, 1997.

[88] Postentry verification is not currently permitted for firms that have been on the importer registry for less than two years or firms whose imports amounted to less than $100,000 over the prior year. U.S. Department of State telegram, "Overview of Bilateral Standards Issues," message reference No. 3394, prepared by U.S. Embassy, Mexico City, Apr. 9, 1997.

[89] Mary Sutter, "Mexican, Foreign Firms Watch to See How Strict Label Rules are Enforced," *The Journal of Commerce*, July 1, 1997 and BNA, "Industry Official Says Mexico Will be Flexible in Enforcement of New Labeling Standards," *International Trade Reporter*, Vol. 14, No. 25, p. 1076, June 18, 1997.

[90] U.S. Department of State telegram, "NAFTA Committee on Standards: Report of the Ninth Meeting [April 10-11, 1997]," message reference No. 73257, prepared by U.S. Department of State, Washington, DC, Apr. 19, 1997.

[91] U.S. Department of Commerce official, telephone conversation with USITC staff, Mar. 18, 1997.

[92] U.S. Department of State telegram, "1997 Trade Act Report: Mexico," message refrence No. 10605, prepared by U.S. Embassy, Mexico City, Oct. 31, 1997.

Mexico.[93] During 1997, the United States discussed Mexico's plans to implement its obligation.[94] Government of Mexico officials stated that Mexico has already complied with the national treatment obligation of NAFTA Art. 908.2 with the change in the metrology law that became effective August 1, 1997 (see above). That law transfers the function of accreditation from the government to a private sector national accreditation body (or bodies), although the government continues to supervise the accreditation process. This national accreditation body will evaluate Mexican, U.S., and Canadian conformity assessment bodies on an equal basis, the Mexican government said at a July 10, 1997, meeting. By late 1997, a private body to perform accreditation had yet to be established. Nevertheless, the Government of Mexico, which, in the interim, remains directly responsible for accreditation itself, assured its NAFTA partners that it would be prepared to accept applications for accreditation from U.S. and Canadian bodies by January 1, 1998, as required by NAFTA.[95]

Intellectual Property Rights

Chapter 17 of NAFTA provides for nondiscriminatory national treatment in intellectual property rights (IPR) protection and requires each party to ensure that effective enforcement procedures are in place and civil judicial procedures are available to rights holders. Chapter 17 served as a model for the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS) negotiated in the Uruguay Round, and is built on existing international agreements—including the Paris Convention on the Protection of Industrial Rights and the Rome Convention on the Rights of Authors and Artists. NAFTA goes beyond the TRIPS Agreement, however. Mexico, as a developing country, has until the year 2000 to implement fully its TRIPS obligations. However, because NAFTA contains no such transition period, Mexico already is required to have TRIPS-consistent IPR legislation.[96] Nevertheless, shortcomings in Mexico's IPR protectionhave been a major irritant which persisted through 1997, even though Mexico took some steps during the year to address concerns about them. Canada, meanwhile, was placed on USTR's "watch list" in April 1997 because its recently passed copyright law failed to provide U.S. copyright holders national treatment.

Even before NAFTA became effective, Mexico had begun to improve significantly its patent, trademark, and copyright protection by creating the Industrial Property Act[97] and the Copyright Act[98] in 1991. Subsequently, Mexican obligations under NAFTA have given rise to a wide range of laws and regulations. A notable piece of NAFTA-inspired legislation is the 1994 amendment to the 1991 Industrial Property Act, creating the Mexican Institute for Industrial Property (IMPI) with a mandate to implement Mexico's laws on IPR protection. Also noteworthy is Mexico's new Customs Law, in force since April 1, 1996, which enables Mexican customs officials to seize pirated merchandise. In 1996, Mexico passed a law providing protection of plant species, as required by NAFTA. Mexico's most recent copyright legislation, published on December 24, 1996, imposed stiffer penalties for violators and strengthened administrative procedures. This new copyright law substantially increases protection of computer programs, textile designs, and several other types of copyrighted material, and permits IMPI to take action against violators.

Nonetheless, the new law contained serious deficiencies from the U.S. perspective. Particular concerns included the lack of criminal penalties for sound-recording piracy, the absence of civil remedies, and the possible decriminalization of end-user piracy.[99] Technical amendments to Mexico's copyright law that addressed some U.S. concerns were passed on April 29, 1997, for example, by bringing commercial piracy of sound recordings under coverage of criminal law. Efforts to rectify remaining U.S. concerns continued throughout 1997.

[93] NAFTA Art. 908.2 states, "each Party shall accredit, approve, license or otherwise recognize conformity assessment bodies in the territoriy of another Party on terms no less favorable than those accorded to conformity assessment bodies in its territory." Annex 908.2 gives Mexico until Jan. 1, 1998, to implement this obligation.

[94] U.S. Department of State telegram, "NAFTA Implementation: Request for Embassy Assistance," message reference No. 169149, prepared by U.S. Department of State, Washington, DC, Sept. 10, 1997.

[95] Meeting of NAFTA Committee on Standards-Related Measures, Nov. 17, 1997, meeting notes.

[96] U.S. Department of State telegram, "Information for WTO Trade Policy Review Mechanism," message reference No. 9384, prepared by U.S. Embassy, Mexico City, Sept. 26, 1997.

[97] Mexico's "Law for the Promotion and Protection of Industrial Property" of June 26, 1991, covers patents, trademarks and trade secrets, and replaces the 1976 Law of Inventions and Marks and the 1982 Law on the Transfer of Technology. Notably, this law extended patent protection from 14 to 20 years from the date of filing, granted trademarks for 10-year renewable periods, and provided for recovery of damages in case of infringement.

[98] The 1991 copyright law includes provisions for increased protection of computer programs against unauthorized reproduction and provides for procedures when claiming damages.

[99] United States Trade Representative, *1997 National Trade Estimate Report on Foreign Trade Barriers*, p. 263.

Implementation of the new copyright law and Mexico's other IPR obligations under NAFTA remained insufficient in 1997. Although Mexico was not placed on the "priority watch list"[100] of IPR violators in the USTR's "Special 301" annual review, it was cited in the "other observations" category as having continued problems with piracy.[101] U.S. producers of computer software and video and audio recording equipment continue to allege that Mexico has fallen short in meeting NAFTA demands, particularly in enforcement issues.[102]

The weakness of Mexican copyright protection was addressed among a wide range of IPR issues of mutual interest at an August 1997 meeting of U.S. and Mexican interagency expert-level delegations.[103] The U.S. side expressed disappointment with the Mexico's delay in publishing and starting to enforce regulations based on the new copyright protection law that were promised for early summer 1997—including civil remedies for violations.[104] The tardiness of enforcing the new law constituted one of the major unresolved bilateral IPR issues in 1997. In addition, possible satellite signal piracy in Mexico emerged as a new copyright issue to emerge during the August meeting.

Trademarks, especially for pharmaceutical products, constituted another focus of discussion. U.S. and some third-country pharmaceutical companies were concerned about some provisions of new draft Mexican health regulations regarding the use of generic pharmaceuticals in prescriptions. The regulations being developed by the Secretariat of Health would require private doctors to issue pharmaceutical prescriptions with generic names, although doctors would also be allowed to specify an appropriate trademarked product. Presently, only public-sector doctors are required to show generic names on prescriptions.

Pharmaceutical producers expressed concern that mandated generic names in prescriptions would encourage the poorly controlled Mexican pharmacies always to use generic drugs, even in cases where doctors had called for trademarked products.[105] The U.S. delegation noted that the proposed health provisions might have the effect of restricting the labeling and advertising of brand-name drugs, thus constituting an encumbrance on the use of the pharmaceutical trademarks involved.[106] Only the final language of the regulation will tell to what extent Mexico has addressed the above concerns and whether the new health law is consistent with Mexico's TRIPs and NAFTA obligations.

Dispute Settlement

Activity was registered under three of NAFTA's distinct dispute settlement mechanisms. These address, respectively, investment (Chapter 11 of NAFTA, unfair trade practices (Chapter 19), and the interpretation and application of NAFTA obligations generally (Chapter 20). The Chapter 11 and Chapter 19 mechanisms are unique. Regarding general dispute settlement, NAFTA permits complainants to choose between NAFTA and WTO dispute settlement for any matter arising under both agreements, but not to pursue the same complaint in both forums. Although NAFTA and the WTO Agreement contain many of the same disciplines and obligations, their rules and coverage differ in certain respects. Therefore, NAFTA dispute settlement is the only formal mechanism for resolving disputes involving NAFTA provisions that are different than WTO obligations. Where WTO rules go beyond the NAFTA, the WTO is an option. WTO dispute settlement may offer some benefits over NAFTA dispute settlement, since it has greater "automaticity," draws only from nonparties to the dispute, and provides for appeals.

NAFTA partners continued to avail themselves of NAFTA mechanisms for resolving disputes, although 1997 also witnessed resort to WTO dispute settlement to resolve some disputes among NAFTA partners (e.g., U.S. complaints over Canadian magazines and Mexican antidumping duties on high-fructose corn syrup). Disputes over the same action were also considered in both the WTO and NAFTA in the year: for example, Colombia requested WTO dispute settlement consulta-

[100] The priority watch list was established under the "Special 301" provisions of the Trade Act of 1974. See also USTR, "USTR Announces Results of Special 301 Annual Review," press release, 97-37 and Fact Sheet, p. 18, Apr. 30, 1997.

[101] U.S. Department of State telegram, "1997 Trade Act Report: Mexico," message reference No. 10605, prepared by U.S. Embassy, Mexico City, Oct. 31, 1997.

[102] International Intellectual Property Alliance, "Excerpt from the IIPA Special 301 Recommendations, February 24, 1997, Priority Practices Violating the NAFTA: Mexico," found at Internet address http://www.iipa.com/html/rbc_mexico_301_97.html, retrieved Mar. 13, 1998. See also, U.S. International Trade Commission, *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries,* USITC publication 3045, June 1997, pp. 3-42 to 3-43.

[103] As detailed in earlier editions of this report, the U.S.-Mexican bilateral working group on IPR was established in late 1995.

[104] U.S. Department of State telegram, "Bilateral IPR Consultations with Mexico," message reference No. 166888, prepared by U.S. Embassy, Mexico City, Sept. 6, 1997.

[105] See also U.S. Department of State telegram, "Generic Name in Pharmaceuticals," message reference No. 07968, prepared by U.S. Embassy, Mexico City, Aug. 2, 1997.

[106] U.S. Department of State telegram, "Bilateral IPR Consultations with Mexico," message reference No. 166888, prepared by U.S. Embassy, Mexico City, Sept. 6, 1997.

tions over the U.S. safeguard measure on broom corn brooms while Mexico pursued its case against the measure under NAFTA.[107]

During 1997, three cases were filed under NAFTA provisions for resolving investor-state disputes. This represented the first use of an innovative provision of NAFTA that allows any investor from the United States, Canada, or Mexico to seek binding international arbitration of disputes with NAFTA governments over their implementation of NAFTA obligations, for example, over just compensation in the event of expropriation.

The following summarizes developments under NAFTA dispute settlement as reported by USTR.[108]

NAFTA Chapter 20 (General Dispute Settlement)

Complaints by the United States:

- On March 11, 1997, the United States requested consultations with Mexico concerning Mexico's increase in tariffs on certain products in response to the U.S. safeguard action on broom corn brooms, which the United States contends is in excess of what is permitted under NAFTA. Consultations were held April 8.
- Although consultations continued within the context of efforts to resolve several cross-border transportation issues, no progress was made in resolving a complaint by the United States that Mexico is discriminating against U.S. trucking firms wishing to deliver small packages in Mexico.

Complaints against the United States:

- On January 14, 1997, Mexico filed a request for establishment of a panel under NAFTA Chapter 20 concerning U.S. global safeguard measures on imports of broom corn brooms. Imports from Mexico were included in the U.S. measures. President Clinton had signed a proclamation November 28, 1996, providing temporary tariff relief (in the form of a tariff-rate quota) and onDecember 2, 1997, announced other actions, including targeted support for the broom industry and increased enforcement efforts to ensure that broom imports comply with U.S. law.[109] The President's actions came in response to an ITC finding of serious injury under Section 201 of the Trade Act of 1974 and under the special safeguard provisions of NAFTA.

  Mexico challenged in particular the ITC's finding with respect to the definition of the U.S. industry, arguing that the U.S. industry producing an article "like or directly competitive" with imported broom corn brooms included domestic facilities producing both broom corn brooms and plastic brooms. The panel held a hearing on September 9, 1997.

  The panel report was released on February 11, 1998, finding that the U.S. measure "constitutes a continuing violation of United States obligations under NAFTA." Specifically, the panel report found that the application of increased tariffs to broom corn broom imports from Mexico violated NAFTA because the injury determination of the ITC on which the tariffs were based did not contain sufficient explanation. The panel declined to address Mexico's far-reaching arguments concerning the legal standards applied by the ITC in section 201 proceedings.[110] The panel recommended that the United States bring its "conduct" into compliance "at the earliest possible time." USTR is considering next steps.
- On April 4, 1997, Mexico requested Chapter 20 consultations regarding its request that the Mexicali valley region be designated as free from karnal bunt disease, thereby permitting the region to export wheat to the United States. Consultations were held July 17.
- On July 4, 1997, the United States received a request from Mexico for consultations under NAFTA Chapter 20 concerning an internal notice of the U.S. Customs Service clarifying the tariff classification of Persian limes. Consultations were held July 17.

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[107] The EU pursued (and later put on hold) WTO dispute settlement over the Cuban Liberty and Democratic Solidarity Act of 1986 (Helms-Burton); Canada and Mexico relied on NAFTA dispute settlement. Both complaints are effectively on hold at the moment. For details, see the EU section in chapter 4 of this report.

[108] Unless otherwise noted, all information from this section is drawn directly from USTR, "Update: Developments in U.S. International Dispute Settlement," Sept. 9. 1997, and February 9, 1998, editions.

[109] For details of the President's action, see, USTR, "President Assists Broom Corn Broom Industry," press release 96-92, Dec. 2, 1996.

[110] For a further explanation, see, USTR, "USTR Underscores NAFTA Panel Decision on Corn Brooms to Have Virtually No Effect on U.S. 'Safeguard' Regime," press release 98-12, Feb. 12, 1998.

- On September 2, 1997, the United States and Canada announced that they had successfully settled a NAFTA dispute and that Canada had withdrawn its complaint concerning the U.S. re-export program for sugar-containing products, which had been filed on October 23, 1996. In the complaint, Canada maintained that NAFTA Annex 303.7 required that the program no longer be applied after January 1, 1996, to goods re-exported to Canada.

  On September 8, 1997, the United States and Canada finalized the terms of a settlement agreement. Under the settlement, Canada agreed not to pursue dispute settlement with respect to this program, which gives U.S. firms access to quota-exempt raw sugar at world prices if they reexport an equivalent amount of refined sugar in food products within a specified period thereafter. The United States agreed that, beginning in the 1997-98 period, it would allocate to Canada (1) a share of the in-quota quantity of the U.S. refined sugar tariff-rate quota (TRQ) for sugar that is a product of Canada, and (2) a share of the in-quota quantity of the U.S. sugar-containing products TRQ for sugar-containing products that are a product of Canada. Canada can compete for any quantity of the refined sugar TRQ that is not allocated among supplying countries and that is not reserved for specialty sugar. The United States may transfer any unused quantity of Canada's sugar-containing product allocation to the portion of that TRQ that is not allocated among supplying countries, if Canada informs the United States that it cannot fill its share.

- Although some progress on technical issues was reported, no resolution of Mexico's complaint over the refusal of the United States to process applications by Mexican truckers to serve the four U.S. border states was reached in 1997. The NAFTA provision phasing in opening of cross-border trucking was slated to enter into force on December 18, 1995, but implementation has been suspended pending resolution of outstanding U.S. safety concerns. In a March 14, 1997, letter to President Clinton, a bipartisan group of 201 House members urged retention of current safeguards until better mechanisms to ensure compliance are in place. Six other lawmakers, including the Chairman of the House Ways and Means Committee and the Chairman of its Subcommittee on Trade, wrote to President Clinton on March 31, 1997, urging prompt implementation of NAFTA commitments.[111] In April 1997, GAO reported that despite increased inspection capabilities at major border locations, fewer than 1 percent of the Mexican trucks crossing the U.S-Mexico border during 1996 were inspected and that on average, 45 percent of the vehicles inspected were placed out of service for serious safety violations.[112] After a May 1997 meeting, the two governments issued a statement reaffirming their commitment toward full implementation of the NAFTA and said they had agreed to intensify joint efforts to reach an agreement on land transportation.[113]

NAFTA Chapter 19 (Panel Review of AD/CVD Determinations)

NAFTA allows companies to appeal final antidumping and countervailing duty determinations to binational panels of experts, which are drawn from the country of the petitioning party and the responding party. Such binational panel review under NAFTA Chapter 19 is in lieu of domestic judicial review. In the four years since NAFTA entered into force, Chapter 19 panels have completed 15 appeals: 7 concerning U.S. determinations, 3 concerning Mexican determinations, and 5 concerning Canadian determinations. Nine appeals are currently under consideration, four involving U.S. determinations, two involving Canadian determinations, and three involving Mexican determinations. All but two of the NAFTA Chapter 19 cases have involved U.S. determinations or U.S. exporters.[114] During 1997, the first-ever request for a panel by a domestic interest against its own government was filed. The request was filed by a Mexican producer when the Mexican government, after an administrative review of an outstanding order, removed antidumping duties of

[111] The letter is reprinted in "Clinton Trip Delay, House Letter Work Against Mexican Border Opening," *Inside U.S. Trade*, Apr. 4, 1997, pp. 5-6.

[112] United States General Accounting Office, *Commercial Trucking: Safety Concerns About Mexican Trucks Remain Even as Inspection Activity Increases*, GAO/RCED-97-68, Apr. 1997, pp. 1-2.

[113] The statement was issued at the close of a May 5 meeting of the Trade and Investment Committee of the U.S.-Mexico Binational Commission and reprinted in U.S. Department of State telegram, "BNC Trade and Investment Working Group: Sugar, Standards, Brooms," prepared by U.S. Embassy, Mexico City, May 2, 1997.

[114] NAFTA Secretariat, Status Report NAFTA and FTA Dispute Settlement Proceedings, Mar. 27, 1998.

34.5 percent on two U.S. producers of hydrogen peroxide.[115]

A September 1997 GAO analysis indicates that the Chapter 19 process is generally working well. All but 3 of the 14 completed panel decisions examined were unanimous (that is, the panels did not split along national lines); 5 affirmed the domestic agency's determination, 2 remands did not result in any change in the domestic agency's determination, and 7 resulted in changes in domestic agency's determinations upon remand. With respect to U.S. agencies determinations, in 2 of the 7 cases examined, the panel affirmed the domestic agency's determination. The domestic agency's determination was changed in the remaining five. GAO noted that it was taking an average of 457 days from the date of receipt of a request for a panel until issuance of a final decision, versus the 315-day guideline established in NAFTA. Difficulties in finding qualified panelists were largely responsible.[116]

On January 16, 1997, the American Coalition for Competitive Trade (ACCT) filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit charging that the Chapter 19 panel system violates the U.S. Constitution, specifically Articles II (the appointments clause), III (that the judicial power be exercised by U.S. federal courts), and the Due Process Clause.[117] The court dismissed the challenge, finding that the ACCT failed to meet the standing requirements and the jurisdictional requirements of the NAFTA Implementation Act.[118] Separately, ACCT urged USTR not to include the Chapter 19 panel system in the Free Trade Area of the Americas (FTAA), noting that Canada and Mexico have both declined to include the binational panel review system in their separate FTAs with Chile. Instead, they rely on WTO dispute settlement.[119]

[115] Bureau of National Affairs, "Mexican Firm Seeks NAFTA Panel on SECOFI's Hydrogen Peroxide Ruling," *International Trade Reporter*, Vol. 14, No. 43, Oct. 39, 1997, p. 1881.

[116] U.S. States General Accounting Office, *North American Free Trade Agreement: Impacts and Implementation*, Testimony before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Sept. 11, 1997, GAO/T-NSIAD-97-256, p. 14.

[117] American Coaliton for Competitive Trade, Inc. (ACCT), "Coalition Files Case Challenging NAFTA; Charges Violations of U.S. Constitution," press release Jan. 16, 1997. American Coalition for Competitive Trade Inc. v. Clinton, CA DC, No. 97-1036, Jan. 16, 1997.

[118] American Coalition for Competitive Trade, Inc. v. Clinton,128 F.3d 761 (D.C. Cir. 1997) Nov. 14, 1997. For background see, Bureau of National Affairs, "Court Dismisses Constitutional Challenge of NAFTA's Binational Panel System," *International Trade Reporter*, Vol. 14, No. 46, Nov. 19, 1997, pp. 2000-01.

[119] "Business Coalition Renews Assault on Chapter 19 in New Trade Talks," *Americas Trade*, May 15, 1997, pp. 5-6.

NAFTA Chapter 11 (Investment Disputes)

Three complaints were lodged under NAFTA's clause providing for binding international arbitration of investor-state disputes over implementation of NAFTA commitments in 1997,[120] all by U.S. companies or persons.

- DESONA was awarded a 15-year concession by the county of Naucalpan for management of solid waste in 1993. The county council nullified the agreement shortly after a contract was signed. DESONA notified the Government of Mexico of its intent to file a claim through the International Center for the Settlement of Disputes (ICSID) on December 9, 1996, and filed a notice of claim in March 1997. ICSID has accepted and registered the claim. An arbitral panel has been established and a briefing schedule for the arbitration set.

- On January 3, 1997, Metalclad Corporation notified the Government of Mexico of its intent to file a claim through the ICSID's Additional Facility Rule. A formal brief in the complaint was filed on October 13, 1997. In the claim, Metalclad charged that Mexican government official actions prevented the opening of a hazardous waste landfill site the company built in 1995 in the Mexican state of San Luis Potosi. Specifically, Metalclad charged that the governor of the state unlawfully expropriated the site when he declared it part of a 600,000 acre ecological zone. In addition, Metalclad claims that Mexico failed to accord Metalclad fair and equitable treatment, as well as treatment in accordance with international law and due process. Metalclad, which reportedly spent $22 million on the facility,[121] is seeking damages equal to the project's fair market value, which is estimated to be

[120] Unless otherwise noted, all information from this section is drawn direclty from USTR, "Update: Developments in U.S. International Dispute Settlement," Sept. 9. 1997 and February 9, 1998 editions.

[121] Joel Millman, "Metalclad Suit Is First Against Mexico Under NAFTA Foreign Investment Rules," *The Wall Street Journal*, Oct. 14, 1997, p. A1. For background see, U.S. Department of State, "Mexico: Investment Disputes Report," prepared by American Embassy, Mexico City, Aug. 11, 1997, message reference No. 7645; "First Chapter 11 Requests for Arbitration with Mexico Filed," *North American Free Trade and Investment Report*, Mar. 31, 1997, pp. 15-16; Bureau of National Affairs, "U.S. Company Plans to Present Argument Against Mexico in Trade Arbitration Case," *International Trade Reporter*, Oct. 15, 1997.

in excess of $50 million, according to USTR. The 3-member arbitral panel held its first meeting on July 15, 1997.

- On April 14, 1997, Ethyl Corporation notified the Government of Canada of its intent to seek referral of a dispute to arbitration under UNCITRAL rules, as provided for under NAFTA. The request concerns a Canadian law banning importation and interprovincial trade in a fuel additive known as MMT, sold by Ethyl. The product is produced in the United States and processed by a Canadian subsidiary of Ethyl. Canada reportedly resorted to banning importation of and interprovincial trade in MMT because of difficulties in banning its use under the Canadian Environmental Protection Act.[122] Ethyl alleges that the legislation amounts to a performance requirement, denies it national treatment, and constitutes an expropriation of its subsidiary, Ethyl Canada.[123] Ethyl's suit also is reportedly "based on the grounds that its reputation will suffer, that there is no evidence that MMT is harmful to health or the environment, and that the trade ban will cause Ethyl to lose half its total sales."[124] It is seeking an award of $250 million in damages plus costs. An arbitral panel has been established and a hearing scheduled on jurisdictional issues raised by Canada. Meanwhile, the province of Alberta has filed a formal complaint with the federal government, charging that the ban is inconsistent with the Agreement on Internal Trade (AIT) negotiated among the federal, provincial, and territorial governments of Canada.[125]

None of the cases filed under NAFTA Chapter 11 involves an expropriation per se but rather governmental action (or inaction) that has similar effect. The outcomes of these cases could thus set precedents on the issue of whether environmental regulations or similar laws are defined as expropriations or "takings" of private property that require governments to pay investors monetary compensation.[126] These cases represent important test cases of such investor-state dispute settlement mechanisms,[127] which have been included in U.S. bilateral investment treaties and the draft OECD Multilateral Agreement on Investment (MAI).

APEC

During 1997, APEC continued to work towards achievement of the goals attaining of free and open trade and investment in the Asia-Pacific region by the year 2010 for developed economies and 2020 for developing economies as set forth in the Bogor Declaration of 1994.[128] During 1997, Canada held the chairmanship of APEC and hosted the annual APEC Ministerial meeting in Vancouver in November, which was attended by economic and foreign ministers from the 18 member economies.[129] Seven other ministerial-level meetings were held throughout the year, including ministers in charge of finance, trade, environment, transport, energy, small and medium enterprises, and human resource development.[130]

APEC Senior Officials met five times in 1997. The Senior Officials are responsible for reviewing the work of APEC's two permanent Committees—the Committee on Trade and Investment (CTI) and the Economic Committee (EC).

Individual Action Plan Implementation

The Individual Action Plans (IAPs),[131] announced at Manila, the Philippines, in 1996, are the major

[122] Michelle Sforza and Mark Vallianatos, "*Ethyl Corporation v. Government of Canada*: Chemical Firm Uses Trade Pact to Contest Environmental Law," The Preamble Collaborative Briefing Paper, n.d.

[123] Laura Eggertson, "Ethyl Sues Ottawa over MMT Law," *The Globe and Mail (Toronto)*, Apr. 15, 1997.

[124] U.S. Department of State telegram, "Canada Passes Anti-MMT legislation; U.S. firm files [C]$350 million NAFTA Damage Claim," message reference No. 1444, prepared by U.S. Embassy, Ottawa, Apr. 18, 1997.

[125] "Alberta Files Challenge under Internal Trade Accord on MMT Measure," *Americas Trade*, May 1, 1997, p. 20; "More Provinces Join MMT Fight Under Canada's Internal Trade Pact," *Americas Trade*, May 29, 1997, p. 10.

[126] Michelle Sforza and Mark Vallianatos, "*Ethyl Corporation v. Government of Canada:* Chemical Firm Uses Trade Pact to Contest Environmental Law," The Preamble Collaborative Briefing Paper, n.d. The Bureau of National Affairs, "Groups See Danger from Ethyl Suit," *International Trade Reporter*, Vol. 14, No. 29, p. 1248, July 16, 1997. The articles notes that there are no exceptions to NAFTA's requirement for compensation in the event of expropriation.

[127] Laura Eggertson, "Ethyl Sues Ottawa over MMT Law."

[128] For background information on the Bogor Declaration, see USITC, *The Year in Trade: OTAP*, *1994*, USITC publication 2894, pp. 35-39.

[129] APEC's members include: United States, Canada, Mexico, Chile, Japan, China, Taiwan, Hong Kong, South Korea, Indonesia, Malaysia, Thailand, Singapore, Brunei, the Philippines, Australia, New Zealand, and Papua New Guinea.

[130] APEC, "APEC in Action: 1997 Results Report," Vancouver, Canada, November 1997.

[131] For background information on the IAPs, see USITC, *The Year in Trade: OTAP*, *1996*, USITC publication 3024, pp. 75-78.

vehicle for reaching the Bogor goals. Implementation of the IAPs began on January 1, 1997. The IAPs describe the status of market access regimes, commitments and intentions to reduce restrictions to facilitate future business decisions, and plans for fully achieving the Bogor goals. Each of the IAPs covers 15 different categories of agreed-upon actions. The actions are categorized into three time frames: short-term (to 2000), medium-term (2001-2005) and long-term (2005-2010/2020). During 1997, member economies provided new information on their trade and investment regimes. Four economies—Chile, New Zealand, Canada, and Hong Kong—offered their IAPs for plurilateral review. In addition, negotiators agreed to new common format guidelines for IAPs and implementation reports to improve transparency and comparability.

Early Voluntary Sectoral Liberalization

At the APEC Trade Ministerial meeting held in Montreal in May 1997, APEC Ministers decided to accelerate the process of identifying possible sectors for early voluntary liberalization and to complete it by the end of 1997, two full years ahead of the originally scheduled date.[132] At the May 1997 meeting, APEC Trade Ministers decided that early voluntary sectoral liberalization (EVSL) proposals could include both trade facilitation measures and important economic and technical cooperation initiatives such as human resources development and technology sharing.[133] During the summer, member economies nominated sectors for EVSL. By August, 61 nominations had been put forward covering 35 economic sectors. The United States nominated eight sectors: chemicals, medical equipment and services, automotive, oilseeds, mutual recognition agreements in telecommunications and information technology, energy-related services and equipment, environmental technology and services, and forest products. In cases where several members nominated the same sector, discussions were held that led to joint nominations.

A meeting of Senior Officials was held in Singapore on October 27-28, 1997, to discuss the status of sectoral nominations and to develop a framework for subsequent discussions. At the Vancouver Ministerial meeting, 15 sectors were put forth by Senior Officials for Ministers for early action. APEC Ministers selected nine of the fifteen sectors for immediate work, which was to be concluded during the first half of 1998 with a view to beginning implementation of liberalization in 1999. The nine sectors selected by APEC Ministers and endorsed by APEC leaders were: environmental goods and services; energy equipment and services; fish and fish products; toys; forest products; gems and jewelry; medical equipment and instruments; chemicals; and a telecommunications mutual recognition arrangement. Members were to complete the work on these proposals immediately by finalizing the scope of coverage, flexible phasing, measures covered, and implementation schedule for each of these sectors.[134] Ministers are to finalize detailed targets and timelines on these sectors by the time of the APEC Trade Ministerial meeting to be held in Kuching, Malaysia, in June 1998. Senior Officials were directed to develop proposals for the remaining six sectors for assessment—rubber, civil aircraft, automotive, fertilizer, oilseeds and oilseed products, and food—and review by June 1998 and possible recommendation to APEC Leaders by November 1998.

Trade and Investment Facilitation

Trade facilitation aims to lower costs, reduce barriers to transacting business, and promote business networks. APEC's work on trade facilitation is carried out through the Collective Action Plans (CAPs) under the Osaka Action Agenda and through the Working Groups.[135] At the November 1997 Ministerial, APEC Ministers endorsed the work in these areas and noted the following:

- development of the Blueprint for Customs Modernization;
- launching of the internet tariff database;
- establishment of APEC internet sites for business information and assistance;
- progress on alignment with international standards;

[132] In 1995, APEC had agreed that as a complement to the IAPs, members would identify by the end of 1999 specific sectors where early voluntary sectoral liberalization (EVSL) would have a positive impact on trade, investment, and economic growth in the region. In 1996, APEC leaders decided to accelerate EVSL and tasked Ministers with the work.

[133] APEC, "Meeting of Ministers Responsible for Trade, Statement of the Chair," Montreal, Canada, May 8-10, 1997.

[134] On Mar. 25, 1998, the Commission instituted investigation No. 332-392 in response to the request. On March 18, 1998, USTR asked the U.S. International Trade Commission to provide advice concerning trade liberalization among APEC economies in the nine sectors by June 16, 1998.

[135] For background information on the CAPs and Working Groups, see USITC, *The Year in Trade: OTAP, 1996*, pp. 75-78.

- development of model mutual recognition arrangements;
- development of principles to guide work on dispute mediation;
- improved mobility for business persons;
- nonbinding principles of transparency in government procurement;
- work to make the Asia-Pacific information highway a reality;
- action plans to create integrated and intelligent transportation systems;
- market and trade information for fishing industries;
- development of guidelines for streamlining and making more transparent the tendering approval and regulatory processes for independent power projects;
- and initiatives in the Trade Promotion and Trade and Investment Data Review Working Groups.

The Ministers called for renewed efforts on trade facilitation in the CTI and relevant Working Groups through 1998.[136]

Economic Cooperation and Development

In Manila in 1996, APEC adopted a Framework on Economic Cooperation and Development, which established the following six priorities as a basis of APEC's future work in economic and technical cooperation: (1) developing human resources; (2) fostering safe and efficient capital markets; (3) strengthening economic infrastructure; (4) harnessing technologies of the future; (5) promoting environmentally sound growth; and (6) encouraging the growth of small and medium enterprises.[137] During 1997, APEC gave priority to two of the six areas: strengthening economic infrastructure and promoting environmentally sustainable growth. APEC convened public/private dialogue sessions, business workshops, and a symposium to carry out its work in this area.[138] Some examples of APEC's 1997 work in the area of economic cooperation and development are as follows:

- *Developing Human Resources*: A Ministerial meeting that emphasized education and training was held in Seoul in September 1997. The Human Resources Development Working Group is conducting pilot projects for mutual recognition of professional skills in engineering, accountancy, and surveying.
- *Developing Capital Markets*: APEC Ministers welcomed the Finance Ministers' work to develop principles to guide financial and capital market development. During November 18-19, 1997, Finance Ministers discussed a New Framework for Enhanced Asian Regional Cooperation to Promote Financial Stability.
- *Economic Infrastructure*: APEC Ministers endorsed the development of the Vancouver Framework for Enhanced Public-Private Partnerships in Infrastructure Development and recommended it to leaders. The Economic Committee held an Infrastructure Workshop and associated Public/Private Dialogue to address the issue of sustainable infrastructure development. An APEC Transportation Ministerial was held in Victoria, B.C., in June 1997. Best practices were identified for the elimination of traffic congestion points in the region. An APEC Energy Ministerial was held in Edmonton in August 1997 where a manual on best practices was produced.
- *Harnessing Technologies for the Future*: Work was carried out in the Industrial Science and Technology (emphasizing improving flows of technological information and technology), the Transportation, and the Telecommunications Working Groups. An inaugural meeting for an APEC Science and Technology Parks Network was held in Beijing in October 1997.
- *Environmentally Sustainable Growth*: An APEC Environmental Ministerial was held in June that focused on addressing capacity

[136] APEC, "APEC Ninth Ministerial Meeting Joint Statement," Nov. 24, 1997.

[137] APEC, "APEC in Action: 1997 Results Report."

[138] Ibid.

building, enhancing technical cooperation, and building partnerships, particularly with local authorities. APEC Trade and Foreign Ministers endorsed a pledge by Environment Ministers that APEC must do its part to implement regional and global commitments.

- *Small and Medium Enterprises (SMEs)*: An APEC SMEs Ministerial meeting was held in Ottawa where an agreement was reached on the importance of providing a business environment that deals with the special needs of SMEs. The SME Policy Level Group developed a framework for SME activities across APEC and issued a detailed guide on services available for SMEs in the region.[139]

Membership

At the Vancouver Ministerial, APEC Ministers agreed on broad guidelines for evaluating applications for new membership in APEC, but left decisions regarding new members up to the leaders. APEC leaders did not issue any statements regarding membership in 1997.[140]

Regional Financial Developments

In their communique of November 25, 1997, APEC leaders endorsed a framework for action agreed to by APEC Finance Ministers in Manila to address recent financial challenges in the region. The framework was intended to enhance cooperation to promote financial stability and included: enhanced regional surveillance; intensified economic and technical cooperation to improve domestic financial systems and regulatory capacities; adoption of new IMF mechanisms on appropriate terms in support of strong adjustment programs; and a cooperative financing arrangement to supplement IMF resources when necessary. APEC leaders asked the Finance Ministers to accelerate work on collaborative initiatives to promote the development of financial and capital markets. APEC leaders noted that APEC could play a valuable role in exploring ways of intensifying its economic and technical cooperation among member countries in cooperation with the World Bank, the IMF, and the Asian Development Bank. APEC Finance Ministers were to report on progress on all of the initiatives early in 1998 and on concrete outcomes at their next meeting.[141]

Free Trade Area of the Americas

In December 1994, the 34 democratically elected heads of state of the Western Hemisphere met in Miami for the first hemispheric summit since 1967. At the Miami Summit, President Clinton and the other leaders committed "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."[142]

Since the 1994 Miami Summit, hemispheric trade ministers, vice ministers, and their representatives have met on numerous occasions in anticipation of the formal launch of the FTAA negotiations. In addition, twelve working groups have been created to lay the groundwork for eventual FTAA negotiations. The working groups are for: dispute settlement (established in May 1997); 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. Each working group has been directed to compile inventories of hemispheric practices; identify areas of commonality and divergence; and provide recommendations on how to proceed in the construction of the FTAA in each respective area.[143]

As required by Sec. 108 of the NAFTA Implementation Act, the U.S. President periodically reports to the Congress with recommendations on future free trade area negotiations. In its September 1997 report, the Administration stated that the FTAA "needs to go beyond the WTO and be future-oriented. . . . be responsive to new technologies and new ways of doing

[139] APEC, "APEC In Action: 1997 Results Reports."

[140] APEC, "APEC Ninth Ministerial Meeting Joint Statement."

[141] APEC, "APEC 97 Leaders Declaration," November 25, 1997, Vancouver, Canada.

[142] Declaration of Principles and Plan of Action, reprinted in *Business America*, Dec. 1994, pp. 10-13. For additional information on the 1994 Miami Summit, see USITC, *The Year in Trade: OTAP, 1994*, pp. 39-41.

[143] For a summary of work on the FTAA during 1996 and the working groups, see USITC, *The Year in Trade: OTAP, 1996,* p. 75. U.S. Department of State telegram, "Corrected Version of the Belo Declaration," message reference No. 105746, prepared by U.S. Department of State, Washington, DC, June 5, 1997.

business, and . . . be the ‘state-of-the-art’ in trade and investment agreements when it is concluded.”[144]

As the FTAA process entered 1997, several countries had expressed different opinions and tabled specific proposals for the scope and the timing of the FTAA negotiations. Among the issues about which opinions differed were—

- compatibility of the FTAA with existing or new subregional economic groupings;
- phasing and scope of the FTAA negotiations; and,
- the role of input from labor in the negotiations.

At the September 1996 FTAA Vice Ministerial Meeting in Florianopolis, Brazil, the United States put forward a position paper listing 12 issues for discussion at subsequent meetings during 1997. Among other things, the United States proposed that the FTAA negotiations commence with a first stage of negotiations focusing on hemisphere-wide disciplines—namely, investment, services, government procurement, standards and technical barriers to trade, sanitary and phytosanitary procedures, customs procedures, intellectual property rights, and market access for industrial and agricultural products. The proposed second stage of the negotiations, beginning approximately at the turn of the century, would address subsidies, safeguards, antidumping and countervailing duties, competition policy, and dispute settlement.[145] The United States also proposed that the FTAA “incorporate the best appropriate elements of the WTO or existing sub-regional integration arrangements,” that the FTAA “strive to further secure the observance and promotion of worker rights,” and that the FTAA be a “hemisphere-wide” and “comprehensive agreement.”[146]

Final Phase Discussions Before Negotiations

The year 1997 marked the final phase of discussions among the FTAA members leading up to the April 1998 launch of formal negotiations. The hemispheric vice ministers met in February (Recife, Brazil) and in April (Rio de Janeiro, Brazil) 1997, to address the U.S. proposals as well as the ongoing differences of opinions. By the April meeting, there was agreement in favor of a comprehensive launch of FTAA negotiations at the 1998 Summit meeting. However, the United States and several Latin American countries continued to differ in their respective proposals on how and what to negotiate. Brazil had proposed a slower timetable for negotiations in three phases, with primarily “business facilitation” measures such as the harmonization of customs procedures and certain standards to be negotiated first, and tariff-reducing market access talks not scheduled until a later phase closer to the 2005 deadline.[147]

At the Third FTAA Trade Ministerial Meeting held in Belo Horizonte, Brazil, on May 13-16, 1997, the foreign trade ministers reviewed the FTAA work program; evaluated the progress that has been achieved in trade liberalization in the hemisphere since the Miami Summit, noting in particular the increasing widening and deepening of existing subregional and bilateral agreements; and considered the work undertaken by the vice ministers regarding the various approaches for construction of the FTAA. In their Joint Ministerial Declaration, the ministers committed to formally launch the FTAA negotiations at the April 1998 FTAA Summit of the Americas in Santiago, Chile, and agreed to so recommend to their respective heads of state. However, because of ongoing differences of opinions, the ministers agreed to leave the formulation of the FTAA negotiation procedures, including such issues as objectives, approaches, structure, and venue of the negotiations, for their next (fourth) meeting, scheduled for March 1998. The ministers also reached agreement in the following areas:

- to use consensus as the basis of decision making in the FTAA process;
- to ensure that the outcome of the FTAA negotiations will constitute a “comprehensive single undertaking” that can coexist with bilateral and subregional agreements “to the extent that the

[144] USTR, *Report to the Congress: Recommendations on Future Free Trade Area Negotiations*, Sept. 1997, p. 4; also found at Internet address http://www.ustr.gov/reports/index.html, retrieved Mar. 13, 1998.

[145] U.S. Department of State telegram, “U.S. Position Paper on the Twelve Issues Related to How and When to Launch Free Trade Area of the Americas (FTAA) Negotiations,” message reference No. 26851, prepared by U.S. Department of State, Washington, DC, Feb. 13, 1997.

[146] Ibid.

[147] Numerous press reports during April-May 1997 documented the divergent U.S. and Brazilian proposals for the FTAA, including “Barshefsky Outlines U.S. Definition of FTAA Success in Belo Horizonte,” *Inside U.S. Trade*, May 2, 1997, p. 3; Richard Lawrence, “Clouds Over Belo Horizonte,” *Journal of Commerce*, May 15, 1997, p. 6A; “Pace for FTAA by 2005 Slowing,” *Washington Trade Daily*, Mar. 11, 1997, p. 1; “Pan-American Trade: The Mirage that Won’t Go Away,” *The Economist*, May 10, 1997, p. 42; Michael Christie, “U.S. Assails Foot-Dragging on Hemisphere Trade Pact,” *Washington Times*, May 17, 1997, p. A5; and Kevin G. Hall, “U.S., Brazil Take Feud to Trade Meeting,” *Journal of Commerce*, May 15, 1997, p. 1A.

rights and obligations under these agreements are not covered by or go beyond the rights and obligations of the FTAA";

- to make the FTAA consistent with the WTO;
- to allow countries to negotiate and join the FTAA individually or as members of a subregional integration group negotiating as a unit;
- to give special attention to the needs and economic conditions of smaller economies in the FTAA process;
- to establish a temporary administrative secretariat to support the FTAA negotiations;
- to conclude the FTAA negotiations by the year 2005, at the latest;
- to consider the inputs from stakeholders, including labor, and to encourage all countries to take such inputs into account during the negotiations; and
- to establish a Preparatory Committee (PrepCom) consisting of the 34 vice ministers responsible for trade, with the responsibility of intensifying their efforts to build consensus and to complete recommendations on the remaining issues—namely the objectives, approaches, structure, and venue for the FTAA negotiations—for decision by the Ministers at their next meeting in San José, Costa Rica, in March 1998.[148]

The first FTAA PrepCom meeting took place in Lima, Peru, on June 1, 1997. At that meeting, senior trade officials approved the outline of the agenda to be negotiated for the 1998 Summit including a U.S.-proposed reference to labor standards.[149] Differences among participants again surfaced during the second PrepCom meeting, which took place October 27-30, 1997, in Costa Rica. At that meeting, the MERCOSUR countries presented their request that FTAA negotiations be based on the principles of "balance, simultaneity, and gradualism;" other countries expressed the concern that "gradualism" could slow the pace of the negotiations. Other key issues left unresolved at that meeting were:

- the site for the FTAA negotiations—the United States has proposed Miami, while several Latin American nations have proposed Rio de Janeiro among other locations;
- the structure of the negotiations, including the oversight, advisory, and support bodies needed;
- the number of working groups that will be set up as negotiating groups once formal FTAA negotiations begin—various participants have proposed that from as few as 5 to as many as 12 negotiating groups be established;
- trade in agricultural products, including a decision as to whether to create a separate negotiating group on agriculture or to address agricultural matters in the market access group; and
- the question of whether to include labor and environmental issues in the FTAA negotiations.[150]

These and other issues were addressed again at the third PrepCom meeting in San José, Costa Rica, February 10-12, 1998, but again without resolution.

FTAA Negotiation Framework

All outstanding issues were resolved at the fourth PrepCom meeting in San José, Costa Rica, March 17, 1998, and the subsequent meeting of hemispheric trade ministers on March 19, 1998. In describing the final FTAA negotiation framework, Ambassador Barshefsky stated that "[t]he United States achieved all of its key objectives . . . setting the stage for a comprehensive and successful launch of substantive negotiations at the [April 1998] Santiago Summit."[151]

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[148] The Belo Horizonte Ministerial Declaration, from the official FTAA Website, found at Internet address http://www.ftaa-alca.org/english_Version/belo_e.htm, retrieved Mar. 13, 1998.

[149] U.S. Department of State telegram, "Lima Meeting of Foreign Ministers on the Summit of the Americas," message reference No. 107634, prepared by U.S. Department of State, Washington, DC, June 9, 1997.

[150] "Around the Globe," *Washington Trade Daily*, Feb. 13, 1998, p. 6; and Kevin Hall, "Officials Make Progress in Forming a Framework for Americas' Trade," *Journal of Commerce*, Feb. 12, 1998, p. 3A.

[151] USTR, "Statement by U.S. Trade Representative Charlene Barshefsky Regarding FTAA Trade Negotiations," press release 98-32, Mar. 20, 1998.

In their Joint Declaration issued at the conclusion of their summit meeting, the trade ministers—

- reaffirmed their commitments to the declarations made at the 1994 Miami Summit;
- pledged to recommend to their respective heads of state to initiate negotiation of the FTAA during the Second Summit of the Americas to be held in Santiago, Chile, on April 18-19, 1998;
- reaffirmed their commitment to concluding the negotiations no later than 2005;
- reaffirmed their commitment to achieve concrete progress in the negotiations by the year 2000, setting as a specific goal the conclusion of agreements on business facilitation in such areas as customs procedures, professional services, and intellectual property rights by the turn of the century; and
- established an expert government-private sector working group that will make recommendations at the next FTAA meeting on the topic of electronic commerce in the hemisphere.[152]

Agreement was also reached on matters concerning the structure, organization, and venue of the negotiations. The initial structure is intended to be flexible and may be modified over time as required to facilitate the negotiating. Moreover, a Trade Negotiations Committee (TNC) was established at the vice-ministerial level with the responsibility of ensuring the full participation of all the countries in the FTAA process. The TNC is required to meet at least twice a year beginning June 30, 1998.[153]

Negotiating Groups

Nine negotiating groups were established. The negotiating groups (and their respective initial chairman and vice-chairman) are for: market access (Colombia/Bolivia); investment (Costa Rica/Dominican Republic); services (Nicaragua/Barbados); government procurement (United States/Honduras); dispute settlement (Chile/Uruguay and Paraguay); agriculture (Argentina/El Salvador); intellectual property rights (Venezuela/Ecuador); subsidies, antidumping, and countervailing duties (Brazil/Chile); and competition policy (Peru/Trinidad and Tobago). The TNC is responsible for guiding the work of the negotiating groups.[154]

Venue

The meetings of the negotiating groups will be held in a single venue, which will rotate among the following three countries according to the specified timetable:

- Miami, United States, from May 1, 1998 to February 28, 2001;
- Panama City, Panama, from March 1, 2001 to February 28, 2003; and
- Mexico City, Mexico, from March 1, 2003 to December 31, 2004 (or until the conclusion of the negotiations).

Chairmanship of the FTAA Process

The chairmanship and vice-chairmanship of the FTAA process will rotate among different countries at the end of each subsequent ministerial meeting among the following countries and in the following order:

- chairman: Canada; vice-chairman: Argentina, May 1, 1998-October 31, 1999;
- chairman: Argentina; vice-chairman: Ecuador, November 1, 1999-April 30, 2001;
- chairman: Ecuador; vice-chairman: Chile, May 1, 2001-October 31, 2002; and
- cochairman: Brazil and the United States; no vice-chairman; November 1, 2002-December 31, 2004 (or until the conclusion of the negotiations).

Participation of Civil Society

The FTAA process will establish a committee (chairmanship to be decided at a later date) of government representatives, open to all member countries, to receive inputs from business and other sectors of production, labor, environmental, and academic groups, to analyze their inputs, and to present the range of views for consideration in the FTAA process.

[152] "Summit of the Americas Fourth Trade Ministerial, San José, Costa Rica, March 19, 1998, Joint Declaration," found at Internet address http://www.ftaa-alca.org/EnglishVersion/costa_e.htm, retrieved Mar. 31, 1998.

[153] Ibid.

[154] Ibid.

Africa Initiatives

Section 134 of the Uruguay Round Agreements Act (URAA)[155] directed the President to develop a comprehensive trade and development policy for the countries of Africa and to report to the Congress annually until 2000 on the steps taken to carry out that mandate. The Statement of Administrative Action that was approved by the Congress in the URAA outlines the Administration's plans for this work.[156] According to President Clinton, 1997 marked a "watershed in our economic and trade relations with the countries of Africa." On June 17, he announced a new strategy, the Partnership for Growth and Opportunity in Africa, to promote economic growth and opportunity in Africa.[157] This was the first comprehensive trade and investment initiative for the region, appending traditional aid programs with new ones emphasizing sustained economic development and self-reliance. The new initiative was aimed at countries which are committed to growth-oriented economic reforms, particularly in the areas of trade and investment liberalization, human resources, and policy management and governance. In connection with the new Partnership towards Sub-Saharan Africa, President Clinton scheduled an official visit to the countries of Botswana, Uganda, South Africa, Ghana, Rwanda, and Senegal in March 1998—the first such visit to the Sub-Saharan region by a U.S. President in two decades—for the purpose of discussing trade and investment opportunities.

Congress is considering legislation relating to the creation of a new framework for U.S. trade and economic relations with Africa with legislation that complements the President's initiative. The African Growth and Opportunity Act: End of Dependency Act of 1996 was introduced late in the 104th Congress, but was not enacted. Similar legislation was introduced in the 105th Congress, and passed the House of Representatives on March 11, 1998. The legislation is intended to establish a new trade and investment policy toward Africa. Senate action is pending. The President's initiative and legislative developments regarding trade and investment issues relating to Africa are described below.

[155] 19 U.S.C. 3554.

[156] "Statement of Administrative Action," *Uruguay Round Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action and Regional Supporting Statements, Message from the President of the United States*, Sept. 27, 1994, House Document 103-316, pp. 73-74.

[157] The White House, "Text of a Letter from the President to the Chairmen and Ranking Members of the House Committees on Ways and Means and International Relations and the Senate Committees on Foreign Relations and Finance," Dec. 23, 1997.

Partnership for Economic Growth and Opportunity in Africa

On June 17, 1997, President Clinton announced the Partnership for Economic Growth and Opportunity in Africa, to promote economic growth and development in Sub-Saharan Africa. The plan consists of five different goals: (1) increasing access to the U.S. market for African exports, including the negotiation of free-trade agreements; (2) increasing technical assistance to Sub-Saharan Africa; (3) increasing private investment in Africa by creating a $150 million equity fund through OPIC to finance increased private investment and a $500 million fund for infrastructure investment; (4) working to eliminate bilateral debt; and (5) holding annual economic meetings at the ministerial level with all reforming African nations. In unveiling the initiative, President Clinton requested that other trading partners "join us in urging the international financial institutions—the World Bank, the IMF, the Africa Development Bank, as well as the United Nations—to create innovative new programs so that reforming African nations can succeed in integrating themselves into the global economy."[158]

In announcing his Partnership initiative, President Clinton also indicated that he would seek support for it from other countries attending the G-7 summit meeting in Denver on June 22, 1997. He asked other trading partners to coordinate policies toward Africa to encourage reform in trade and investment and relief to heavily indebted countries. He also asked them to urge international financial institutions to create new programs to help African nations integrate themselves into the global economy.[159]

The Partnership is geared towards those countries that adopt growth-oriented economic and financial reform policies and those that open their markets to trade and investment. Taking into account that not all countries are ready or able to take steps to encourage high levels of economic growth, partnership countries may participate in one of three different levels:

Level 1 Participation: To support the efforts of Sub-Saharan African countries to achieve economic growth, a range of opportunities and assistance will be available to eligible countries, including the Generalized System of Preferences (GSP), investment support, support for regional integration, support for American-African Business Relations, and designation of an

[158] White House, "Remarks by the President at Africa Trade Event," press release, Washington, DC, June 17, 1997.

[159] Ibid.

Assistant USTR for Africa, and a senior advisor on Africa to the U.S. Export-Import Bank.[160]

Level II Participation: Additional support will be offered to those GSP-eligible countries that are pursuing aggressive growth-oriented reform programs in such areas as trade and investment liberalization, investment in human resources, and improved policy management and governance. At the discretion of the President, these countries would be eligible to take advantage of the following opportunities: further enhanced market access, debt reduction, U.S.-Africa Economic Cooperation Forum, bilateral technical assistance to promote reforms, support for agricultural market liberalization, trade promotion, reprogramming commodity assistance, support for economic policy reform, and targeted multilateral assistance.[161]

Level III Participation: The United States will be open to pursuing free-trade agreements with strong-performing, growth-oriented Sub-Saharan African countries, in the future, as appropriate.[162]

During 1997, various activities were undertaken to implement the Partnership. These activities are summarized in figure 3-1 under the following categories: trade and investment, technical assistance, financing and debt relief, enhanced dialogue with African countries, and multilateral activities.

African Growth and Opportunity Act

The African Growth and Opportunity Act (H.R. 1432) was introduced in the 105th Congress on April 24, 1997.[163] The legislation was cosponsored by Reps. Philip Crane (R–IL), Jim McDermott (D–WA), and Charles Rangel (D–NY). H.R. 1432 was referred to the House Ways and Means Committee and the House International Relations Committee. The Senate companion bill S. 778, was introduced by Sen. Richard Lugar (R–IN) on May 21 and was referred to the Senate Finance Committee. No action was taken on the Senate bill during 1997. H.R. 1432 provided for increased trade benefits for countries in Sub–Saharan Africa, allowed for duty–free and quota–free imports of textiles and apparel from these countries and provided a foundation for negotiating free–trade agreements with them. The bill focused on economic self–reliance through expanded private sector activities, increased trade and investment, and the elimination of trade barriers.

The most contested sections of H.R. 1432 were the provisions for enhanced U.S. market access for textiles and apparel from Sub–Saharan Africa. Section 8(c) of the bill would eliminate U.S. textile and apparel quotas for Kenya and Mauritius, the only Sub–Sahran African countries currently subject to U.S. textile and apparel quotas, but only after each country adopts a "cost–effective and efficient" visa system to guard against unlawful transshipment of textiles and apparel. The section would also require other countries in Sub–Saharan Africa planning to export substantial amounts of textiles and apparel to the United States to have a "functioning and efficient" visa system in place to guard against such transshipments.[164]

Section 9 of the bill would authorize the President to provide countries in Sub-Saharan Africa with duty-free treatment under the GSP for textiles and apparel now excluded from the program. Currently, the textile and apparel sector faces the highest average U.S. tariff. The bill would authorize the President to designate textiles and apparel as GSP-eligible articles with respect to eligible countries in Sub-Saharan Africa if, after receiving the advice of the U.S. International Trade Commission, he determines such articles are not import sensitive in the context of imports from these countries. The proposed GSP duty-free treatment would remain in effect through May 31, 2007. (A summary of the other major provisions of H.R. 1432 is given in figure 3-2.)

Opponents of the textile provisions claimed that duty- and quota-free access would lead to transshipment of textile goods and apparel through Sub-Saharan Africa and hurt the U.S. textile industry. The Administration proposed granting preferential quota access for such products only if they were assembled with U.S. cut and formed fabric. This preferential treatment (so-called "807A" imports) would be comparable to benefits currently given to countries benefiting from the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act. The Administration's proposal was opposed by Congressman Philip Crane (R-IL) and other sponsors of H.R. 1432.

[160] USTR, "A Comprehensive Trade and Development Policy for the Countries of Africa," December 1997.
[161] Ibid.
[162] Ibid.
[163] A previous version of the African Growth and Opportunity Act, H.R. 4198, was introduced in the 104th Congress on September 26, 1996, to authorize a new U.S. trade and investment policy in Sub-Saharan Africa. Although it was referred to the Committee on Ways and Means, no action was taken on the bill during the 104th Congress.

[164] For additional information regarding the textile sections of H.R. 4198, see USITC, *Likely Impact of Providing Quota-Free and Duty-Free Entry to Textiles and Apparel from Sub-Saharan Africa*, USITC publication No. 3056, September 1997, pp. ix and xx. See also ch. 5 in this report.

Figure 3-1
Summary of 1997 activities in support of African economic growth

World Trade Organization activities

Roundtable discussions regarding Sub-Saharan Africa were conducted at the High-Level Meeting on Integrated Initiatives for Least Developed Countries' Trade Development during October 27-18, 1997. (See chapter 2 for details). Country-specific roundtable discussions were conducted for Madagascar, Tanzania, Djibouti, Zambia, Mali, Chad, Uganda, and Guinea. The discussions covered each country's need for trade-related technical assistance.

Five Sub-Saharan African countries made commitments in the negotiations on basic telecommunications services under the General Agreement on Trade in Services that concluded on February 15, 1997.

Export-Import Bank programs and outreach

The Ex-Im Bank supported $217 million in exports to Sub-Saharan Africa in FY 1997, a 50 percent increase over 1996. The Ex-Im Bank implemented a new strategy for marketing its programs in Sub-Saharan Africa that involved meeting with commercial attaches from each African embassy to explain Ex-Im Bank programs and to develop potential transactions in these countries.

Trade promotion

The Africa Working Group of the Trade Promotion Coordination Committee (TPCC) was revitalized to improve coordination of the work of the 19 U.S. agencies directly involved in commercial promotion in Africa. The U.S. Department of Commerce also reconstituted its Africa Team of domestic and international trade specialists from the Export Assistance Center network and overseas posts to broaden its outreach, trade promotion, and business support for U.S. investors in Africa.

Agribusiness development

The U.S. Department of Agriculture is conducting a feasibility study regarding the placement of an Agricultural Trade Officer for three years in Sub-Saharan countries to support agribusiness development opportunities for U.S. industry.

American-African Business Partnership

In September 1997, USAID sponsored a national economic forum in Accra, Ghana, that focused on the future direction of Ghana's economy and prospects for growth. USAID is also supporting access to various business associations in West Africa to increase information about trade and investment opportunities.

Investment support

The Overseas Private Investment Corporation (OPIC) currently provides approximately $1 billion in insurance and financing to over 60 projects in Sub-Saharan Africa. OPIC expects to make new investments through its support of the New Opportunity Fund. Under the Partnership initiative, OPIC will develop new private sector equity funds for Africa totaling up to $650 million.

Figure 3-1—*Continued*
Summary of 1997 activities in support of African economic growth

Transportation initiative

On October 8, 1997, the Africa Trade and Investment Roundtable was held to launch the Initiative with Africa. The roundtable brought together over 200 U.S. business and political leaders to meet with the African diplomatic corps and experts on Africa to discuss the initiative and identify elements of an interactive partnership. As part of the Department of Transportation's ongoing assistance programs, the Federal Highway Administration maintains an active technology-sharing facility in Pretoria, South Africa, and has near-term plans to open such a center in Dar Es Salaam, Tanzania. The Transportation Initiative, part of the African Aviation Initiative, included regional meetings in Zimbabwe, Ethiopia, and Cote d'Ivoire to gather information concerning readiness of African nations for competitive and/or additional scheduled air services and to share information about safety and security issues. The Secretary of Transportation plans to lead a trade and development mission to Africa in early 1998.

Technical Assistance

U.S. Agency for International Development (USAID), as part of the Partnership, has technical assistance programs to help African governments liberalize trade and improve their investment climate, to encourage relationships between U.S. and African firms through business associations, and to support private sector and trade-related activities under the Initiative for Southern Africa. Funding for these technical assistance programs began in FY 1998.

In August 1997, USAID's Regional Center for Southern Africa adopted a new regional development strategy for the years 1997-2003. The new strategy emphasizes lowering trade and investment barriers within the southern African region. The agency's Southern Africa Enterprise Development Fund (SAEDF) is intended to encourage the creation and expansion of indigenous small and medium-sized enterprises in the southern Africa region. The SAEDF had approved investments totaling $12.5 million as of September 1997.

Other technical assistance to Sub-Saharan Africa in 1997 by USAID and other agencies was in the area of labor, intellectual property rights, financial planning assistance, agricultural expertise, reprogramming U.S. commodity assistance programs, and strengthening democratic governance.

Financing and Debt Relief

The Administration has announced a commitment to pursuing the extinction of concessional bilateral debt for the poorest countries that are undertaking bold reforms. Regarding multilateral debt, the Administration continues to urge the World Bank and the IMF to provide maximum relief under the Heavily Indebted Poor Countries (HIPC) debt initiative for HIPC-eligible countries. Uganda and Burkina Faso have been determined eligible to participate in the HIPC program and decisions are expected soon on Mozambique and Cote d'Ivoire.

The IMF, through the Enhanced Structural Adjustment Facility, and the World Bank are collaborating on a "reinforced strategy" to spur growth in Sub-Saharan Africa. The strategy includes support for trade liberalization, investment, good governance, increasing the role of the private sector and investment in human resources.

Figure 3-1—*Continued*
Summary of 1997 activities in support of African economic growth

Enhanced Dialogue with African Countries

With the initiation of the Partnership, the ongoing dialogue between the United States and the African nations has intensified. In September 1997, the State Department briefed the African diplomatic corps on the status of the proposed Africa Growth and Opportunity Act. Secretary of State Albright initiated a special ministerial session of the UN Security Council on Africa. Other high-level meetings were held with representatives of the U.S. Department of the Treasury.

Multilateral Activities

The United States provides assistance to African countries bilaterally and through regional and multilateral organizations such as the United Nations and the World Bank. Some examples of this assistance include preventive diplomacy, peacekeeping operations, capacity strengthening of African organizations to resolve conflicts, support for human rights, demobilization and retraining, and arms control. Other ongoing U.S. diplomatic initiatives are also being carried out in Sub-Saharan Africa. Regarding finance, G-7 finance officials have formed an Africa working group to examine financial and development issues on which G-7 countries might work together.

Source: *A Comprehensive Trade and Development Policy for the Countries of Africa: A Report Submitted by the President of the United States to Congress*, December 1997.

Figure 3-2
Summary of African Growth and Opportunity Act

Section 2: Finds that it is in the mutual economic interest of the United States and Sub-Saharan Africa to promote stable and sustainable economic growth and development in Sub-Saharan Africa.

Section 3: Expresses Congressional support for economic self-reliance for Sub-Saharan African countries.

Section 4: Makes Sub-Saharan African countries eligible to participate in programs, projects or activities or receive assistance or other benefits under the Act for a fiscal year only if the President determines, according to specified evidence, that it has established, or is making continual progress toward establishing a market-based economy.

Section 5: Expresses the sense of the Congress that sustained economic growth in Sub-Saharan Africa depends upon the development of a receptive environment for trade and investment through the continued support by the U.S. Agency for International Development (AID) of programs that help to create this environment. Amends the Foreign Assistance Act of 1962: 1) to provide additional program authorities to include assistance to promote democratization and strengthen conflict resolution and 2) to increase program flexibility through Presidential waivers of certain requirements.

Section 6: Directs the President to convene annual high-level meetings between U.S. government officials and officials of the governments of Sub-Saharan African countries to foster close economic ties between them. Directs the President to establish a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum.

Section 7: Directs the President to develop a plan meeting certain requirements to enter into one or more trade agreements with certain eligible Sub-Saharan African countries to establish a United States-Sub-Saharan Africa Free Trade Area.

Section 10: Expresses the sense of the Congress that: 1) specified international financial institutions and their programs are vital to the economic growth and development of Sub-Saharan African countries; 2) the executive branch should extinguish concessional debt owed to the United States by the poorest Sub-Saharan countries; and 3) the Congress supports the efforts of the executive branch to secure agreement from such institutions to maximize debt reduction for such countries as part of the multilateral initiative known as the Heavily Indebted Poor Countries (HIPC) initiative. Supports and encourages the implementation of specified initiatives through AID and the Trade Development Agency.

Section 11: Expresses the sense of the Congress that the Overseas Private Investment Corporation (OPIC) should exercise its authorities to initiate two or more equity funds in support of projects in Sub-Saharan African countries, particularly projects that expand opportunities for women entrepreneurs and employment for the poor.

Section 12: Amends the Foreign Assistance Act of 1961 to revise the composition of the Board of Directors of OPIC to require at least one of the eight presidentially-appointed Directors to have extensive private sector experience in Sub-Saharan Africa. Directs the Board to increase financial assistance in Sub-Saharan Africa. Amends the Export-Import Bank Act of 1945 to make similar changes with respect to the Export-Import Bank of the United States.

Section 13: Directs the President to establish the position of Assistant United States Trade Representative within the Office of the United States Trade Representative to focus on trade issues relating to Sub-Saharan Africa.

The House Ways and Means Subcommittee on Trade approved H.R. 1432 on May 22, 1997. Three amendments, in addition to an amendment in the nature of a substitute, were approved. The amendments included one to expand the number of Foreign Commercial Service posts and officers in Sub-Saharan Africa, another to ensure that beneficiary countries are undertaking measures that are consistent with U.S. national security and foreign policy, and a third that changed the enumerated designation of Zaire to its recently changed name, the Democratic Republic of the Congo.[165]

On June 25, 1997, the House Committee on International Relations approved H.R. 1432 by voice vote. The Committee also approved an amendment to the bill, introduced by Rep. Benjamin A. Gilman (R-NY), that would prohibit U.S. assistance to any country in the region that engaged in a "consistent pattern" of "gross violation" of internationally recognized human rights. The amendment was meant to apply to Nigeria, according to the sponsor.[166]

On October 23, 1997, the House Ways and Means Subcommittee on Trade approved H.R. 1432 by voice vote with two amendments. One amendment, suggested by the U.S. Customs Service, would more effectively guard against transshipment of textile and apparel goods and the use of counterfeit documents. The amendment also changed the date for the end of GSP benefits from 2007 to 2008. The Subcommittee also approved an amendment offered by Rep. William Jefferson (D-LA) to encourage eligible countries to promote and enable the formation of capital to support the establishment and operation of microenterprises.[167]

On February 25, 1998, the House Ways and Means Committee passed H.R. 1432 by voice vote. The committee also passed an amendment to the legislation by Rep. Jim Nussle (R-IA) which required that no funds authorized in the section dealing with the trade forum be used for nongovernmental organizations.[168] In response to passage of H.R. 1432, USTR Charlene Barshefsky stated, "The strong bi-partisan vote in favor of Africa trade legislation sends a clear signal that the Congress shares the President's desire to help move the region toward greater economic and political stability."[169] On March 11, 1998, the full House of Representatives passed H.R. 1432. Senate action was pending at that time.

[165] Africa News Service, "House Panel Approves Africa Trade Investment Act," found at Internet address http://www.africanews.org/usaf/house-trade.html, retrieved June 11, 1997.

[166] Bureau of National Affairs, "House Committee Approves Legislation to Boost Ties with Sub-Saharan Africa," *International Trade Daily*, Article No. 41781010, June 17, 1997.

[167] "Ways and Means Panel Approves Africa Trade Bill with Minor Changes," *Inside U.S. Trade*, October 24, 1997.

[168] Bureau of National Affairs, "Bill Expanding Africa Trade Policy Passes House Ways and Means Panel," *International Trade Daily*, Article No. 50571004.

[169] USTR, "Statement by the United States Trade Representative Charlene Barshefsky in Response to House Ways and Means Committee Passage of Africa Trade Legislation," press release no. 98-19, Feb. 25, 1988.

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 1997: Canada, the European Union, Japan, Mexico, China, Taiwan, and Korea. Appendix tables A-1-21 provide detailed information on U.S. trade with these partners.

Canada

During the final year of the tariff reductions under the free trade agreement between Canada and the United States, economic and trade relations between the two countries were relatively smooth.[1] On January 1, 1998, duty-free status for originating goods, except for certain agricultural goods, was achieved.[2] However, given the volume of trade between the two countries,[3] a certain number of issues inevitably receive considerable attention each year, some of which have a significant impact on bilateral relations. Among such issues in 1997 were trade in Canadian dairy products, Pacific salmon and related treaty obligations of the two trade partners, and an ongoing bilateral dispute concerning Canadian periodicals/ magazines that was handled through the WTO dispute settlement mechanism.

Dairy Dispute

During 1997 a trade dispute developed between the United States and Canada over Canada's system of milk pricing and its refusal to implement a global tariff-rate quota (TRQ) for fluid milk (table milk and fresh cream). U.S. interests assert that Canada prices milk and dairy products in such as way as to circumvent its commitments to reduce export subsidies under the Uruguay Round Agreement on Agriculture (the agreement).[4] According to U.S. dairy industry representatives, the system gives Canadian producers an unfair advantage in world markets and directly injures the United States and other dairy-producing countries. Canada claims that its system of dairy product pricing is not a subsidy program.[5] In November 1997, the United States formally complained to the World Trade Organization (WTO) about alleged export subsidies for dairy products provided by Canada. Consultations failed to resolve the issue; and, in February 1998, the United States requested establishment of a WTO dispute settlement panel.[6]

This case is significant not only for the dairy industry but also for several other agricultural industries, because it is the first time a challenge has been made involving Article 10 of the agreement, designed to prevent violations of the rules of export subsidy reductions. U.S. dairy representatives claim that if Canada is able to circumvent its WTO obligations in violation of Article 10, such action will undermine all agreement rules on export subsidies.[7]

[1] The U.S.-Canada Free Trade Agreement (CFTA) was signed in 1988 and entered into force in January 1989. January 1, 1994, marked the entry into force of the North American Free Trade Agreement (NAFTA). The timetable for duty reductions and most of the terms of the CFTA were folded into the NAFTA.

[2] U.S. Department of State telegram, "Canadian Tariffs Eliminated on U.S. Goods - Many Others Unilaterally Reduced," message reference No. 4821, prepared by U.S. Embassy, Ottawa, Dec. 24, 1997.

[3] Unofficially estimated at $1 billion a day.

[4] Section 301 petition to the U.S. Trade Representative, filed by the National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, Sept. 5, 1997, p. 15.

[5] Comments of officials of Agriculture and Food Canada reported in "U.S., Canada to Take Milk Spat to WTO," *The Journal of Commerce*, Oct. 6, 1997.

[6] For additional information, see the discussion of WTO dispute settlement activities in ch. 2. Information on the status of WTO disputes found at the WTO website http://www.wto.org/wto/dispute/bulletin.htm.

[7] National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, "Backgrounder: WTO Challenge of Canada's Dairy Export Pricing Scheme," press release, Sept. 5, 1997.

Background to Canadian Dairy Pricing Policy

The milk and dairy products industry in Canada operates under a national supply management system, largely insulated from international markets by a combination of quotas, tariffs, and other import controls, industry support, and price stabilization arrangements.[8] Each year a national quota for industrial milk and cream is established based on the anticipated needs of the domestic market, plus the milk requirements of specific export programs. The quota is then allocated among provincial marketing boards with the responsibility for the allocation of farm quota entitlements.[9] Imports of dairy products are controlled by TRQs, with over-quota duty rates as high as 300 percent.[10] These supply restrictions, coupled with import controls, mean that the cost of the dairy programs in Canada is borne mostly by Canadian consumers through higher prices.[11]

The Canadian Dairy Commission (CDC) establishes the target price for industrial milk and the assumed processor margin at the beginning of each dairy year.[12] The target price is the price determined to be adequate for efficient milk producers to cover their cash costs and to receive a fair return on their labor and investment. In establishing price levels, the CDC weighs advice received from industry stakeholders, calculations from cost of production formulas, market conditions, and the general state of the Canadian economy.[13]

[8] Agriculture and Agri-food Canada, "The Canadian Dairy Sector: Structure, Performance and Policies," in R.M.A. Loyns, Karl Meilke, and Ronald D. Knutson, eds., *Understanding Canada/United States Dairy Disputes*, proceedings of the Second Canada-U.S. Agricultural and Food Policy Systems Information Workshop, University of Guelph, Dec. 1996, p. 16.

[9] OECD, *Reforming Dairy Policy*, 1996, p. 57.

[10] General Agreement on Tariffs and Trade, *Summary of The Results of the Uruguay Round in the Dairy Sector*, International Dairy Agreement Fifteenth Annual Report, Geneva, Nov. 1994, pp. 22-23.

[11] U.S. Department of Agriculture (USDA), Economic Research Service, "Dairy Policies Are Limiting U.S.-Canada Trade," *Agricultural Outlook*, Jan.-Feb. 1997, p. 20.

[12] The CDC is delegated by the Canadian Government to oversee Canada's national supply management program, and to manage the government-funded dairy support program. The CDC was established in 1966, and in the early 1970s dairy products became the first commodities in Canada to be governed by national supply management. For information on Canadian dairy programs see CDC,"Dairy Industry Policies," found at Internet address http://www.cdc.ca/cdc.html, retrieved Apr. 16, 1998.

[13] Ibid.

Provincial marketing boards typically purchase milk from producers and sell it to processors for the manufacture of dairy products. The milk produced in Canada is sold to processors through a common milk classification system for the manufacture of milk-based products defined as classes 1 through 4.[14] The price processors pay for their milk depends on the type (or class) of manufactured dairy product for which the milk is used. Manufacturers of class 1 products pay the highest price for their milk, while class 4 product manufacturers pay the least for their milk.[15] Receipts from milk sales are pooled across all classes, and producers are paid a uniform weighted average price (with weights reflecting the proportion of milk sold under each class) to equalize payments to milk producers.[16]

Milk is the primary ingredient in manufacturing dairy products. Processors wishing to export dairy products must be able to purchase their milk at a price that allows them to be competitive on the world market. Prior to August 1, 1995, all milk marketed domestically (i.e., from sales of milk classes 1-4) by Canadian dairy farmers was subject to a levy imposed by the CDC. Proceeds from this levy were used to subsidize Canadian dairy exporters by reducing the high domestic cost of milk to a level which allowed Canadian dairy products to be competitive on world markets.[17]

[14] Class 1— fluid milks, fluid creams, milk-based beverages, fluid milks for the Yukon and Northwest Territories (Alberta only); class 2—yogurt and ice cream; class 3—specialty cheeses and cheddar; and class 4— butter, powders and condensed milk for ingredient purposes, condensed milk for retail, new products for the domestic market, and animal feed and unclassified products. Class 5 was established effective August 1, 1995, as part of Canada's new dairy pricing and pooling scheme described in more detail below. Ibid.

[15] Under class 5, industrial milk is classified and made available for use in dairy products and products containing dairy ingredients at prices which vary according to end use. The volume of dairy components accessed under this class is monitored through permits issued by the CDC. Ibid.

[16] Traditionally, provinces have used a variety of pooling calculations to equalize payments to milk producers. Pooling became national in scope in August 1995, with the implementation of a pricing and pooling system for class 5 milk. In addition, revenue from all milk sales (fluid and industrial) has been pooled among the producers of Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, and Prince Edward Island since August 1996. In March 1997, the four Western provinces also implemented an all milk pooling arrangement; although Manitoba is part of the Western Milk Pool, it also participates in revenue sharing with the Eastern All Milk Pool. Ibid.

[17] Section 301 petition to the U.S. Trade Representative, filed by the National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, Sept. 5, 1997, p. 15.

Under the agreement, this system of producer-financed export assistance qualified as an export subsidy and was subject to the value and volume reductions of export subsidies required under the agreement.[18] To comply with the agreement, Canada changed its pricing policy effective August 1, 1995, in a way that ensured its dairy industry could continue to compete successfully in world markets and that, according to the Canadians, does not violate its WTO commitments.[19]

The new 1995 system brought two major changes to the previous policy. First, the producer levy was removed and the system of producer-financed export assistance was abandoned. Second, a class 5 (for special milk types) was introduced. Class 5 established prices for milk used for the production of exported dairy products and products containing dairy ingredients.[20] Since August 1995, milk for exported dairy products has been accessed through permits issued by the CDC on a transaction by transaction basis under subclasses 5(d) and 5(e).[21] The number of permits and the volume of milk they cover vary depending on the quantity of milk produced that is not required for the domestic market. The target prices under class 5 are lower than those for domestically sold products under classes 1-4, and thus allow processors to manufacture dairy products for export at a competitive world price.

Receipts from class 5 sales are pooled with those from sales in classes 1-4 and returned to producers in the form of a pooled average price from domestic and export sales. The average producer price from classes 1-5 (under the new system) is lower than the price based on the class 1-4 average (under the previous system), because class 5 prices are the lowest of all classes. However, producers are compensated for the lower price by the removal of the levy. Thus, the money previously collected from the dairy producers, is now transferred directly to the processors from the producer in the form of a lower administered price.

This system allows Canadian dairy food processors and exporters of dairy-based products to purchase their inputs at competitive prices and therefore export competitively.[22] The U.S. dairy industry maintains that the effect is to implement a two-tier pricing structure, in which the price Canadian processors pay for milk to produce exported food products is lower than the price they pay for milk used to produce the same products sold on the domestic market.

The Dispute

On September 5, 1997, three major U.S. dairy organizations—the National Milk Producers Federation, the International Dairy Foods Association, and the U.S. Dairy Export Council—filed a petition with the U.S. Trade Representative (USTR) under section 301 of the Trade Act of 1974,[23] requesting that the United States challenge the Canadian dairy pricing system before the WTO Dispute Settlement Body (DSB).[24] The industry groups argue that Canada's program of special milk classes involves a circumvention of export subsidies rules as outlined in Article 10 of the agreement.[25]

Export subsidy commitments are outlined in each member's Schedule of Concessions. Article 9.1 of the agreement specifies the types of export subsidy that are subject to reduction commitments under the agreement.[26] Drafters of the agreement were

[18] *Uruguay Round Agreement Act, Statement of Administrative Action*, published in H. Doc. 103-316, 103d Cong., 2d Sess., pp. 720-723.

[19] "Canadian Dairy Commission Announces No Change in Target Support Prices," *The Cheese Reporter*, Feb. 14, 1997, p. 5.

[20] Class 5 comprises the following: (1) cheese ingredients for further processing for the domestic and export markets; (2) all other dairy products for further processing for the domestic and export markets; (3) domestic and export activities of the confectionery sector; (4) specific negotiated exports, including cheese under quota destined for the United States and the United Kingdom, evaporated milk, whole milk, whole milk powder, and niche markets; and (5) surplus removal.

[21] U.S. Department of Agriculture, Foreign Agricultural Service, *Dairy Annual* (CA6076), Dec. 13, 1995, p. 7.

[22] U.S. Department of Agriculture, Economic Research Service, "Dairy Policies Are Limiting U.S.-Canada Trade," pp. 19-23.

[23] Section 301 of the Trade Act of 1974 provides the procedural means under U.S. trade law for U.S. businesses and workers to seek government intervention in gaining relief from unfair foreign trade practices that burden or restrict U.S. commerce.

[24] Section 301 petition to the U.S. Trade Representative, filed by the National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, Sept. 5, 1997, p. 31.

[25] Ibid. The agreement requires that the value of export subsidies be reduced to a level 36 percent below the 1986-90 base period average level and that the volume of subsidies be reduced by 21 percent. This means that both the value and volume of subsidies were capped in 1995. They are then being progressively reduced to the required level by the year 2000. Products that did not receive export subsidies during the base period will not be eligible for export subsidies in the future. *Uruguay Round Agreements Act, Statement of Administrative Action*, pp. 721-22.

[26] Export subsidies specified in Article 9.1 of the agreement include: payments-in-kind to market participants contingent on export performance; government sale or disposal of noncommercial stocks of agricultural products at a price lower than the comparable price charged to buyers in the domestic market; payments on the export of an

concerned that after devising the description of export subsidies listed in Article 9.1 and agreeing to reduce such subsidies, some WTO members would invent new methods for subsidizing exports to avoid falling under the literal definitions. Export subsidies not subject to reductions are prohibited by Article 10 to prevent circumvention of export subsidy reduction commitments. Article 10 of the agreement states that "export subsidies not listed in Article 9.1 shall not be applied in a manner which results in, or which threatens to lead to, circumvention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments."[27] Thus Article 10 bans the use of export subsidies not included in Article 9.1 or in a member's Schedule of Concessions.

The U.S. dairy industry petition argues that class 5 constitutes an export subsidy as defined in the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement)[28] which defines "subsidy" as any financial contribution, such as grants, loans, revenue foregone, and the provision or purchase of goods and services, by a government or any public body that provides any income support and confers benefit,[29] and that the Canadian dairy pricing system violates Article 10 of the Uruguay Round Agreement on Agriculture because it allows Canada to circumvent volume and expenditure limitations on export subsidies. The petition argues that class 5 is applied in a manner that constitutes noncommercial transactions used to circumvent export subsidy commitments.

The petition claims that Canada exports dairy products at prices below its domestic prices for comparable products. It alleges that Canada subsidizes lower-priced exports by charging a relatively high price for milk used by processors supplying the Canadian domestic market, and by charging a lower price to Canadian processors supplying the same product to export markets. The petition argues that the Canadian system represents a two-tier pricing system, involving a subsidy on exports that is financed by producers (not the government) through the system that pools revenues from high domestic sales prices and lower export sale prices. According to the petition, "without these preferential input prices, Canadian processors of dairy products would not be competitive on the world market due to the high domestic prices of milk protected by import restrictions. Thus the Canadian class 5 scheme satisfies the definition of an export subsidy as contemplated by the Agreement on Agriculture and the Subsidies Agreement."[30]

The Canadian Government contends that the class 5 scheme does not fall within Article 9, and that "Canada chose to meet its international commitments under the WTO and NAFTA for most dairy products by changing the payments on export financed producer levies, that were defined as export subsidies under the URA, to an end-use pricing system, which is not."[31]

The petition also charges Canada with refusing to honor its TRQ for fluid milk that it agreed to in the agreement. Specifically U.S. industry groups wish to force Canada to comply with its minimum access commitments under the Uruguay Round, and specifically to open its 64,500 ton TRQ on fluid milk to commercial imports. Canada insists that tourists and Canadian citizens carry milk across the border in such quantity as to fill the quota. However, according to U.S. officials, Canada has no valid documentation for this, nor does it make any effort at the border to record milk volumes. According to the petition, opening the TRQ to commercial imports would increase U.S. dairy exports to Canada by at least $20 million annually.[32]

Timetable for Dispute Settlement

On October 8, 1997, the United States filed a complaint (WT/DS103/1) with the WTO concerning export subsidies allegedly granted by Canada on dairy products and the administration by Canada of the TRQ on milk. The U.S. complaint contends that the export subsidies by Canada distort markets for dairy products and adversely affect U.S. sales of dairy products. The United States alleges that Canadian practices constitute violations of Article II of the General Agreement on Tariff and Trade (GATT) 1994, Articles 8 and 10 of the

[26]—*Continued*
agricultural product that are financed by virtue of government action; provision of subsidies to reduce the costs of marketing exports of agricultural products, such as international transportation and processing; internal transportation charges on export shipments provided by government on terms more favorable than for domestic shipments; and, subsidies on agricultural products contingent on their incorporation in exported products.

[27] USTR, *Uruguay Round of the Multilateral Trade Negotiations, General Agreement on Tariffs and Trade,* Final texts of the GATT Uruguay Round Agreements, Agreement on Agriculture, Marrakesh, Apr. 15, 1994, p. 51.

[28] *Uruguay Round Agreements Act, Statement of Administrative Action*, pp. 911-55.

[29] Ibid., p. 912.

[30] Section 301 Petition to the U.S. Trade Representative, filed by the National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, Sept. 5, 1997, p. 37.

[31] Response to a question by New Zealand at WTO Committee on Agriculture Meeting, Oct. 1997.

[32] Section 301 Petition to the U.S. Trade Representative, filed by the National Milk Producers Federation, U.S. Dairy Export Council, and International Dairy Foods Association, Sept. 5, 1997, p. 27.

Agreement on Agriculture, Article 3 of the Subsidies Agreement, and Articles 1 and 3 of the Import Licensing Agreement.[33]

Under WTO rules, the two parties must attempt to negotiate a solution; and informal consultations were held beginning November 19, 1997, at the WTO in Geneva, Switzerland. Australia and Japan joined the United States as interested parties in the case.[34] These consultations failed to draw the opposing sides closer together. In a separate but related issue, New Zealand filed a WTO complaint (WT/DS113/1) on December 29, 1997, concerning the Canadian dairy export scheme, alleging that the milk classes scheme is inconsistent with Articles 3, 8, 9, and 10 of the Agreement on Agriculture. A WTO dispute settlement panel was established on March 25, 1998, to jointly address the complaints of both the United States and New Zealand.[35] A final decision in the case is not expected until late 1998 at the earliest.

Recent Developments in the Pacific Salmon Fishery

The Pacific salmon industry faces numerous problems and complications. Recent high harvest rates have depressed prices and may be depleting the resource.[36] High harvest rates may be unsustainable in the longer run because salmon population growth rates may prove too low to replace the removal through harvesting[37] and because industrial development along rivers and coastlines threatens future harvests.[38] Most significantly, the fishery—one of the world's most valuable fish resources—is shared with Canada, raising issues of joint access and bilateral management, in addition to competition for the U.S. industry on the fishing grounds and in the marketplace.[39]

In the spring of 1997, the Canadian Government seized several U.S.-flag fishing vessels traversing Canadian waters on their way from Washington to Alaska. These seizures were followed by a blockade by British Columbia fishing vessels of a U.S.-flag ferry. These events reflect the ongoing logjam in U.S.-Canada negotiations over bilateral allocations of benefits and costs of the Pacific salmon fishery.

Background

The U.S. Pacific salmon fishery is based in the Pacific Northwest (Washington, Idaho, and Oregon) and Alaska and is situated along the Columbia, Snake, and other rivers. The fishery is shared with Canada, and is supported in part by salmon runs from the Fraser and other river systems in British Columbia and the Yukon. The bulk of the Pacific salmon fishery consists of five species: chinook or king, sockeye or red, pink, chum, and coho or silver.[40] Several subspecies of salmon are classified by the United States as "endangered" or "threatened" pursuant to the Endangered Species Act (16 U.S.C. 1531-1543, Public Law 93-205), which is administered in part by the National Marine Fisheries Service (NMFS) of the U.S. Department of Commerce.[41]

Salmon migrations may cover hundreds or thousands of miles, from the middle of the North Pacific to U.S. and Canadian river tributaries, waterways, and other bodies of water. Salmon almost always return to the waters of their birth, where they

[33] Information on the current status of WTO disputes can be found at the WTO website http://www.wto.org/wto/dispute/bulletin.htm.

[34] U.S. Department of State telegram, "WTO Consultations on Canada's Dairy Regime," message reference No. 08274, Geneva, Dec. 1, 1997.

[35] WTO, "Overview of the State-of-play of WTO Disputes," found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, dated March 31, 1998, retreived Apr. 2, 1998.

[36] U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), "The West Coast Regional Report," chapter 4 in *Our Living Oceans: The Economic Status of U.S. Fisheries, 1996*, NOAA Technical Memorandum NMFS-F/SPO-22, December 1996, pp. 52-53.

[37] U.S. Department of Commerce, NOAA, NMFS, "Alaska Salmon," *Our Living Oceans: Report on the Status of U.S. Living Marine Resources, 1995*, NOAA Technical Memorandum NMFS-F/SPO-19, February 1996, pp. 77-79.

[38] U.S. Department of Commerce, NOAA, NMFS, "Impacts of California Sea Lions and Pacific Harbor Seals on Salmonids and on the Coastal Ecosystems of Washington,

[38]—*Continued*
Oregon, and California," NOAA Technical Memorandum NMFS-NWFSC-28, Seattle, March 1997, available at http://research.nwfsc.noaa.gov/pubs/tm/tm28/tm28.htm.

[39] US. Department of Commerce, NOAA, NMFS, "Pacific Northwest Salmon," *Our Living Oceans: Report on the Status of U.S. Living Marine Resources, 1995*, NOAA Technical Memorandum NMFS-F/SPO-19, February 1996, pp. 21-31.

[40] The respective scientific names are: *Oncorhynchus tshawytscha*, *O. nerka*, *O. gorbuscha*, *O. keta*, and *O. kisutch*. Minor salmon species and western bouts of the same genus are not included here; nor is Atlantic salmon, which in the Pacific Northwest is raised on farms, not harvested by fishing vessels.

[41] For example, Snake River coho has been determined to be extinct; Snake River sockeye and chinook are listed as "endangered"; and coho salmon at the Oregon/California border are listed as "threatened." The term "endangered" means "any species which is in danger of extinction throughout all or a significant portion of its range," while "threatened" signifies less immediate danger of extinction than "endangered." These listings mean that it is unlawful to kill or harm individuals of these populations, with exceptions to be made in accordance with existing state fishery conservation plans. 16 U.S.C. 1532(6).

die after spawning.[42] The commercial harvest of salmon takes place primarily within three miles of the Pacific Ocean shore,[43] often at or close to the mouths of rivers. Because Canadian and U.S. salmon stocks mix with each other in the ocean, some "interceptions" by both countries are unavoidable as vessels fishing on the U.S.-Canadian border harvest both U.S.- and Canadian-born salmon. Such interceptions are a cause of significant practical and political problems for effective fishery management, and have been the subject of bilateral concern.

Salmon Supply

The mix of Pacific salmon species, their migratory behavior, environmental factors, and the mostly adverse effects of human activity on their migration combine to make the Pacific salmon fishery one of the biologically most complex and unique fisheries in the United States. Both human activities and natural phenomena may affect the supply of Pacific salmon available to U.S. and Canadian fisheries. Human activities, including overfishing, the construction of dams and reservoirs in salmon migration corridors, as well as pollution from industrial and residential development can adversely affect salmon supply and reduce salmon survival rates.[44] Natural oceanographic phenomena, such as changes in water temperatures (including the periodic El Niño events of unusual warm ocean conditions) and salinity, in turn can adversely affect the size of a salmon population as well as its location and depth.[45]

Under the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265 as amended), the U.S. Government has responsibility for the conservation and management of anadromous fish (including Pacific salmon) resources within the U.S. Fishery Conservation Zone (FCZ) and beyond unless the resources are within another nation's fishery conservation zone.[46] The Magnusun-Stevens Act established the Pacific Fishery Management Council, which has implemented fishery management plans for Pacific salmon covering commercial troll fisheries as well as Native American and recreational fisheries, fresh- as well as saltwater. In determining the total allowable catch available each year for these varied interests, the council takes into account the biological status of the resources, market conditions and other economic factors, augmentation of fish stocks by hatcheries, and the likely amount to be harvested by Canadian fishermen under the Pacific Salmon Treaty (discussed in more detail below), which requires joint efforts between the Federal Government, the states, Canada, and tribal governments.

Canadian authorities also have tightened catch limits and other restrictions to reduce fishing pressure and offset adverse environmental effects on salmon productivity. Recent proposals include a habitat restoration and enhancement program, credit programs for fishermen, and payments to fishermen for previously owned fishing gear made useless by new restrictions and for an early retirement program, among others. These measures reportedly are intended to reduce the current fishing effort so that future production can expand, while easing the current burden on fishermen.[47]

U.S.-Canada Pacific Salmon Treaty

Prior to the 1980s, the United States, Canada, Japan, and the former Soviet Union, among others, traditionally shared in the Pacific salmon harvest. With the extension of their FCZs to 200 miles in the 1970s, Canada and the United States effectively reduced a multilateral access problem to an essentially bilateral one.[48] However, problems remained because of the borderless nature of salmon migration, harvests, and supply conditions. The fishery costs and benefits for one country are linked to those for the other, creating the need for a system of joint management with equitable sharing of costs and benefits.

The United States and Canada signed the Pacific Salmon Treaty in 1985.[49] U.S. signatories to the treaty

[42] For more detailed information on the life history of Pacific salmon, see NMFS, Office of Protected Resources, "Northwest Salmon," (information taken from National Marine Fisheries Service, "1995 Proposed Recovery Plan for Snake River Salmon Summary"), found at Internet address http://www.nmfs.gov/tmcintyr/fish/nwsalmon.html, retrieved Apr. 18, 1998.

[43] U.S. Department of Commerce, NMFS, *Fisheries of the United States, 1995*, (Washington, DC: NMFS, 1995), p. 7.

[44] U.S. Department of Commerce, NMFS, "Pacific Northwest Salmon," pp. 27-28.

[45] Washington Department of Fish and Wildlife, *1997 Draft Wild Salmonid Policy*, Seattle, WA, May 1997.

[46] The U.S. FCZ extends from the boundary of eachs state's territory (generally 3 nautical miles from shore) to 200 nautical miles from shore.

[47] Department of Fisheries and Oceans Canada, "Highlights of Federal Initiatives for the Pacific Salmon Fishery," Ottawa, Ontario, January 1997.

[48] Problems remained for the harvest of salmon populations that extended beyond 200 miles, and these were resolved by the establishment of international forums such as the North Pacific Anadromous Fish Commission, which consists of representatives from the four nations listed above.

[49] Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, as amended. In fact, U.S.-Canada salmon

included the Federal Government, Alaska, Oregon, Washington, and Northwest Native-American tribes. The goals of the treaty were to ensure conservation to prevent overfishing, and to provide an equitable harvest of salmon stocks through strict limits to ensure that interceptions of salmon by the two countries were balanced.[50] The treaty established a binational Pacific Salmon Commission[51] to regulate salmon fishing within 200 miles of the coast, but included no dispute resolution mechanism. Since the treaty's implementation, the United States and Canada have met regularly to negotiate total allowable catches of various salmon populations and their allocations to each country's fishing fleet.[52]

Bilateral tensions mounted during the 1990s as the productivity of salmon stocks declined. In 1994, frustrated by what they perceived as unfair U.S. demands in the treaty negotiations, Canada imposed a C$ 1,500 fee (about US$ 1,050) on U.S. fishing boats passing through Canadian waters;[53] later that year, the NMFS reclassified Snake River chinook—once the world's largest salmon runs—from "threatened" to "endangered." The two nations sent the dispute to impartial arbitration in 1996, with a New Zealand diplomat hired to mediate.[54] However, that mediator terminated his participation in the dispute later in 1996, stating that the views of the two parties were too far apart for successful mediation.[55]

In early 1997, Canada argued that U.S. vessels were catching a far greater share of Canadian-origin salmon than Canadian fishermen were catching of U.S.-origin fish. In May 1997, Canada suspended discussions with the United States over the long-standing dispute on Pacific salmon and began seizing U.S.-flag fishing vessels pursuant to existing Canadian laws.[56] The U.S. vessels were charged with failing to "hail in when entering Canadian waters and to stow all fishing gear on board the vessel while in Canadian waters."[57] The United States issued an official protest to Canada, and Alaska legislators sought, but did not obtain, Coast Guard protection and escort of U.S.-flag vessels in Canadian waters.[58]

In other Canadian actions subsequently undertaken during 1997, the British Columbia Government announced that it would begin taking actions, including possibly canceling leases with the Canadian Government on military installations that are used by the United States, if the United States did not show good faith in the salmon negotiations.[59] On July 19, 1997, British Columbia (BC) fishing vessels blockaded

[49]—*Continued*
negotiations in one form or another date back to the early years of the century. Gordon R. Munro and Robert L. Stokes, "The Canada-U. S. Pacific Salmon Treaty," in D. McRae and G. Munro, eds., *Canadian Oceans Policy* (Vancouver: University of British Columbia Press, 1989).

[50] Department of Fisheries and Oceans Canada, "The Pacific Salmon Treaty: Overview," May 1996.

[51] The Pacific Salmon Commission is divided into two national sections, with commissioners appointed by each nation. Enabling legislation in the United States prescribes that the U.S. section have one member from Alaska, one from Oregon or Washington, one representing treaty tribes, and one nonvoting federal official. The Canadian section is led by the federal Department of Fisheries and Oceans and includes representatives from First Nations, recreational and commercial fisheries, as well as the B.C. provincial government. The treaty also established several scientific and technical committees which provide the Commission with essential data on the stocks and fisheries. Department of Foreign Affairs and International Trade (DFAIT), Canada, "The Pacific Salmon Treaty: An Overview," from the DFAIT website, found at Internet address http://www.dfait-maeci.gc.ca/english/foreignp/environ/salmon.htm.

[52] Ibid., and Eric Pryne and Jim Simon, "What's Behind the Battle Over a Salmon Treaty?" *Seattle Times*, May 29, 1997, found at Internet address http://www.seattletimes.com/extra/browse/html97/fish_052997.html, retrieved Apr. 16,1998.

[53] Joseph Cone, *A Common Fate: Endangered Salmon and the People of the Pacific Northwest* (New York: Henry Holt, 1995). Defending its action, Canada called unfair the U.S. demands that Canada reduce harvests of Snake River salmon when U.S. (Alaskan) harvests of Canadian-origin salmon were rising.

[54] Department of Fisheries and Oceans Canada, "New Steps to be Taken to Address Canada-U.S. Pacific Salmon Fishery," news release, March 5, 1996.

[55] His draft report, leaked to the press in May 1997, reportedly essentially sided with Canada and proposed an accounting formula that would curtail U.S. allocations or require payments to Canada as compensation. Danny Westmeat, "Secret Report Sides With Canada," *Seattle Times*, May 31, 1997, found at Internet address http://www.seattletimes.com/extra/browse/html97/fish_053197.html, retrieved Apr. 16, 1998.

[56] This action followed up on a warning from Canada issued in June 1996, under the Coastal Fisheries Protection Regulations, that it would begin enforcing its laws governing foreign vessels in Canadian waters on the Pacific coast. Department of Fisheries and Oceans Canada, "Canada Takes Action Following Deadlock in Salmon Talks, news release, May 21, 1997, and "New Regulations Governing Foreign Commercial Fishing Vessels Now in Effect," news release, July 23, 1996.

[57] Department of Fisheries and Oceans Canada, "Fisheries Officials Arrest Three U.S. Fishing Vessels," news release, May 26, 1997.

[58] Janet I-Chin Tu and Danny Westmeat, "Albright Joins in the Fray, Protests Boat Seizures by Canada," *Seattle Times*, May 29, 1997, found at Internet address http://www.seattletimes.com/extra/browse/html97/cana_052997.html, retrieved Apr. 16, 1998.

[59] "B.C. Premier Fish Tales," *Seattle Times*, June 13, 1997 and "Ads Are Canada's Latest Weapon in the Salmon Wars," *Seattle Times*, July 10, 1997, found at Internet address http://www.seattletimes.com/extra/browse/html97/fish_071097.html, retrieved April 16, 1998.

a U.S.-flag Alaska-bound ferry in the port of Prince Rupert,[60] an action that was accompanied by additional Federal and Provincial demands that the United States agree to limits on Alaskan fishing of Canadian-origin salmon. The vessel was subsequently freed after Canadian Government officials agreed to consider compensation plans for economically injured BC fishermen.

Special envoys for the two sides, William Ruckleshaus for the United States and David Strangway for Canada, were appointed in August 1997 to renew the treaty negotiations. However, the dispute was not resolved during 1997, and efforts to resolve it continued into 1998.[61]

Cultural Industries in Canada: the Case of Magazines

Under the terms of the CFTA, and continued under the NAFTA, Canada enjoys special protection for its cultural industries.[62] This protection was the result of Canadian concern regarding the strong influence of U.S. popular culture on certain Canadian industries. One bilateral dispute that was resolved in 1997 involved the Canadian publishing industry and official policies therein.

Background

The issue of split-run publications (i.e., U.S. publications with a Canadian version, printed in the United States for distribution and sale in Canada, e.g., *Sports Illustrated Canada*)[63] has been of concern to Canadian officials for some time. In fact, such publications have been banned at the border for the past 30 years. To further discourage such publications in Canada in an age when this hurdle can be leaped electronically, and under the shield of protecting Canadian cultural interests, Canada imposed a tax of 80 percent on these separate Canadian editions' advertising revenue in December 1995. According to USTR, the intent of the action was to force an end to the publication of Time-Warner's *Sports Illustrated Canada* edition.[64] The United States argued that the action was discriminatory and contrary to WTO rules, and sought review under the WTO DSB.

The U.S. complaint was filed on March 11, 1996.[65] The complaint outlined four distinct measures that Canada used to discriminate against foreign magazines in order to protect its domestic magazine publishing industry from U.S. competition: 1) a ban on the importation of split-run magazines into Canada; 2) an 80-percent excise tax on advertising in split-run publications; 3) disallowance of an income tax deduction to Canadians who advertise in split-run publications; and 4) discriminatory postal rates for foreign magazines mailed in Canada, i.e. rates for domestic magazines were lower than for magazines not produced in Canada by Canadian companies.

1997 Developments

The Panel was formed on June 19, 1996, and its work (submission of arguments, rebuttal, hearings, etc.) continued into 1997. The final report was issued on March 14, 1997. The panel ruled against Canada on three of the four measures contested by the United States. The ban on the importation of split-run magazines, in effect since 1965, was found to be inconsistent with Canada's GATT obligations by the WTO dispute settlement panel. The panel did not accept the Canadian argument that the 80-percent excise tax on the revenue from advertising placed in split-run magazines was a tax on a service, not a good. The tax was determined to be inconsistent with Canada's national treatment obligations under the

[60] "Canadians Block U.S. Ferry," *Washington Post*, July 20, 1997, p. A-23.

[61] Department of Fisheries and Oceans Canada, "Salmon Issue Raised at International Conference," news release, Feb. 3, 1998.

[62] Article 2005 of the Canadian-U.S. Free Trade Agreement (CFTA) states that "cultural industries" are exempt from the provisions of the agreement, with certain exceptions. "Cultural industry" is defined in Article 2012 of the CFTA as "an enterprise engaged in any of the following activities: a) the publication, distribution, or sale of books, magazines, periodicals, or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing, b) the production, distribution, sale or exhibition of film or video recordings, c) the production, distribution, sale or exhibition of audio or video music recordings, d) the publication, distribution, or sale of music in print or machine readable form, or e) radio communication in which the transmissions are intended for direct reception by the general public, and all radio, television and cable television broadcasting undertakings and all satellite programming and broadcast network services." Similar definitional language appears in Article 2107 of the NAFTA, while Article 2106 and Annex 2106 of the NAFTA continue the CFTA exemption for cultural industries.

[63] "Split-run magazines are periodicals sold both in Canada and abroad, in which the Canadian edition contains advertisements directed at a Canadian audience." USTR,"United States Prevails in WTO Case Challenging Canada's Measures Restricting Magazine Exports," press release 97-22, March 14, 1997.

[64] USTR, "Statement of the U.S. Trade Representative," press release 95-93, Dec. 15, 1995.

[65] USTR, "USTR Kantor Announces Challenge of Discriminatory Canadian Magazine Practices; Cites Clinton Administration Determination to Defend U.S. Industries," press release 96-23, March 11, 1996.

GATT. The distinct postal rates charged to domestic periodicals and imported periodicals were also found to be in violation of Canada's national treatment obligations. The panel found that another issue challenging postal rates—the postal rate subsidy or rate assistance program—was not a violation because it involved a transfer of resources between government agencies, and was effectively made directly to Canadian publishers.[66] This practice allows some domestic magazines to defray the cost of certain postal expenses. Therefore, with respect to the postal subsidy, the U.S. contention was denied.

On March 14, 1997, the panel report was publicly announced. The U.S. Government expressed support for efforts to promote national identity through cultural development, but maintained that "we cannot allow Canadian entities to use 'culture' as an excuse to provide commercial advantages to Canadian products or to evict U.S. firms from the Canadian market."[67] On the same day, the Government of Canada announced its decision to appeal the panel ruling.

Canada did not appeal the panel's findings in favor of U.S. contentions concerning the import ban on certain magazines and the use of "discriminatory" postal rates. The Canadian appeal was directed at the 80-percent excise tax on split-run publications. The United States contested the Canadian claims on appeal. The United States also appealed the panel's conclusion that "funded" postal rates qualify as subsidies under GATT Article III:8(b). The WTO Appellate Body affirmed the panel's findings in a separate decision made public on June 30, 1997. While the panel had previously allowed the postal subsidy for Canadian magazines, the Appellate Body reversed the earlier decision on this point. Thus, all four complaints of the United States in the periodicals case were vindicated following appeal.[68]

WTO rules allow for disputes to be resolved in one of two ways: either the country found against can dismantle the protections determined not to be in compliance with GATT/WTO obligations, or the offending country can account for the lost economic opportunity resulting from the offense by providing other compensating concessions of substantially equivalent value to those remaining in place. Absent such action, the successful party can withdraw concessions of equivalent value from the offending party. The Canadian reaction to the Appellate Body's finding was to restate officially the Government's continued commitment "to maintaining a distinctly Canadian magazine industry."[69] The aim was to develop new means of retaining that policy objective, while still being consistent with the WTO ruling. The development of a new strategy to ensure the viability of the Canadian magazine industry was the immediate challenge for Canadian authorities following the publication of the Appellate Body's ruling. Canadian Federal Government and industry consultations, undertaken to ensure consistency and cooperation, were taking place throughout the entire dispute process and continued thereafter.

U.S. reaction termed the use of "culture" as a "pretense" for discrimination against imports. USTR Barshefsky welcomed the Appellate Body's ruling and called on Canada to take "prompt action ... to bring its magazine regime into compliance with its international obligations."[70]

Regular editions of U.S. magazines were unaffected by the WTO decision.[71] Only split-run editions were at issue in the case.

On August 29, 1997, Canada pledged to abide by the WTO decision. It had approximately 15 months to come into compliance.[72] In September, USTR announced the termination of the section 301 investigation into Canadian taxes on foreign magazines. The precise measures that the Canadian Government would take to meet the WTO ruling while developing a program for support of the domestic magazine industry were uncertain at year-end.[73]

European Union

U.S. and EU trade officials managed an active trade agenda in 1997. The highlight was the

[66] The WTO Appellate Body subsequently disagreed with the panel's interpretation here and overturned the previous decision, maintaining that the different postal rates in question did not meet the requirement for a direct payment from the government to domestic producers.

[67] USTR, "United States Prevails in WTO Case Challenging Canada's Measures Restricting Magazine Exports," press release 97-22, March 14, 1997.

[68] USTR, "WTO Appellate Body Expands U.S. Victory in Challenge to Canada's Restrictions on U.S. Magazine Exports," press release 97-62, June 30, 1997.

[69] Department of Foreign Affairs and International Trade, "Canada Reaffirms its Commitment to Canadian Magazines in WTO Trade Dispute," press release No. 111, June 30, 1997.

[70] USTR, "WTO Appellate Body Expands U.S. Victory in Challenge to Canada's Restrictions on U.S. Magazine Exports," press release 97-62, June 30, 1997.

[71] More than 80 percent of English language magazines sold in Canada are foreign, most of them originating in the United States.

[72] U.S. Department of State telegram, "The Economics of the Canadian Magazine Business and the Sports Illustrated Decision," message reference No. 2129, prepared by American Consulate, Toronto, Sep. 15, 1997.

[73] Reports of proposed policy changes began to appear in early 1998. Among recommendations for the magazine sector are: direct subsidies to publishers and a modified excise tax on foreign publications. By mutual agreement with the United States, Canada has until Sept. 1998 to

conclusion of a mutual recognition agreement (MRA) covering six key sectors in U.S.-EU commerce. This agreement should reduce standards-related barriers to trade, a major objective of the New Transatlantic Agenda (NTA) launched in 1995. Other positive developments included the completion of two WTO dispute-settlement panel reports, with the prospect of resolving long-standing disputes over the EU meat hormone ban and the EU's banana import regime, and the amicable resolution of disputes over textiles rules of origin,[74] wheat gluten,[75] and leg-hold traps.[76]

However, several issues, mostly concerning EU health-related restrictions, remained unresolved at year-end. The EU's policy on genetically modified organisms continues to delay U.S. shipments of corn. A veterinary equivalency agreement, which was supposed to enter into effect in October, remains unimplemented and does not cover poultry. As a result, U.S. exports of poultry to the EU remain blocked. Furthermore, U.S. exports of cosmetics and pharmaceuticals are threatened as the EU prepares to implement a ban on products containing certain animal by-products that could possibly be contaminated with "mad cow" disease. Out of concern for this disease, on December 11, 1997, the United States expanded a ban on imports of beef and sheep to cover all EU Member States. Several days later, the EU announced it would ban imports of U.S. beef and poultry unless adequate controls on antibiotic residue levels are introduced in U.S. plants within six months. Finally, efforts to bridge differences over the extraterritorial reach of U.S. sanctions laws continued in 1997, with both sides agreeing in early December on the need for early implementation of the various elements of the April 11, 1997, understanding that prompted the EU to suspend pursuit of a WTO dispute settlement panel.[77]

New Transatlantic Agenda

U.S.-EU trade relations evolved in 1997 within the context of the New Transatlantic Agenda (NTA), a framework for improving and updating U.S.-EU ties.[78] Announced at the conclusion of the December 3, 1995, biennial meeting of U.S. and EU heads of state, the NTA "lays out an ambitious agenda for expanding cooperation on promoting peace and stability, democracy, and development around the world; responding to global challenges; contributing to the expansion of world trade and closer economic relations; and 'building bridges' between Americans and Europeans."[79] On trade, the NTA's key goals were to create a Transatlantic Marketplace, characterized by the progressive reduction of barriers that hinder the flow of goods, services, and capital, and to strengthen and exert leadership in the multilateral trading system. The method for doing so includes an agreed list of concrete steps as well as joint study of existing barriers and ways to liberalize them. Recommendations arising from the joint study are to be presented at the mid-1998 U.S.-EU summit. During 1997, USTR asked the U.S. International Trade Commission to assist it in preparing U.S. input into the joint study by analyzing barriers in specified sectors as well as electronic commerce.[80]

The NTA's successes in 1997 included conclusion of a mutual recognition agreement (MRA) that should substantially reduce standards-related obstacles to U.S.-EU trade. A Customs Cooperation Agreement was signed at the May 1997 U.S.-EU Summit.[81]

[73]—*Continued*
comply with the WTO decision. U.S. Department of State telegram, "Canadian Cultural Policy: Changes Coming," message reference No. 348, prepared by U.S. Embassy, Ottawa, Feb. 2, 1998.

[74] See ch. 5 of this report, "U.S. Textile and Apparel Trade in 1997," for details.

[75] See ch. 5 of this report, " Section 301 Investigations," for details.

[76] On Dec. 23, 1997, U.S.Trade Representative Charlene Barshefsky announced that the United States and the European Union on Dec. 18 signed an Agreed Minute on humane standards for the trapping of furbearing animals. The Agreed Minute develops technical specifications for trap performance, suggests guidelines for further research into trap design, and envisions the phasing out of certain trapping devices currently in use. USTR, "United States Reaches Understanding with the European Union on Humane Trapping Standards," press release 97-110, Dec. 23, 1997.

[77] *New Transatlantic Agenda, Senior Level Group Report*, released in conjunction with the U.S.-EU Summit, Washington, DC, Dec. 5, 1997, p. 1, found at Internet address http://www.state.gov/www/regions/eur/eu/971205_slgr.html, retrieved Dec. 9, 1997.

[78] For an in-depth description of the trade and economic component of the New Transatlantic Agenda, see, U.S. International Trade Commission, *The Year in Trade: Operation of the Trade Agreements Program, 47th report, 1995*, USITC Publication 2971, August 1996, pp. 39-42.

[79] U.S. Department of State, *The New Transatlantic Agenda*, Fact Sheet Prepared by the Bureau of European and Canadian Affairs, Nov. 24, 1997 found at Internet address http://www.state.gov/www/regions/eur/eu/new_transatagenda_9711.html, retrieved on Feb. 6, 1998.

[80] The first phase of the Commission's study, investigation 332-382, was transmitted to USTR in late November 1997. The second phase was transmitted on Apr. 29, 1998. Both reports have been classified "Confidential."

[81] For background on the Customs Cooperation Agreement, see, Joanne Guth, "Update on U.S.-EU Trade Issues," *International Economic Review*, USITC Publication 3043, May 1997.

Initiatives on electronic commerce and regulatory cooperation were also launched at the December 5, 1997, U.S.-EU Summit at the urging of the Transatlantic Business Dialogue (TABD), a group of U.S. and European business leaders. USTR Barshefsky and EU Vice President Sir Leon Brittan, meanwhile, were directed to explore next steps to enhance the U.S.-EU economic and trading relationship.[82]

Mutual Recognition Agreement

On June 13, 1997, after more than three years of active negotiations, the United States and the EU announced the conclusion of an MRA that should substantially ease about $50 billion in two-way trade, mainly in electronic and medical goods. The MRA establishes conditions under which regulatory authorities in the United States and the EU will directly accept the results of conformity assessment procedures (such as laboratory tests and inspection reports) generated by bodies in the other party, obviating the need for costly and sometimes duplicative tests and inspections. Such acceptance will save manufacturers time and money and conserve scarce regulatory resources.[83]

The MRA had been identified as a top priority for governmental action by businesses on both sides of the Atlantic, as well as by the TABD (see section on TABD following).[84] As such, the MRA represents a significant achievement[85] among the results thus far reported by USTR of the NTA's trade and economic component.[86]

Efforts to reach an MRA were underway for several years. From the outset, the EU insisted that the negotiations should result in a "balanced package" that included an umbrella text and sectoral annexes reflecting roughly equal value of coverage for both sides.[87] A minimum initial package would, the EU argued, include five of the seven sectors actively being discussed.[88] The sectors, however, ranged considerably in terms of the degree of hazard associated with them, as well as the amount and type of regulatory oversight already in existence. Included were telecom- munications, electromagnetic compati- bility, electrical safety, pharmaceuticals, medical devices, recreational craft, and veterinary biologics. Negotiations over medical devices and pharmaceuticals, two sectors of particular commercial significance to the EU,[89] proved especially difficult.

A breakthrough on pharmaceuticals was announced at the November 8-9, 1996, TABD meeting, which led the two sides to set a deadline of January 31, 1997, for concluding the MRA package. However, on February 1, 1997, USTR announced that differences remained, notably over medical devices and pharmaceuticals.[90] The USTR announcement prompted the TABD to "send a strong message of concern that the January 31 deadline, agreed by government and business at Chicago, had been missed."[91]

The two key issues were the scope of product coverage and the type of regulatory functions that would be retained under the MRA. The United States initially sought to limit the scope of delegation of approval authority to mutual recognition of quality system inspections (known as good manufacturing practices or GMPs) due to FDA's legal restrictions on

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[82] *New Transatlantic Agenda, Senior Level Group Report*, p. 2.

[83] For further discussion of the MRA's benefits, see USTR, "Mutual Recognition Fact Sheet," June 20, 1997; and EU, "EU Reaches MRA Agreements to Cut Red Tape with United States and Canada," *European Union News*, No. 41/97, June 13, 1997.

[84] TABD, "Message from the 1997 Co-Chairs," *TABD News*, Issue No. 97/1, March 1997.

[85] See, for example, TABD, "Successful Conclusion of Mutual Recognition Agreement," *TABD News*, Issue No. 97/3, June 1997; U.S. Chamber of Commerce, "U.S. Chamber of Commerce Hails Agreement Removing Impediments to $40 Billion in U.S./Europe Trade," *U.S. Chamber of Commerce News*, June 16, 1997; Pharmaceutical Research and Manufacturers of America, "MRA Agreement Will Bring Drugs to Patients Sooner," news release, June 13, 1997; Information Technology Industry Council, "ITI Praises U.S. Negotiators for Successful Conclusion of Mutual Recognition Agreement Negotiations," news release, June 13, 1997; Health Industry Manufacturers Association, "International Agreement Eliminates Redundancy, Cost, Helps Modernize Food and Drug Administration," press release, June 13, 1997; European-American Business Council, "MRAs are Historic Breakthrough in EU-US Relations," press release, June 13, 1997.

[86] Jeffrey M. Lang, "Statement of Ambassador Jeffrey M. Lang, Deputy United States Trade Representative Before the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives," July 23, 1997, p. 3. For a full transcript of the hearing, which featured testimony by Commerce Department, TABD, and other business and trade policy experts, see LEGI-SLATE Report for the 105th Congress, Monday July 28, 1997, Transcript 972040569.

[87] U.S. Department of State telegram, "April 17 U.S.-EU New Transatlantic Agenda Task Force Meeting," message reference No. State 92440, prepared by U.S. Department of State, Washington, DC, May 16, 1997.

[88] That is, all sectors but recreational craft and veterinary biologics. U.S. Department of State telegram, "U.S.-EU Mutual Recognition Agreements (MRAs) - January 6-10 Negotiations," prepared by U.S. Mission to the EU, message reference No. 213, Jan. 13, 1997.

[89] U.S. Department of State telegram, "April 17 U.S.-EU New Transatlantic Agenda Task Force Meeting," message reference No. State 92440, prepared by U.S. Department of State, Washington, DC, May 16, 1997.

[90] USTR, "MRA Negotiations to Continue Between U.S. and EU," press release 97-06, Feb. 1, 1997.

[91] TABD, "Message from the 1997 Co-Chairs."

approval decisions. The EU and medical device industry representatives said the U.S. approach was narrow to the point of being of very limited value. The EU was seeking coverage of some 800 medical devices and to commit parties to accept certificates of approval directly from third-party labs after an 18-month confidence-building period.[92]

The umbrella text also was not finalized. The United States objected to the EU's proposal to include a "rules of origin" clause that would limit the benefits of the agreement to products substantially produced in the parties. The United States said such a clause would substantially negate the benefits of the agreement by reducing sourcing flexibility and imposing new paperwork. (This clause was ultimately dropped from the final MRA.)[93] The United States also wanted the joint committee established under the agreement to have a strictly advisory, not decision-making, role. Finally, the U.S. side wished to make clear that to the extent of an inconsistency between the umbrella agreement and the sectoral annexes, the annexes would prevail, thus ensuring that regulatory authorities had final say. The EU wanted an umbrella text embodying a coherent approach to all of the sectors and containing general obligations.[94]

Final agreement was announced on June 13.[95] Formally initialed at the June 20 Denver G-7 Summit, the package was hailed by President Clinton as a landmark agreement representing "a new level of transatlantic cooperation" that offers U.S. manufacturers savings of "up to 10 percent of the cost of delivering their exports to Europe."[96] The package consists of an umbrella text and six sectoral annexes, which define the scope of activity and products covered and the exact process whereby results will be accepted. The umbrella text does contain general obligations and establish a permanent Joint Committee but USTR reports that "several provisions guarantee the autonomy of U.S. regulatory agencies and their counterparts."[97] Technical committees are established under each sectoral annex.

Initial coverage amounts to nearly $50 billion in annual U.S.-EU trade and includes specified telecommunications equipment,[98] electrical and electronic equipment,[99] medical devices,[100] medicinal products (pharmaceuticals),[101] and recreational craft (pleasure boats). For medical devices, product evaluations will be accepted for certain products, as the EU had been seeking, but the Food and Drug Administration (FDA) retains final approval authority that cannot be delegated. Each party reserves the right to conduct its own inspections. Compared with the U.S. proposal of late January, the products covered by such provisions include a broader range of low- and moderate-risk medical devices (some 300 product categories overall), and there are provisions for expanding the list of eligible products over time as review guidelines become available. The TABD reports that full implementation of the MRA will result in $1 billion in annual savings,[102] which is equivalent to a 2 or 3 point reduction in tariffs according to USTR.[103]

The entry into force of the agreement will generally launch transition periods. These are intended to build experience and cooperation sufficient to make possible at their conclusion the automatic acceptance

[92] U.S. Department of State telegram, "U.S.-EU Mutual Recognition Agreements (MRAs) - January 6-10 Negotiations," message reference No. Brussels 213, prepared by U.S. Mission to the EU, Jan. 13, 1997.

[93] U.S. Department of State telegram, "NAFTA Committee on Standards-Related Measures," message reference No. 144863, prepared by U.S. Department of State, Washington, DC, Aug. 2, 1997.

[94] U.S. Department of State, "US/EU Mutual Recognition Agreements - Industry Reaction to Rules of Origin," message reference No. State 14673, prepared by U.S. Department of State, Washington, DC, Jan. 26, 1997 and "U.S.-EU Mutual Recognition Agreements (MRAs) - January 6-10 Negotiations," message reference No. Brussels 213, prepared by U.S. Mission to the EU, Jan. 13, 1997.

[95] USTR, "U.S.-EU Reach Agreement on Mutual Recognition of Product Testing or Approval Requirements," press release 97-54, June 13, 1997; and EU, "EU Reaches MRA Agreements to Cut Red Tape with United States and Canada," *European Union News*, No. 41/97, June 13, 1997.

[96] The White House, "Statement by the President: Denver Colorado," June 20, 1997.

[97] USTR, "Mutual Recognition Fact Sheet," June 20, 1997, p. 2.

[98] Telecommunications terminal equipment, whether analog or digital, for wired or radio connection, including radio transmitters and information technology equipment, is covered. Network and electromagnetic compatibility (EMC) requirements are covered.

[99] Safety and electromagnetic compatiblity (EMC) requirements are covered.

[100] Quality system/good manufacturing practice (GMP) evaluations and inspections for all medical devices and product evaluations for a range of low- and medium-risk medical devices, beginning with devices covered under the FDA's Third Party Pilot Program, are covered.

[101] Specifically, the annex on medicinal products covers inspections carried out when assessing a request for authorization to market a product, such as a new drug (premarket approval), and inspections during routine production of items already authorized (postmarket surveillance). Most medicinal products are covered, including human and veterinary drugs, starting materials used for the manufacture of medicinal products, and intermediate products.

[102] Transatlantic Business Dialogue (TABD), *Rome Communique*, Nov. 7, 1997, p. 4.

[103] USTR, "U.S.-EU Reach Agreement on Mutual Recognition of Product Testing or Approval Requirements," press release 97-54, June 13, 1997.

by the EU of conformity assessment results generated in the United States (and vice versa). These confidence-building periods will be 2 years in the case of telecommunications and electronics, 3 years in the case of medical devices and pharmaceuticals, and 18 months in the case of recreational craft. In the pharmaceuticals and medical device area, movement from this phase to full implementation is contingent on demonstrated equivalence between EU and U.S. FDA inspectional processes and between EU GMPs and those used in the United States, the FDA explains.[104]

Even after the transition period is over, authorities retain full authority to keep products off the market for health, safety or environmental reasons. They can refuse to accept results from any body or organization not performing correctly the appropriate procedures. Either party may terminate a sectoral annex or the entire agreement, if the other party is not fulfilling its obligations.[105]

The agreement is expected to be signed formally and enter into force by mid-1998, after both sides have completed their respective domestic requirements.[106] Prior to that time, conformity assessment bodies capable of performing the required procedures will be identified and procedures to make the accord operational put into effect.

The framework agreement permits future extensions of the MRA to other sectors. The medical device industry called for administrative and regulatory reforms of the FDA to complement the MRA[107] and pledged to work with governments to broaden the scope of devices covered. Discussions are underway in an effort to add veterinary biologics and fasteners.[108] At its November 1997 conference, the TABD reiterated interest in extension of the MRA to cover other sectors, notably chemicals.[109] The TABD also suggested that a global Conformity Assessment Agreement be pursued in the WTO Information Technology Agreement (ITA).[110]

Transatlantic Business Dialogue

The TABD, a business-driven forum involving top level business leaders from the United States and Europe, serves as a framework for identifying business priorities for trade liberalization and developing practical recommendations on how they can be pursued. Launched by the U.S. Government and EU Commission at a November 1995 conference in Seville, Spain, the TABD now plays a formal role in U.S.-EU relations, providing input to semiannual summits among U.S. and EU leaders. During 1997, the TABD continued its work, identifying its plans,[111] providing a mid-year report on priorities,[112] and issuing a detailed communique and accompanying specialized reports at the end of its third annual conference among CEOs and senior-level government representatives.[113]

Held in Rome from November 6-7, 1997, TABD's 1997 annual meeting featured extensive discussion of electronic commerce, along with continued work in the areas of standards, business facilitation, global initiatives, and small and medium-sized enterprises. At the meeting's conclusion, TABD issued the *Rome Communique*, which includes business positions on public policy questions and agreed plans to promote and expand trade. In it, TABD praised the successful conclusion of the MRA and the ITA,[114] and urged governments to build upon the ITA's success by exploring global tariff liberalization in agreed-upon sectors.[115] (The EU later made clear that it sees

[104] Food and Drug Administration, "FDA's Negotiations with EU," FDA Talk Paper, June 16, 1997, T-97-25, found at Internet address http://www.fda.gov/bbs/topics/ANSWERS/ANS00802.html, retrieved Feb. 9, 1998.

[105] USTR, "Mutual Recognition Fact Sheet," June 20, 1997.

[106] Ibid.

[107] The Food and Drug Administration Modernization Act of 1997 (Public Law 105-15) was signed into law on November 21, 1997, amending the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 321). It enacted some of the medical device industry's proposed reforms by providing in section 410 that (1) FDA meet with representatives of other countries and (2) engage in efforts to move toward acceptance of MRAs relating to the regulation of devices and GMPs between the EU and the United States.

[108] U.S. Department of Commerce, "U.S.-EU Mutual Recognition Agreements (MRAs)," Briefing Book for the U.S. Government Delegation to the Rome Conference of the Transatlantic Business Dialogue.

[109] TABD, *Rome Communique*, p. 3. The MRA proposed would cover good laboratory practices and mutual acceptance of data.

[110] Ibid., p. 4.

[111] TABD, "Message from the 1997, Co-Chairs."

[112] TABD, *TABD Priorities for the Mid-Year Summit: May 1997*, May 13, 1997.

[113] TABD, *Rome Communique*, and *Intellectual Property Issues Group Action Plan*; TABD Working Group on Small and Medium-Sized Enterprises, *U.S.-EU Joint Public Sector Report on the Implementation of TASBI (Transatlantic Small Business Initiative)*; Transatlantic Advisory Committee on Standardization and Conformity Assessment, *Conformity Assessment and Product Marking;* and, Electrical, Electronic, Telecommunications, Information Technology Sectors (EETIS), *Recommendations for Eliminating Regulatory and Standards-Related Trade Barriers and for Improving the Global Standards Development Process*.

[114] TABD, *Rome Communique*, p. 1.

[115] TABD, *Rome Communique*, p. 14.

sectoral liberalization as a poor substitute for comprehensive, global trade negotiations.[116])

Regarding global electronic commerce, which covers the conduct of international transactions over the Internet, the business community took a unified stand in support of an industry-led, market-driven, self-regulatory approach.[117] Despite concerns raised by the United States (over encryption) and EU (over privacy),[118] both governments later endorsed many of these market-based principles in a joint statement on electronic commerce issued in conjunction with the December 5, 1997, U.S.-EU Summit.[119] Among other things, the statement establishes guidelines for future work that include a commitment to "duty free cyberspace."[120]

In the standards area, TABD expressed a desire that the MRA be made operational as a matter of priority[121] and requested to be provided with a status report by the May 1998 U.S.-EU summit.[122] A work program intended to promote the goal of "tested once, accepted everywhere" and urging wider reliance on suppliers' declarations of conformity was also agreed upon.[123] Detailed requests for regulatory reform in 13 sectors were presented.[124] More generally, the TABD underlined the importance of regulatory harmonization between the U.S. and EU governments as a way to improve efficiency,[125] presaging an official commitment to work towards that end at the December 5, 1997, summit.[126]

In the area of business facilitation, the TABD applauded the U.S. and EU governments' commitment to adopt an Organization for Economic Cooperation and Development (OECD) Convention on Corruption and Bribery in 1998 and willingness to consider export controls on dual-use items the TABD considers "unnecessary and ineffective."[127] The TABD also strongly urged intensified efforts to reach a long-term resolution of problems raised by U.S. sanctions laws, reaffirming its position that economic sanctions, if imposed, should be done on a multilateral basis (see "Helms-Burton," below, for a further discussion of sanctions). The TABD urged the U.S. Government to work with the states to obtain the immediate cessation of economic sanctions at the subfederal level.[128] At the same time, the U.S. Government welcomed the TABD's call on companies doing business internationally to adhere voluntarily to internationally recognized principles and global best practices.[129] These include nondiscriminatory employment, safe places of work, and other core principles of workers' rights.

On global issues, the TABD—

- stressed the need for successful negotiations towards a financial services agreement in the WTO and an investment agreement in the OECD;
- reiterated its support for early entry of China and Russia into the WTO on the basis of "significant and bound commitments from the beginning;"
- urged meaningful work on the new subjects agreed at Singapore and development of an ambitious and progressive agenda for the WTO's Ministerial meetings in 1998 and 1999 that includes reducing tariffs in agreed upon sectors; and

[116] EU report to accompany WTO Secretariat report on the EU under the Trade Policy Review Mechanism, November 26, 1997. For background, see, Bureau of National Affairs, "U.S., EU Differ Over Best Way to Approach Future Trade Liberalization," *International Trade Reporter*, Vol. 14, No. 48, Dec. 3, 1997, pp. 2068-69.

[117] TABD, *Rome Communique*, p. 1.

[118] Remarks by Undersecretary of Commerce for International Trade David Aaron and EU Vice President Sir Leon Brittan before the TABD Issue Group on Business Facilitation, Nov. 7, 1997.

[119] U.S. Department of State, "Electronic Commerce," Joint Statement Released in Conjunction with the U.S.-EU Summit, Washington, D.C., December 5, 1997, found at Internet address http://www.state.gov/www/regions/eur/eu/971205_useu_js_electronic.html, retrieved Dec. 9, 1997.

[120] USTR, "United States and European Union Reach Agreement on Global Electronic Commerce," press release 97-103, Dec. 9, 1997.

[121] TABD, *Rome Communique*, p. 2.

[122] TABD, *Rome Communique*, p. 6.

[123] TABD, Committee on Standardization and Conformity Assessment (TACS), *Conformity Assessment and Product Marking*.

[124] TABD, *Rome Communique*, pp. 2-6. The sectors are: aerospace; agri-food biotechnology; automotive; chemicals; dietary supplements; electrical, electronic, telecommunications and information technology; food additives and flavors; heavy equipment; medical devices; pharmaceuticals; recreational marine; and telecommunications. Although several are covered by the MRA announced in June 1997, important issues remain, such as rationalizing the EU's pricing and reimbursement schemes for pharmaceuticals.

[125] Ibid., p. 2.

[126] U.S. Department of State, *Regulatory Cooperation: Promoting Trade While Facilitating Consumer Protection*, Joint Statement released in conjunction with the U.S.-EU Summit, Washington, DC, Dec. 5, 1997, found at Internet address http://www.state.gov/www/regions/eur/eu/971205_useu_regulatory_js.html, retrieved Dec. 9, 1997.

[127] TABD, *Rome Communique,* pp. 7 and 9.

[128] Ibid., p. 9.

[129] Closing remarks of Undersecretary of State for Economic Affairs Stuart Eizenstat before the TABD Conference in Rome, Nov. 7, 1997.

- sought renewed efforts to ensure that the WTO integrates environmental measures (such as eco-labeling) into the WTO system in a manner that supports growth and precludes new barriers to trade.[130]

Intellectual property, government procurement, and global climate change were also addressed, with a consensus reached that no response to climate change "can be truly effective without global participation, that is, both developed and developing countries."[131]

Deputy Secretary of Commerce Robert Mallett announced creation of a high-level interagency group to focus on implementation of TABD recommendations. The step was welcomed by TABD, given the slow pace of action on certain of its priorities, such as tax and customs measures.[132]

WTO Disputes

Bananas

The EU banana regime,[133] 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 non-ACP bananas from Latin America. The regime imposes duty and quota restrictions on imports of non-ACP (known as "third-country") bananas, such as those from Central or South America, and limits the amount of non-ACP bananas that can be marketed at the in-quota duty rate from sources outside the EU regime (such as third-country bananas shipped by U.S. companies).

In 1994, a GATT dispute panel found that the EU banana regime was inconsistent with EU obligations under the GATT, but the report was never adopted.[134] In 1996, Ecuador, Guatemala, Honduras, Mexico, and the United States requested a WTO dispute-settlement panel to examine the EU regime for the importation, sale, and distribution of bananas.[135] On May 8, 1996, the WTO Dispute Settlement Body (DSB) formed a dispute panel.

The panel circulated its report on May 22, 1997. It found that the EU banana import regime as well as the licensing procedures for the importation of bananas are inconsistent with the EU's obligations under GATT 1994 as well as the WTO Agreement on Import Licensing and the GATS. On June 11, 1997, the EU notified its intention to appeal certain issues of law and legal interpretation in the panel report. The Appellate Body circulated its report on September 9, 1997, which largely upheld the panel's findings. The Appellate Body, however, went further than the panel in finding EU practices inconsistent with WTO obligations. Specifically, it reversed the panel's findings that the Lomé waiver covers inconsistencies concerning Article XIII (nondiscriminatory administration of quantitative restrictions), and found that certain aspects of the EU licensing regime violate GATT Article X (publication and administration of trade regulations) as well as the WTO Agreement on Import Licensing Procedures.[136] The Appellate Body report and the panel report, as modified by the Appellate Body, were adopted September 25, 1997.

USTR highlighted the following conclusions of the panel and the Appellate Body[137]—

- The important precedents established by the rulings regarding: (1) the broad scope of coverage of the GATS and (2) tariffs, quotas, and import licensing for agricultural products.

- Their findings that the following EU measures were inconsistent with WTO rules: (1) assignment of import licenses for Latin American bananas to French and British companies, taking away a major part of the banana distribution business of U.S. companies; (2) assignment of import licenses for Latin American bananas to European banana ripening firms, taking away U.S. company business, (3) more burdensome

[130] TABD, *Rome Communique*, p. 12-13.

[131] Ibid., p. 15.

[132] See, for example,TABD, *Rome Communique*, p. 7, and *TABD Priorities for the Mid-Year Summit*, p. 3.

[133] European Communities, "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.

[134] For further details, including extensive background on the dispute, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 93-94; *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 50-51; and *The Year in Trade: OTAP, 1994*, USITC publication 2894, pp. 75-76.

[135] These complainants consider that the EU banana regime is inconsistent with GATT Articles I, II, III, X, XI, and XIII, as well as with provisions of the WTO Agreements on Agriculture, Import Licensing Procedures, Trade-Related Investment Measures (TRIMS), and the General Agreement on Trade in Services (GATS).

[136] WTO, "WTO Appellate Body and Panel Reports," *Focus*, No. 21, Aug. 1997, p. 5; WTO, "Overview of the State-of-play of WTO Disputes," dated Dec. 19, 1997, found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Jan. 5, 1998.

[137] USTR, "Update: Developments in International Trade Dispute Settlement," Feb. 9, 1998, p. 12.

licensing requirements for imports from Latin American cocomplainants than for other countries' bananas; the EU's discriminatory and trade-distorting allocation of access to its market for bananas, which did not follow the fair-standard of the WTO, which focuses on past levels of trade.

Consultations did not produce agreement on the period within which the EU would be permitted to come into compliance with its WTO obligations, and the EU refused to clarify its intentions for implementing the DSB's recommendations. On November 17, 1997, the complainants requested that the EU allow binding arbitration to determine the "reasonable period of time" for implementation of the DSB rulings and recommendations, as provided for under Article 21.3 of the WTO Dispute Settlement Understanding.[138] On December 1, 1997, the complainants formally requested that the WTO appoint an arbitrator. The EU and the United States presented their cases to the arbitrator on December 17, 1997. The arbitrator circulated his report on January 7, 1998, finding the reasonable period of time for implementation to be the period from September 25, 1997, to January 1, 1999, roughly 15 months from the date of adoption of the reports.[139]

Libertad (Helms-Burton) Act

On March 12, 1996, President Clinton signed into law the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, known as the Helms-Burton Act.[140] Among other things, the Libertad Act contains the following provisions (1) at Title III, to 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[141] to sue Cuban governmental entities or foreign investors who use or profit in any way from these properties and (2) at Title IV, to 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 that traffic in such properties.[142]

The EU has strongly protested the extraterritorial effects of the U.S. law.[143] On October 3, 1996, it requested a WTO dispute panel to examine its complaint concerning the Libertad Act, as well as three pre-existing provisions of U.S. Cuban boycott legislation.[144] The DSB established a dispute panel on November 20, 1996. On February 20, 1997, panelists were appointed in the dispute. Further bilateral consultations between the EU and United States on Helms-Burton and the U.S. Iran-Libya Sanctions Act (ILSA) led to an "understanding" reached April 11, 1997, that commits the EU and the United States to work in a multilateral way to deal with trafficking of confiscated property.[145]

The settlement enabled the EU to announce tentatively on April 11, 1997, that it would suspend its WTO case while both sides develop binding disciplines on dealings in confiscated property. On April 25, the panel chairman gave notice that the EU had formally requested the panel to suspend its work. However, the EU retained the right to reinstate its request should a mutually satisfactory agreement not be concluded by October 15, 1997, or if the United States takes action under the Act, or the ILSA, adversely affecting European interests.[146] For its part, the U.S.

[138] WTO, "Overview of the State-of-play of WTO Disputes," dated Dec. 19, 1997, found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Jan. 5, 1998.

[139] WTO, "Overview of the State-of-play of WTO Disputes," found at Internet address http://www.wto.org/wto/dispute/ bulletin.htm, dated Jan. 8, 1998, retrieved Jan. 9, 1998.

[140] 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, Sen. Jesse Helms (R-NC) and Rep. Dan Burton (R-IN).

[141] 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*, Nov. 1994.

[142] For further detail, 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, and USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp.160-161.

[143] 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.

[144] The EU alleged that U.S. trade restrictions on goods of Cuban origin, as well as the possible refusal of visas and exclusion of non-U.S. nationals from U.S. territory, are inconsistent with U.S. obligations under the WTO Agreement, including GATT Articles I, III, V, XI, and XIII; nullify or impair expected benefits under the GATT 1994 and the GATS; and impede the attainment of the objectives of the GATT 1994.

[145] U.S. Department of State telegram, "U.S.-EU Helms-Burton Deal: Statement by Brittan," message reference No. 2721, prepared by U.S. Mission to the EU, Brussels, Apr. 15, 1997; and U.S. Department of State telegram, "Text of Special Envoy Eizenstat's April 11 Statement on US.-European Commission Agreement on Libertad (Helms-Burton) Act," message reference No. 68456, prepared by U.S. Department of State, Washington, DC, Apr. 12, 1997.

[146] USTR, "Update: Developments in U.S. International Trade Dispute Settlement, " Feb. 9, 1998, p. 18.

administration pledged to work with Congress to draft and implement legislation to amend the Libertad Act to authorize the President to grant waivers under title IV of the Act (regarding denial of visas and entry for those trafficking in confiscated property) once bilateral consultations with the EU are completed and the EU has adhered to these agreed disciplines.[147]

U.S. officials described the understanding as essentially terms of reference for a future agreement, likely to be included as new international disciplines addressing confiscated property under the OECD Multilateral Agreement on Investment (MAI). EU officials have said the understanding aims at a longer-term solution through amendment of the Helms-Burton Act as well as dialogue over the "extraterritoriality" of the law.[148]

On October 14-15, 1997, the EU and United States held bilateral consultations on the basis of the April understanding, and subsequently agreed to continue consultations over the Helms-Burton law within the context of the MAI negotiations.[149] On December 5, 1997, following the semiannual U.S.-EU summit, EU officials said that no resolution had been reached concerning Helms-Burton or the ILSA. Sir Leon Brittan noted that the two sides were working on a mutually acceptable agreement that would allow the waiver of Title IV sanctions.[150] Good progress on Cuba was reported by U.S. participants; but regarding the ILSA, President Clinton reportedly called upon the EU to take additional steps to address the "serious and important problem" of Iran's efforts to acquire weapons of mass destruction and its support of terrorism.[151]

Meat Hormone Ban

Effective January 1, 1989, the EU banned imports of meat from animals treated with growth-promoting hormones, resulting in a 93 percent drop in U.S. meat exports to the EU, which amounted to $177 million in 1988, according to GAO.[152] After a U.S. attempt to challenge the ban under the GATT 1947 was blocked by the EU, the United States imposed (and subsequently lifted) retaliatory duties of 100 percent ad valorem on a variety of agricultural imports from the EU,[153] arguing that there is no scientific basis for the ban. In January 1996, the United States requested consultations with the EU under GATT 1994 Article XXII (consultations).[154] The United States requested a WTO dispute-settlement panel on April 25, 1996, claiming that EC measures restrict or prohibit imports of meat and meat products from the United States and are inconsistent with its WTO obligations.[155] On May 20, 1996, the WTO DSB formed a dispute panel to examine the U.S. complaint.

The panel circulated its report on August 18, 1997. It found that the EU ban on imports of meat and meat products from cattle treated with growth-promoting hormones was inconsistent with provisions of the WTO Sanitary and Phytosanitary (SPS) Agreement.[156] A similar finding was subsequently made by a WTO panel examining the EU ban on behalf of Canada.[157] On September 24, 1997, the EU notified its intention to appeal the panel reports on the U.S. and Canadian complaints. The Appellate Body held a hearing on November 4 and 5 and circulated its report on January 16, 1998, which upheld most of the findings and

[147] U.S. Department of State telegram, "Text of Special Envoy Eizenstat's April 11 Statement on U.S.-European Agreement on Libertad (Helms-Burton) Act," message reference No. 68456, prepared by U.S. Department of State, Washington, DC, Apr. 12, 1997.

[148] European Union, "Helms-Burton Negotiations - Statement by Sir Leon Brittan," IP/97/291, Apr. 14, 1997, found at Internet address http://www. europa.eu.int/rapid/, retrieved Dec. 16, 1997.

[149] U.S. Department of State telegram, "EU Declaration on Helms-Burton," message reference No. 7264, prepared by U.S. Mission to the EU, Brussels, Oct. 17, 1997; and EU, "Cooling-off Period for Helms-Burton, D'Amato Vows," *EURECOM*, vol. 9, No. 10, Nov. 1997, p. 2.

[150] Bureau of National Affairs, "U.S.-EU Summit Produces Joint Statements on Electronic Trade, Cooperation on Regs," *BNA International Trade Daily*, art. No. 43421002, Dec. 8, 1997.

[151] "Transcript: Bandler-Wayne Briefing on Results of U.S.-EU Summit," USIA Washington File, Dec. 5, 1997. The transcript is of a press briefing by Tony Wayne, Principal Deputy Assistant Secretary of State for Europe and Canada, and Don Bander, Special Assistant to the President for Europe and Senior Director of the NSC for European Affairs.

[152] U.S. General Accounting Office, *Agricultural Exports: U.S. Needs a More Integrated Approach to Address Sanitary/Phytosanitary Issues*, GAO-NSIAD-98-32, December 1997, pp. 11 and 12.

[153] For further details, see USITC, *The Year in Trade: OTAP, 1990*, USITC publication 2403, p. 101; *The Year in Trade: OTAP, 1989*, USITC publication 2317, p. 93.

[154] U.S. Department of Agriculture, "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.

[155] Specifically, its obligations under GATT Articles I, II, III, X, XI, and XIII, as well as provisions of the WTO Agreements on Agriculture, Import Licensing Procedures, Trade-Related Investment Measures (TRIMS), and the General Agreement on Trade in Services (GATS).

[156] Specifically, its obligations under articles 3.1, 5.1, and 5.5 of the SPS agreement. The WTO's summary of the case, dated Jan. 23, 1998, is found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Jan. 28, 1998.

[157] The DSB agreed to form a panel to hear Canada's complaint on Oct. 16, 1996. The panel, which consisted of the same panelists in the U.S. complaint, issued its report on Sept. 5, 1997. USTR, "Update: Developments in International Trade Dispute Settlement," Feb. 9, 1998.

conclusions of the panel,[158] except with respect to the burden of proof in proceedings under the SPS Agreement.[159] Specifically, USTR reports—

> The Appellate Body found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement, including the requirement for a risk assessment. However, the ban imposed by the EC was not rationally related to the conclusions of the risk assessments that the EC had performed.[160]

Both the United States and the EU claimed "victory" upon release of the Appellate Body's report.[161] The EU highlighted the Appellate Body's finding "that the EU has the right to establish on a scientific basis a level of consumer protection which it considers appropriate and which is higher than the level resulting from international health standards,"[162] a finding USTR said the United States supports.[163] Noting the Appellate Body finding that the EU's hormone ban is not based on risk assessment "because the scientific studies do not focus specifically on residues in meat of hormone-treated cattle," the EU Commission stated that it "will now examine carefully together with the other EU institutions and the Member States how to implement the EU's international obligations, in particular with respect to a new risk assessment along the indications given by the Appellate Body."[164] The EU has thirty days from adoption of the Appellate Body report to state its intentions for implementing the Appellate Body's recommendations.

Bilateral Agricultural and Health-Related Issues

In addition to bananas and meat hormones (discussed in the WTO dispute section above), an array of bilateral disputes over health restrictions on trade in agriculture and other products faced policymakers. The deteriorating condition of bilateral relations at the end of 1997 over these various agricultural trade disputes led EU and U.S. officials to hold high-level talks January 7, 1998, in Oxford, England.

Veterinary Equivalence Agreement

The United States and the EU have worked since 1994 toward a bilateral agreement to facilitate approximately $1.5 billion in trade in 40 animals and animal products, including, for example, meat, poultry, dairy products, seafood, fish, pet food, as well as rendered products and other animal by-products.[165] The agreement would establish a framework for recognizing the equivalence of U.S. and EU sanitary measures.[166] Negotiations towards this end failed to conclude by the end of 1996. New harmonized EU import requirements that could disrupt U.S. exports of livestock and livestock products were to enter into effect on January 1, 1997. EU Member States were permitted, however, to roll over existing sanitary measures until April 1, 1997, providing more time to conclude an agreement.[167]

On April 30, 1997, the United States and the EU reached an Agreement on Veterinary Equivalency, which was to be implemented on October 1, 1997. The agreement resolved many outstanding issues regarding red meat, dairy, and egg products, enabling the United States to resume shipping some products that had been blocked since April 1. The accord also provides the United States with a basis for recognizing the equivalency of EU red meat and pork safety rules, thus avoiding plans for USDA inspection and approval of EU meat plants that export to the United States. However, wide differences remain regarding poultry, including the use of antimicrobial treatment in the

[158] Specifically, it upheld the panel's finding that the EU import prohibition was inconsistent with Arts. 3.3 and 5.1. The Appellate Body reversed the panel's finding that the EU had violated Arts. 3.1 and 5.5 of the SPS agreement.

[159] The WTO's summary of the Appellate Body's findings, dated Jan. 23, 1998, is found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Jan. 28, 1998.

[160] USTR, "Update: Developments in U.S. International Trade Dispute Settlement," Feb. 9, 1998, p. 13.

[161] USTR, "Appellate Body Finds EC Hormone Ban Inconsistent with WTO Obligations Under SPS Agreement," press release 98-02, Jan. 15, 1998.

[162] European Union, "WTO Ruling on EU Hormone Ban is a Victory for European Consumers," press release no. 4/98, found at Internet address http://www.eurunion.org/news/index.htm, retrieved Feb. 9, 1998.

[163] USTR, "EC Hormone Ban Relating to Meat Imports Violates SPS Agreement According to Appellate Body," USTR press release 98-04, Jan. 20, 1998.

[164] European Union, "WTO Ruling on EU Hormone Ban is a Victory for European Consumers," press release no. 4/98, found at Internet address http://www.eurunion.org/news/index.htm, retrieved Feb. 9, 1998.

[165] For background see, Joanne Guth, "Update on U.S. Issues with the European Union," *International Economic Review*, USITC Publication 3043, May 1997.

[166] U.S. Department of Commerce, "U.S.-EU Trade Issues," Briefing Book for U.S. Government Delegation to the Transatlantic Business Dialogue (TABD), Rome, Italy, Nov. 6-7, 1997.

[167] 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.

United States.[168] As a result, U.S. poultry exports to the EU have been blocked since April 1, 1997, representing a loss of $50 million annually to U.S. exporters, according to the U.S. Department of Agriculture.[169]

A ban on EU (predominantly French) exports of poultry to the United States, valued at $2 million, was imposed on May 5, 1997, until U.S. inspectors can confirm that EU plants provide an appropriate level of protection for public and animal health. Although the United States is completing its review of EU poultry plants, the EU requested consultations in the WTO on August 18, 1997, which took place October 9, 1997.[170]

The veterinary equivalency agreement was to enter into force October 1, 1997, but was not approved by the 15 EU Member States until March 1998. Outstanding differences included disagreement over the EU's policy of "regionalization," which allows animals and animal products from regions determined to be disease free to be traded without impediment even though other regions of a given EU Member State are still found to contain an infection. Another factor complicating EU efforts to gain Member-State approval of the agreement was the announcement on December 18 that the EU would ban imports of U.S. beef and poultry if the United States does not improve its procedures for hormone and antibiotic residue testing within six months. Such inspections of U.S. plants should no longer be required once the veterinary equivalence agreement enters into effect. Despite these concerns, the EU's Agricultural Council approved the agreement at its March 16-17, 1998, meeting, but made its signature contingent on U.S. publication of a proposed rule on regionalization and agreement by a qualified majority of member states that the proposed rule is consistent with U.S. commitments.

[168] For background, see U.S. Department of Agriculture, "United States and European Union Reach Agreement on Veterinary Equivalency," press release no. 0143.97, April 30,1997, found at Internet address http://www.usda.gov/news/releases/1997/04/0143, retrieved Feb. 9, 1998.

[169] U.S. Department of Agriculture, "United States - European Union Veterinary Equivalence Talks: Q & A's," press release no. 0144.97 April 30, 1997, found at Internet address http://www.usda.gov/news/releases/1997/05/0144, retrieved Feb. 9, 1998.

[170] U.S. Department of Commerce, "U.S.-EU Trade Issues," Briefing Book for U.S. Government Delegation to the Transatlantic Business Dialogue (TABD), Rome, Italy, Nov. 6-7, 1997. The EU considers the U.S. ban inconsistent with GATT 1994 (Articles I, III, X, and XI), the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) (Articles 2, 3, 4, 5,13. 8, and Annex C), and the Agreement on Technical Barriers to Trade (TBT Agreement) (Articles 2 and 5). WTO, "Overview of the State-of-play of WTO Disputes," dated Dec. 19, 1997, found at Internet address http://www.wto.org/ wto/ dispute/ bulletin.htm, retrieved Jan. 5, 1998, p. 8.

Specified Risk Material Ban

Effective July 1, 1997, the EU banned the marketing of certain cosmetic products.[171] On July 30, 1997, the EU further banned the use of "specified risk material (SRM)" in food, feed, and medical, pharmaceutical, or cosmetic products.[172] Both actions were drafted out of concern that animal by-products used in pharmaceuticals may be contaminated with bovine spongiform encephalopathy (BSE), known as "mad-cow" disease,[173] which the EU Commission contends could infect humans.[174]

The SRM directive was scheduled to be implemented January 1, 1998. The directive bans U.S. exports to the EU of pharmaceuticals, cosmetics, and other products unless they can be certified free from these materials. U.S. officials have been working to receive exemptions from these restrictions, considering that there have been no known cases of BSE in the United States and that there is an active U.S. surveillance and monitoring program in place to ensure that the United States remains BSE-free. U.S. officials have also been trying to obtain a processing exemption for tallow derivatives.

On December 3, 1997, the EU Commission proposed amendments to the SRM directive that would authorize the continued sale of gelatin or tallow derivatives used in the production of pharmaceuticals and cosmetic products after January 1, 1998. The amendments would grant temporary exemptions from the ban for specific products.[175]

[171] Specifically, those containing cattle, sheep, and goat tissues and fluids from the brain, spinal cord, eyes, or ingredients derived therefrom.

[172] 97/534/EC, Commission Decision of 30 July 1997 on the prohibition of the use of materials presenting risks as regards transmissible spongiform encephalopathy, OJ L 216, p. 95.

[173] The broader veterinary rubric would be transmissible spongiform encephalopathy (TSE) that can include sheep (ovine SE), goats (caprine SE), and so forth, in addition to cattle (bovine SE).

[174] U.S. Department of Commerce, "U.S.-EU Trade Issues," and "Science Regulatory Product Evaluations," Briefing Book for U.S. Government Delegation to the Transatlantic Business Dialogue (TABD), Rome, Italy, Nov. 6-7, 1997.

[175] Specifically, pharmaceutical or medicinal products approved for use before January 1, 1998, can be sold with gelatin or tallow or another SRM derivative until January 1, 1999; pharmaceutical or medicinal products with "few or no therapeutic alternatives" to gelatin or tallow can be used until January 1, 2000; products containing tallow derivatives, such as cosmetics will be permanently exempt from the ban provided that the tallow has been treated with certain approved treatments such as certain heat and pressure conditions; reagents and products disappearing during the manufacturing process can be used until 1999; and tallow stocks already produced can be used up until June 1, 1998.

EU trading partners remain concerned. The proposal gives EU Member States the right to grant additional exemptions to the SRM directive, which could result in an unmanageable and unenforceable situation. Moreover, several weeks before the ban's effective date it was still unclear by whom or how the certification process for products still subject to the ban would operate.[176] On December 15, 1997, the EU approved a three-month delay in its SRM ban, until April 1, 1998,[177] and efforts to avert disruption of U.S.-EU trade in cosmetics and pharmaceuticals continued into 1988.

Meanwhile, on December 11, 1997, out of concern over BSE, the United States extended a ban on U.S. imports of live cattle, sheep, and goats, and the meat and bone meal derived from these animals, to cover all EU Member States. The original ban covered only those Member States that had reported cases of BSE in native-born cattle. The new restrictions can be lifted for any country that is found to "have a [BSE] surveillance program that conforms to international standards and adequate import controls."[178] EU officials reacted angrily to the timing and lack of forewarning of the U.S. announcement, and claimed the measure was unjustified and inconsistent with international obligations under the WTO SPS Agreement.[179]

Genetically Modified Organisms

Two primary issues have arisen concerning products containing genetically modified organisms (GMOs)—(1) EU approval for sale and use and (2) EU labeling requirements. During 1997, U.S. officials complained about the EU's unpredictable procedures for approving agricultural products developed with biotechnology. Throughout the year, the EU Commission was forced to react to a variety of Member State actions affecting GMO products,[180] leading by year-end 1997 to a series of proposed legislation attempting to establish more coherent EU-wide policies on approval and labeling.

Of particular U.S. concern was the slow pace of EU approval of genetically modified corn from the United States. On December 18, 1996, the EU Commission authorized the sale of one particular strain of corn (maize) that had been genetically modified.[181] Currently, seven varieties of genetically modified corn have been approved in the United States but have not yet been approved in the EU.[182] Four different strains of genetically modified corn products are currently under review by the EU; three of these have already been planted in the United States. Delays in EU approval could jeopardize U.S. exports of corn products in 1998.

New labeling requirements were also of concern. On May 15, 1997, EU Regulation No. 258/97 entered into force, establishing requirements regarding the approval, marketing, and labeling of novel foods and novel food ingredients, including GMO products. On June 18, 1997, the EU Council adopted Directive 97/25, which requires mandatory labeling of newly approved GMO products. On July 25, 1997, the EU Commission released an EU-wide labeling policy for food products manufactured from GMOs. The policy calls for voluntary labeling certifying non-GMO products and mandatory labeling for products of known GMO origin, as well as those products where GMO products cannot be excluded. The United States is concerned about how these requirements will be implemented and their implications for U.S. exports of processed foods.

176 Bureau of National Affairs, "EU Proposes Changes to Amend Controversial Specified Risk Material Ban," *BNA International Trade Daily*, article No. 43381007, Dec. 4, 1997.

177 Bureau of National Affairs, "EU approves delay in ban on imports of U.S. pharmaceutical, cosmetic exports," *BNA International Trade Daily*, article No. 43501004, Dec. 16, 1997.

178 U.S. Department of Agriculture, Animal and Plant Health Inspection Service, "USDA Restricts Imports of Animals and Animal Products from Europe," press release, Dec. 12, 1997. See also *Federal Register*, Vol. 63, No. 3, Jan. 6, 1998, pp. 406-8.

179 "Future Evolution of the Common Agricultural Policy," speech by Dr. Franz Fischler, European Commissioner for Agriculture and Rural Development, Oxford, England, Jan. 7, 1998.

180 In February and March 1997, Austria, France, Italy, and Luxembourg announced various bans on the planting and use of genetically modified corn. After review of the reasons for the bans, the EU Commission decided on September 10, 1997, on draft measures to oblige Austria, Italy, and Luxembourg to repeal their bans. Italy repealed its ban in October 1997 and France lifted its ban on November 27, 1997. Austria and Luxembourg continue to maintain their bans.

181 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.

182 U.S. Department of Commerce, "U.S.-EU Trade Issues," Briefing Book for U.S. Government Delegation to the Transatlantic Business Dialogue (TABD), Rome, Italy, Nov. 6-7, 1997.

Japan

During 1997, the major emphasis of U.S.-Japan trade relations was review and monitoring of existing bilateral agreements to ensure implementation. In addition to monitoring progress under the 1995 U.S.-Japan automotive agreement, considerable U.S. efforts were focused on negotiations on harbor services and civil aviation throughout the year. The dispute between the United States and Japan in the WTO concerning Japan's barriers to imports of consumer photographic film and paper also received considerable attention during 1997 (see chapter 2).

In response to Japan's slowing economy and an increase in the U.S. trade deficit with Japan, the United States urged Japan to take steps to stimulate and deregulate its economy. U.S. officials encouraged Japan to boost its economy through improved domestic demand rather than by increased exports. The United States also pressed Japan to increase its imports from those Asian economies attempting to recover from the Asian financial crisis.

Autos

During 1997, the United States continued to monitor activities and progress under the 1995 U.S.-Japan automotive agreement.[183] The agreement was intended to address some of the difficulties experienced by U.S. firms in accessing Japan's vehicle distribution system by eliminating regulations in 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.[184] An Interagency Enforcement Team was established to ensure compliance with the agreement.[185] 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. In addition, Japan agreed to: (1) provide government support and financial incentives to encourage imports of autos and parts to Japan; (2) deregulate the aftermarket for auto parts; (3) promote increased purchases of OE parts from non-keiretsu suppliers for use in their transplants in the United States and for use in Japan; (4) address many performance and technical standards that affect Japanese imports of autos; and (5) provide vehicle registration data for use in market research on a more equal basis to foreign and Japanese manufacturers.[186]

The second annual review of the 1995 U.S.-Japan automotive framework agreement was held during October 8-9 in San Francisco. The review involved a working-level meeting followed by a high-level meeting. During the review, the United States expressed disappointment with the slow pace of change in Japan in the areas of expanded dealership opportunities, auto sales, and deregulation in the parts aftermarket. Japan agreed to take several steps in these three areas including: 1) telling manufacturers that dealers are free to carry foreign vehicles in their showrooms; 2) examining the impact of zoning restrictions on the ability of dealerships to carry more than one brand of vehicle; 3) examining forms of discrimination against foreign vehicles; and 4) providing advice and assistance on market trends. In addition, with regard to auto parts, Japan agreed to hold hearings on creating a new class of mechanics, so-called "specialized-certified mechanics," to work in specialized-certified garages[187]; to study the possibility of holding a major new auto parts aftermarket exhibition in Japan; and to continue efforts to deregulate the auto parts aftermarket.[188]

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[183] "Measures by the Government of Japan and the Government of the United States of America Regarding Autos and Parts," Aug. 23, 1995; and U.S. Information Agency, "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 18, 1995. For additional background information regarding the agreement see USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, pp. 53-54; and 68 and USITC, *The Year in Trade OTAP, 1996*, USITC publication 3024, pp. 96-97.

[184] Ibid.

[185] The Interagency Enforcement Team is cochaired 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.

[186] U.S. Information Agency, "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.

[187] Currently, government-certified repair shops require mechanics to work on seven disassembly repair systems. Specialized-certified mechanics would be permitted to work on fewer than seven disassembly repair systems. For example, a garage could specialize in repairing brakes, requiring fewer tools, mechanics, and floor space. The new type of mechanic and garage is expected to result in additional independent garages which are more likely to carry imported parts.

[188] U.S. Department of Commerce telegram, "U.S.-Japan Auto Agreement: October 8-9 Second Annual Review in San Francisco," message reference No. 199185, prepared by U.S. Department of Commerce, Washington, Oct. 22, 1997.

On December 4, 1997, the Interagency Enforcement Team issued a report evaluating progress under the agreement. According to the report:

> While the Agreement has resulted in progress in some areas, trends in other key areas are disappointing and additional substantial efforts are required to achieve the Agreement's objectives of eliminating market access barriers and significantly expanding sales opportunities in this sector. . . Moreover, the United States is concerned about the surge in Japanese auto exports to the United States and other countries since the fourth quarter of 1996.[189]

Specifically, the report referred to declining sales of motor vehicles to Japan and disappointment with regard to expansion of the number of dealerships and aftermarket deregulation. Sales in Japan of motor vehicles produced by the "Big Three" in North America declined 20 percent during the first nine months of 1997. Since the signing of the agreement, only 142 new dealer outlets have been opened through direct franchise agreements with Japanese dealerships as opposed to the 200 expected by the end of 1996. Of the total, only 39 new sales outlets were added in 1997.[190] The weak progress in this area suggests that Japanese auto producers continue to maintain strong relationships with their affiliated dealerships.[191] With regard to aftermarket deregulation, Japan's Ministry of Transport denied several deregulatory requests by the U.S. Government and private sector during 1997. Specifically, no additional items, such as brake systems, have been removed from the disassembly repair regulations or the so-called critical parts list in more than one year.[192] The U.S. Government and industry have urged Japan to take meaningful deregulation actions.

Progress has been made in two other areas of the agreement—exports of auto parts and establishment of service garages. U.S. auto parts exports to Japan increased by 14 percent during the first half of 1997. Nonetheless, sales of original equipment parts to Japan continue to be low.

In 1997, Japan's Ministry of Transport introduced two new categories of service garages that were intended to encourage competition and create new opportunities for foreign parts producers by permitting smaller independent garages to undertake repairs previously limited to dealerships and other Ministry of Transport-certified garages. The United States requested that the Ministry of Transport revise regulations regarding the certification of mechanics employed by these garages.[193]

Japanese auto producers' compliance with Japan's Antimonopoly Law has been incomplete and ineffective, according to the Department of Commerce and USTR. Under the agreement, the Government of Japan is to strictly and effectively enforce the Antimonopoly Law and eliminate anticompetitive practices in the automotive sector. Japan's Ministry of International Trade and Industry (MITI) sent a letter to Japanese dealers, as specified in the agreement, stating that they are free to sell competing motor vehicles and each auto producer has prepared a manual for complying with the Antimonopoly Law. Nonetheless, there continue to be allegations that Japanese auto producers are reluctant to carry foreign vehicles.[194]

Air Transport Services

During 1997, the United States and Japan continued a series of bilateral negotiations on air cargo and passenger services.[195] The two countries held four rounds of informal talks and three sets of formal bilateral negotiations (in August, September, and October).[196] However, they were unable to reach an agreement to expand aviation services. The main outstanding issues in the talks included open skies, "beyond" rights, additional flights and slots, and third-country code sharing.

Open Skies

The United States has signed open-skies accords, which cover full deregulation of pricing, scheduling, and operating, with approximately 25 countries.

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[189] U.S. Department of Commerce and USTR, *Report to President William Jefferson Clinton of the Interagency Enforcement Team regarding the U.S.-Japan Agreement on Autos and Auto Parts*, Dec. 4, 1997, p. 1.

[190] Ibid.

[191] Ibid., Apr. 18, 1997, p. 1.

[192] The disassembly repair regulations require repair work on seven major component systems of an automobile to be done at dealerships or other Ministry of Transport-certified garages. These garages tend almost exclusively to use Japanese parts because they are owned by or closely affiliated with Japanese auto manufacturers.

[193] U.S. Department of Commerce and USTR, *Report to President William Jefferson Clinton of the Interagency Enforcement Team regarding the U.S.-Japan Agreement on Autos and Auto Parts*, Dec. 4, 1997, p. 2.

[194] Ibid., Apr. 18, 1997, pp. 18 and 19.

[195] For background information on air transport services, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 102-103.

[196] "Aviation Talks End Without Agreement; Set to Resume in October," *Japan Economic Institute Report*, Oct. 3, 1997, p. 8.

During the 1997 bilateral talks with Japan, the United States reiterated that its final goal was to achieve "open skies." Japan repeatedly rejected the U.S. proposal, offering numerical limits on the number of new flights to Japan.

Beyond Rights

The 1952 U.S.-Japan agreement on transport services governs beyond rights (flying rights to third-country destinations). Japan has sought to restrain the ability of U.S. carriers to expand their passenger and air cargo service to other destinations after landing in Japan. For example, Japan interprets the 1952 agreement as limiting the rights of Federal Express to pick up cargo in Japan for delivery beyond Japan to third countries. The United States interprets the treaty as giving Federal Express beyond rights. The United States has also asked Japan to reiterate beyond rights for United and Northwest, which were already granted under the 1952 agreement.[197] Japan has sought to place a numerical limit on the number of flights beyond Japan and has required the number of Japan-originating passengers on U.S. carriers flying on to other destinations be limited to 50 percent.[198]

Additional Flights and Slots

The United States proposed increasing the number of weekly flights for American Airlines, Delta Airlines, and other "nonincumbent" carriers. The two countries appeared to be near a consensus during the last round of talks that 70 additional weekly passenger flights serving as many as 10 new cities would be granted to U.S. carriers. Another major issue is the scarcity of take-off and landing positions at Narita airport. According to Japan the airport is already used to capacity and finding additional slots for expanded access by U.S. carriers is a major problem.

Third-Country Code Sharing

Code sharing is a practice by which two carriers operating separate legs of a flight are designated by the same flight code and appear to customers as a single flight. Code sharing is used by international airlines to link flights to those of a domestic carrier.[199] The United States wanted Japan to agree to allow a third-country carrier and a U.S. carrier to code-share flights operating through Japan. The Government of Japan opposed granting code-sharing rights because it is concerned that U.S. airlines would benefit the most, leaving Japanese carriers as feeders to more profitable international routes.[200] By the end of September, following two rounds of formal negotiations, significant progress had been made on many of the major issues. At year-end, negotiations on civil aviation continued and an agreement was reached in early 1998.[201]

Harbor Services

On February 26, 1997, the Federal Maritime Commission (FMC), in a final ruling, imposed a fee of $100,000 each time a container-carrying liner vessel owned or operated by a Japanese carrier enters a U.S. port from abroad. In issuing its ruling, the FMC cited unfavorable conditions in the foreign oceanborne trade between the United States and Japan including restrictions on and requirements for use of Japanese ports. The sanctions were to become effective on April 14, 1997. In its ruling, the FMC noted that it has the authority to impose per-voyage fees of up to $1,000,000 and that it could increase the fees on Japanese vessels if the issues that it had identified (as discussed below) were not addressed in a timely manner. The FMC stated that the fee would also be increased upon a finding that the Government of

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[197] Nancy Dunne, "Japanese Resist U.S. Air Demands," *Financial Times*, Sept. 24, 1997, p. 7.

[198] "Aviation Talks End Without Agreement," p. 9.

[199] Bureau of National Affairs, "U.S., Japanese Positions in Aviation Talks Remain Widely Separated, Officials Report," *BNA International Trade Daily*, Sept. 25, 1997, article no. 42681002.

[200] "Aviation Talks End Without Agreement," p. 10.

[201] On Jan. 30, 1998, the United States and Japan reached an agreement on civil aviation. Highlights of the agreement were as follows: Nonincumbent combination carriers (Delta, American, and Continental) gained the right to offer an additional 90 weekly round-trip flights between the United States and Japan. Two new nonincumbent carriers gained the right to enter the U.S.-Japan market. Nonincumbent all-cargo carriers, UPS and Polar Air Cargo, will be able to transport cargo to destinations beyond Japan. An additional all-cargo carrier will be able to enter the market in 4 years. All restrictions on the number of flights operated and points served between the U.S. and Japan by incumbent combination and all-cargo carriers are lifted. The agreement resolves the dispute over incumbent carriers' rights to fly from Japan to other international points beyond Japan. Code sharing is permitted for the first time under the agreement. U.S. carriers can code share among themselves on many operations to Japan and beyond, and U.S. carriers can code share with third-country carriers on operations to and beyond Japan. Charter operations will increase in two years from the current 400 flights per year to 600 flights per year rising eventually to 800 flights. Negotiations will begin within three years regarding a fully liberalized agreement. If the goal is not reached by 2002, supplemental rights will be available. U.S. Department of Transportation, "United States, Japan Reach Aviation Agreement That Provides Immediate Benefits, Sets Stage for Further Liberalization," press release 18-98, Jan. 30, 1998.

Japan, the Japan Harbor Transportation Association (JHTA) or related bodies have retaliated against U.S. carriers.[202, 203] The three Japanese liner carriers that would be affected by the proposed sanctions indicated that they would be "severely injured by the threatened sanctions." A summary of the issues involved in this bilateral dispute follows.

Prior Consultation System

The prior consultation system is administered by the JHTA, an association of terminal operators, stevedores (longshoremen), and sworn measurers that excludes foreigners. Under the prior consultation system, shipping lines must consult with the JHTA for virtually all operational matters involving ports or labor, including changes in berths, routes, schedules, vessels, changes in vessel technology, assignment of stevedoring contractor or terminal operator, requests for work on Sunday, and changes in mandatory weighing and measuring arrangements. The Ministry of Transport (MOT), which has direct authority over harbor services, reportedly provides administrative guidance regarding the conduct of the prior consultation system and, according to the FMC, allows the JHTA to "wield unchecked authority through the prior consultation process. . . ."[204]

The Chairman of the JHTA has the authority to approve requests, require changes, or impose conditions on any requests from carriers. Prior consultation meetings are held where the actual decisions regarding requests for changes are made by JHTA and union officials. U.S. carriers cited concerns about the lack of transparency in the JHTA's decision-making process (including absence of written rules, reasons for decisions, or records) and antitrust concerns regarding allocation of work among JHTA member companies.[205] Domestic carriers feel obliged to participate in the prior consultation process or risk retaliation in the form of work stoppages or labor disruptions because of strong ties between the JHTA and Japanese labor unions.

The FMC noted that the prior consultation system was the most serious issue raised because it is "central to the dominance of the harbor services market in Japan, as it is the mechanism by which JHTA exercises control over the activities of individual carriers and stevedoring companies." It noted that "[b]y serving as intermediary in all negotiations and requiring, on threat of labor disruption, that carriers submit virtually all planned operational changes for approval, JHTA is able to assign and allocate work among its member companies. This process is used to eliminate competition among terminal operators and stevedores . . . ."[206]

Port Restrictions

The MOT has authority over harbor services, including the issuance of licenses. No new licenses have been issued by the MOT in the past 10 years. While foreign firms are permitted to own port facilities, foreign applications to operate terminals have been rejected. Thus, foreign carriers are compelled to contract with Japanese stevedore firms while Japanese carriers are able to reduce their operating costs through ownership of terminals and stevedore firms.[207]

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[202] On Nov. 6, 1996, the FMC proposed a rule (published on Nov. 13, 1996) pursuant to section 19(1)(b) of the Merchant Marine Act of 1920 to assess fees on Japanese liner operators in response to requirements and restrictions on the use of Japanese ports. The FMC proposed to assess a per-voyage fee of $100,000 each time a liner vessel owned or operated by one of the three Japanese liner operators serving U.S. trades (Kawasaki Kisen Kaisha, Nippon Yusen Kaisha, and Mitsui O.S.K. Lines) enters a U.S. port from abroad. The FMC had urged the Government of Japan to avert imposition of the sanctions by affording, "U.S. carriers relief by making available the necessary licenses, permissions or certificates to perform, for themselves and third parties, stevedoring and terminal operating services, or to establish subsidiaries or related ventures to do so, as Japanese carriers are permitted to do in the United States."

[203] On Sept.12, 1995, the FMC had issued information demand orders regarding restrictions and requirements for the use of port and terminal facilities in Japan. The issues of concern included: (1) the "prior consultation" system, involving mandatory discussions and operational approvals involving port and terminal management, unions, and ocean carriers serving Japan; (2) restrictions on the operation of Japanese ports serving Japan; (3) requirements that all containerized cargo exported from Japan be weighed and measured by harbor workers, regardless of commercial necessity; and (4) the disposition of the Japanese Harbor Management Fund. The Commission noted that these practices could result in conditions unfavorable to shipping in the United States/Japan trade and may constitute adverse conditions affecting U.S. carriers that do not exist for Japanese carriers in the United States. Federal Maritime Commission, 46 C.F.R. Part 586 [Docket 96-20], Apr. 13, 1997, and Federal Maritime Commission, "Texts: Maritime Administration 4/11 on Japanese Ship Sanctions," found at Internet address http://www.usia.gov/current/news, retrieved June 9, 1997.

[204] Federal Maritime Commission, 46 C.F.R. Part 586 [Docket No. 96-20], final ruling, Feb. 26, 1997.

[205] In June 1985, a complaint was filed with the Japan Fair Trade Commission alleging that the JHTA was restricting the activities of carriers and competition among terminal operators. In 1995, Sankyu, Inc., a JHTA member, filed a complaint with the JFTC alleging violations of Japan's antimonopoly law by JHTA in allocating work among operators. Both complaints were subsequently withdrawn.

[206] Federal Maritime Commission, 46 C.F.R. Part 586 [Docket No. 96-20], final ruling, Nov. 13, 1996, and final ruling, Feb. 26, 1997.

[207] Ibid.

Mandatory Weights and Measurements

The JHTA requires that all cargo be weighed and measured, including standardized containers and cargo. When carriers have refused sworn measurement services and charges, they have been threatened with work delays, stoppages and other forms of retaliation. In December 1995 and January 1996, the JHTA, two sworn measurement labor unions, and the Japanese and foreign carrier groups reached an agreement to phase out mandatory weighing and measuring during a five-year period.[208]

Sunday Work

Sunday work was first allowed at Japan's six major ports in 1987, suspended in 1992, and then reinstituted following the Kobe earthquake in January 1995 on a trial basis. A temporary agreement to allow Sunday work expired on March 10, 1997. Various restrictions under the agreement created inefficiencies, gate congestion on Saturdays and Mondays (the terminal gates are closed on Sunday) and additional costs (surcharges for Sunday work) for carriers. In addition, uncertainties associated with Sunday work discourage carriers from scheduling Sunday work on a regular basis. As a result of these and the other restrictions mentioned, Japanese port costs are among the highest in the world.[209]

In late March 1997, Japan's MOT reached an agreement with the JHTA, port unions, and foreign shipowners to simplify harbor practices, to ensure that the JHTA did not abuse the prior consultation system, and to act as a mediator if problems arose. The MOT then hoped to win U.S. support for its proposal in time to avoid sanctions. On April 11, following a series of negotiations that began on April 2, the United States and Japan reached a Memorandum of Consultation identifying major issues of concern to the United States, including port practices, licenses and prior consultations. Regarding licensing, Japan promised that the MOT would approve license applications that meet certain criteria within four months of receipt of the application. The agreement also included a framework for reforming the prior consultation system by July 31, 1997. The MOT indicated that it would continue to use "maximum effort" to providing leadership for reform and clarified a number of points of interest to the United States.[210]

Reaction to the agreement from shippers was positive, with U.S. carriers calling MOT's commitments on licensing "meaningful" and "excellent progress."[211] However, U.S. carriers also noted the "obvious risks" associated with JHTA's domination of the consultation process. In delaying the effectiveness of the sanctions until September 4, 1997, the FMC noted that it remained concerned about the prior consultation system and "the attendant power enjoyed by JHTA."[212] The FMC ordered that progress reports regarding developments relevant to the proceeding, such as changes to prior consultation and licensing transactions, were to be completed by July 1 and August 5, 1997.[213]

Negotiations were held throughout the summer between the MOT, the JHTA, the Japan Ship Owners Association, and the Japan Foreign Steamship Association, but failed to result in progress. As a result, on September 4, the Federal Maritime Commission imposed sanctions of $100,000 for every port call made in the U.S. by vessels belonging to Kawasaki Kisen Kaisha Ltd., Mitsui OSK Lines Ltd., and Nippon Yusen KK. The three Japanese shippers filed suit to stay the sanctions, but the U.S. Court of Appeals for the District of Columbia denied the motion on September 25.[214] By October 15, the deadline for the first payment of the sanctions, the accumulated fines amounted to $4 million. After the three Japanese shipping companies failed to pay the fines, on October 16, the FMC issued an order for the U.S. Coast Guard and Customs Service to detain Japanese ships from entering U.S. ports and to detain Japanese vessels already docked in the United States. Meanwhile beginning on October 10 the two sides held bilateral negotiations to try and resolve the dispute.

On October 17, 1997, the two countries reached an agreement in principle under which Japan agreed to a streamlined and reformed prior consultation system, a framework for establishing an alternative system of

[208] Ibid.

[209] Ibid.

[210] On Apr. 13, 1997, following a tentative settlement between the United States and Japan, the sanctions were suspended by the Federal Maritime Commission until Sept. 4, 1997.

[211] Federal Maritime Commission 46 C.F.R. Part 586 [Docket No. 96-20], Apr. 13, 1997 and "Texts: Maritime Administration 4/11 on Japanese Ship Sanctions," found at Internet address http://www.usia.gov/current/news, retrieved June 9, 1997.

[212] Ibid.

[213] Ibid.

[214] Bureau of National Affairs, "FMC Waiting for $4 Million Check in Penalties Against Japanese Shippers," *International Trade Daily*, article no. 42891004, Oct. 16, 1997.

prior consultation, and the expeditious approval of licenses for foreign companies seeking to operate port businesses in Japan. As a result of the breakthrough in the talks, the FMC announced that it had postponed plans to have Japanese-flag liner vessels detained in U.S. ports. However, it noted that payment of the fees owed by the Japanese shipping companies was "integral to the Commission's acceptance of any final resolution."[215] A final agreement was reached on October 27, and the FMC voted to accept the terms of the agreement. The FMC announced that it would not be necessary to take action against Japanese carriers or vessels to collect fines. The Commission agreed to accept $1.5 million in full payment for the fees (originally set at $4 million) previously assessed on carriers. The FMC will continue to oversee and monitor implementation of the agreement.[216]

Mexico

Two presidential meetings marked U.S.-Mexican relations during 1997. One was President Clinton's first state visit to Mexico on May 6 and 7. This summit meeting took place at a time when bilateral relations over the issues of drugs and immigration were somewhat strained, and the July congressional elections in Mexico were imminent. President Clinton and Mexican President Ernesto Zedillo presided over the closing session of the 14th U.S.-Mexico Binational Commission Meeting on May 5, 1997, in Mexico City, where 11 agreements were signed in areas of agricultural trade, financial and commercial matters, and border issues. Notably, Mexico agreed to lower barriers to the sale of citrus fruit grown in Arizona and Florida, imposed on grounds of preventing fruit-fly contamination. On its part, the United States promised to reduce barriers to imports of fresh and frozen pork and pork products from Sinaloa, Baja California, and the Yucatan that it imposed because of concerns about hog-cholera contamination. In addition, the United States declared the Mexicali Valley free of Karnal bunt disease in wheat, and pledged to modify current regulations to open the U.S. market for Mexican wheat.[217]

During his November visit, President Zedillo expressed disappointment over the failure of the U.S. Congress to grant "fast-track" authority to President Clinton—an event that preceded the Mexican leader's arrival in Washington, D.C., by just a few days.[218] Accomplishments during Mr. Zedillo's visit included Mexico's commitment to facilitate the prosecution of fugitive drug traffickers in Mexico, U.S. commitment to discourage illegal sales of weapons in Mexico, and the resolution of a long-standing maritime dispute on the Gulf of Mexico. At the same time, the two leaders failed during both of their 1997 meetings to remove obstacles to a major outstanding bilateral economic issue—the long-delayed implementation of NAFTA provisions on cross-border trucking.[219]

In his third annual presidential address to the nation (*Informe*) of September 1, 1997, President Zedillo called attention to his administration's success in overcoming the financial crisis Mexico suffered from late 1994 through early 1996, by applying tight fiscal and monetary policies. He pointed out that recovery on the macroeconomic level is manifest in a projected 6-percent real growth in GDP for the year 1997, the decline of inflation from 27.7 percent in 1996 to a projected 16.9 percent in 1997, and a drop in unemployment. However, Mr. Zedillo acknowledged serious shortcomings in efforts to reduce poverty in Mexico, and he pledged continued major social spending in areas of housing and public health care. With regard to foreign economic policy, President Zedillo pointed out that his administration had initiated trade negotiations with the EU[220] and made advances in trade relations with Asia-Pacific Economic Cooperation (APEC) countries during 1997, stressing that Mexico strives to promote freer trade with every nation.[221]

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[215] Federal Maritime Commission, "FMC Responds to Progress in Resolving Japanese Port Dispute,"NR 97-19, Oct. 17, 1997.

[216] Federal Maritime Commission, "FMC Settles Fees with Japanese Lines After U.S. and Japanese Negotiators Come to Terms in Port Dispute," NR 97-20, Oct. 27, 1997.

[217] U.S. Department of State telegram, "Joint Communique and Report of the Agricultural Working Group of the U.S.-Mexico Binational Commission," message reference No. 04520, prepared by U.S. Embassy, Mexico City, May 13, 1997.

[218] President Zedillo's address on Nov. 13, 1997, at a U.S. Chamber of Commerce conference on business opportunities in North America.

[219] For details on the trucking issue, see ch. 3 of this report and USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, August 1996, p. 56.

[220] On Dec. 8, 1997, Mexico and the EU signed the "Global Agreement for Economic Cooperation and Political Dialogue," a first step toward free trade between the two entities. The accord also includes the basis for negotiation of subjects related to investment, capital movements, public sector purchases, competition policy, intellectual property rights, and handling of disputes.

[221] U.S. Department of State telegram, "Zedillo's Speech Landmark for Democracy," message reference No. 08455, prepared by U.S. Embassy, Mexico City, Sept. 3, 1997.

The 1996 issue of this series of reports discussed the U.S. embargo affecting imports of Mexican tuna fish.[222] In August 1997, President Clinton signed legislation[223] that would lift this embargo under certain conditions outlined in the so-called "Panama Declaration" of 1995.[224]

The discussion that follows in this report covers some ongoing agricultural trade issues between the two countries in 1997. Standards and Intellectual Property Rights (IPR) issues with Mexico are discussed in the NAFTA section of chapter 3.

Agricultural Trade Issues

U.S. agricultural exports have benefited greatly from NAFTA trade liberalization in the first three years of the accord, markedly increasing their share in Mexico's market. For U.S. and Canadian exporters to Mexico, NAFTA replaced agricultural import licenses issued by the Government of Mexico with tariff rate quotas that expand and are ultimately eliminated over time. These tariff-rate quotas allow duty-free entry up to a certain level of imports and high (often prohibitive) tariffs on imports in excess of the limit set by the quota. In the largest categories—grains, oilseeds, and their products—U.S. agricultural exports expanded at an accelerated rate during the NAFTA years, and trade relations between the two countries were largely problem free.[225]

Trade disputes have arisen mostly in those agricultural product groups in which trade is moving in both directions, notably fruits and vegetables, live animals or animal products, and sweeteners. Some of these trade issues arose long before NAFTA entered into force, focusing frequently on sanitary or phytosanitary standards that are perceived in each country as nontariff barriers to its agricultural exports. On the U.S. side, growers of winter produce, mostly in Florida and California, have been concerned for decades about rising imports from Mexico of counter-seasonal fruits and vegetables, including tomatoes, melons, and tropical and semitropical fruits. For a small number of vegetables and fruits—onions and shallots, squash, chili peppers, eggplants, tomatoes, and watermelons —the United States established seasonal tariff-rate quotas (TRQs) to safeguard against surges in imports.[226] The United States exports mostly temperate-climate fruits to Mexico, some of which, including apples, also face restrictions in the form of TRQs.

For 1996, the *Year In Trade* report discussed agricultural issues involving U.S. imports from Mexico of avocadoes[227] and tomatoes,[228] as well as issues arising under the NAFTA. A five-year suspension agreement that committed Mexicans to a floor under their tomato prices, signed on October 28, 1996, suspended the bilateral dispute over imports of low-priced Mexican tomatoes. With regard to avocadoes, effective March 30, 1997, the USDA lifted the 83-year old U.S. ban from November through February each year for fresh avocado imports from Mexico, destined for the 19 northeastern states and the District of Columbia. Mexican avocadoes were first shipped to the United States in November 1997.

The present report highlights a trade dispute between Mexican sugar producers on the one side and U.S. producers and exporters of high-fructose corn syrup (HFCS), a natural sweetener derived from corn, on the other. The dispute concerns the price of U.S. exports of HFCS and U.S. import TRQs on Mexican sugar. In addition, this report will discuss the issue of U.S. apple exports to Mexico. Both HFCS and apple exports are subjects of investigations under Mexico's antidumping laws.

U.S. Sweeteners and Mexican Sugar

On January 14, 1997, the Mexican National Chamber of Sugar and Alcohol Industries (Sugar Chamber), an association of sugar producers in Mexico, filed a petition charging sales at less than fair value of HFCS imported from the United States. Mexico's Secretariat of Commerce and Industrial Development (SECOFI) responded by initiating an antidumping investigation, as announced in the February 27, 1997, *Diario Oficial* (Mexico's Federal Register). Subsequently, in a June 25 preliminary resolution, SECOFI imposed compensatory duties on

[222] USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, April 1997, pp. 104-106.

[223] P.L. 105-42, signed on Aug. 15, 1997.

[224] The United States and 11 other countries signed the Panama Declaration of 1995, designed to limit dolphin deaths associated with tuna fishing to 5,000 a year. The United States has not yet ratified this accord.

[225] One exception is Mexico's requirement that grain importers apply for a phytosanitary import authorization for every individual shipment. U.S. exporters consider this a restrictive measure. U.S. exports of nonquota grains, such as sorghum, wheat, and rice are particularly affected.

[226] Such TRQ's will be phased out by the year 2003.

[227] USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, pp. 97-98; USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, April 1997, pp. 106-107.

[228] USITC, *The Year in Trade: OTAP, 1995*, USITC publication 2971, p. 96; and *The Year-In Trade: OTAP, 1996*, USITC publication 3024, pp. 104-105.

U.S.-made HFCS amounting to $66.50 to $125.30 per metric ton for HFCS 42, and between $63.40 and $175.50 per metric ton for HFCS 55.[229]

The antidumping petition reflected, in part, Mexican sugar producers' concern that the less expensive HFCS will replace domestically produced sugar for industrial use.[230] It was apparently this concern that inspired an accord in August 1997 between Mexican sugar producers and the Mexican soft drink bottling industry. In this accord, sugar producers reportedly agreed to sell their product at discounted prices to soft drink makers, provided they voluntarily maintain imports of U.S.-made HFCS for the next three years at levels not exceeding imports of the period May through July 1997. The Mexican soft drink industry's rising demand for sweeteners was to be met by sugar.[231]

At a public hearing on August 26, 27, and 29, held by SECOFI, the Corn Refiners Association, representing U.S. HFCS makers,[232] argued that the Mexican sugar industry's case against HFCS imports from the United States "[w]as unfair and violated both international and Mexican trade laws." One of the principal arguments was that there are no damages or threat of damages to the Mexican sugar industry from HFCS because this industry is suffering from poor management and large financial debt, neither of which is the fault of HFCS.[233]

The dispute between Mexican sugar producers and U.S. HFCS producers escalated further when the USTR announced that the United States had requested WTO dispute settlement consultations regarding actions by Mexico on September 4, 1997.[234] In her announcement, U.S. Trade Representative Charlene Barshefsky expressed concern—

> [a]bout Mexico's actions in several respects, including a failure to determine whether there was sufficient evidence that the original petition was made by or on behalf of the domestic industry, failure to provide proper notification to the United States and failure to provide the U.S. industry timely access to the relevant information needed in the presentation of its case.[235]

On December 3, SECOFI held a second public hearing on the HFCS dumping petition.[236] HFCS exporters from the United States repeated some of their arguments presented at the earlier hearing. They also called attention to subsequent events, such as the agreement between the Mexican sugar and soft-drink-bottler industry to limit HFCS usage, and to a one-time subsidy program announced for sugar exporters in October 1997[237] to compensate them for the shortfall between export prices and domestic prices in the first nine months of 1997.[238] On January 23, 1998, Mexico imposed final antidumping duties ranging from $63.75 to $100.60 per metric ton for HFCS 42, and duties ranging from $55.37 to $175.50 for per metric ton for HFCS 55.[239]

NAFTA partners' reciprocal access to one another's markets is established in Section A of Annex 703.2 of NAFTA and in an understanding between the United States and Mexico, as confirmed on November 3, 1993, in a letter by the USTR.[240] These

[229] USTR, "U.S. Announces Request for WTO Consultations on Mexico's High Fructose Corn Syrup Dumping Order," press release, 97-78, Sept. 5, 1997. HFCS 55 is used in soft drinks. HFCS 42 is used in other beverages.

[230] At the same time, the integration of Mexican sugar producers with some of the largest Mexican soft drink bottlers reduced this threat. See more on this subject in Jaqueline Salsgiver, "HFCS Trade Dispute with Mexico," *Sugar and Sweetener/SSS-221/,* Sept. 1997.

[231] U.S. Department of Agriculture, unofficial English translation of an "Agreement Established by the Soft Drink Bottling and Sugar Industries," Foreign Agricultural Service, FAS Online, Attache Query Detail, Sep. 10, 1997, found at Internet address http://www.fas.usda.gov/scriptsw/AttacheRep/attache_dout.idc?Rep_ID=25080085.0, retrieved Dec. 9, 1997.

[232] The association represents 10 companies.

[233] U.S. Department of State telegram, "SECOFI Hearings on HFCS Antidumping Case," message reference No. O8460, prepared by U.S. Embassy, Mexico City, Sep. 3, 1997.

[234] USTR, "U.S. Announces Request for WTO consultations on Mexico's High Fructose Corn Syrup Dumping Order," press release 97-78, Sep. 5, 1997.

[235] Ibid. In its request to the WTO in the HFCS case, dated Sept. 4, 1997, the United States alleges violations by Mexico under Articles 5.5, 6.1.3, 6.2, 6.4 and 6.5 of the Antidumping Agreement.

[236] U.S. Department of State telegram, "Public Hearing on High Fructose Corn Syrup Dumping Case," message reference No. 11823, prepared by U.S. Embassy, Mexico City, Dec. 10, 1997.

[237] Export subsidy programs had been generally discontinued in Mexico.

[238] U.S. Department of State telegram, "1997 Trade Act Report: Mexico," message reference No. 10605, prepared by U.S. Embassy, Mexico City, Oct. 31, 1997, and U.S. Department of State telegram, "Mexico Establishes Sugar Export Subsidy," message reference No. 10191, prepared by U.S. Embassy, Mexico City, Oct. 21, 1997.

[239] USTR, "U.S. Announces Request for WTO consultations on Mexico's High Fructose Corn Syrup Dumping Order," press release, 97-78, Sept. 5, 1997. HFCS 55 is used in soft drinks. HFCS 42 is used in other beverages.

[240] Letter of USTR Michael A. Kantor on November 3, 1993, to Jaime Serra Puche, Mexico's Secretary of Commerce and Industrial Development, reprinted in 103d Congress, 1st Session, House Document 103-160, p. 98.

provisions make Mexico's duty-free access in sugar and syrup goods dependent on whether Mexico is a net "surplus producer." Production has to exceed consumption of sugar in Mexico, including HFCS, for two years before Mexico is eligible for certain TRQs as a surplus producer.[241] This determination is made annually.

Pursuant to applicable NAFTA provisions, the two countries determined that Mexico was a "surplus producer" for the purposes of U.S.TRQ allocations in FY 1997-98. The United States allocated a share of its TRQ for raw and refined sugar from Mexico in amounts up to 25,000 metric tons.[242] If Mexico had not been found to be a net surplus producer, its TRQ share would have been only 7,258 metric tons. The quota will be raised to 250,000 metric tons for each of the years 2000 through 2007. The United States will cease to restrict sugar imports from Mexico altogether by 2008.[243]

Mexico's National Manufacturing Industry Chamber (CANACINTRA) considers even this "surplus producer" TRQ too restrictive as compared with U.S. sugar quotas allocated to certain non-NAFTA countries, such as Brazil (162,201 metric tons) and the Dominican Republic (196,878 metric tons), which are based on historical trade.[244] Sugar producers worldwide have great interest in obtaining a share of the U.S. sugar TRQ, because agricultural programs designed to protect U.S. farmers have raised US. sugar prices above world market levels.

Sugar producers are concerned with the rapid increase of Mexico's sugar production following NAFTA's inception. Production in Mexico accelerated at a much faster rate than had been expected, because Mexican sugar mills underwent technological modernization, and productivity increased following their being privatized in the early 1990s.[245]

Apples

A conflict over U.S. apple exports to Mexico, which had been building for years, came to a head in 1997.[246] SECOFI announced in the March 6 edition of the *Diario Oficial* the initiation of an antidumping investigation into imports of U.S. "red delicious" and "golden delicious" apples.[247] The request for SECOFI to investigate originated with the Regional Agricultural Union of Fruit Producers of the Mexican state of Chihuahua.[248] This union claimed that the Mexican apple industry suffered injury as a result of U.S. apple sales at less than fair value, and that such injury was evidenced by a 30-percent decline since 1992 of land area allocated to apple production in Mexico.[249]

In 1997, Mexican duties on apples were 12 percent ad valorem within applicable TRQ limits. In accordance with NAFTA, Mexico imposed a 55,000 ton TRQ for apples in 1994. This TRQ was scheduled to increase by 3 percent annually. Mexico was allowed to apply 20 percent ad valorem duties on imports in excess of the prevailing quota. NAFTA provides that by the year 2003 apples would have duty-free access in both partners' markets.[250]

In the September 1 issue of the *Diario Oficial*, SECOFI published its preliminary finding that imports of U.S.-grown apples to Mexico increased substantially, and that they were sold at below-market prices.[251] Based on this preliminary finding, SECOFI imposed a 101.1-percent ad valorem compensatory duty on the imports in question. The imported apples are produced principally in the States of Washington, Oregon, and Idaho.

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[241] Ibid.

[242] USTR, "USTR Announces Allocation of Raw Cane Sugar, Refined Sugar and Sugar Containing Products Tariff-Rate Quotas For 1997-98," 97-85, press release, Sept. 17, 1997.

[243] Letter of USTR Michael A. Kantor on November 3, 1993, to Jaime Serra Puche.

[244] On March 12, 1998, Mexico sought Chapter 20 consultations under NAFTA following the decision of the U.S. Trade Representative not to grant Mexico any additional access to the U.S. sugar market in FY 1997-98 (USTR, "USTR Announces Allocation of the 200,000 Metric Ton Increase in the Amount Available Under the Raw Cane Sugar Tariff-Rate-Quota," press release, 98-25, March 12, 1998).

[245] U.S. Department of State telegram, "1997 Trade Act Report: Mexico," message reference No. 10605, prepared by U.S. Embassy, Mexico City, Oct. 31, 1997.

[246] See USITC, *The Year in Trade: OTAP, 1993*, USITC publication 2769, p. 97.

[247] U.S. Department of State telegram, "Mexico Initiates Dumping Investigation of U.S. Red and Golden Delicious apple imports," message reference No. 02361, prepared by U.S. Embassy, Mexico City, Mar. 6, 1997.

[248] According to the union, they represent 63 percent of Mexico's apple production of the variety in question.

[249] U.S. Department of State telegram, "Mexico Finds Hefty Dumping Duties on U.S.-produced Red Delicious and Golden Delicious Apples," message reference No. 08582, prepared by U.S. Embassy, Mexico City, Sept. 5, 1997.

[250] USDA Attache Query, *Mexico's Apple Antidumping Document,* Sept. 12, 1997, (translation of the *Diario Oficial* notice of Sept. 1, 1997), found at Internet address http://www.fas.usda.gov/scriptsw/AttacheRep/attache_dout.idc?Rep_ID=25080085.0, retrieved Dec. 9, 1997.

[251] Ibid.

In an exchange prior to the preliminary finding, U.S. apple growers pointed out to SECOFI that the invoices submitted to SECOFI by petitioners show lower prices than the actual prices U.S. shippers charged. The U.S. industry contended that it was this difference that may have given the appearance of unfair pricing by U.S. exporters.[252] U.S. growers also argued that the decline of Mexican production was not due primarily to imports, but to a persistent drought in the northern part of Mexico.[253]

Following the imposition of preliminary antidumping duties, Mexico bought no more U.S. apples in the fall of 1997, causing a depression of prices in the United States.[254] On December 18, the U.S. Secretary of State sent a notice to the American Embassy in Mexico, requesting an urgent meeting of U.S. officials with the appropriate senior SECOFI officials. The notice emphasizes Washington's support of the U.S. apple industry's request for a speedy conclusion of the pending antidumping investigation, and includes talking points from which a citation is given below:

> From November 10 through 19, SECOFI conducted verification audits in Washington State. The U.S. Government appreciates the speed with which SECOFI scheduled and carried out these audits. The U.S. industry has reported to us that the auditors themselves operated in a very courteous, efficient and professional manner. Our industry also reports that with respect to both audits, SECOFI's own verification report confirms that it did not find any significant discrepancies between the information provided to SECOFI earlier in the review and that maintained in the firms' accounting records. We also understand that there are no information requests to the U.S. industry outstanding.
>
> Thus, the facts of this case—as now verified by SECOFI—support a determination that no dumping of U.S. apples has taken place. On this basis, the United States Government requests that SECOFI expedite its final determination in this case and issue it at the earliest possible opportunity. We understand a public hearing is scheduled for January 14. We would hope a final determination can be announced very shortly after the hearing is held.[255]

China

Economic and trade relations between China and the United States in 1997 centered on China's efforts to accede to the World Trade Organization (WTO).[256] China continued to hold negotiations with the United States and other WTO members through WTO Working Party meetings and through bilateral negotiations. Throughout the year, China introduced a number of market-opening measures, including tariff reductions and the elimination of and reduction in phase-out periods of selected nontariff measures. China also pledged not to reintroduce export subsidies on agricultural products. These unilateral liberalization steps were expected to strengthen the country's bid to join the WTO, even though the steps were often not part of formal WTO accession negotiations. Progress was also made in addressing bilateral issues, such as IPR protection and China's agricultural restrictions.

WTO Accession Negotiations

Despite some progress in several important areas, China's hopes of obtaining U.S. support for admission to the WTO were unrealized in 1997.[257] China agreed to grant trading rights to foreign and domestic firms during WTO Working Party meetings in March 1997. China's leading trading partners expressed disappointment in its failure to offer major concessions in several key areas such as agriculture and services.[258] The

[252] "Shippers are Ready if Mexico Tariff Lifted," *Good Fruit Grower,* Nov. 1997.

[253] Kevin Hall, "Apple Dumping Dispute Bobs On," *The Journal of Commerce,* Jan. 15, 1998.

[254] Kevin Hall, "U.S. Apple Growers Sense Victory in Mexican dispute," *The Journal of Commerce,* Nov. 26, 1997.

[255] U.S. Department of State telegram, "Mexico Apple Dumping Investigation," message reference No. 236767, prepared by the U.S. Department of State, Washington DC, Dec. 18, 1997. On Jan. 14, 1998, SECOFI held a public hearing in the case. The hearing immediately followed private meetings between U.S. exporters and Chihuahua producers, which have narrowed, but not resolved the differences between the parties. However, subsequent negotiations led to a suspension agreement on Mar. 20, 1998, which "[s]hould provide a predictable setting for U.S. apples to once again enter the Mexican market"; USTR, "Agreement between the U.S. Apple Industry and the Government of Mexico," press release, 98-33, Mar. 20, 1998. Under the terms of his agreement, among other provisions, a specified reference price will replace the antidumping duties.

[256] For more information on China's accession to the WTO, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, p. 109.

[257] USITC, "China's WTO Application Progresses Slowly," *International Economic Review*, July 1997, p. 6.

[258] U.S. Department of State telegram, "China WTO Accession," message reference No. 159937, prepared by U.S. Department of State, Washington, DC, Aug. 26, 1997.

United States, in particular, continued to press for more substantive concessions. China and the United States remained at odds over tariff treatment and nontariff barriers, market access, intellectual property rights, guarantees of national treatment for foreign investors, statutory inspection and a restrictive sanitary regime, transparency and judicial review, customs valuation, subsidies, agricultural trade practices, and trade in services. The United States also pressed China to sign the Agreement on Government Procurement (AGP) as part of its WTO accession commitments.[259] USTR indicated that, "China's accession to the WTO will be determined by the specified commitments the Chinese government is willing to undertake with regard to such issues."[260] China's accession bid is also hindered by its insistence on being admitted to the WTO as a developing country. However, the differences between the United States and China over its accession to the WTO narrowed substantially during 1997.

During 1997, China's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) reported that China concluded bilateral tariff negotiations with 9 WTO members and claimed that an additional 20 were prepared to sign agreements.[261] During 1997, China agreed to participate in the WTO Information Technology Agreement,[262] to eliminate quotas and licenses on products subject to the Civil Aircraft Agreement,[263] and to allow foreign investors greater stakes in power projects and easier access to China's sea and land transportation markets.[264] China also undertook a series of unilateral steps to reduce its tariffs and nontariff barriers in accordance with its bilateral commitments and to strengthen its bid for WTO entry. To hasten its admission into the WTO, China also promised to abolish tariffs on sugar, some cotton and wool goods, furniture, and toys, and to reduce tariffs on certain chemical products upon accession. China also signaled a willingness to cut its highest tariffs, which range upwards of 120 percent ad valorem on goods such as automobiles and alcoholic beverages.

Nontariff Barriers

China offered to reduce the maximum time frame for phasing out nontariff barriers on a number of products from 12 to 8 years. China's chief WTO negotiator, Vice Minister Long Yongtu, stated that China's latest modifications would substantially reduce, and in some cases eliminate, the phase-out period of nontariff measures (NTMs), barriers such as licenses, quotas, and tendering.[265] At the end of 1997, China still maintained nontariff barriers, primarily import quotas, on goods falling in 385 tariff lines. Vice Minister Long asserted that China would eliminate all WTO-illegal nontariff barriers by 2020. In July, China offered to phase out nontariff measures on 385 products within an 8 year period of joining the WTO.[266] The program included the following arrangements:[267]

- NTMs on 13 products, including diesel engines for shipbuilding, will be terminated before the end of 1997;

- NTMs on 66 products, including sugar, cigars, cotton, tobacco, and film, will be abolished upon China's accession to the WTO;

- NTMs on 69 items, such as chemical fiber products, cassettes, records, and medical machines, will be eliminated within 1 to 3 years after accession;

[259] The AGP partially closes a provision in WTO rules that permits governments to procure solely domestically manufactured goods. The AGP requires signatory governments to eliminate offsets and to open more contracts to foreign bidders.

[260] USTR, "Ambassador Barshefsky Comments on China WTO Talks," press release 97-17, Mar. 6, 1997.

[261] Among those signing bilateral agreements with China during 1997 were Turkey and Singapore. U.S. Department of State telegram, "China/WTO: Turkey, Singapore Reach Bilateral Agreements," message reference No. 043286, prepared by U.S. Embassy, Beijing, Dec. 11, 1997.

[262] U.S. Department of State telegram, "China/WTO/ITA: Reported Comments of China Customs Tariff Negotiator on China's ITA Participation," message reference No. 039805, prepared by U.S. Embassy, Beijing, Nov. 12, 1997.

[263] U.S. Department of State telegram, "China WTO Accession - Bilateral Meetings in China," message reference No. 164671, prepared by U.S. Embassy, Beijing, Sept. 8, 1997.

[264] "Reform of Power Plants Will Open Door to Foreigners," *China Daily Business Weekly* (PRC), Apr. 7, 1997, from China Commercial Daily Brief, Apr. 8, 1997, U.S. Embassy, Beijing, found at Internet address http://www.redfish.com/USEmbassy-China, retrieved Jan. 16, 1998.

[265] U.S. Department of State telegram, "China WTO Accession - July Working Party Meetings," message reference No. 151620, prepared by U.S. Department of State, Washington, DC, Aug. 13, 1997.

[266] U.S. Department of State telegrams, "China WTO Accession," message reference No. 159937, prepared by U.S. Department of State, Washington, DC, Aug. 31, 1997 and "China WTO Accession - Bilateral Meetings in China," message reference No. 164671, prepared by U.S. Embassy, Beijing, Sept. 8, 1997.

[267] "Foreign trade & payments: More offers to the WTO," China: Country Report, Aug. 21, 1997, The Economist Intelligence Unit.

- NTMs on 38 commodities, such as televisions, refrigerators, and printing machines, will be eliminated within 4 to 5 years after accession;

- NTMs on 113 commodities, such as air conditioners, motorcycles, and wrist watches, will be eliminated within 6 to 8 years after accession;

- NTMs on 36 products, including machine tools and construction machinery, will be eliminated within 8 years after accession;

- NTMs on 50 products, such as autos, auto parts, and fertilizers, will be eliminated within 8 years after accession.

China's restrictive state trading regime for agricultural products has evolved into one of the most hotly contested issues preventing U.S. support of China's accession to the WTO. The present system requires firms to acquire official permission for each import and export shipment; it limits imports by funneling them through Chinese State Trading Companies. The United States has asked China to develop a system whereby market demand for imported bulk agricultural commodities is controlled by market forces rather than by government decisions and also requested that China institute a tariff-rate quota (TRQ) regime for all products that are state traded.[268] While China is considering the U.S. request, it signaled its intentions to continue using state trading companies to regulate trade, principally through TRQs, for imports of a variety of agricultural products, such as wheat, corn, rice, oilseeds and oilseed products, sugar, cotton, and tobacco.[269]

Services

Throughout 1997, the United States continued to encourage China to open its services market further to foreign investors. The United States focused its efforts on liberalization of banking, securities, insurance, telecommunications, retailing, wholesaling, legal, and accounting services sectors. In bilateral meetings between the two nations during July in Geneva, China failed to make an offer to open its market for services.[270] By the end of September, however, a proposal for limited changes in China's services sector was orally conveyed to USTR. These and other changes subsequently proposed by China include:

- *Banking*—China proposed a number of changes in its banking sector, including: the extension of national treatment to foreign banks in the areas of registered capital and guarantee funds, the approval of nine foreign banks located in Shanghai's Pudong district for local currency operations, and the introduction of a 33 percent income tax rate on both foreign and domestic banks. Foreign banking experts, for the most part, lauded these proposals as a progressive move in equalizing the playing field for foreign-based banks.[271] Nevertheless, China announced an 8 percent business tax on all revenue produced from interest income on foreign banks' yuan-based loans.[272]

- *Retailing*—On November 13, 1997, MOFTEC provided U.S. negotiators with China's revised services schedule. Revisions included: a promise to gradually phase out geographic limits on the number of cities open to foreign retailers and increase the numerical limits on the number of foreign joint venture retailing companies permitted to operate in China. China indicated that it would open up two or three additional cities to foreign retailers upon China's accession to the WTO, open all provincial capitals and major cities within two years after accession, and drop all numerical limits five years after accession.[273] With respect to both retailing and wholesaling, the United States applauded China's proposal to phase out geographic limitations, but reminded

[268] U.S. Department of State telegram, "USTR Scher Meeting With MIT Vice Minister Luo," message reference No. 017273, prepared by U.S. Embassy, Beijing, May 20, 1997.

[269] U.S. Department of State telegram, "Demarche Request-China WTO Accession (Agricultural Issues)," message reference No. 007703, prepared by U.S. Department of State, Washington, DC, Jan. 14, 1997.

[270] U.S. Department of State telegram, "China WTO Accession-Bilateral Meeting with China," message reference No. 164671, prepared by U.S. Department of State, Washington, DC, Sept. 30, 1997.

[271] U.S. Department of State telegram, "China/WTO: China Discusses Possible Changes to Services Offer to U.S.," message reference No. 035062, prepared by U.S. Embassy, Beijing, Sept. 23, 1997.

[272] Ibid.

[273] U.S. Department of State telegram, "China/WTO: China Discusses Possible Changes to Services Offer to U.S.," message reference No. 035062, prepared by U.S. Embassy, Beijing, Sept. 23, 1997; and U.S. Department of State telegram, "Market Access for Foreign Retailers in China," message reference No. 029833, prepared by U.S. Embassy, Beijing, Aug. 14, 1997.

Chinese officials that because U.S. companies are limited to minority–share joint ventures they would effectively continue to lack control over distribution decisions within China under these proposals.[274] Further, China's offer did not address franchising or aftersales services.

- W*holesaling*—China offered a three-step liberalization process for its wholesaling services sector: (1) upon accession, it would allow minority-share foreign joint ventures licensed in the Pudong area of Shanghai to provide wholesaling and commission-agent services for companies' imported products; (2) China would open at least 10 additional cities to minority-share foreign joint-venture wholesalers within two years of joining the WTO; and (3) foreign wholesalers would be allowed to do business in all provincial capitals and major cities within five years after accession.

- *Telecommunications*—China's current regulations continue to prohibit foreign companies from investing in, operating, or managing a telecommunications network. This prohibition covers services ranging from basic telecom (local and mobile phone service) to value-added services (such as video conferencing and e-mail). Recently the Chinese government announced that it will permit foreign companies to engage in joint ventures in both basic and value-added telecommunication services in the near future. However, this investment will continue to be passive in nature since foreign firms continue to be prohibited from participating in day-to-day operations.[275] China's new proposals will allow for a value-added telecommunications joint venture in both Shanghai and Guangzhou within two years of accession and will expand the total number of joint ventures within five years of accession.[276]

- *Insurance*—In December 1997, China announced that wholly owned foreign insurance subsidiaries will be permitted within three years of China's accession to the WTO.[277] Wholly owned foreign insurance companies are currently not allowed, and foreign insurers continued to be limited to a minority share of a joint venture with a local Chinese firm. Only one U.S. insurance firm, the American International Group, can underwrite insurance in China. Only recently has it been allowed to expand beyond Shanghai to Guangzhou.

- Legal services—Vice Minister Long conceded that China presently limits foreign law firms to 15 approved cities and restricts the total number of foreign law firms operating in China to 80. In September, China proposed to eliminate both restrictions within one year after its accession to the WTO.[278] U.S. negotiators said that China's offer was encouraging, but that it failed to tackle concerns such as whether restrictions would be eased to allow foreign law firms to set up multiple offices, or employ Chinese lawyers, or establish joint ventures with Chinese law firms.

- *Accounting services*—In September, China introduced a proposal to offer foreign accounting firms the right to develop local partners. Also, foreigners would be allowed to qualify for a Chinese CPA license on the condition that they pass China's CPA exam. Foreigners could then practice in China and be partners of Chinese firms that are associates of international accounting firms.[279] As with legal services, foreign firms are unsure whether the proposal would permit them to employ qualified Chinese accountants.

Accession Terms

China's WTO accession bid was hampered by its insistence on being admitted as a developing country. The United States, the EU, Japan, and other WTO members were hesitant to grant China developing nation status because of the size and trading strength of its economy. If admitted as a developing country, China would qualify for a variety of concessions such

[274] Ibid.
[275] Ibid.
[276] U.S. Department of State telegrams, "USTR Urges PRC Ministry of Posts and Telecommunications Towards Foreign Participation in Services Market," message reference No. 035346, prepared by U.S. Embassy, Beijing, Sept. 27, 1997; and "China/WTO: China Provides Revised Services Offer to U.S.," message reference No. 037988, prepared by U.S. Embassy, Beijing, Oct. 23, 1997.

[277] U.S. Department of State telegram, "China/WTO: China Discusses Possible Changes to Services Offer to U.S.," message reference No. 035062, prepared by U.S. Embassy, Beijing, Sept. 23, 1997.
[278] Ibid.
[279] Ibid.

as the preservation of its high tariffs, freedom from provisions directed towards opening its agricultural sectors, and lengthy phase-in periods for strengthened IPR protection, and phase-outs of discriminatory trade-related investment measures.[280] Instead, WTO members are calling on China to make its trade regime more transparent, allow import of goods free of major restrictions, provide adequate IPR protection, lift agricultural trade barriers, end internal price controls, and limit protection of infant industries.[281] WTO members are reluctant to grant China too many concessions fearing that it would set a bad precedent for others seeking membership, especially other formerly centrally planned economies. By years end, China reportedly signaled a willingness to moderate its demand for full developing-country status to one seeking only protection of domestic industries that could be adversely affected by increased international competition.[282]

Unilateral Liberalization Measures

China lowered its import duties under 1,000 tariff rate lines on April 1 and reduced duties on goods in an additional 4,800 tariff lines on October 1, thereby lowering the average level of its nominal MFN tariff from 23 percent ad valorem to 17 percent. The October tariff adjustment affected about three quarters of China's tariff schedule of approximately 6,600 rate lines.[283] Officials of China's Customs Department noted that the categories covered by these tariff adjustments include minerals, chemicals, machinery, textiles, and agricultural products. U.S. negotiators acknowledged that China's tariff cuts during 1997 were substantial; however, they argued that China's tariffs are still prohibitively high for many goods, that cuts were neither comprehensive nor wide enough, and that the transition period for phase-outs of nontariff barriers remained much too long.[284] Other observers noted that China's October round of tariff cuts targeted primarily goods with minimal imports and consequently would be of no material importance to foreign exporters.[285] It was also pointed out that many of the tariff lines important to U.S. exporters were either unaffected or were cut only a few percentage points, especially for luxury goods and goods produced by industries targeted by the Chinese government for development. China's leading trading partners pointed out that China's new average tariff rate of 17 percent ad valorem is still well above that of developed countries and duty rates for goods such as sedan automobiles, which can run as high as 120 percent, were obscured by the sheer volume of cuts. Also, U.S. officials reported that tariffs on imports of soybean oil, beer, video cameras, film, crude oil, and iron ore would actually increase under the October proposal.[286]

Hong Kong Reversion to Chinese Sovereignty

On July 1, 1997, Hong Kong reverted to Chinese sovereignty after 150 years of British rule. On that date, the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) was created. A 1984 Sino-British Joint Declaration and the 1990 Basic Law established the "one country, two systems" principal underlying Hong Kong's new relationship with China.[287] The arrangement will enable the HKSAR to maintain its economic relations as a separate customs territory and its ability to participate independently in international economic organizations and agreements such as the WTO, APEC, the WTO Agreement on Textiles and Clothing, and the World Customs Organization. The agreement accords the HKSAR a high degree of autonomy from China in managing its trade, financial, social, legal, and other internal matters for 50 years.[288] The resumption of Chinese jurisdiction over Hong Kong is

[280] U.S. Department of State telegram, "Dep U/S Meetings with MFA, MOA, MOFTEC," message reference No. 010155, prepared by U.S. Embassy, Beijing, Mar. 27, 1997.

[281] U.S. Department of State telegram, "OP-ED Article on China's WTO Accession," message reference No. 102440, prepared by Secretary of State, Washington, DC, May 31, 1997.

[282] "China Changes Stance on WTO Access," *South China Morning Post* (Hong Kong), Feb. 23, 1997, from China Commercial Daily Brief, Feb. 24, 1997, U.S. Embassy, Beijing, found at Internet address http://www.redfish.com/USEmbassy-China, retrieved Jan. 16, 1998.

[283] U.S. Department of State telegram, "China/Tariffs: Another Round of Tariff Cuts (and Possible increases) to be Implemented on October 1, 1997," message reference No. 034878, prepared by U.S. Embassy, Beijing, Sept. 22, 1997.

[284] U.S. Department of State telegram, "Draft 1998 Trade Act Report: People's Republic of China," message reference No. 041359, prepared by U.S. Department of State, Washington, DC, Nov. 25, 1997.

[285] U.S. Department of State telegram, "China/WTO: Austrian Embassy's Unenthusiastic Analysis of China's Much Heralded Tariff Reductions," message reference No. 041827, prepared by U.S. Embassy, Beijing, Dec. 7, 1997.

[286] Ibid.

[287] "Chinese Economic Policies Not to be Applied in Hong Kong," BBC Summary of World Broadcasts, Oct. 13, 1997, from China Commercial Daily Brief, Oct. 15, 1997, U.S. Embassy, Beijing, found at Internet address http://www.redfish.com/USEmbassy, retrieved Jan. 16, 1998.

[288] USTR, *1997 National Trade Estimate Report on Foreign Trade Barriers*, pp. 149-150.

not expected to alter the flow of U.S. -Hong Kong trade.

Bilateral Issues

Intellectual Property Protection

China has made significant progress in its intellectual property rights (IPR) protection since the signing of a bilateral agreement with the United States in 1995.[289] During 1997, U.S. recording industry officials applauded China's decisive actions against compact disc (CD) pirates that led to the closing of 58 unauthorized CD factories and 42 illegal videodisc production lines located in the southern provinces of Guangdong and Fujian.[290] USTR acknowledged that "significant progress has occurred in China" in terms of IPR protection and enforcement. Consequently, USTR removed China from its "priority watch list" under the "Special 301" trade law in 1996 and in April 1997 placed it on its section 306 monitoring list.[291] In 1997, China agreed to implement the Trade-Related Intellectual Property Rights (TRIPS) Agreement upon its accession to the WTO.[292]

Agriculture

The United States and China held talks throughout the year to resolve outstanding sanitary and phytosanitary (SPS) issues that have been in dispute since 1992. U.S. negotiators maintained that China continues to protect its agricultural sector with "unscientific" SPS measures, high tariffs, and the ability of state trading companies to control market access for imports.[293] The United States noted that China still uses restrictive phytosanitary measures to bar imports of U.S. oranges, apples, lemons, grapefruit, plums, grapes, tobacco, and Pacific Northwest wheat.[294] Such measures have banned imports of wheat from the northwestern United States for over 25 years. In 1996, China canceled the purchase of 1.4 million tons of wheat valued at $250 million due to the presence of TCK smut/bunt disease. China's State Planning Commission Vice Minister Chen Yaobang insisted that China's SPS measures were solely a quarantine issue and were not nontariff barriers,[295] noting that the ban was confined to a certain area of the United States and that two states have been removed from China's TCK wheat infected list.[296] The dispute intensified when China rejected several shipments during 1996 from states not included on the infection list and insisted that the U.S. Department of Agriculture (USDA) certify that each of the shipments was free of TCK.[297] USDA and grain industry officials insist China's wheat policy was inconsistent with international standards and that it is "technically impossible to guarantee wheat from any part of the United States to be completely free of TCK." USDA officials also noted that virtually every other country, with the exception of Brazil, allows the importation of U.S. wheat. China's Administration of Animal and Plant Quarantine removed a ban on poultry and poultry products from Missouri and Oklahoma in April after the eradication of Newcastle disease in those two states.

China and the United States successfully concluded market access agreements for grapes from four California counties and sweet cherries in 1997.[298] On May 13, USTR Barshefsky lauded the agreement as another positive "step in our on-going efforts to increase market access for U.S. agricultural exports."[299]

Nonetheless, the United States and China were unsuccessful in their efforts to settle a number of key agricultural issues such as the use of "unscientific" SPS measures, high tariffs, and import restrictions on certain agricultural commodities. USTR Special Trade

[289] For more information on the 1995 U.S.-China IPR agreement, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, p. 107.

[290] U.S. Department of State telegram, "Draft 1998 Trade Act Report: People's Republic of China," message reference No. 041359, prepared by U.S. Embassy, Beijing, Nov. 25, 1997.

[291] USTR, "USTR Announces Results of Special Annual Review," press release 97-37, Apr. 1997.

[292] USTR, *1998 Trade Policy Agenda and 1997 Annual Report of the President of the United States on Trade Agreements Program*, March 1998, p. 189.

[293] U.S. Department of State telegram, "China/WTO: USG/Agribusiness Delegation Discuss Agricultural Trade with MOFTEC Vice Minister Shi," message reference No. 018692, prepared by U.S. Embassy, Beijing, Jun. 2, 1997.

[294] U.S. Department of State telegram, "USTR Trade Negotiator Scher Visit to China," May 12-16, 1997, message reference No. 015335, prepared by U.S. Embassy, Beijing, May 6, 1997.

[295] U.S. Department of State telegram, "USTR Scher May 14, 1997 Meeting with State Planning Commission Vice Minister Chen Yaobang," message reference No. 017703, prepared by U.S. Embassy, Beijing, May 21, 1997.

[296] Ibid.

[297] U.S. Department of State telegram, "USTR Trade Negotiator Scher Visit to China," May 12-16, 1997, message reference No. 015335, prepared by U.S. Embassy, Beijing, May 6, 1997.

[298] USTR, "U.S. Grape Producers Gain Market Access in China," press release 97-44, May 13, 1997. USTR, "USTR Welcomes First Shipment of Sweet Cherries to China," press release 97-59, Jun. 23, 1997.

[299] Ibid.

Ambassador for agriculture, Peter Scher, reminded Chinese authorities that the resolution of these issues was central to China's MFN renewal and its WTO accession.[300]

Other Issues

The United States and China concluded several bilateral agreements during 1997 that ranged from the extension of the U.S.-China maritime agreement to June 1998 to market access agreements for textiles.[301] On October 24, 1997, the USTR announced that China and the United States had successfully concluded an interim agreement that secured market access for foreign financial information companies such as Dow Jones and Reuters.[302] In October of 1997, the United States and China's National Space Agency agreed to add language to the U.S.-China Bilateral Agreement on Space Launch Services accord that established clear guidelines on pricing of China's commercial space launch services for low earth orbiting satellites.[303]

Taiwan

Taiwan redoubled its efforts to join the WTO during 1997 by further opening its markets to imported goods and services and by intensifying its bilateral negotiations with WTO members. In 1997, Taiwan reduced tariffs on a variety of industrial products in response to pressure from the United States and made substantial improvements in its legal framework such as extending national treatment to foreign firms and strengthening intellectual property rights. On April 16, 1997, Taiwan's Legislative Yuan enacted 18 pieces of legislation designed to translate its WTO commitments into law.[304] Throughout 1997, the United States and Taiwan continued their discussions on a number of important issues such as access to Taiwan's agricultural and insurance markets, the protection of intellectual property rights, tariff reductions, an "open-skies" agreement, and the relaxation of Taiwan's restrictions on imported automobiles.[305]

Insurance

In 1996, Taiwan amended its Insurance Law by introducing a new provision (Article 143) designed to increase the reserve requirements mandated for insurance companies to cover future claims. The amendment established a single solvency standard for all insurers active in Taiwan, both foreign branches and domestic companies. When Taiwan initially allowed foreign insurers to enter its insurance market in 1990, it permitted branches to draw upon their parent company's financial resources to meet reserve requirements. It also established a notably lower minimum capital requirement for branches as opposed to subsidiaries.[306]

In May 1997, when Taiwan ruled that branches of foreign insurance companies could no longer count the assets of their parent company to cover reserve requirements, it triggered a dispute with the United States. U.S. negotiators claimed that this action would have a disproportionate effect on the branch offices of foreign-owned insurance companies because foreign-owned insurance companies have only recently been allowed to participate in Taiwan's insurance market. Also, foreign insurers have not had the time or opportunity to acquire real estate for investment purposes or gain sufficient local earnings. In order to meet the new requirements, foreign-owned branches would have to boost their paid-in capital substantially and would need substantial financial support from their

[300] U.S. Department of State telegram, "USTR Trade Negotiator Scher Visit to China, May 12-16, 1997," message reference No. 015335, prepared by U.S. Embassy, Beijing, May 6, 1997.

[301] The United States and China renewed their bilateral textile agreement in February 1997. For more information on the agreement, see the section on the U.S. Textile and Trade Program in ch. 5 of this report.

[302] USTR, "U.S. Trade Representative Charlene Barshefsky Announces Financial News Agreement With China," press release 97-90, Oct. 24, 1997.

[303] USTR, "U.S. and China Reach Agreement to Strengthen Space Launch Trade Terms," press release 97-92, Oct. 27, 1997. For more information on the agreement, see USITC, *The Year in Trade, OTAP, 1995*, USITC publication 2971, p. 59.

[304] The 18 laws will likely not become effective in practical terms until Taiwan has acceded to the WTO. Laws amended by the Legislative Yuan during 1997 include: Foreign Trade Act, Commodity Inspection Act, Trademark

[304]—*Continued*
Law, Patent Law, Publication Law, Customs Law, Commodity Tax Statute, Securities and Exchange Law ,Certified Public Accountant Law, Law of Commercial Ports, Highway Law, Architect Law, Statute Governing Privileges and Immunities Granted to Foreign Missions, Law of Pharmaceutical Affairs, Law Governing Food Sanitation, and the Banking Law. U.S. Department of State telegram, "Taiwan's Legislative Yuan Passes 18 WTO-Related Bills," message reference No. 001749, prepared by the American Institute in Taiwan, Taipei, Apr. 18, 1997.

[305] On Feb. 20, 1998, USTR announced the conclusion of comprehensive market opening agreement with Taiwan covering U.S. agricultural products, services, and industrial goods. USTR, "The United States and Taiwan Conclude Comprehensive Market Access Agreement," press release, Feb. 20, 1998.

[306] "Insurance Companies," Financing Foreign Operations, Nov. 1, 1996, The Economist Intelligence Unit.

parent companies.[307] The American Council of Life Insurance estimated that the amended law would cost existing U.S. insurance companies an average of $25 million per branch office.[308]

Taiwan's Ministry of Finance announced on November 5, 1997, that branches of foreign insurance companies would no longer be required to comply with the amended solvency margin requirements. The Ministry exempted foreign-owned branches from the higher solvency margin requirements so long as the parent company maintained reserves sufficient to meet its obligations.[309] The Ministry indicated that U.S. and other foreign insurance companies would be covered, in terms of solvency margins, by prior regulations (Article 26) that allowed foreign insurers to include the assets of the parent company in the United States or other home countries in meeting the new capital requirement.[310]

Protection of Intellectual Property Rights

Taiwan's protection of intellectual property rights (IPR) was a significant issue in 1997. Taiwan continued to initiate steps to meet international standards by amending its laws and regulations to remedy deficiencies in protection and to improve enforcement capabilities of local authorities. For example, Taiwan's Ministry of Economic Affairs mandated that domestic CD-ROM manufacturers, in accordance with its Commodity Labeling Law, affix a unique identification number to their CDs during production. These numbers will help authorities track and enforce Taiwan's IPR regulations. Taiwan's CD manufacturers also signed a voluntary restraint agreement with the government pledging that they would not sell, invest, or provide aftersales service or maintenance to suspected mainland Chinese pirates.[311]

On April 15, the Legislative Yuan amended Taiwan's patent, trademark, and copyright law to include important provisions such as 50 years of retroactive protection from the date of Taiwan's WTO accession, explicit protection for famous trademarks, a broader scope of registrable trademarks, a grace period for renewal after expiration of registration, clarification on the exclusion of trademark rights in so-called ordinary use, a ban on registration of a trademark by a related party without the consent of the trademark owner, and destruction of counterfeit products and equipment used to produce them.[312] These amendments are expected to become effective on the date of Taiwan's accession to the WTO. By the end of 1997, U.S. negotiators noted that Taiwan had successfully enacted an intellectual property rights regime that had nearly fulfilled its requirements under the Agreement on Trade-Related Aspects of Intellectual Property Rights.[313]

USTR announced its annual "Special 301" list for countries violating U.S. copyrights on April 30, 1997, and, for the first time since 1988, Taiwan was absent from the list. Taiwan was lauded for its campaign to strengthen and improve IPR protection, its progress in combating copyright infringement, and noted its progress in meeting its TRIPs requirements.[314] Ambassador Barshefsky noted that it was important for Taiwan to continue its strong enforcement efforts, especially in its export monitoring system and its adherence to the bilateral U.S.-Taiwan copyright agreement.[315] U.S. negotiators also encouraged Taiwan to continue to interdict the flow of monies and equipment into the PRC in support of CD piracy.

Government officials pointed to Taiwan's removal from the Special 301 list as proof of the effectiveness of its campaign to eradicate IPR offences, even though U.S. and various other foreign parties had called for Taiwan's reinstatement to the Special 301 list. In February 1997, the International Intellectual Property Alliance had alleged that various elements within

[307] U.S. Department of State telegram, "Talking Points for Meeting on Insurance," message reference No. 150977, prepared by American Institute in Taiwan, Taipei, Aug. 12, 1997.

[308] USTR, "Statement by U.S. Trade Representative Charlene Barshefsky," press release 97-95, Nov. 6, 1997.

[309] U.S. Department of State telegram, "Taiwan Exempts Foreign Branch Insurers from New Solvency Margin Requirement," message reference No. 005239, prepared by American Institute in Taiwan, Taipei, Nov. 7, 1997.

[310] USTR, "Statement by U.S. Trade Representative Charlene Barshefsky," press release 97-95, Nov. 6, 1997; and U.S. Department of State telegram, "Taiwan Exempts Foreign Branch Insurers from New Solvency Margin Requirement," message reference No. 005239, prepared by American Institute in Taiwan, Taipei, Nov. 7, 1997.

[311] See USITC, *The Year in Trade, OTAP, 1996*, USITC publication 3024, pp. 110-111.

[312] Ibid.

[313] U.S. Department of State telegram, "Taiwan: IAP Implementation," message reference No. 005010, prepared by U.S. Embassy, Taipei, Oct. 27, 1997.

[314] U.S. Department of State telegram, "1997 National Trade Estimate Report," message reference No. 000398, prepared by the American Institute in Taiwan, Taipei, Jan. 27, 1997.

[315] U.S. Department of State telegram, "U.S.-Taiwan Trade and Investment Framework Agreement Talks," message reference No. 00705, prepared by the American Institute in Taiwan, Taipei, Feb. 20, 1997.

Taiwan's business community had established processing plants in Paraguay and Vietnam to manufacture pirated U.S. software, video-tapes, and other products for sale in those markets. Others charged that counterfeit CD-ROMs manufactured in China were still being transhipped through Taiwan. Also, the U.S. Patent and Trademark Office formally lodged a complaint with USTR alleging that Taiwan was in conflict with the bilateral copyright agreement "over scope of protection and rebuttable presumption."[316] According to the Patent and Trademark Office, resolution of the complaint would require either amending Taiwan's copyright law or changing the bilateral agreement between the United States and Taiwan.

WTO Accession

Taiwan made joining the WTO one of its preeminent national priorities in 1997. As of November 7, 1997, Taiwan had concluded WTO membership talks with 21 of its 26 principal trading partners and had successfully concluded formal agreements with 16 of them.[317] Bilateral negotiations have yet to be concluded with the United States, Switzerland, Singapore, and the EU. Throughout the year, trade officials circulated optimistic declarations on Taiwan's accession to the WTO and made passage of WTO-related legislation a leading priority. During October's bilateral talks negotiators were unable to reach a definitive agreement on Taiwan's accession to the WTO. Among the issues still to be resolved are: full access to Taiwan's agricultural market (especially pork, chicken, rice, and offal), privatization of the government's tobacco and wine monopoly, tariffs and quotas on automobiles, and Taiwan's government procurement practices. Although U.S.-Taiwan bilateral talks have entered their final stages, substantial issues are still to be negotiated. Talks continue on Taiwan's position on government procurement, high tariffs on agricultural commodities, intellectual property rights, tariffs and quotas on automobiles, the privatization of Taiwan's Tobacco and Wine Monopoly Bureau, and the liberalization of the tobacco and alcohol markets.

Taiwan took an important step toward WTO entry with the introduction of a draft government procurement law that meets WTO standards for transparency, predictability, and nondiscriminatory practices and that succinctly enumerates contract bidding procedures. The proposed law recommends that government contracts now be awarded to the "most advantageous" bid.[318] On April 18, the Statute for the Vocational Assistance Commission for Retired Servicemen (VACRS) was passed ending preferential procurement bidding rights for government entities such as the VACRS.[319] The legislation would require all businesses owned by the VACRS to participate in open bidding for government construction projects on the same terms as private firms.

Several pieces of legislation were introduced in late 1996 and in 1997 to cut Taiwan's tariffs on a wide variety of products. One bill cut tariffs on nearly 1,130 products as part of Taiwan's WTO concession commitments.[320] If enacted, the tariff cuts would become effective in 1998, but would have limited affect overall on U.S. exports because the cuts would only reduce Taiwan's average nominal tariff from 8.64 to 8.41 percent ad valorem.[321]

To fulfill its commitments under the WTO Information Technology Agreement, the Ministry of Finance introduced legislation before the Legislative Yuan to reduce tariffs on 368 information technology products on May 1, 1997.[322] Because the bill was tabled without action, the government temporarily reduced tariffs on 289 of the 368 products beginning

[316] Ibid.

[317] On Feb. 20, 1998, USTR announced the conclusion of a market-opening agreement with Taiwan. Among the concessions granted by Taiwan to the United States: immediate access to previously closed pork, beef, rice, and chicken markets; a pledge to join the WTO Agreement on Trade in Civil Aircraft, the WTO Agreement on Government Procurement, and the Uruguay Round Chemical Harmonization Tariff Agreement; a pledge to join all Uruguay Round zero-for-zero initiatives, by eliminating all tariffs on medical equipment, wood, pharmaceuticals, construction equipment, toys, furniture, steel, agricultural equipment, civil aircraft, and distilled spirits; and a promise to privatize its Alcohol and Tobacco Monopoly Board. USTR, "Fact Sheet U.S.-Taiwan Market Access Agreement," Feb. 20, 1998.

[318] U.S. Department of State telegram, "Taiwan's Public Construction Commission Holds Third Meeting with Foreign Contractors," message reference No. 003744, prepared by the American Institute in Taiwan, Taipei, Aug. 11, 1997.

[319] U.S. Department of State telegram, "Taiwan Lawmakers Pass Nineteen WTO-Related Bills," message reference No. 001878, prepared by the American Institute in Taiwan, Taipei, Apr. 25, 1997.

[320] U.S. Department of State telegram, "Taiwan: IAP Implementation," message reference No. 005010, prepared by the American Institute in Taiwan, Taipei, Nov. 14, 1997.

[321] Ibid.

[322] Products covered in the bill included data processing machines, keyboards, terminals, printers, semiconductor components (diodes and transistors), electric resistors, electronic switches, processing machinery, precision instruments used for producing semiconductors, and radio telecommunications products. U.S. Department of State telegram, "Taiwan to Revise High-Tech Tariffs," message reference No. 002496, prepared by the American Institute in Taiwan, Taipei, Jun. 2, 1997.

July 1 to satisfy the initial stages of its commitment. The bill will create 159 new tariff lines in Taiwan's tariff schedule and will phase out duty rates on 15 radio telecommunications and switchboard products by 2002. The remaining 144 will have their tariffs reduced to zero in four phases by January 1, 2000; each phase will reduce Taiwan's average nominal tariff by 25 percent for these products.[323]

After extensive negotiations, Taiwan consented to phase out unilaterally its tariffs on most general industrial products by 2002. However, Taiwan forwarded a list of 564 products, including alcohol products, construction materials, and medical items, whose tariffs would not be eliminated until 2005. Taiwan also communicated a desire to retain strong import control over 14 agricultural products, including meat, fresh fruit, and vegetables. Taiwan also indicated that tariffs will be maintained on an additional 139 "sensitive" items, including automobiles, plywood, and scrap paper, beyond the deadline. U.S. negotiators countered with a proposal that Taiwan cut back on its list of sensitive items and that tariff reductions be finalized by 2002. Taiwan has also committed itself to eliminating tariffs on mobile phones, telephones and telex switching machines and parts, fiber-optic cable, and digital videodiscs by 2002.[324]

Taiwan's Tobacco and Wine Monopoly Bureau (TWMB) has historically enjoyed a virtual monopoly over the production and distribution of cigarettes, beer, wine, and other liquor products in Taiwan. The United States is seeking to ensure transparency and equal treatment for domestic and foreign products and gain greater market access as part of Taiwan's WTO accession process. Negotiators from the United States and Taiwan were able to arrive at a preliminary agreement lifting the ban on alcohol advertisements in print and electronic media. A draft law was introduced by the Executive Yuan in December of 1996 to restructure and privatize the TWMB by 2000.[325] Under the draft law, the current monopoly tax will be replaced by three new taxes: a VAT, tobacco and wine tax (excise tax), and a tariff. The move to replace the current system with a system of new taxes will ease discriminatory treatment against imports. The proposed new MFN tariff rates on alcohol and tobacco, effective with the implementation of the proposed law, would be as follows:[326]

Product	**Tariff** *(percent ad valorem)*
Beer	5.0
Champagne and most wines	20.0
Vermouth and various fermented beverages	25.0
Grape brandies, whisky	12.5
Rum and gin	27.5
Cigarettes	32.5
Cigars	30.0
Smoking tobacco	20.0

This piece of legislation languished in the Legislative Yuan throughout 1997.

Other Trade Issues

Other important trade issues include the signing of a draft "open-skies" initiative and changes in Taiwan's quotas on auto imports. On February 28, 1997, Taiwan and the United States signed a draft agreement that abolished limitations on the number of airlines flying between the two nations and the frequency and number of destinations in each country, and also grants the right of unrestricted extension of flights to third countries. The draft agreement also permits passenger airlines and delivery companies from each country to establish intermodal cargo services in the other.[327]

Although Taiwan has permitted imports of luxury cars from Europe and the United States for some years, it retained bans on imports from other countries. In 1997, Taiwan ended its 20 year ban on the importation of Japanese automobiles. A draft agreement between the two nations permitted Japan to ship 7,500 compact cars to Taiwan during 1997. Japan will be permitted to increase the number of cars it ships to Taiwan by 10 percent annually until Taiwan joins the WTO, when imports can rise by 20 percent annually. Taiwan has also opened its car market to Australia, the Czech Republic, South Korea, Malaysia, Slovakia, and South Africa. In total, Taiwan announced that it will allow its vehicle import quotas covering all countries to increase by 20 percent annually through 2006, when the quota system is scheduled to be eliminated.

[323] U.S. Department of State telegram, "Taiwan to Implement Temporary Tariff Cuts in Hi-Tech Products," message reference No. 002871, prepared by the American Institute in Taiwan, Taipei, Jun. 20, 1997.

[324] "Taiwan still aiming to join WTO this year," Country Reports, the Economist Intelligence Unit, May 15, 1997.

[325] U.S. Department of State telegram, "Taiwan: Recap and Update on Tobacco and Wine Legislation," message reference No. 004015, prepared by the American Institute in Taiwan, Taipei, Aug. 27, 1997.

[326] Ibid.

[327] U.S. Department of State telegram, "Supporting U.S. Business and the FY98 Foreign Affairs Budget Request," message reference No. 001021, prepared by the American Institute in Taiwan, Taipei, Mar. 11, 1997.

However, Taiwan also indicated that it would preserve the right to maintain tariffs on imported cars at the current level of 30 percent for nine years after joining the WTO. The United States and other major trading partners have requested that Taiwan lower its tariffs on imported automobiles to 15 percent. U.S. auto manufacturers have complained that Taiwan uses a graduated commodity tax that is based on engine displacement to discriminate against larger cars such as those imported from the United States.[328]

Korea

U.S.-Korea trade relations were calmer in 1997 than in past years. To some extent, this reflects a maturing of the Korean economy and progress in liberalizing both its economy and trade regime, as evidenced by its first full calendar year as a member of the OECD. It also reflects the diversion of attention from trade friction to the turbulence of Korean economics and politics. Bankruptcies of *chaebol* (conglomerates), followed by financial crisis, currency devaluation, and submission to an IMF rescue package dominated the economic news and led to expectations that much of the old business-government partnership would fall apart. A contentious presidential election campaign resulted in the election of long-time dissident Kim Dae-jung, also heralding a departure from past business-government relationships.

There were two major bilateral trade issues involving the United States and Korea in 1997. In July, USTR Barshefsky announced the revocation of Korea's designation as a priority foreign country following the successful conclusion of negotiations to open the Korean telecommunications market for U.S. equipment and services suppliers. In October, USTR Barshefsky announced that USTR had identified Korea's barriers to imported automobiles as a priority foreign country practice under the Super 301 provisions of U.S. trade law. Negotiations were expected to start sometime after the inauguration of President-elect Kim Dae-jung on February 25.

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 the agreement with 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.[329]

In July 1996, as a result of a breakdown in talks regarding compliance with existing agreements as well as other telecommunications issues, the United States identified Korea as a "priority foreign country" pursuant to section 1374 of the act. In making the designation, USTR said that the United States sought to better ensure Korean government nonintervention in private sector telecommunications equipment procurement, regulatory transparency in the telecommunications services sector, and improvements in Korean government commitments under existing bilateral telecommunications agreements. USTR especially noted that there had been inadequate progress made toward ensuring Korean government non-intervention in private procurement decisions in the wireless communications market. Designation as a priority foreign country under section 1374 starts a one-year timetable leading to possible imposition of sanctions.[330]

On July 23, 1997, USTR Charlene Barshefsky announced the revocation, effective August 11, 1997, of Korea's designation as a priority foreign country following the successful conclusion of a year of negotiations between the United States and Korea. Ambassador Barshefsky stated that "[t]aken as a whole, the Korean government's actions over the last year should eliminate objectionable practices which led to Korea's identification in July 1996 as a $Priority Foreign Country' under section 1374 of the 1988 Omnibus Trade and Competitiveness Act."[331]

Korea made a number of commitments that satisfied U.S. negotiating objectives:

- The Korean Ministry of Information and Communication issued a policy statement on July 14, 1997. The statement clarified recent

[328] U.S. Department of State telegram, "Taiwan: General Motors and Auto Trade Issues," message reference No. 005755, prepared by the American Institute in Taiwan, Taipei, Dec. 13, 1997.

[329] See, for example, USITC, *The Year in Trade, OTAP, 1992*, USITC publication 2554, p. 123, and USITC, *The Year in Trade, OTAP, 1995*, USITC publication 2971, p. 62.

[330] 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.

[331] USTR, "United States and Korea Successfully Conclude Negotiations on Trade in Telecommunications Goods and Services," press release No. 97-70, July 23, 1997.

revisions of Korean telecommunications policies and practices, enhanced transparency, and corrected misperceptions regarding the treatment of foreign telecommunications goods and services suppliers. Specific policies detailed in the policy statement included: national treatment and nondiscrimination for foreign companies; government nonintervention in private sector procurement; transparent criteria and procedures relating to services licensing, equipment certification, and type approval; increased foreign ownership in domestic service providers; enhanced protection of intellectual property and proprietary information; clear guidelines for technology transfer; transparent procedures for satellite services authorization; procompetitive regulatory measures; and an enhanced independent regulatory role for the Korean Communications Commission.[332]

- Under the WTO Information Technology Agreement,[333] Korea will eliminate in stages tariffs on an agreed package of information technology products (including telecommunications) by the year 2000, with tariffs on a few additional items to be eliminated by 2004.[334]

- Under the WTO basic telecommunications agreement, Korea will allow increased foreign ownership of domestic telecommunications services companies and adopt a series of enforceable and procompetitive regulatory principles. [335]

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.[336] Although Korea is now the world's third largest auto exporter after Japan and the EU, imports accounted for less than one percent of all automobiles sold in Korea in 1996.[337]

The United States and Korea signed an Memorandum of Understanding (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.[338] 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. In addition, the Korean government agreed not to take any new measures that adversely affect market access for foreign passenger vehicles.[339]

After a review of Korea's progress in implementing the MOU in 1996, the United States announced that Korea had generally implemented the terms of the MOU, but much more needed to be done by Korea to open its automobile market to a level comparable to that of the United States. Concern was also expressed about an increase in taxes on sport utility vehicles (SUVs) and passenger minivans, vehicles in which U.S. producers are competitive, that could be contrary to standstill provisions in the MOU.[340] The increased taxes were a result of a reclassification of the tax status of these vehicles related to their potential use by the Korean military in event of war.[341]

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[332] Ibid.

[333] For more information on the ITA, see USITC, *The Year in Trade, OTAP, 1996*, USITC publication 3024, pp. 20-23, and USITC, *Advice Concerning the Proposed Modification of Duties on Certain Information Technology Products and Distilled Spirits*, USITC publication 3031, April 1997.

[334] USTR, "United States and Korea Successfully Conclude Negotiations on Trade in Telecommunications Goods and Services," press release No. 97-70, Jul. 23, 1997.

[335] Ibid.

[336] USTR, "USTR-Commerce Joint Press Release on the Implementation of the 1995 Agreement with Korea on Autos," press release No. 96-44a, Jun. 3, 1996.

[337] USTR, "USTR Announces Results of Annual $Super 301' Review: Korean Auto Barriers Identified as Priority Foreign Country Practice; and New WTO Disputes Launched on Export Subsidies and Market Access Barriers," press release No. 97-87, Oct. 1, 1996.

[338] For more details on the 1995 automobile MOU, see USITC, *The Year in Trade, OTAP,* 1995, USITC publication 2971, p. 63-64.

[339] USTR, "USTR Kantor Announces Agreement with Korea on Autos," press release No. 95-73, Sept. 28, 1995.

[340] USTR, "USTR-Commerce Joint Press Release on the Implementation of the 1995 Agreement with Korea on Autos," press release No. 96-44a, Jun. 3, 1996.

[341] American Automobile Manufacturers Association, "Comments of the American Automobile Manufacturers Association on the Identification of Priority Practices Under 'Super 301'," Jul. 10, 1997.

In the *1997 National Trade Estimate*, USTR again acknowledged that Korea had implemented most of the commitments it made in the MOU, but stated that recent actions taken by the Korean government call into question Korea's commitment to open its domestic passenger-car market to foreign competition. USTR specifically cited tacit government approval of renewed antiimport efforts, the above-mentioned increase in taxes on SUVs, the high 8 percent ad valorem tariff on imports of passenger vehicles, its "cascading" taxes on autos that escalate with engine displacement, traffic police harassment of drivers of foreign autos, and tax audits that have been threatened against persons leasing foreign autos or otherwise indulging in "conspicuous consumption."[342] USTR indicated that the United States would seek further market opening measures from Korea in 1997.[343]

The United States initiated negotiations with Korea dealing with foreign access to Korea's domestic automobile market, and three rounds of working-level talks occurred in August and September 1997. The negotiations dealt with a number of market access issues, including U.S. requests for:

- a reduction of the 8 percent duty on auto imports to the U.S. level of 2.5 percent, as well as a reduction in Korea's WTO bound rate of 80 percent;
- a change in the basis of automobile taxation from the current system based on engine size to one based on the age or price of the car;
- Korea to allow automobiles to be used as collateral for loans;
- a simplification of the Korean safety inspection and approval system; and
- active and specific measures by the Korean government to change the attitude of Korean consumers toward foreign cars;[344]

Agreement was not reached during the negotiations. As a result, on October 1, 1997, USTR Charlene Barshefsky announced that USTR had identified Korea's barriers to imported automobiles as a priority foreign country practice under the Super 301 provisions of U.S. trade law. Under Super 301 procedures, USTR initiated an investigation under section 302 (b) (1) (A) of the Trade Act of 1974, as amended, on October 20, 1997. The investigation is with respect to "certain acts, policies and practices of the Government of the Republic of Korea that pose barriers to imports of U.S. autos into the Korean market."[345] The investigation can take from 12 to 18 months, after which the United States may take retaliatory action. In the interim, negotiations between the United States and Korea may take place that may resolve the dispute before the United States takes retaliatory action. Both sides agreed that negotiations would not start until there had been a cooling-off period. Talks are expected to begin in the Spring of 1998. [346]

[342] USTR, *1997 National Trade Estimate Report on Foreign Trade Barriers*, pp. 234, 250-1.

[343] Ibid., p. 251.

[344] Republic of Korea, "Washington Invokes Section 301 of the U.S. Trade Law Against Korea Demanding Wider Foreign Access to Korea's Automobile Market," press release, Oct. 18, 1997, found at Internet address http://korea.emb.washington.dc.us/embnews/pressrelease/back971104.htm, retrieved Dec. 2, 1997.

[345] Republic of Korea, "Washington Invokes Section 301 of the U.S. Trade Law Against Korea Demanding Wider Foreign Access to Korea's Automobile Market," press release, Oct. 18, 1997, found at Internet address http://korea.emb.washington.dc.us/embnews/pressrelease/back971104.htm, retrieved Dec. 2, 1997.

[346] 62 F.R. 55843.

[347] U.S. Department of State telegram, "USTR Korea Director Latimer's Meetings at MOFAT and Ministry of Industry," message reference No. 1976 prepared by U.S. Embassy, Seoul, Apr. 7, 1998.

CHAPTER 5
Administration of U.S. Trade Laws and Regulations

This chapter surveys activities related to the administration of U.S. trade laws during 1997. It covers (1) the import relief laws; (2) the unfair trade laws; (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 (4) programs affecting textile and apparel imports; and (5) U.S. trade sanctions.

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 and following of the Trade Act of 1974.[4]

Safeguard Actions

The U.S. International Trade Commission (Commission) initiated one safeguard investigation during 1997, under the U.S. global action safeguard law, with respect to imports of wheat gluten. The Commission instituted the investigation on the basis of a petition filed by domestic producers of wheat gluten in September 1997. The Commission held a public hearing on the injury phase of the investigation in December and the investigation was still in progress at year-end 1997.[5]

As of year-end 1997, the United States had one safeguard measure, a global measure, in effect: a tariff-rate quota on imports of broom corn brooms. The measure was imposed in November 1996 and is scheduled to terminate in November 1999.[6] In January 1997, Mexico requested establishment of a panel under NAFTA Article 2008 to review the U.S. brooms measure. A panel was subsequently formed, submissions were filed by the respective parties, and a hearing was held. A final ruling by the panel was made early in 1998. For additional discussion concerning NAFTA dispute settlement panel reviews, see chapter 3 of this report.

Adjustment Assistance

The Trade Adjustment Assistance (TAA) program, set forth in sections 221 and following 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,

[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] Inv. No. TA-201-67, *Wheat Gluten*. On January 16, 1998, the Commission made an affirmative determination in the injury phase of the investigation by a vote of 3-0. Accordingly, the Commission proceeded to the remedy phase, and transmitted its report on the investigation to the President, including the basis for its injury determination and recommendations with respect to remedy, on March 18, 1998.
[6] For a further description of the measure and the Commission investigation that preceded it, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, p. 129

or shifts in production to, Canada or Mexico under the NAFTA.[7]

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.[8]

Assistance to Workers

The Department of Labor (DOL) instituted 1,292 investigations during fiscal year (FY) 1997 (October 1, 1996, through September 30, 1997) on the basis of petitions filed for TAA. Petitioners represented a broad spectrum of manufacturing concerns. The FY 1997 figure represents a decrease from the 1,693 TAA petitions instituted in FY 1996. The results of the TAA investigations completed or terminated in FY 1997, including those in progress from the previous fiscal year, are shown in table 5-1.

The number of completed TAA cases (including partial certifications and denied, terminated, or withdrawn petitions) in FY 1997 decreased to 1,354 from 1,626 in FY 1996, a decline of 16.7 percent. As shown above, a total of 108,843 workers were fully certified in FY 1997. Preliminary (as of December 1997) figures for FY 1997 indicate that Labor expenditures for direct Trade Readjustment Allowances (TRA) to certified workers increased to $194.8 million, a 17.3 percent increase from the $166.1 million expenditure in FY 1996.

In addition, DOL provided training, job search, and relocation services preliminarily valued at $85.1 million in FY 1997, representing an 11.9 percent decrease from the $96.6 million allocated during FY 1996. Table 5-2 presents data on the number of workers that used available service benefits in the last two years. As shown, utilization decreased sharply from FY 1996 to FY 1997.

[7] Sec. 250 of the Trade Act of 1974 (19 U.S.C. 2331), as added by sec. 502 of the NAFTA Implementation Act.

[8] Sections 251 through 264 of the TAA.

Table 5-1
Results of petitions filed under the Trade Adjustment Assistance program, FY 1997 and FY 1996

	Number of investigations or petitions—		Estimated number of workers—	
Item	FY 1997	FY 1996	FY 1997	FY 1996
Completed certifications	857	1,132	108,843	118,960
Partial certifications	1	2	60	110
Petitions denied	431	415	38,786	58,559
Petitions terminated or withdrawn	65	77	3,059	3,930
Totals	1,354	1,626	150,748	181,559

Source: Preliminary (as of February 1998) data maintained by the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, Management Information System.

Table 5-2
Training, job search, and relocation allowances provided under the Trade Adjustment Assistance program, FY 1997 and FY 1996

	Estimated number of participants—	
Item	FY 1997	FY 1996
Training	23,598	34,169
Job search	364	719
Relocation allowances	612	841

Source: Preliminary (as of March 1998) data maintained by the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, Management Information System.

NAFTA-Related Assistance to Workers

The NAFTA Implementation Act provides for establishment of a Transitional Adjustment Assistance program (NAFTA-TAA).[9] 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 1997 from the DOL indicate that 774 petitions were filed for assistance under the NAFTA-TAA program, up from the 729 such filings in FY 1996. Petition activity under the program in FY 1997 is summarized in table 5-3.

The number of completed certifications in FY 1997 was 422, covering 54,757 workers, higher than 1996 levels. During the period from January 1, 1994, through December 31, 1997, NAFTA-TAA certifications have been issued for worker groups in 1,340 firms and cover an estimated 155,779 workers.

Preliminary (as of December 1997) FY 1997 figures indicated that DOL expenditures for direct TRA to certified workers were $21.1 million. The DOL also provided training, job search, and relocation services to such workers that increased from $19.1 million in FY 1996 to $27.8 million in FY 1997 (data preliminary as of December 1997), an increase of 45.5 percent. Table 5-4 presents data on the number of workers that used available services. As was the case for the TAA program, utilization of such services under NAFTA-TAA also increased from FY 1996 to FY 1997.

[9] NAFTA Implementation Act, Title V, NAFTA Transitional Adjustment Assistance and Other Provisions, Public Law No. 103-182, 107 Stat. 2057, sec. 501-507 (Dec. 8, 1993).

Assistance to Firms and Industries[10]

The U.S. Department of Commerce's Economic Development Administration (EDA) certified 159 firms as eligible to apply for trade adjustment assistance during FY 1997. This figure represents an increase from the 148 firms certified in the previous fiscal year. The EDA 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

[10] Information obtained from the Planning and Development Assistance Division, Economic Development Administration, U.S. Department of Commerce.

Table 5-3
Results of petitions filed under the NAFTA Transitional Adjustment Assistance program, FY 1997 and FY 1996

Item	Number of investigations or petitions—		Estimated number of workers—	
	FY 1997	FY 1996	FY 1997	FY 1996
Petitions filed	774	729	86,597	81,282
Worker groups certified	422	421	54,757	46,897
Petitions denied	294	249	29,243	29,488
Petitions terminated	20	19	NA	NA

Source: Preliminary (as of March 1998) data maintained by the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, Management Information System.

Table 5-4
Training, job search, and relocation allowances provided under the NAFTA Transitional Adjustment Assistance program, FY 1997 and FY 1996

Item	Estimated number of participants—	
	FY 1997	FY 1996
Training	3,965	2,664
Job search	36	14
Relocation allowances	168	81

Source: Preliminary (as of March 1998) data maintained by the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, Management Information System.

staffs and independent consultants under contract with TAACs. Typical technical services include assistance in marketing (e.g., the design of new brochures and websites), identifying appropriate management information system hardware and software, and developing and completing quality assurance programs. TAAC's funding for technical services to firms adversely affected by international import competition was $8.5 million during FY 1997, the same level awarded in FY 1996.In addition to trade adjustment assistance for firms, the EDA also provided $1.575 million in FY 1997 in defense conversion funding to the TAACs, a substantial increase over the $700,000 provided in FY 1996. These expenditures assist trade-injured firms in areas that have also experienced economic dislocations from defense expenditure cutbacks. No funding was provided for any industry association research projects in FY 1997.

Laws Against Unfair Trade Practices

The U.S. Department of Commerce issued 11 new antidumping orders during 1997, following completion of investigations by Commerce and the Commission, and in addition, Commerce entered into five new suspension agreements after having made affirmative preliminary or final determinations of dumping. Commerce did not issue any new countervailing duty orders in 1997. During 1997, the Commission completed 15 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 a general exclusion order prohibiting the importation of merchandise, and in five other section 337 investigations the Commission issued limited exclusion orders barring importation of the accused products.

Section 301 Investigations

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. Interested persons may petition the U.S. Trade Representative (USTR) to investigate a foreign government policy or practice or the USTR may self-initiate an investigation.

If consultations do not result in a settlement and the investigation involves a trade agreement, section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under the agreement. If the matter is not resolved by the conclusion of the investigation, section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged.

In 1997, USTR initiated six new section 301 investigations. Further developments occurred in nine investigations initiated prior to 1997. Table 5-5 summarizes USTR activities on section 301 investigations during 1997.

Super 301

The "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988 were reinstituted via Executive Order by President Clinton in 1994[11] and later extended through calendar year 1997.[12] The Executive Order requires that within six months of the submission of the annual National Trade Estimate Report, USTR review U.S. trade expansion priorities and identify those priority foreign country practices, the elimination of which is likely to have the most significant potential to increase U.S. exports, and to report to the Senate Finance Committee and the House Ways and Means Committee on any such practices. In the 1997 Super 301 report to the Congress, released on October 1, 1997, the USTR identified Korean barriers to auto imports as a priority foreign country practice (See chapter 4, "Korea" for details).

[11] On March 3, 1994, the President signed Executive Order 12901 reinstituting Super 301 for calendar years 1994 and 1995.

[12] On September 27, 1995, the President amended Executive Order 12901 to extend it to calendar years 1996 and 1997.

Table 5-5
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Petitions filed or investigations self-initiated in 1997:	
Docket No. 301-116	**Honduran Protection of Intellectual Property Rights, self-initiated by USTR (Oct. 1997), the USTR invited public comments and participation in a public hearing (Nov. 1997)** On October 31, 1997, the USTR initiated an investigation with respect to certain acts, policies, and practices of the Government of Honduras with respect to the protection of intellectual property rights, and proposed to determine that these acts, policies, and practices are actionable under section 301(b) and that the appropriate response is a partial suspension of tariff preferences. The USTR invited public comments on the matters being investigated and participation in a public hearing concerning the proposed determinations and action (62 FR 60299 of 11/7/97).
Docket No. 301-115	**Korean Barriers to Auto Imports, self-initiated by USTR (Oct. 1997), the USTR invited public comment (Oct. 1997)** On October 20, 1997, the USTR initiated an investigation with respect to certain acts, policies, and practices of the Government of Korea that pose barriers to imports of U.S. autos into the Korean market. The USTR invited public comment on the matters being investigated (62 FR 55843 of 10/28/97). For further background, see chapter 4 of this report.
Docket No. 301-114	**EU Circumvention of Export Subsidy Commitments on Dairy Products, self-initiated by USTR (Oct. 1997), WTO consultation held (Nov. 1997)** On October 8, 1997, the USTR self-initiated an investigation with respect to certain acts, policies and practices of the Government of the European Union (EU) concerning export subsidies on processed cheese. The USTR invited public comment on the matters being investigated (62 FR 53852 of 10/16/97) and requested consultations with the EU regarding the issues under investigation. The request was made pursuant to Article 4 of the WTO DSU, Article 19, of the Agreement on Agriculture to the extent it incorporates Article XXII of the GATT 1994, and Article 30 of the Agreement on Subsidies and Countervailing Measures to the extent it incorporates Article XXII of the GATT 1994. On November 18, 1997, WTO consultations were held between the United States and the EU.
Docket No. 301-113	**Canadian Export Subsidies and Market Access for Dairy Products, petition filed by the National Milk Producers Federation, the U.S. Dairy Export Council, and the International Dairy Foods Association, WTO consultations held (Nov. 1997)** On September 5, 1997, the National Milk Producers Federation, the U.S. Dairy Export Council, and the International Dairy Foods Association filed a petition pursuant to section 302(a) of the Trade Act alleging that certain export subsidies of the Government of Canada and Canada's failure to implement a tariff-rate quota (TRQ) for fluid milk constitute acts, policies, and practices that violate, or are inconsistent with and otherwise deny benefits to the United States under the Uruguay Round Agreement on Agriculture and GATT 1994.

Table continued on next page

Table 5-5—Continued
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Petitions filed or investigations self-initiated in 1997—Continued:	
Docket No. 301-113	***Continued***
	On October 8, 1997, the USTR initiated an investigation under section 302(a) of the Trade Act of 1974 with respect to certain acts, policies, and practices of the Government of Canada with respect to export subsidies on dairy products, and the operation of Canada's TRQ for fluid milk. The USTR invited written comments from the public on matters being investigated and the determinations to be made under Section 304 of the Trade Act of 1974 (62 FR 53851 of 10/16/97). In addition, the USTR requested consultations with Canada regrading the issues under investigation pursuant to Article 4 of the WTO DSU, Article XXII of the GATT 1994, and Article 30 of the Agreement on Subsidies and Countervailing Measures. On November 19, 1997, formal consultations were held between the United States and Canada.
	For further background, see chapter 4 of this report.
Docket No. 301-112	**Japan Market Access Barriers to Agricultural Products, self-initiated by USTR (Oct. 1997), WTO dispute panel formed (Nov. 1997)**
	On October 7, 1997, the USTR self-initiated an investigation with respect to certain acts, policies, and practices of the Government of Japan concerning Japan's prohibition on imports of certain agricultural products. When Japan requires quarantine treatment for an agricultural product, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that particular variety. This is true even though the treatment has proven effective for other varieties of the same product.
	The USTR requested consultations with the Government of Japan pursuant to Article 4 of the WTO DSU, Article 11 of the Agreement on the Application on Sanitary and Phytosanitary Measures, Article XXIII of GATT 1994, and Article 19 of the Agreement on Agriculture, to address the matters being investigated. The USTR also invited written comments from the public on these matters (62 FR 53853 of 10/16/97). A WTO panel was established on November 18, 1997.
Docket No. 301-111	**Certain Subsidies Affecting Access to the European Communities' Market for Modified Starch, petition filed by the U.S. Wheat Gluten Industry Council (Jan. 1997), investigation terminated (June 1997)**
	On January 22, 1997, the U.S. Wheat Gluten Industry Council filed a petition pursuant to 302(a) of the Trade Act alleging that certain subsidy schemes of the European Communities (EC) constitute acts, policies, and practices that violate, or are inconsistent with and otherwise deny benefits to the United States under the GATT of 1994 and the Agreement on Subsidies and Countervailing Measures.
	On March 8, 1997, the USTR initiated an investigation with respect to certain acts, policies, and practices of the EC; more specifically the provision of subsidies that affect access to the EC modified starch market. The USTR invited written comments from the public on the matters being investigated and the determinations to be made under section 304 of the Trade Act, and postponed requesting WTO consultations under Section 303 for a period up to 90 days for the purpose of ensuring an adequate basis for such consultations (62 FR 12264 of 3/14/97).
	Following consultations with the petitioners, on June 6, 1997, the Acting USTR announced her intention to consult with the EC regarding wheat gluten exports from the EC to the United States pursuant to a bilateral agreement with the EC on grains

Table continued on next page

Table 5-5—Continued
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Docket No. 301-111	***Continued***
	(signed July 22, 1996). Pending the outcome of these consultations, the USTR will not pursue consultations under the WTO agreements and terminated, effective June 6, 1997, the investigation initiated on March 8, 1997, under section 302(a) of the Trade Act of 1974 (62 FR 32398 of 6/13/97).
Other investigations acted upon in 1997:	
Docket No. 301-110	**Brazilian Practices Regarding Trade and Investment in the Auto Sector, self-initiated by Acting USTR (Oct. 1996), US requested formal consultations (Jan. 1997)**
	On October 11, 1996, the Acting 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.
	In August 1996, the USTR sought consultations with Brazil regarding its auto regime. Subsequently, Brazil agreed to enter into intensive talks with the United States to discuss the removal of the discriminatory impact of the Brazilian practices on U.S. exports. Pending the successful outcome of these talks, the
	USTR decided, pursuant to section 303(b)(1)(A) of the Trade Act to delay for up to 90 days requesting WTO dispute settlement procedures (required under section 303(a) of the Trade Act) for the purpose of ensuring an adequate basis for such consultations. The USTR also invited written comments on the matters being investigated (61 FR 54485 of 10/18/96). On January 10, 1997, the United States requested formal consultations pursuant to Articles 1 and 4 of the WTO, Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII:1 of the GATT 1994, Article 8 of the TRIMS Agreement, and Articles 4.1, 7.1, and 30 of the SCM Agreement. The consultations are continuing.
Docket No. 301-109	**Indonesian Practices Re: Promotion of Motor Vehicle Sector, self-initiated by USTR, WTO dispute panel formed (July 1997)**
	On October 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.
	The USTR invited public comment on the matters being investigated and requested consultation with the Government of Indonesia pursuant to Articles 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 (61 FR 54247 of 10/17/96). Because subsequent consultations proved unsuccessful, a WTO dispute panel was formed to address this dispute on July 30, 1997.
Docket No. 301-108	**Argentine Specific Duties and Non-Tariff Barriers Affecting Apparel, Textiles, Footwear, self-initiated by USTR (Oct. 1996), WTO dispute settlement panel rules in favor of the United States (Nov. 1997)**
	On October 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.

Table continued on next page

Table 5-5—Continued
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1997—Continued:	
Docket No. 301-108	***Continued***
	The USTR requested public comment and also requested consultations with the Government of Argentina pursuant to Article 4 of the 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 FR 53777 of 10/15/96). Because these consultations failed to resolve this dispute, a WTO dispute settlement panel was established on February 25, 1997. The WTO panel ruled in favor of the United States in November 1997. The panel found that the specific duties on textiles and apparel violated Argentina's tariff bindings under GATT Article II, and that the statistical tax violated GATT Article VIII. Argentina has appealed the panel's findings. Prior to the establishment of the panel, Argentina revoked its specific duties on footwear and replaced them with similar duties pursuant to a domestic safeguard measure. The USTR is currently reviewing the Argentine safeguard measure and its consistency with Argentina's WTO obligations.
Docket No. 301-107	**Australian Subsidies Affecting Leather, petition filed by the Coalition Against Australian Leather Subsidies (August 1996), new consultations requested with the Government of Australia (Nov. 1997)**
	On August 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 October 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 other subsidies to leather granted or maintained in Australia, which are prohibited under Article 3 of the SCM Agreement, are actionable under section 301. USTR sought public comment on this matter and requested consultations with the Government of Australia pursuant to Articles 1 and 4 of the 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 FR 55063 of 10/23/96). Consultations were held on October 31, 1996, and a settlement of this dispute was reached on November 25, 1996. Due to a new, replacement subsidies package put in place by the Government of Australia, new consultations were requested on November 10, 1997.
Docket No. 301-106	**India's Practices Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals, self-initiated by USTR (July 1996), WTO appellate body affirms finding of dispute panel (Dec. 1997)**
	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.
	The USTR invited public comment on the matters being investigated 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 (61 FR 35857 of 7/8/96). Subsequently, a WTO dispute settlement panel was formed to address this dispute and,

Table continued on next page

Table 5-5—Continued
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1997—Continued:	
Docket No. 301-106	***Continued***
	in a report circulated September 5, 1997, found in favor of the United States. The panel found that India must establish a TRIPS-consistent mailbox system and provide exclusive marketing rights, and agreed with the U.S. arguments that India had not yet done so. India appealed this decision to the WTO's Appellate Body on October 15, 1997. On December 19, 1997, the WTO Appellate Body affirmed the panel's findings on these points.
Docket No. 301-105	**Turkey's Practices Regarding the Imposition of a Discriminatory Tax on Box Office Revenues, self-initiated by USTR (June 1996), investigation terminated (Nov. 1997) after satisfactory resolution of the issues**
	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.
	The USTR invited public comment on the matters being investigated and requested consultations with the Government of Turkey pursuant to Article XXII of GATT 1994, and Article 4 of the WTO DSU (61 FR 32883 of 6/25/96). Although a WTO dispute settlement panel was subsequently formed to address this dispute, the Panel did not proceed because Turkey agreed to eliminate its discriminatory practice. This settlement was notified to the WTO Dispute Settlement Body (DSB) on July 17, 1997. Having reached a satisfactory resolution of the issues under investigation, the USTR terminated this section 302 investigation on November 21, 1997, and will monitor implementation of the agreement under section 306 of the Trade Act.
Docket No. 301-104	**Pakistan's Practices Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals, self-initiated by USTR (April 1996), investigation terminated (June 1997) after satisfactory resolution of the issues**
	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. The USTR invited public comment on the matters being investigated and requested consultations with the Government of Pakistan pursuant to Article XXII of GATT 1994, and Article 4 of the WTO DSU ((61 FR 19971 of 5/3/97). Consultations were held on May 30, 1996. On July 4, 1996, the U.S. requested establishment of a Panel. After consultations between the United States and Pakistan, Pakistan issued Ordinance No. XXVI of 1997. On February 28, 1997, the United States and Pakistan jointly notified the WTO DSB of the settlement of this matter in light of Pakistan's planned implementation of Ordinance No. XXVI. Having reached a satisfactory resolution of the issues under investigation, the USTR terminated this section 302 investigation and will monitor implementation of the agreement under section 306 of the Trade Act. This investigation was terminated June 8, 1997 (62 FR 33695 of 6/20/97).
Docket No. 301-102	**Canadian Practices Affecting Periodicals, self-initiated by USTR (March 1996), investigation terminated (Sept. 1997) following announcement by Canada of its intention to comply with the findings of the WTO dispute settlement panel and WTO Appellate Body**
	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

Table continued on next page

Table 5-5—Continued
Summary of activity on section 301 investigations on which actions were taken during 1997

Docket No.	Summary and actions occurring during course of investigation
Other investigations acted upon in 1997—Continued:	
Docket No. 301-102	***Continued***
	Canada that restrict or prohibit imports of certain periodicals into Canada and apply discriminatory treatment to certain imported periodicals.
	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 FR 11067 of 3/18/96). A WTO dispute settlement panel was subsequently formed and, in a report circulated in March 1997, found in favor of the United States. The findings of this report were upheld by the WTO's appellate body on June 30, 1997. Because Canada announced its intention to comply with the panel and Appellate Body reports, this investigation was terminated on September 11, 1997 (62 FR 50651 of 9/26/97). For further background on the dispute, see chapter 4 of this report.
Docket No. 301-100	**European Communities' Banana Import Regime, self-initiated by USTR, findings of WTO settlement dispute panel adopted by the WTO Dispute Settlement Body (Sept. 1997)**
	Pursuant to section 302(b)(1) of the Trade Act, the USTR self-initiated a new investigation concerning the EC's acts, policies, and practices relating to the importation, sale, and distribution of bananas. (See 301-94).
	The USTR invited public comment on the acts, policies, and practices of the EC and pursuant to section 303(a) of the Trade Act, requested consultations with the EC pursuant to the WTO's DSU (60 FR 52027 of 10/4/95).
	On May 8, 1996, the DSB 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. A WTO settlement dispute panel was subsequently formed to address this dispute, and, in a report circulated in May 1997, found in favor of the United States. The findings in the report were affirmed by the WTO Appellate Body on September 9, 1997, and adopted by the WTO DSB on September 25, 1997. For futher background on the dispute, see chapter 4 of this report.

Source: Compiled by the staff of the U.S. International Trade Commission from databases maintained by USTR and supplemented by USTR, *1998 Trade Policy Agenda and 1997 Annual Report of the President of the United States on the Trade Agreements Program*, March 1998.

Special 301

Under "Special 301" provisions,[13] USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as "priority foreign countries." Priority foreign countries are potentially subject to an investigation under the Section 301 provisions of the Trade Act.

USTR has created a "Priority Watch List" and a "Watch List" under Special 301 provisions. Placement of a trading partner on either of these lists indicates that particular problems exist in that country with respect to IPR protection or enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

[13] Special 301 provisions are pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreement Act of 1994.

On April 30, 1997, USTR identified 46 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to U.S. persons that rely upon intellectual property protection. Of the 46, 10 were placed on the Priority Watch List and 36 on the Watch List. USTR also noted growing concern about an additional 12 countries not named to either list. Also announced was the monitoring of China's compliance with the 1996 bilateral intellectual property agreement under section 306 of the Trade Act. Finally, USTR used the Special 301 announcement to report its intention to bring WTO dispute settlement cases, three of which were initiated in 1997.[14]

In September, USTR reviewed the protection of intellectual property in Italy, Thailand, Panama, Luxembourg, and Ecuador. Panama was removed from the Watch List, but USTR specified a number of areas it would continue to monitor in anticipation of the 1998 Special 301 decisions.[15] In December, Paraguay, Turkey, Bulgaria, Brazil, and Hong Kong were reviewed.[16] Paraguay was identified as a priority foreign country, "because of alarming levels of piracy and counterfeiting, and the Government's continued failure to enact adequate and effective intellectual property legislation."[17] Bulgaria was elevated from the Watch List to the Priority Watch List because of extensive piracy of sound recordings and software.

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 imports sold at LTFV. 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 calulated on an ex-factory basis. The duty specified in an antidumping duty 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. 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 phase antidumping investigations in making their separate determinations.[20] In 1997, the Commission completed 18 preliminary and 16 final antidumping injury investigations.[21] Antidumping duty orders were imposed as a result of affirmative Commission and Commerce determinations in 15 of the 16 final investigations on products imported from eight different countries. The antidumping duty orders put into effect in 1997 are shown in the following tabulation:

[14] USTR, "USTR Announces Results of Special 301 Annual Review," press release 97-37, Apr. 30, 1997.

[15] USTR, "USTR Announces Results of Special 301 "Out-of-Cycle" Reviews," press release 97-93, Oct. 27, 1997.

[16] USTR, "USTR Barshefsky Announces Results of Special 301 "Out-of-Cycle" Reviews," press release 98-03, Jan. 15, 1998.

[17] USTR, *President's 1997 Report on the Trade Agreements Program*, p. 245.

[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.

Country	Item
China	Collated roofing nails Crawfish tail meat Cut-to-length carbon steel plate Persulfates Brake motors Melamine institutional dinnerware
Indonesia	Melamine institutional dinnerware
Japan	Vector supercomputers Gas turbo-compressor systems
Russia	Cut-to-length carbon steel plate
South Africa	Cut-to-length carbon steel plate
Taiwan	Collated roofing nails Melamine institutional dinnerware
Turkey	Steel concrete reinforcing bar
Ukraine	Cut-to-length carbon steel plate

Details of all antidumping actions and orders, including suspension agreements,[22] in effect in 1997, are presented in tables A-22 and A-23. Table 5-6 summarizes the number of antidumping investigations during 1995-97.[23]

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.[24] 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.

No new countervailing duty orders were imposed in 1997 as a result of investigations involving both Commerce and the Commission. In 1997, the Commission completed six preliminary and four final injury investigations.[25] Details of countervailing duty actions and outstanding orders, including suspension agreements[26] in effect in 1997, are presented in tables A-24 and A-25. Table 5-7 summarizes the number of countervailing duty investigations during 1995-97.[27]

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

[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 six 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 one 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] 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).

[25] 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.

[26] 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 six 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.

[27] 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.

Table 5-6
Results of antidumping duty investigations, 1995-97

Antidumping duty investigations	1995	1996	1997
Petitions filed	14	20	15
Preliminary Commission determinations:			
Negative	1	0	1
Affirmative (includes partial affirmatives)	13	17	15
Terminated[1]	0	0	1
Final Commerce determinations:			
Negative	2	0	1
Affirmative	40	12	17
Terminated	0	0	0
Suspended	1	1	1
Final Commission determinations:			
Negative	16	3	2
Affirmative (includes partial affirmatives)	24	8	15
Terminated	3	1	1

[1] These figures include petitions withdrawn voluntarily by petitioners.

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

Table 5-7
Results of countervailing duty investigations, 1995-97

Countervailing duty investigations	1995	1996	1997
Petitions filed	2	1	6
Preliminary Commission determinations:			
Negative	0	0	0
Affirmative (includes partial affirmatives)	2	1	6
Final Commerce determinations:			
Negative	0	0	0
Affirmative	5	2	4
Suspended	0	0	0
Final Commission determinations			
Negative	2	0	4
Affirmative (includes partial affirmatives)	3	2	0
Terminated	0	0	0

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

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. The Commission did not institute any changed circumstances investigations under section 751 in 1997.

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 five years after their publication to determine whether revocation of an order or termination of a suspended investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy and of material injury.[28] Special rules apply to the conduct of sunset reviews of “transition” orders (orders in effect on

[28] 19 U.S.C. 1675(c).

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.[29]

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.[30]

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.[31] The President may disapprove a Commission order within 60 days of its issuance for "policy reasons."

In 1997, 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 15 investigations under section 337 in 1997, including a formal enforcement proceeding and two remanded investigations. As in recent years, the section 337 caseload in 1997 was highlighted by investigations involving complex technologies, particularly in the computer and telecommunications fields. Significant among these were investigations involving digital satellite television systems, logic emulation systems used to design computer chips, screen printers used in circuit-board manufacturing, electronic "smart" cards, and CD-ROM controllers, as well as various types of integrated-circuit devices and processes for semiconductor fabrication. In addition, several section 337 investigations involved other sophisticated technologies, including diagnostic kits for detecting HIV virus levels and mass spectrometers used to analyze the composition of substances. Other section 337 investigations active during 1997 concerned agricultural tractors, heavy-duty tires for long-haul transport vehicles, toothbrushes, pocket knives, and ornamental lamps. Three investigations concerned allegations of trademark infringement and one investigation involved allegations of copyright infringement.

During 1997, the Commission completed a formal enforcement proceeding for alleged violations of a consent order issued by the Commission in a section 337 investigation involving rare earth magnets. The Commission also began two sanctions proceedings relating to previously concluded investigations. Two investigations were remanded to the Commission by the United States Court of Appeals for the Federal Circuit.

Exclusion orders were issued in six investigations. 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 1997, there were 13 section 337 investigations pending at the Commission, including two ancillary sanctions proceedings. Commission activities involving section 337 actions in 1997 are presented in table A-26.

As of December 31, 1997, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect; 29 of these orders involved unexpired patents. Table A-27 lists the investigations in which these exclusion orders were issued.

[29] 19 U.S.C. 1675(c)(6).

[30] 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.

[31] 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.

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. It has been enhanced to allow duty-free treatment for certain products when imported only from countries designated as least-developed beneficiary developing countries. The program is authorized by Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 et seq.). The GSP program expired on May 31, 1997, and was extended retroactively through June 30, 1998, by legislation (Public Law 105-34) signed by the President on August 5, 1997. By offering unilateral tariff preferences, the GSP program reflects the U.S. commitment to 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, afford preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce or do not afford adequate protection to intellectual property rights or afford internationally recognized worker rights to their workers.[32] The President also designates the articles that are eligible for duty-free treatment, but may not designate articles that he determines to be "import sensitive" in the context of the GSP. 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.[33] 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.

[32] 19 U.S.C. 2462(b).

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 in a *Federal Register* notice (60 F.R. 38856) began the annual GSP review for 1995, but suspended it when the program expired. In August 1996, the TPSC restarted the 1995 Annual GSP Review, and the United States Trade Representative (USTR) requested the Commission to provide advice concerning possible modifications to the GSP for a modified list of the articles announced in the July 1995 *Federal Register* notice and announced the decision to not solicit petitions or initiate a 1996 Annual GSP Review. Further, in 1996, USTR initiated a review to grant additional benefits to least-developed beneficiary developing countries (LDBDC) and requested the Commission's advice on the possible GSP designation of certain articles, in 1,895 tariff subheadings of the Harmonized Tariff Schedule of the United States (HTS), that are products only of countries designated as LDBDC. 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.

In April 1997, the President proclaimed a suspension of the duty-free treatment accorded under the GSP to certain eligible articles from Argentina, implementing a decision to withdraw benefits due to Argentina's failure to bring its IPR provisions into compliance with long-standing commitments.

In May 1997, the President proclaimed certain modifications to the GSP implementing decisions made in regard to the 1995 Annual GSP Review and the possible GSP designation of articles that are products only of countries designated as LDBDC. The modifications provided for: (1) the designation of 1,783 HTS subheadings for duty-free treatment under the GSP when produced only in the LDBDC, (2) addition of Cambodia as both a beneficiary developing country and a LDBDC for purposes of GSP, (3) the granting of *de minimis* waivers for certain articles and

[33] 19 U.S.C. 2463.

restoration to preferential treatment of certain eligible articles from certain beneficiary countries, (4) the exclusion of certain articles from certain beneficiary countries from eligibility for preferential treatment under GSP due to exceeding the competitive need limits for calendar year 1996, and (5) the completion of the 1995 Annual GSP Review which resulted in the addition of three HTS subheadings covering articles designated as eligible for duty-free treatment under the GSP and granting waivers of the competitive need limits under 22 HTS subheadings for certain countries.

In May 1997, the TPSC announced the initiation of an Out-of-Cycle Country Eligibility Review for two new GSP worker rights reviews, dealing with Belarus and Swaziland, and the termination of a worker rights review of Guatemala. Further, the TPSC announced, in response to a petition filed by the Meat Industry Trade Policy Council alleging that the Philippines was not respecting commitments it made during the Uruguay Round of multilateral trade negotiations, that it would conduct a review to determine whether the Philippines continues to qualify for benefits under GSP. In August 1997, the TPSC in a *Federal Register* notice (62 F.R. 43408) listed the petitions that were accepted for the 1997 Annual GSP Review and the completion of an expedited review of the GSP eligibility of melamine dinnerware from Indonesia with the decision that denial of continued GSP eligibility was not warranted. In September 1997, USTR requested the Commission to provide advice concerning possible modifications to the GSP for the list of the articles announced in the August 1997 *Federal Register* notice. Further, in September 1997, the TPSC added an additional product to the 1997 Annual GSP Review and USTR requested that the Commission add the product to the prior list of articles and to provide its advice on the article along with the other articles.

There were $15.5 billion in duty-free imports entered under the GSP program in 1997,[34] accounting for over 13 percent of total U.S. imports from GSP beneficiaries and 1.8 percent of total U.S. imports (table 5-8). Thailand was the leading GSP beneficiary in 1997, followed by Brazil, Indonesia, the Philippines, and India (table 5-9). Table A-28 shows the top 20 GSP products or product categories in 1997, 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 1997.[35] CBERA has been operative since January 1, 1984, and, as amended, the act currently has no statutory expiration date.[36]

CBERA is the trade-related component of the Caribbean Basin Initiative (CBI).[37] President Reagan launched CBI in 1982 to promote export-led economic growth and economic diversification in the countries in the Caribbean Basin.[38]

A wide range of Caribbean products is eligible for duty-free entry under CBERA.[39] Excluded by statute 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 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

[34] As discussed above, the U.S. GSP program expired on May 31, 1997, and was extended retroactively through June 30, 1998, by legislation signed by the President on August 5, 1997. 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, "Renewal of the Generalized System of Preferences Program," 62 F.R. 46549.

[35] The 24 countries designated for CBERA benefits are listed in table A-31.

[36] 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.

[37] 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*, publication 2994, Sept. 1996.

[38] President, "Address Before the Permanent Council of the Organization of American States," *Weekly Compilation of Presidential Documents*, Mar. 1, 1982, pp. 217-223.

[39] 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.

Table 5-8
U.S. imports for consumption[1] from GSP beneficiaries and the world, 1997
(Million dollars)

Item	All GSP beneficiaries	World
Total	117,334	859,110
GSP eligible products	26,592	321,275
GSP-LDBC eligible products	1,486	194,726
Duty-free under GSP	15,546	15,546
GSP program exclusion	5,899	5,899
All other	6,634	494,557
Noneligible product imports	89,255	343,108

[1] Customs-value basis.
[2] Excludes imports into the U.S. Virgin Islands.
[3] Includes imports from all beneficiary countries 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 imports may not actually receive duty-free entry under GSP for at least four types of reasons: (1) the importer fails to claim GSP benefits affirmatively; (2) the goods are from a beneficiary country that 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.
[4] These data show total imports from all GSP beneficiary countries that actually received duty-free entry under the GSP.

Note.—Calculations based on unrounded data.

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

Table 5-9
U.S. imports for consumption under the GSP from leading beneficiaries,[1] and total, 1997
(Million dollars)

Rank	Beneficiary	Total imports	Imports of GSP articles: GSP-eligible	Imports of GSP articles: GSP duty-free[2]
1	Thailand	12,540	4,818	2,534
2	Brazil	9,505	3,629	2,206
3	Indonesia	9,054	3,007	1,942
4	Philippines	10,418	2,379	1,646
5	India	7,284	1,817	1,255
6	Angola	2,877	1,341	668
7	Venezuela	12,173	612	591
8	Russia	4,290	635	473
9	South Africa	2,495	515	450
10	Argentina	2,195	692	410
	Top 10	72,832	19,446	12,175
	Total	117,334	28,079	15,546

[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 the GSP. For a variety of reasons, all imports from beneficiary countries under HTS provisions that appear 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.—Calculations based on unrounded data.

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

goods (such as wallets, change purses, and eyeglass cases), work gloves, and leather wearing apparel are not eligible for CBERA duty-free entry; however, CBERA duty levels on qualifying articles were reduced by a total of 20 percent, but not more than 2.5 percent ad valorem, beginning January 1, 1992, in five equal annual installments.

President Clinton has made improved hemispheric relations a priority in his second term. He traveled to Central America and the Caribbean (as well as Mexico) to meet with regional leaders during May 1997. In official statements released during those meetings—known as the Declaration of San Jose[40] and the Barbados Declaration of Principles and Plan of Action[41]—President Clinton pledged to introduce legislation that would extend tariff preferences essentially equivalent to those Mexico receives under NAFTA to all products that are currently excluded under CBERA.[42] In doing so, he was responding to what has been termed a "clarion call" by Caribbean Basin leaders on the urgency of upgrading CBERA benefits to NAFTA-equivalent levels.[43] However, the Clinton Administration's parity bill, introduced in June 1997, has not passed Congress, and other parity proposals originating in the House (HR 2644) and Senate (S 1278) have yet to be passed. (The House bill was defeated on November 7, 1997.)

In May 1997, the Trade Policy Staff Committee (TPSC) determined that the Government of Honduras had failed to provide adequate and effective means under its laws for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property. This determination was due to the failure of the Honduran government to take action against continued and blatant copyright piracy. The TPSC recommended a partial suspension of the duty-free treatment accorded Honduras under GSP and the CBERA programs. On October 31, 1997, the USTR initiated an investigation with regard to acts, policies, and practices of the Government of Honduras with respect to the protection of intellectual property rights and proposed to determine that the acts, policies, and practices are unreasonable and that the appropriate response should be a partial suspension of tariff preferences.[44]

Total U.S. imports from CBERA beneficiary countries in 1997 were $16.6 billion. Imports under CBERA preferences were valued at 19.4 percent of the total (table 5-10). The leading items afforded duty-free entry under CBERA in 1997 were cigars, sugar, leather footwear uppers, and precious-metal jewelry (table A-30). In 1997, three countries—the Dominican Republic, Costa Rica, and Guatemala—accounted for more than two-thirds of all U.S. imports under the CBERA preference program (table A-31).

Andean Trade Preference Act

Eligible imports from Bolivia, Colombia, Ecuador, and Peru entered the United States free of duty under the Andean Trade Preference Act (ATPA) during 1997.[45] ATPA has been operative since December 4, 1991, and is scheduled to expire on December 4, 2001.[46] 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.[47]

[40] Issued at the summit of leaders from Central America, the Dominican Republic, and the United States in San Jose, Costa Rica, on May 8, 1997. It included pledges to work jointly to intensify economic relationships among the participating nations--for example, by working towards reciprocal trade agreements and treaties on investment and intellectual property rights. "Open Skies" Agreements between the United States and Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua were also signed during the meeting. U.S. Information Agency, Foreign Press Center, July 9, 1997.

[41] Issued at the May 10, 1997, conclusion of the first summit between a U.S. president and Caribbean heads of state.

[42] Among other things, the Bridgetown Declaration also commits the United States to provide technical assistance toward implementation of Uruguay Round commitments and participation in the FTAA process; to create a mechanism for rapid consultation on trade-related issues; to establish plans for promoting bilateral trade, particularly in agriculture and services sectors; and to work with all concerned parties to achieve mutually satisfactory marketing arrangements for Caribbean bananas while ensuring establishment of a WTO-consistent European Union banana regime. The declarations, which also address matters such as fostering democracy, strengthening law enforcement, and improving environmental protection, create several follow-up mechanisms. Notably, there will be annual meetings among foreign ministers of the United States and the two regions as well as meetings among trade ministers. Both were billed by participants as the launch of a new U.S. partnership with the regions. Caribbean/United States Summit Plan of Action, Bridgetown, Barbados, May 10, 1997, at sections 1.1 to 1.11. The Plan of Action is summarized in "Partnership for A Prosperous and Secure Caribbean," Fact Sheet issued by the White House, May 10, 1997. Both documents are available on the U.S. Information Agency's web site http://www.usia.gov.

[43] NewsEDGE/IPS (Port of Spain), "Caribbean Politics: Time for Action in Caribbean," May 12, 1997.

[44] USTR, *1998 Trade Policy Agenda and 1997 Annual Report of the President of the United States on the Trade Agreements Program*, March 1998, p. 239.

[45] 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*, publication 2995, Sept. 1996.

[46] 19 U.S.C. 3202.

[47] President, "Remarks Following Discussions With President Rodrigo Borja Cevallos of Ecuador," *Weekly Compilation of Presidential Documents*, July 23, 1990, pp. 1140-1143.

ATPA benefits were modeled after CBERA, but some limits are linked to GSP. A wide range of Andean products is eligible for duty-free entry.[48] ATPA excludes from duty-free entry the same list of articles excluded under CBERA, with the addition of rum.[49] 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, ATPA duties on these articles were reduced by a total of 20 percent, but not more than 2.5 percent ad valorem, beginning January 1, 1992, in five equal annual installments.

Total U.S. imports from the four Andean countries totaled $8.7 billion in 1997. Imports under ATPA preferences (shown by country in table A-32) were valued at $1.35 billion, or 15.6 percent of the total (table 5-11). The leading items afforded duty-free entry under ATPA in 1997 were roses, refined copper cathodes, and chrysanthemums, standard carnations, anthuriums, and orchids (table A-33).

[48] 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.

[49] ATPA sec. 204(b), 19 U.S.C. 3203(b).

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.[50] 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.

[50] 19 U.S.C. 1862.

Table 5-10
U.S. imports for consumption from CBERA countries, 1995-97

Item	1995	1996	1997
Total imports (*1,000 dollars*)	12,550,118	14,544,810	16,572,402
Imports under CBERA[1] (*1,000 dollars*)	2,261,407	2,791,055	3,207,842
Percent of total	18.0	19.2	19.4

[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 5-11
U.S. imports for consumption from Andean countries, 1995-97

Item	1995	1996	1997
Total imports *(1,000 dollars)*	6,968,729	7,867,646	8,673,564
Imports under ATPA[1] *(1,000 dollars)*	938,789	1,270,054	1,352,855
Percent of total	13.5	16.1	15.6

[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.

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 1997.

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 Commission, 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).[51] There were no investigations conducted or actions in effect under section 22 during 1997.

U.S. Textile and Apparel Trade Program

The Uruguay Round Agreement on Textiles and Clothing

On January 1, 1995, the Uruguay Round Agreement on Textiles and Clothing (ATC) entered into force as part of the WTO agreements and replaced the Multifiber Arrangement (MFA), which had governed world trade in textiles and apparel since 1974. The MFA had permitted quotas without compensation on exports of such goods, mainly those shipped from developing countries to developed countries. Under the ATC, the four WTO members that maintained MFA quotas (Canada, the European Union, Norway, and the United States), agreed to remove the quotas over a 10-year transitional period that ends on January 1, 2005. At that time all these products will be "integrated," or brought into the General Agreement on Tariffs and Trade (GATT) regime, so they become subject to the same rules as goods of other sectors.

The quotas on textiles and apparel are being phased out in three stages. The first stage began on January 1, 1995, when WTO countries were required to integrate at least 16 percent of their sector trade into the General Agreement on Tariff and Trade (GATT) regime, based on 1990 import volume. In addition, WTO countries were required to increase the annual growth rates for quotas still in place by 16 percent[52] for major suppliers and by 25 percent for small suppliers.[53] The second stage began on January 1, 1998, when another 17 percent of the trade was integrated into the GATT regime and the annual growth rates for quotas still in place for major suppliers were increased by 25 percent. The third stage begins on January 1, 2002, when another 18 percent of the trade is to be integrated with a 27-percent increase in the annual growth rate for quotas still in place. The remaining 49 percent of the trade is scheduled for integration at the end of the 10-year period, on January 1, 2005.

All WTO members are subject to the disciplines of the ATC, and only WTO members are eligible for the ATC's benefits. Included in the ATC is a special transitional safeguard mechanism (Article 6) designed to protect WTO members against damaging surges in imports during the 10-year transition period for products that have not yet been integrated into the GATT regime and that are not already under quota.[54] The safeguard

[51] 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 and tariff-rate quotas (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 expired in September 1995.

[52] For example, an annual quota growth rate of 6 percent under the MFA in 1994 became 6.96 percent in the first stage (1995-97), and 8.7 percent in the second stage (1998-2001), and will increase to just over 11 percent in the third stage (2002-04).

[53] Small suppliers are those accounting for 1.2 percent or less of an importing country's total quotas as of December 31, 1991. Small suppliers subject to U.S. quotas include Bahrain, Bulgaria, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Hungary, Jamaica, Kenya, Kuwait, Macau, Mauritius, Poland, Qatar, Romania, Slovak Republic, United Arab Emirates, and Uruguay.

[54] WTO, "The Agreement on Textiles and Clothing," found at Internet address http://www.wto.org/wto/goods/textiles.htm, retrieved Apr. 6, 1998.

quota may remain in place for up to three years or until the product is integrated into the GATT.

The ATC provided for the establishment of the Textiles Monitoring Body (TMB) to supervise the implementation of the ATC's provisions. Article 8 of the ATC requires that, on the basis of reports from the TMB, the WTO Council for Trade in Goods (CTG) will review the operation of the ATC at the conclusion of each stage of the integration process. In a meeting of the CTG on December 8, 1997, the chairman reported that the views of the members "remained far apart on the progress made in the ATC implementation process in the first stage," which ended on December 31, 1997.[55] In its report to the CTG, the TMB noted that, with one exception, the products integrated by the importing developed countries in the first stage were not subject to quotas and that the products were concentrated in the relatively less-value-added products, such as yarns and fabrics, rather than apparel and other made-up textile products.[56] In addition, the TMB noted that the products integrated by the importing countries in the second stage generally were also concentrated in the relatively lower-value-added products.[57] Taking the first and second stages together, lower-value-added products such as yarns and fabrics accounted for 76 percent of the import volume integrated by the EU, 65 percent for the United States, 60 percent for Norway, and 47 percent for Canada.[58]

The TMB further indicated that an overall assessment of the integration process under the ATC should consider several of its features, including that integration is implemented on the basis of the total volume of imports rather than the value and that members are free to choose products for integration if their selection meets the essential technical requirements of the ATC. In this regard, the TMB stated that the notifications made by the importing developed countries and reviewed by the TMB met these requirements.[59]

U.S. Actions Under the ATC in 1997

The United States currently has quotas on textiles and apparel from 47 countries, 37 of which are WTO members whose sector shipments are subject to the terms of the ATC (table 5-12). These 37 countries supplied 55 percent of the total value of U.S. sector imports in 1997. Another 11 percent of total U.S. sector imports came from Mexico, a WTO member for whom U.S. quotas on sector shipments are being phased out under NAFTA. The nine non-WTO countries subject to U.S. quotas, led by China and Taiwan, supplied 17 percent of sector imports in 1997. Sector imports from non-WTO countries are subject to section 204 of the Agricultural Act of 1956, which provides the President with the basic statutory authority to enter into agreements with foreign governments to limit their exports of textile products to the United States, and to issue regulations to carry out such agreements.[60]

In 1997, the United States initiated four requests for consultations with foreign supplying countries for the purpose of establishing new quotas. Two of these requests for consultations, commonly referred to as "calls," were safeguard actions under the ATC involving WTO countries; the other two were initiated under section 204 of the Agricultural Act of 1956 for two non-WTO members. The first call under the ATC, which had proposed an annual quota on imports of combed cotton yarn from Pakistan of 2,319,944 kilograms, was allowed to expire without further action because of a substantial drop in trade later in the year. The second call resulted in an annual quota of 2,200,000 kilograms on artificial staple yarn (rayon) from Thailand. The section 204 calls resulted in annual quotas on imports of cotton terry and other pile towels from Nepal of 4,089,480 towels and on cotton gloves from Cambodia of 1,250,841 dozen pairs. The 4 calls in 1997 were up from the 2 calls initiated by the United States in 1996, but were down considerably from the 28 calls initiated during 1995, the first year the ATC was in force.[61]

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[55] WTO, *Report (1997) of the Council for Trade in Goods*, Geneva, document G/L/213 (97-5407), Dec. 9, 1997, para. 18.7, found at Internet address http://www.wto.org/wto/ddf, retrieved Jan. 29, 1998.

[56] WTO, *Comprehensive Report of the Textiles Monitoring Body to the Council for Trade in Goods on the Implementation of the Agreement on Textiles and Clothing During the First Stage of the Integration Process*, document G/L/179 (97-3288), July 31, 1997, para. 15, found at Internet address http://www.wto.org/wto/ddf, retrieved Jan. 28, 1998.

[57] Ibid., para. 58.

[58] Ibid., para. 70.

[59] The Statement of Administrative Action (SAA) accompanying the U.S. Uruguay Round Agreements Act states that the Committee for the Implementation of Textile Agreements (CITA), in scheduling the products for integration into the GATT regime, was to defer the integration of the most sensitive goods until the end of the 10-year period. See SAA, p.115; see also CITA, "Final List of Products for Second, Third and Final Phase Integration of Textile and Apparel Products into GATT 1994," published in the *Federal Register* of May 1, 1995 (60 F.R. 21075).

[60] If a multilateral agreement like the MFA or the ATC is concluded under the authority of section 204 among major textile exporters, the President is authorized to issue regulations governing the importation of such products from countries that are not parties to the agreement.

[61] Citing changing market conditions, the United States rescinded 15 of the 28 calls made in 1995. All of the calls rescinded were made with WTO members.

Table 5-12
Countries with which the United States has textile and apparel quotas, as of March 31, 1998, and U.S. imports of textiles and apparel from these countries in 1997
(Million dollars)

Country	Imports
WTO members subject to the ATC	
Bahrain	69
Bangladesh	1,498
Brazil	148
Bulgaria	70
Colombia	381
Costa Rica	850
Czech Republic	39
Dominican Republic	2,272
Egypt	389
El Salvador	1,079
Fiji	54
Guatemala	971
Honduras	1,663
Hong Kong	4,100
Hungary	60
India	2,010
Indonesia	1,872
Jamaica	472
Kenya	32
Kuwait	4
Macau	930
Malaysia	715
Mauritius	185
Myanmar (Burma)	91
Pakistan	1,197
Philippines	1,846
Poland	51
Qatar	95
South Korea	2,288
Romania	94
Singapore	288
Slovak Republic	20
Sri Lanka	1,362
Thailand	1,661
Turkey	886
United Arab Emirates	258
Uruguay	12
Non-WTO members subject to section 204 of the Agricultural Act of 1956	
Cambodia	99
China	6,024
Former Yugoslav Republic of Macedonia	66
Laos	13
Nepal	105
Oman	126
Russia	102
Taiwan	2,812
Ukraine	66
WTO member subject to the North American Free Trade Agreement	
Mexico	5,928

Source: U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel.

Other Trade Agreements

In addition to the ATC, bilateral and regional trade agreements govern the United States' trade with several of its most important trading partners, most notably China, Mexico, and Canada. Designed to reduce and ultimately eliminate tariffs on textile and apparel products from its foreign suppliers, these agreements were also established to obtain market opening commitments for exports of U.S. textiles and apparel.

China

On February 1, 1997, the United States and China signed a new bilateral agreement governing trade in textiles and apparel. The 4-year pact extended U.S. import quotas on textiles and apparel from China and reduced quotas in product areas where China had made repeated transshipment violations.[62] The pact was considered ground breaking because "[f]or the first time, the United States obtained significant market opening commitments from China for export of U.S.-manufactured textile and apparel products."[63] The portion of the agreement covering U.S. import quotas went into effect immediately and the market access portion went into effect on January 1, 1998.

Regarding market access, China agreed to cut tariffs substantially for a number of textile and apparel products, including those which U.S. producers believe have the greatest export potential to the Chinese market, and to bind these tariffs at the lower rates. Such products include cotton and manmade fiber yarns and fabrics, knit fabrics, and printed fabrics; T-shirts, sweatshirts, and underwear; and advanced specialty textiles used in construction of buildings, highways, and filtration products. These tariffs went into effect on January 1, 1998.[64]

On December 31, 1997, the United States-China bilateral trade agreement on silk products expired. Silk products can now be imported from China into the United States free of quota, but must still be accompanied by a visa.[65] In January 1998, U.S. importers of textiles and apparel called on the Clinton administration to immediately eliminate the visa requirement, which they consider now to be unnecessary because the silk products are no longer subject to quota.

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.[66] U.S. quotas on imports of sector goods from Mexico that do not meet the NAFTA rules of origin will be phased out by 2004. NAFTA provides for tariff preference levels (TPLs) that allow limited amounts of sector imports from Canada and Mexico that do not meet NAFTA rules of origin to enter at preferential duty rates under NAFTA.[67] Most of the TPLs were underused in 1997, as they have been in the years since NAFTA's entry into force.[68]

The major exception is the TPL for wool apparel from Canada, which was filled in 1996 and 1997. Men's and boys' suits accounted for just over 60 percent of the imports charged to the TPL. During the past five years, U.S. imports of men's and boys' wool suits from Canada rose by 700 percent, to 5.2 million suits valued at $146 million in 1997. U.S. industry has expressed concern that because Canada was continuing to fill its wool apparel TPL primarily with men's and boys' suits,[69] U.S. production and employment associated with these goods had declined 40 percent and 50 percent, respectively.[70] Consequently, in

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[62] Transshipment of textiles and apparel through third countries, especially by China, to evade quotas remains a concern of the United States. 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 1997.

[63] U.S. Department of State telegram, "Textiles/China: Exchange of Notes," message reference No. 040894, prepared by the U.S. Department of State, Washington, DC, Mar. 5, 1997.

[64] The Chinese government released its tariff rates in January 1998.

[65] The United States requires visas for textiles and apparel imports from many countries, including China. A visa

[65]—*Continued*
is an endorsement in the form of a stamp on an invoice or export control license which certifies the origin of the goods, specifies the product type and quantity, and authorizes the shipment. Issued by the quota regulatory authority of the country in which the goods originate, it is used to control the exportation of textiles and textile products to the United States and to prohibit the unauthorized entry of the merchandise into this country.

[66] 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. For certain products, a fiber- or fabric-forward rule applies.

[67] TPLs were developed primarily to alleviate short supply problems, especially as they relate to manufacturers' inputs.

[68] U.S. Customs Service, Textile Status Reports, Charges for Canada and Mexico, Dec. 31, 1997, found at Internet address http://www.cebb.customs.treas.gov/public/cgi, retrieved Jan. 9, 1998.

[69] U.S. Department of State telegram, "Wool Suits from Canada," message reference No. 02725, prepared by the U.S. Department of State, Washington, DC, July 18, 1997.

[70] Honorable John J. LaFalce, "NAFTA Parity for U.S. Wool Apparel Industry," *Congressional Record*, remarks before the U.S. House of Representatives, Sept. 8, 1997.

September 1997, Congressman John J. LaFalce, Democrat from New York, introduced H.R. 2432, a bill designed to provide relief for domestic producers of tailored wool apparel from increased imports of such apparel from Canada. No further action was taken on the bill by the end of 1997.

Proposed Legislation on Textiles and Apparel from Africa

Legislation was introduced in the 105th Congress on April 24, 1997—H.R. 1432, the African Growth and Opportunity Act—which would authorize a new trade and investment policy for Sub-Saharan Africa (SSA).[71] In part, the bill provides for increased access to U.S. markets for eligible textile and apparel products from 48 SSA countries, once designated. The bill would eliminate existing U.S. quotas on imports of textile and apparel products from SSA countries and would authorize the President to grant GSP duty-free treatment to such imports. The bill sets forth several findings of Congress regarding the competitiveness of SSA in the global market. First, it says that SSA has limited capacity to produce sector products, and this capacity is projected to grow at a modest rate; accordingly, it will be difficult for SSA to supply more than 3 percent of annual U.S. textile and apparel imports during the next 10 years. Further, the bill says that if imports of sector products from SSA grow to "around 3 percent" of total U.S. sector imports, they will not represent a threat to U.S. producers, workers, or consumers. In 1997, SSA countries accounted for $400 million, or less than 1 percent, of total U.S. sector imports. In the Senate, a companion bill, S. 778, was introduced on May 21, 1997, and referred to the Senate Committee on Finance. In his State of the Union address on January 27, 1998, President Clinton called upon the U.S. Congress to include the Africa bill in its 1998 trade agenda. On March 11, the House of Representatives passed H.R. 1432 by a vote of 233-186. The Senate has yet to vote on its version of the bill.

At the request of the House Ways and Means Committee, the U.S. International Trade Commission conducted an investigation concerning the likely impact of providing quota-free and duty-free entry to textiles and apparel from SSA.[72] The Commission estimated that allowing duty-free and quota-free entry for textiles and apparel from SSA would result in a decrease in domestic producers' apparel shipments of about 0.1 percent and would have a negligible effect on shipments of the domestic textile industry.

U.S. Textile and Apparel Trade in 1997

U.S. imports of textile and apparel grew significantly in 1997, rising by 20 percent over the 1996 level to a record 22.9 billion square meter equivalents (SMEs) valued at $54.0 billion.[73] The increase reversed the trend of the previous three years in which the growth of imports had slowed steadily from 9 percent in 1994 to 6 percent in 1995 and 4 percent in 1996. The gain in 1997 imports was marked by a 23-percent increase in textile imports to 11.7 billion SMEs valued at $11.2 billion and an 18-percent increase in apparel imports to 11.4 billion SMEs valued at $42.9 billion. Apparel accounted for 50 percent of the quantity but almost 80 percent of the value of total sector imports in 1997.

Mexico, Canada, and the Caribbean Basin countries accounted for a considerable share of the increase in sector imports in 1997, as they had in 1996. These countries benefit from preferential access to the U.S. market under U.S. trade agreement programs—Mexico and Canada under NAFTA, and Caribbean Basin countries under the "special access program" for these countries. Sector imports from Mexico grew 38 percent in 1997, rising to 3.0 billion SMEs valued at $5.9 billion, a slightly smaller growth rate than the 42 percent rise in 1996. For the second consecutive year, Mexico remained ahead of China as the single largest country supplier of textiles and apparel by quantity. The volume of sector imports from Caribbean Basin countries in 1997 rose by 25 percent to almost 3.0 billion SMEs valued at $7.7 billion. In recent years, U.S. producers have steadily expanded their use of offshore assembly operations in Caribbean Basin countries and Mexico to cut costs in the face of a highly competitive retail environment. Consequently, the vast majority of the imports from both Mexico and the Caribbean Basin countries continued to consist of garments assembled from U.S. components and entered under production-sharing provisions of HTS headings 9802.00.80 and

[71] This bill follows H.R. 4198, African Growth and Opportunity: The End of Dependency Act of 1996, which was introduced in September 1996 and referred to the Committee on Ways and Means. No further action was taken on the bill during the 104th Congress.

[72] USITC, *Likely Impact of Providing Quota-Free and Duty-Free Entry to Textiles and Apparel From Sub-Saharan Africa* (investigation No. 332-379), USITC publication 3056, Sept. 1997.

[73] Import data in this section are from U.S. Department of Commerce, Office of Textiles and Apparel, *Major Shippers Report* (CD-ROM). Such data, which represent U.S. general imports of goods covered by the U.S. textile trade agreements program, are on the Internet at http://otexa.ita.doc.gov/msrpoint.htm.

9802.00.90 (the latter only open to Mexico). NAFTA-has given Mexico a competitive advantage, however. While garments sewn in Mexico from fabric made and cut in the United States can enter free of duty and quota, such U.S. formed-and-cut goods from Caribbean Basin countries can enter under virtually unlimited "guaranteed access levels" but are still subject to duty on the value added offshore.[74] U.S. industry officials have claimed that since the implementation of NAFTA, trade and investment have been diverted from Caribbean Basin countries to Mexico. Although legislation introduced in Congress in 1997 to grant NAFTA parity was not passed,[75] the 25-percent growth rate in 1997 imports from the Caribbean Basin nevertheless demonstrated the benefits that U.S. manufacturers can still gain by having apparel production-sharing operations in that region.

In 1997, U.S. imports of sector products from China increased by 27 percent to 2.2 billion SMEs and by 23 percent in value to $6.0 billion, thereby contributing to the significant rise in total U.S. sector imports in 1997. This contrasted with the decrease of sector imports from China in quantity by 7 percent in 1996 and a small increase of 2 percent in value. Industry sources attributed the sharp rise in sector trade from China in 1997 to a resumption of the trade activity levels of the years preceding 1996. Tight U.S. import quotas and a variety of factors internal to China are thought to have led to the drop in sector imports from China in 1996.

Regarding trade from other major traditional Asian suppliers, 1997 sector imports from Hong Kong declined by 3 percent to 863 million SMEs valued at $4.1 billion. Hong Kong trade sources attributed the drop in sector imports to the establishment by the U.S. Customs Service of additional reporting requirements, including the posting of a single-entry bond to prevent alleged illegal transshipments of textile products from China through Hong Kong. The Customs Service rescinded the single-entry bond requirement in July 1997. U.S. sector imports from Korea rose 12 percent in 1997 to 818 million SMEs valued at $2.3 billion. Sector imports from Taiwan decreased by less than 1 percent in 1997, totaling 1.2 billion SMEs valued at $2.8 billion.

[74] For every $10 in f.o.b. value, a typical CBI garment entered under 9802.00.80 contains $6.40 in duty-free U.S. components and $3.60 in dutiable, foreign value added. Applying the 1997 trade-weighted average duty rate on apparel of 15.5 percent to the foreign value added yields an average duty of $0.56, or an ad valorem equivalent of 5.6 percent of the total f.o.b. value of a typical CBI garment.

[75] H.R. 2644, the United States-Caribbean Trade Partnership Act, was defeated on November 4, 1997.

In 1997, U.S. sector imports from the Association of Southeast Asian Nations (ASEAN) increased by 20 percent to 2.6 billion SMEs valued at $6.5 billion following negligible growth in 1996. U.S. sector imports from Indonesia, the leading ASEAN supplier by quantity, rose by 41 percent, more than triple the 12 percent growth rate in 1996 and reached 855 million SMEs valued at $1.9 billion. Sector imports from Thailand grew 22 percent. U.S. sector imports from the South Asian countries—Bangladesh, India, Pakistan, and Sri Lanka, which are among the lowest cost suppliers in Asia—all had double-digit growth rates in 1997 in terms of quantity: 22 percent, 13 percent, 38 percent, and 12 percent, respectively. The quantity of U.S. imports from all the South Asian countries rose 18 percent to 3.4 billion SMEs while the value of imports increased 20 percent to $6.1 billion.

Developments in the Rules of Origin for Textiles and Apparel

The Uruguay Round Agreements Act required the United States to adopt new rules of origin for imports of textiles and apparel in July 1996. As provided for by section 334 of the URAA, the change in origin rules affects country-of-origin determinations for U.S. imports of sector products that are subject to manufacturing and processing operations in, or contain components from, more than one country. The U.S. industry had sought the rules change on the basis that foreign suppliers were dividing their production operations among various countries as a means of avoiding quotas.[76] For apparel assembled in one country from parts cut to shape in another, the new U.S. rules of origin generally confer origin on the country where the assembly occurs, rather than the one where the cutting took place, as was the usual case under the previous rules. For fabrics, the country of origin is the one where they were made, even if the fabrics undergo dyeing, printing, and other finishing operations in another country. For "flat goods" such as scarves and bed linens, it is the country where the fabric was made, rather than the country where the fabric was cut and sewn, as was previously the case.

U.S. trading partners have expressed concern about the new U.S. origin rules for textile and apparel products. In May 1997, the EU filed a request with the WTO for formal consultations with the United States, stating that the new rules adversely affected its exports of fabrics, scarves, and other flat goods to the U.S.

[76] U.S. House of Representatives, Committee on Ways and Means, *Overview and Compilation of U.S. Trade Statutes*, 105th Cong., 1st sess. (Washington, D.C.: U.S. Government Printing Office, June 25, 1997), WMCP: 105-4, p. 121.

market. As a result of the rules change, the EU stated that such goods are no longer recognized in the United States as being of EU origin and lose their quota-free access to the U.S. market. For example, for EU shipments to the United States of "discharge printed fabric" made from unfinished cloth from Egypt, Indonesia, Malaysia, Thailand, and Turkey, the new U.S. rules stipulate that the country of origin is the one where the fabric was formed rather than the one where the fabric was processed. Consequently, whereas in the past European producers had unrestricted access to the U.S. market for their products, the new rules of origin would require them to comply with any U.S. quotas or visa requirements applied to their suppliers of raw fabric. Similarly, the new rules stipulate that EU shipments to the United States of silk scarves made from Chinese fabric are the product of China rather than Italy or France, even though about 80 percent of the total cost of the silk scarves originated in the EU.[77]

Acknowledging that a return to the previous rules of origin for flat goods would require a legislative change (i.e., an amendment to the U.S. statute), the United States and the EU agreed to postpone formal WTO dispute settlement proceedings and accept an interim solution.[78] The United States agreed to create an exemption from the marking requirements for imported silk scarves (HTS subheading 6214.10.10) and silk fabrics (HTS heading 5007), thus allowing silk scarves to be imported with modified appellations.[79] In addition, to help alleviate the alleged impact of the rules change on discharge printed fabric,[80] the United States agreed to exempt certain discharge printed fabrics from quotas with respect to Egypt, Indonesia, Malaysia, and is currently negotiating with Thailand and Turkey to provide similar exemptions. On February 25, 1998, the United States released its formal notification to the WTO of its agreement with the EU concerning the exemptions on the rule of origin changes for silk and other fabrics. If the WTO rules of origin harmonization process is not completed by July 20, 1998, the United States has agreed that within one month it will introduce legislation to restore the rules of origin for flat goods that existed before July 1, 1996.

Major U.S. Trade Sanctions Activities

The United States imposes trade sanctions against specific foreign countries under several statutory authorities.[81] Many are administered and enforced by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury.[82] A few specifically targeted trade embargoes are administered and enforced by other agencies. The Bureau of Export Administration, Export Enforcement, of the U.S. Department of Commerce and the U.S. Customs Service of the U.S. Department of the Treasury play a supportive role in monitoring compliance with the U.S. measures.

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. 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.

[77] European manufacturers claimed the changes in the country-of-origin label would also eliminate the prestige and lower the appeal that U.S. consumers often associate with European goods, leading to lower sales. See U.S. Department of State telegram "Textiles/Rules of Origin: Agreement with the EU," message reference No. 146388, Washington, DC, prepared by U.S. Department of State, Aug. 5, 1997.

[78] Ibid.

[79] The appellations include: "designed in Italy," "Dyed and Printed in Italy," "Cut and Sewn in Italy," "Fashioned in Italy," "Crafted in Italy," "Created in Italy," "Gucci of Italy," "Designed and Printed by Gucci in Italy," "Crafted by Gucci in Italy," and "Created by Gucci in Italy."

[80] Discharge printed fabrics refer to fabrics that are processed as follows: dyed, not tinted, a single uniform color other than white; further processed using a method whereby chlorine or other color-destroying chemicals are applied to discrete portions of the dyed fabric to bleach out or discharge the dye. The fabrics are then printed in those discrete portions thereby yielding a different colored pattern on the previously dyed ground; and/or are subjected to two or more of the following finishing operations: bleaching, shrinking, filling, napping, debating, permanent stiffening, weighting, permanent embossing, or marring.

[81] 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).

[82] 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. OFAC also has the authority to impose civil monetary penalties for certain violations. The United States applies criminal penalties (prison terms and/or monetary penalties) for violations under these regulations. U.S. Department of the Treasury, OFAC, "Foreign Assets Control Regulations for Exporters and Importers, Jan. 15, 1997, found at Internet address http://www.ustreas.gov/treasury/services/fac/fac.html, retrieved Jan. 15, 1998.

U.S. trade sanctions operative during 1997 are covered under many statutes. Some of the U.S. sanctions are multilateral undertakings pursuant to United Nations (UN) resolutions and carried out in close cooperation with other governments; other sanctions are unilateral U.S. actions. In addition to trade sanctions imposed by the Federal Government, several U.S. states and municipalities also imposed international trade sanctions during 1997.

The United States imposed new or additional unilateral trade sanctions against Burma (Myanamar) and Sudan during 1997. Also during 1997, sanctions imposed by the Commonwealth of Massachusetts against companies that do business with Burma (such sanctions also are imposed by other individual U.S. states and municipalities) were the subject of a WTO complaint by U.S. trading partners. Tables 5-13 and 5-14 summarize the status of major U.S. trade sanctions[83] operative during 1997. Eight of the sanctions listed are broadly categorized by targeted country, although a given country may be subject to several U.S. statutory regulations imposing a comprehensive set of trade sanctions. Also listed are U.S. trade sanctions restricting imports of certain shrimp and tuna from countries that do not comply with U.S. marine wildlife conservation efforts.[84]

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[83] For more detailed 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 of the Trade Act of 1974 are discussed in ch. 5.

[84] For detailed background information on the listed trade sanctions, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 157-164.

Table 5-13
Summary of major U.S. trade sanctions operative in 1997

Country	Sanctions
Burma . .	*Trade*: Several U.S. states and municipalities apply selective purchasing/contracting measures against companies that do business with Burma. *Investment and financial dealings*: New investment in Burma by U.S. persons prohibited by Executive Order 13047 of May 21, 1997 (62 F.R. 28299). *1997 status*: On June 20, 1997, EU filed a complaint (WT/DS88/1) with the WTO against the United States concerning the selective procurement measures enacted by the Commonwealth of Massachusetts to discriminate against companies that do business in Burma. The EU contends that, as Massachusetts is covered under the U.S. schedule to the Agreement on Government Procurement, this violates Articles VIII(B), X and XIII of the Agreement. The EU also contends that the measure also nullifies benefits accruing to it under the GPA, as well as impeding the attainment of the objectives of the GPA, including that of maintaining balance of rights and obligations. The matter remains before the WTO pending consultations between the EU and the United States.
Cuba . . .	*Trade:* Sanctions prohibit imports of goods or services either directly or through third countries,[1] and prohibit exports or reexports of U.S. goods, technology, or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located.[2] Vessels carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest prohibited from entering U.S. ports. *Investment and financial dealings:* Cuban assets in the United States blocked, and total freeze on financial dealings with Cuba. Title III of the 1996 Cuban Liberty and Democratic Solidarity (Libertad) Act, also known as the Helms-Burton Act in reference to the two members of Congress who were the main sponsors of the legislation, Senator Jesse Helms (R-NC) and Representative Dan Burton (R-IN), permits U.S. nationals whose property was confiscated by the Cuban government to sue Cuban governmental entities or foreign investors who use or profit in any way from these properties; title III also authorizes 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 the transition to democracy in Cuba, and requires the President to review that decision every six months. *1997 status:* No statutory changes. President Clinton has suspended the right of U.S. nationals to file suit pursuant to title III of the Libertad Act since that provision entered into force. The United States and the EU worked to resolve an EU complaint before the WTO filed in 1996 after the United States implemented title III of the Libertad Act.[3] On April 25, 1997, at the request of the EU, the WTO panel suspended its work on this dispute following an agreement between the EU and the United States under which both sides pledged to work cooperatively to develop binding disciplines on dealings in property confiscated in Cuba. Although an October 15, 1997, deadline for establishing a mutually satisfactory agreement was not met, U.S. and EU officials continued to work towards a settlement into early 1998.
Iran	*Trade:* Sanctions prohibit imports of goods or services either directly or through third countries,[1] and prohibit exports or reexports of U.S. goods, technology, or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located.[2] U.S. persons also prohibited from engaging in trade involving Iranian oil or petroleum products refined in Iran, as well as the provision of goods, services, or technology that would benefit the Iranian oil industry. *Investment and financial dealings:* U.S. persons prohibited from making new investments in Iran or in Iranian property, including loans, extensions of credit, and commitments of funds. *1997 status:* Executive Order 13059 of Aug. 19, 1997 (62 F.R. 44531) confirmed that virtually all trade and investment activities with Iran by U.S. persons, wherever located, are prohibited.

See footnotes at end of table.

Table 5-13—*Continued*
Summary of major U.S. trade sanctions operative in 1997

Country	Sanctions
Iraq	*Trade:* Sanctions prohibit imports of goods or services either directly or through third countries, except as provided for under UN Security Council Resolution 986 of 1995 permitting Iraq to sell specific quantities of oil and to purchase specific humanitarian goods (the Iraqi Government delayed implementing Resolution 986 until December 1996). Also prohibited are exports or reexports of U.S. goods, technology, or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located, except OFAC-licensed humanitarian goods. *Investment and financial dealings:* All assets of the Iraqi government subject to U.S. jurisdiction are blocked. All transfers or commitments to transfer funds or credit by U.S. persons to the Government of Iraq or to persons in Iraq are prohibited. *1997 status:* No statutory changes.
Libya	*Trade*: Sanctions prohibit imports of goods or services either directly or through third countries,[1] and prohibit exports or reexports of U.S. goods, technology or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located.[2] Also prohibited are transactions that ultimately benefit Libya, including brokering third-country sales of Libyan crude oil or transportation for Libyan cargo. Certain U.S. sales to Libya are permitted, including the sale of parts and components to third countries where the U.S. goods will be “substantially transformed” into new and different articles of commerce prior to shipment to Libya, as well as the sale of goods that come to rest in the inventory of a third-country distributor whose sales are not predominantly to Libya. *Investment and financial dealings:* All contracts, loans, and financial dealings with Libya are prohibited. All assets of the Libyan government subject to U.S. jurisdiction are blocked. Independent transactions by foreign subsidiaries of U.S. firms permitted if no U.S. person or permanent resident has a role. *1997 status:* No statutory changes.
North Korea . . .	Trade: Sanctions prohibit imports[1] of goods or services either directly or through third countries, and prohibits exports[2] or reexports of U.S. goods, technology or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located.[4] *Investment and financial dealings:* All contracts, loans, and financial dealings with North Korea prohibited. All assets of North Korea and North Korean nationals subject to U.S. jurisdiction blocked. *1997 status:* No statutory changes.
Sudan . . .	*Trade:* Sanctions prohibit imports of goods or services either directly or through third countries, and prohibit exports or reexports of U.S. goods, technology, or services, brokering offshore transactions, and provision of consulting services by U.S. persons wherever located.[2] *Investment and financial dealings:* Financial transactions which pose a risk of furthering terrorist acts in the United States prohibited. Beginning in 1997, Sudanese assets in the United States blocked. *1997 status:* Comprehensive economic sanctions implemented by Executive Order 13067 of Nov. 4, 1997 (62 F.R. 59987) because of Sudan’s continued support for international terrorism, efforts to destabilize neighboring governments, and human rights violations.

See footnotes at end of table

Table 5-13—*Continued*
Summary of major U.S. trade sanctions operative in 1997

Country	Sanctions
Syria	*Investment and financial dealings:* Sanctions prohibit financial transactions which pose a risk of furthering terrorist acts in the United States. *1997 status:* No statutory changes.

[1] Exceptions allowed for generally $100 worth of merchandise brought into the United States as accompanied baggage by authorized travelers.
[2] Exceptions generally allowed for exports of certain humanitarian goods licensed for export and, in some instances, certain informational material.
[3] For additional information on the impact of the Cuba sanctions on U.S.-EU relations, see the section on the EU in ch. 4.
[4] Exceptions allowed when authorized by license granted by the U.S. Department of the Treasury.

Sources: Office of Foreign Assets Control, U.S. Department of the Treasury, compiled by the staff of the USITC; U.S. Department of State telegram, “Certification of Shrimp Imports Under P.L. 101-162,” prepared by U.S. Department of State, message reference No. 106060, Washington, DC, June 5, 1997; U.S. Department of State telegram, “Dolphin Conservation Program Act,” message reference No. 154257, prepared by U.S. Department of State, Washington, DC, Aug. 16, 1997; and WTO, “Overview of the State-of-Play of WTO Disputes,” found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Mar. 16, 1998. For detailed background information on the listed trade sanctions, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 157-164.

Table 5-14
Other trade sanctions

Product	Sanctions
Shrimp	Section 609 of Public Law 101-162 requires that countries exporting shrimp to the United States have a sea turtle conservation program comparable to the U.S. program or a fishing environment that does not pose a threat to sea turtles. In October 1996, complaints against the United States for its shrimp embargo were filed in the WTO by India, Malaysia, Pakistan, Thailand (WT/DS58), and the Philippines (WT/DS61), alleging U.S. violations of Articles I, XI, and XIII of GATT 1994, as well as nullification and impairment of benefits. *1997 status:* The President certified 36 shrimp-harvesting countries as eligible to export shrimp to the United States during 1997 (62 F.R. 19157), and so notified Congress by the annual May 1 statutory deadline; an additional 7 countries were subsequently certified. On Jan. 9, 1997, Malaysia and Thailand requested the establishment of a WTO dispute resolution panel pursuant to their complaint; Pakistan and India also subsequently separately requested establishment of a panel. A panel was established on Feb. 25, 1997, incorporating all of the complainants (Australia, Colombia, the EU, Guatemala, Hong Kong, Japan, Mexico, Nigeria, Philippines, Singapore, and Sri Lanka reserved their third-party rights). The complaint by the Philippines remains pending consultations.
Tuna	The 1972 Marine Mammal Protection Act and its amendments prohibit U.S. imports of yellowfin tuna from countries that harvest the tuna through the use of purse seine nets that encircle dolphins or other marine mammals that swim with schools of yellowfin tuna. Following a 1991 complaint by Mexico to the GATT, a GATT dispute resolution panel found the U.S. embargo inconsistent with GATT rules. A second GATT panel confirmed the first panel's decision in 1994, following a complaint by the EU on behalf of the Netherlands Antilles. *1997 status:* Imports of yellowfin tuna from all of the Eastern Tropical Pacific (ETP) Ocean fishing nations other than Ecuador and Spain were subject to the U.S. embargo during 1997.[1] On Aug. 15, 1997, President Clinton signed into law the International Dolphin Conservation Program Act (H.R. 408). This legislation provides for an end to the unilateral embargoes on imports of yellowfin tuna required by existing U.S. law once a legally binding international dolphin conservation program is formalized. In early 1998, the United States and several of its trading partners drafted an agreement to implement the 1995 Panama Declaration, under which members of the Inter-American Tropical Tuna Commission pledge to reduce to below 5,000 by 1999 the number of dolphins killed by ETP tuna boats.

[1] For additional information on the impact of the tuna embargo on U.S.-Mexican bilateral relations, see the section on Mexico in ch. 4.

Sources: Office of Foreign Assets Control, U.S. Department of the Treasury, compiled by the staff of the USITC; U.S. Department of State telegram, "Certification of Shrimp Imports Under P.L. 101-162," prepared by U.S. Department of State, message reference No. 106060, Washington, DC, June 5, 1997; U.S. Department of State telegram, "Dolphin Conservation Program Act," message reference No. 154257, prepared by U.S. Department of State, Washington, DC, Aug. 16, 1997; and WTO, "Overview of the State-of-Play of WTO Disputes," found at Internet address http://www.wto.org/wto/dispute/bulletin.htm, retrieved Mar. 16, 1998. For detailed background information on the listed trade sanctions, see USITC, *The Year in Trade: OTAP, 1996*, USITC publication 3024, pp. 157-164.

APPENDIX
Statistical Tables

Table A-1
U.S. merchandise trade with Canada, by SITC numbers (revision 3), 1995-97

(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	5,301,201	5,499,424	5,925,162
1	Beverages and tobacco	203,469	232,888	301,653
2	Crude materials, inedible, except fuels	4,259,158	3,758,615	4,282,685
3	Mineral fuels, lubricants and related materials	1,414,956	1,851,287	2,280,104
4	Animal and vegetable oils, fats and waxes	124,589	173,639	222,703
5	Chemicals and related products, nesi	10,360,727	11,334,840	12,712,646
6	Manufactured goods classified chiefly by material	15,417,848	16,058,037	18,730,028
7	Machinery and transport equipment	61,652,333	64,785,287	73,658,380
8	Miscellaneous manufactured articles	11,623,693	11,869,949	13,334,655
9	Commodities and transactions not classified elsewhere in SITC	2,903,166	3,558,877	3,345,590
	Total all commodities	113,261,142	119,122,843	134,793,606
		U.S. imports		
0	Food and live animals	5,646,490	6,663,389	7,413,214
1	Beverages and tobacco	677,665	750,345	814,940
2	Crude materials, inedible, except fuels	10,898,443	11,314,720	11,950,346
3	Mineral fuels, lubricants and related materials	13,665,083	16,775,287	17,882,257
4	Animal and vegetable oils, fats and waxes	339,184	404,754	379,240
5	Chemicals and related products, nesi	8,126,301	8,530,839	9,510,738
6	Manufactured goods classified chiefly by material	25,381,147	25,833,114	27,305,567
7	Machinery and transport equipment	63,645,520	67,327,222	72,064,695
8	Miscellaneous manufactured articles	7,760,633	8,992,086	10,301,342
9	Commodities and transactions not classified elsewhere in SITC	8,741,416	9,706,847	10,258,672
	Total all commodities	144,881,881	156,298,602	167,881,010

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, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8703.24	Passenger motor vehicles with spark-ignition internal combustion reciprocating engine, cylinder capacity over 3,000 cc	4,067,839	4,231,410	5,298,707
8708.29	Parts and accessories of bodies (including cabs) for motor vehicles	4,250,195	4,410,316	4,706,272
8703.23	Passenger motor vehicles with spark-ignition internal combustion reciprocating engine, cylinder capacity over 1,500 but not over 3,000 cc	3,092,099	3,509,281	3,932,783
8708.99	Parts and accessories of motor vehicles, nesi	3,120,899	3,126,957	3,708,625
8407.34	Reciprocating spark-ignition piston engines, of a cylinder capacity over 1,000 cc	2,095,128	2,347,422	2,578,791
8704.31	Motor vehicles for transporting goods, with spark–ignition internal–combustion Piston engine, gross vihicle weight not exceeding 5 mt	1,711,633	2,027,978	2,372,856
8542.13	Metal oxide semiconductors	([1])	2,042,655	2,142,948
8708.40	Gear boxes for motor vehicles	2,127,987	2,041,641	2,096,184
9880.00[2]	Estimate of non-canadian low value export shipments; compiled low value	1,962,846	2,413,696	1,966,754
8473.30	Parts and accessories for automatic data processing machines and units	1,438,221	1,387,637	1,341,975
8471.50	Digital processing units other than those of 8471.41 and 8471.49	([3])	1,053,101	1,332,160
8409.91	Parts for spark-ignition internal-combustion piston engines	846,317	1,094,039	1,296,249
8708.39	Brakes and servo-brakes and parts for motor vehicles	931,266	989,663	1,064,624
8701.20	Road tractors for semi-trailers	1,020,135	789,893	1,055,431
9032.89	Automatic regulating or controlling instruments and apparatus	794,389	710,810	1,019,438
8803.30	Parts of airplanes or helicopters, nesi	679,482	770,964	864,745
7606.12	Rectangular plates, sheets and strip, over 0.2 mm thick, of aluminum alloy	889,408	756,696	830,697
4901.99	Printed books, brochures, leaflets and similar printed matter, other than in single sheets	753,069	731,383	802,992
8525.20	Transmission apparatus incorporating reception apparatus for radiotelephony	352,016	382,305	743,813
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude.	535,857	620,363	713,832
8479.89	Machines and mechanical appliances having individual functions	334,956	394,548	709,350
9401.90	Parts of seats (except medical, dentist, barbers, etc.)	640,318	619,510	684,297
8408.20	Compression-ignition internal-combustion piston engines	836,374	612,196	673,287
8471.49	Other digital automatic data processing machines, entered in the form of systems	([4])	611,969	672,135
4902.90	Newspapers, etc. appearing less than 4 times per week	619,465	631,020	650,786
	Total of items shown	33,099,900	38,307,454	43,259,733
	Total all commodities	113,261,142	119,122,843	134,793,606

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Special “Census Use Only” reporting number estimating low-valued exports.
[3] Prior to 1996, exports reported under *Schedule B* 8471.91 part.
[4] 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* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cyclinder capacity over 3,000 cc	20,578,804	19,372,032	19,880,796
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	6,139,318	7,367,016	7,423,720
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight, not exceeding 5 mt	6,119,187	5,839,170	7,065,416
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of thickness exceeding 6mm	4,952,193	6,251,623	6,598,640
9801.00	U.S. articles exported and returned, not advanced or improved in condition, animals exported or returned	5,485,905	5,847,162	6,076,681
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	2,826,323	5,087,297	5,461,001
2711.21	Natural gas, gaseous state	3,246,194	3,914,607	5,068,629
4801.00	Newsprint, in rolls or sheets	4,371,269	4,019,150	3,488,032
8708.99	Parts and accessories of motor vehicles, nesi	3,120,298	3,198,181	3,164,471
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; and preparations, nesi	1,680,425	2,482,415	2,385,893
8473.30	Parts and accessories for automatic data processing machines and units	2,870,644	2,364,805	2,267,445
8542.13	Metal oxide semiconductors	([1])	1,809,672	2,044,459
8407.34	Spark-ignition reciprocating piston engines, of a cylinder capacity over 1,000 cc	986,352	1,712,136	1,958,517
8708.29	Parts and accessories of bodies of motor vehicles, nesi	1,144,186	1,599,083	1,832,276
7108.12	Gold, nonmonetary, unwrought nesi (other than powder)	1,256,180	1,631,647	1,691,546
8701.20	Road tractors for semi-trailers	1,582,605	1,337,175	1,656,051
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, semibleached or bleached, coniferous wood	2,402,625	1,654,302	1,649,436
9999.95[2]	Estimated “low value” shipments	1,425,914	1,530,975	1,628,019
7601.20	Unwrought aluminum alloys.	1,219,414	1,187,692	1,410,338
8802.30	Airplanes and aircraft, of an unladen weight over 2,000 kg but not over 15,000 kg	588,733	996,569	1,196,435
4802.60	Paper nesi, over 10% (weight) fiber obtained by mechanical process	1,043,735	1,049,533	1,154,359
7601.10	Aluminum, not alloyed, unwrought	1,306,148	1,032,873	1,072,992
2716.00	Electrical energy	855,698	901,670	978,160
8517.90	Parts of telephonic or telegraphic apparatus	585,788	902,454	948,040
0102.90	Bovine animals, live, nesi	862,118	1,000,004	944,124
	Total of items shown	76,650,055	84,089,244	89,045,476
	Total all commodities.	144,881,881	156,298,602	167,881,010

[1] Prior to 1996, exports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] 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 numbers (revision 3), 1995-97

(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	4,647,714	4,745,961	4,614,150
1	Beverages and tobacco	2,777,735	2,575,617	2,351,538
2	Crude materials, inedible, except fuels	7,805,881	7,049,765	7,291,558
3	Mineral fuels, lubricants and related materials	2,520,936	2,697,421	2,456,632
4	Animal and vegetable oils, fats and waxes	290,816	260,594	241,573
5	Chemicals and related products, nesi	14,897,383	15,018,280	17,407,726
6	Manufactured goods classified chiefly by material	7,950,361	7,864,553	9,005,187
7	Machinery and transport equipment	55,281,021	57,328,374	65,945,637
8	Miscellaneous manufactured articles	14,573,830	15,106,614	16,532,031
9	Commodities and transactions not classified elsewhere in SITC	5,570,285	7,072,131	5,905,124
	Total all commodities	116,315,962	119,719,310	131,751,156
		U.S. imports		
0	Food and live animals	2,692,243	2,860,308	3,028,922
1	Beverages and tobacco	3,093,861	3,474,811	3,861,157
2	Crude materials, inedible, except fuels	1,366,382	1,350,670	1,505,497
3	Mineral fuels, lubricants and related materials	3,703,626	4,254,085	3,928,611
4	Animal and vegetable oils, fats and waxes	353,750	461,232	432,936
5	Chemicals and related products, nesi	16,259,157	19,085,053	22,117,040
6	Manufactured goods classified chiefly by material	19,008,897	20,026,561	21,237,368
7	Machinery and transport equipment	59,361,285	62,442,613	69,790,369
8	Miscellaneous manufactured articles	18,850,594	20,389,556	22,384,989
9	Commodities and transactions not classified elsewhere in SITC	6,145,518	7,109,629	7,603,294
	Total all commodities	130,835,313	141,454,518	155,890,182

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 to the European Union, by *Schedule B* numbers, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8473.30	Parts and accessories for automated data processing machines and units	6,217,129	6,566,543	7,364,918
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	3,675,047	3,927,581	6,688,338
8803.30	Parts of airplanes or helicopters, nesi	3,157,807	3,533,272	4,147,083
9880.00[1]	Estimate of “low value” shipments	2,937,221	3,097,566	3,286,232
8411.91	Parts of turbojets or turbopropellers	1,860,525	2,050,435	2,742,081
1201.00	Soybeans, whether or not broken	2,006,425	2,348,784	2,315,842
8471.80	Other units of automated data processing machines	([2])	1,912,643	2,222,838
8708.99	Parts and accessories of motor vehicles, nesi	2,342,959	2,345,029	2,155,643
8542.13	Metal oxide semiconductors	([3])	1,391,811	1,534,338
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	1,739,033	1,745,058	1,519,246
9018.90	Medical, surgical, dental or veterinamy sciences instruments, appliances, and parts, nesi	905,086	1,057,761	1,314,483
8471.49	Other digital automated data processing machines, entered in the form of systems	([4])	2,137,038	1,255,030
7108.12	Nonmonetary gold (including gold plated with platinum), unwrought, excluding powder	1,211,941	2,426,527	1,220,238
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 but not over 3,000 cc	1,092,091	1,514,978	1,212,767
3822.00	Composite diagnostic or laboratory reagents, except pharmaceuticals	888,130	980,463	1,123,945
8471.70	Automatic data processing storage units	([5])	742,041	1,050,358
2402.20	Cigarettes containing tobacco	1,711,912	1,329,419	1,046,927
8411.99	Gas turbines parts, nesi	552,822	605,805	924,996
8479.89	Machines and mechanical appliances having individual functions, nesi	916,341	805,617	737,679
8471.60	Input or output units of automatic data processing machines	([6])	523,112	721,808
9018.39	Medical needles, nesi, catheters etc. and parts etc	479,853	625,393	709,060
8471.50	Digital processing units; nesi	([7])	433,582	698,529
3004.90	Medicaments, in measured doses, etc., nesi	274,618	456,889	693,502
9018.19	Electro-diagnostic apparatus nesi, and parts	795,988	742,264	660,540
8411.12	Turbojets of a thrust exceeding 25 kN	638,551	619,574	652,794
	Total of items shown	33,403,479	43,919,183	47,999,213
	Total all commodities	116,315,962	119,719,310	131,751,156

[1] Special “Census Use Only” reporting number estimating low-valued exports.
[2] Prior to 1996, exports reported under *Schedule B* 8471.99 part.
[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* 8471.91 part, .92 part, .93 part, and .99 part.
[5] Prior to 1996, exports reported under *Schedule B* 8471.93 part.
[6] Prior to 1996, exports reported under *Schedule B* 8471.92 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-6
Leading imports from the European Union, by *HTS* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	5,771,437	6,242,758	7,798,303
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	5,766,953	6,300,869	6,498,240
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	4,139,393	4,959,995	5,184,338
8411.91	Parts for turbojets or turbopropellers	1,804,395	2,268,191	3,196,328
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude	1,253,320	2,476,395	2,602,523
3004.90	Certain medicaments put up in measure doses or in forms or packings for retail sale, nesi	944,141	1,311,324	2,286,826
8411.12	Turbojets of a thrust exceeding 25kN	1,111,990	1,154,345	2,129,231
2934.90	Heterocyclic compounds nesi	728,793	1,098,064	1,831,811
8473.30	Parts and accessories for automatic data processing machines and units	1,795,847	1,473,023	1,830,449
9701.10	Paintings, drawings and pastels, executed entirely by hand, framed or not framed	1,213,840	1,331,901	1,789,277
8803.30	Parts of airplanes or helicopters, nesi	1,061,887	1,277,437	1,769,462
7102.39	Nonindustrial diamonds, nesi	1,352,182	1,501,938	1,745,816
9999.95[1]	Estimated “low valued” shipments	1,285,327	1,378,694	1,520,043
7113.19	Articles of jewelry and parts thereof, of precious metal (excluding silver)	1,282,348	1,310,687	1,308,948
8542.13	Metal oxide semiconductors	([2])	1,692,771	1,298,515
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,370,524	1,133,982	1,199,956
8802.30	Airplanes and aircraft of an unladen weight over 2,000 kg but not over 15,000 kg	967,825	1,069,409	1,174,422
8708.99	Parts and accessories for motor vehicles, nesi	1,106,516	1,177,007	1,130,924
8471.80	Other units of automated data processing machines	([3])	812,560	1,024,050
2204.21	Wine nesi of fresh grapes or fortified wine, in containers not over 2 liters	695,222	838,615	961,493
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	2,261,093	1,462,831	958,766
8471.70	Automatic data processing storage units	([4])	816,556	904,611
6403.99	Footwear, outer sole of rubber, plastics or leather and leather upper, nesi	652,373	771,720	862,051
2933.90	Heterocyclic compounds with nitrogen hetero-atom(s) only, nesi	407,436	455,329	836,836
9706.00	Antiques of an age exceeding one hundred years	585,942	692,654	828,131
	Total of items shown	37,558,784	45,009,054	52,671,350
	Total all commodities	130,835,313	141,454,518	155,890,182

[1] Special “Census Use Only” reporting number estimating low-valued exports.
[2] Prior to 1996, exports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports reported under *HTS* 8471.99 part.
[4] Prior to 1996, exports reported under *HTS* 8471.93 part.

Note.—Because of rounding, figures may not add to totals shown.The abbreviation, nesi, stands for “not elsewhere specified of included.”

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

Table A-7
U.S. merchandise trade with Japan, by SITC numbers (revision 3), 1995-97

(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	10,397,196	10,795,879	9,514,173
1	Beverages and tobacco	2,182,517	2,051,428	2,062,838
2	Crude materials, inedible, except fuels	6,912,015	6,308,149	5,262,177
3	Mineral fuels, lubricants and related materials	971,920	1,107,921	898,572
4	Animal and vegetable oils, fats and waxes	119,791	114,567	95,577
5	Chemicals and related products, nesi	6,023,907	5,769,207	6,319,129
6	Manufactured goods classified chiefly by material	3,776,236	3,758,885	3,591,184
7	Machinery and transport equipment	21,600,126	23,466,945	24,414,387
8	Miscellaneous manufactured articles	7,722,469	9,015,383	8,776,285
9	Commodities and transactions not classified elsewhere in SITC	1,255,366	1,196,440	1,157,174
	Total all commodities	60,961,543	63,584,804	62,091,495
		U.S. imports		
0	Food and live animals	298,413	279,857	356,146
1	Beverages and tobacco	32,722	34,428	38,516
2	Crude materials, inedible, except fuels	222,763	211,687	228,199
3	Mineral fuels, lubricants and related materials	226,802	180,145	246,181
4	Animal and vegetable oils, fats and waxes	19,649	19,222	20,437
5	Chemicals and related products, nesi	5,091,865	5,575,384	6,041,013
6	Manufactured goods classified chiefly by material	6,901,462	6,768,200	7,501,610
7	Machinery and transport equipment	97,353,374	89,143,404	91,635,437
8	Miscellaneous manufactured articles	10,337,852	10,385,310	11,865,148
9	Commodities and transactions not classified elsewhere in SITC	1,917,376	2,164,619	2,547,669
	Total all commodities	122,402,280	114,762,256	120,480,356

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* numbers, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,496,438	1,375,657	2,482,343
8473.30	Parts and accessories for automatic data processing machines and units	1,634,852	1,927,463	2,005,979
1005.90	Corn (maize), other than seed	1,905,821	2,454,811	1,914,567
8542.13	Metal oxide semiconductors	([1])	1,265,932	1,577,737
2402.20	Cigarettes containing tobacco	1,467,013	1,523,004	1,549,304
8803.30	Parts of airplanes or helicopters, nesi	958,177	1,143,732	1,295,123
1201.00	Soybeans, whether or not broken	983,029	1,142,637	1,128,280
4403.20	Coniferous wood in the rough, not treated	1,668,956	1,640,238	1,096,828
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine cylinder capacity over 1,500 not over 3,000 cc	2,059,662	1,604,034	895,454
8529.90	Parts, except antennas, for transmission, radar, radio, television, etc., nesi	722,640	735,428	886,725
2844.20	Uranium enriched in u235 plutonium and their compounds, etc	606,579	554,280	804,457
8479.89	Machines and mechanical appliances having individual functions, nesi	767,624	876,988	733,244
8708.99	Parts and accessories for motor vehicles, nesi	380,247	556,841	721,094
9880.00[2]	Estimated “low value” shipments	698,087	745,691	711,626
0201.30	Meat of bovine animals, boneless, fresh or chilled	911,976	763,590	701,821
8471.80	Other units of automated data processing machines	([3])	656,381	659,651
0202.30	Meat of bovine animals, boneless, frozen	663,563	633,658	597,187
1001.90	Wheat and meslin, excluding durum wheat	511,099	644,957	573,526
8471.50	Digital processing units, nesi	([4])	607,563	511,256
8471.49	Other digital automated data processing machines, entered in the form of systems	([5])	838,537	496,807
9018.90	Medical, surgical, dental or veterinary sciences instruments, appliances, and parts, nesi	396,679	405,668	459,348
8471.70	Automatic data processing storage units	([6])	286,316	456,325
4407.10	Coniferous wood sawn, sliced etc, over 6 mm thick	620,084	651,846	449,443
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	587,147	536,320	418,929
9018.39	Medical etc. needles nesi, catheters, cannulae and the like; parts and accessories thereof	263,563	338,919	400,931
	Total of items shown	19,303,237	23,910,488	23,527,984
	Total all commodities	60,961,543	63,584,804	62,091,495

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Special “Census Use Only” reporting number estimating low-valued exports.
[3] Prior to 1996, exports reported under *Schedule B* 8471.99 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.
[6] 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-9
Leading imports from Japan, by *HTS* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	22,551,851	19,189,833	21,143,181
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	3,618,119	6,101,828	5,463,492
8542.13	Metal oxide semiconductors	([1])	6,174,903	5,334,621
8471.60	Input or output units of automated data processing machine	([2])	4,233,546	4,654,108
8473.30	Parts and accessories for automated data processing machines and units	4,558,014	4,375,585	4,377,691
8471.70	Automatic data processing storage units	([3])	3,370,690	3,896,917
9504.10	Video games used with television receiver and parts and accessories	780,642	1,224,379	2,327,577
8525.40	Still image video cameras and other video camera recorders	([4])	1,712,237	1,626,635
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	1,033,807	1,322,975	1,559,969
9009.12	Electrostatic photocopying apparatus, operating by reproducing the original image via intermediate onto the copy (indirect process)	1,570,281	1,376,542	1,554,346
8708.99	Parts and accessories for motor vehicles	1,552,817	1,475,146	1,490,963
8803.30	Parts of airplanes or helicopters, nesi	465,370	739,935	1,209,272
8479.89	Machines and mechanical appliances having individual functions, nesi	1,053,057	1,016,430	1,182,415
9009.90	Parts and accessories of photocopying apparatus	1,010,942	948,755	952,142
8521.10	Magnetic tape-type video recording or reproducing apparatus	907,558	811,372	857,968
9999.95[5]	Estimated “low valued” shipments	828,004	759,186	791,688
8409.91	Spark-ignition internal-combustion piston engine parts, nesi	728,457	777,974	733,994
8708.40	Gear boxes for motor vehicles	742,415	650,966	698,672
8517.90	Parts of telephonic or telegraphic apparatus	745,595	750,504	689,682
9102.11	Wrist watches, battery, mechanical display, base metal	627,007	653,728	647,578
8523.13	Magnetic tapes, unrecorded, of a width exceeding 6.5	435,825	538,017	640,162
8457.10	Machining centers for working metal	506,832	586,973	640,141
8429.52	Mechanical shovels, excavators and shovel loaders, self-propelled	641,213	525,271	617,658
8471.30	Portable digital automated data processing machines not exceeding 10 kg, with at least a CPU, keyboard and display	([6])	513,581	616,992
3707.90	Chemical preparations for photographic uses, nesi	613,063	553,102	539,726
	Total of items shown	44,970,868	60,383,458	64,247,590
	Total all commodities	122,402,280	114,762,256	120,480,356

[1] Prior to 1996, exports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, exports reported under *HTS* 8471.92 part.
[3] Prior to 1996, exports reported under *HTS* 8471.93 part.
[4] Prior to 1996, exports reported under *HTS* 8525.30.90 part.
[5] Special “Census Use Only” reporting number estimating low-valued exports.
[6] Prior to 1996, exports reported under *HTS* 8471.20 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-10
U.S. merchandise trade with Mexico, by SITC numbers (revision 3), 1995-97

(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	2,138,786	3,547,511	3,027,572
1	Beverages and tobacco	73,805	67,654	60,971
2	Crude materials, inedible, except fuels	2,100,857	2,455,237	2,939,317
3	Mineral fuels, lubricants and related materials	1,275,522	1,504,694	1,988,424
4	Animal and vegetable oils, fats and waxes	362,045	322,546	373,912
5	Chemicals and related products, nesi	4,214,913	5,062,163	6,233,736
6	Manufactured goods classified chiefly by material	6,515,738	8,049,697	9,118,864
7	Machinery and transport equipment	20,805,569	25,080,540	33,483,224
8	Miscellaneous manufactured articles	5,456,649	6,316,266	8,153,822
9	Commodities and transactions not classified elsewhere in SITC	1,936,892	2,279,557	3,013,377
	Total all commodities	44,880,776	54,685,865	68,393,219
		U.S. imports		
0	Food and live animals	3,828,492	3,650,835	3,909,317
1	Beverages and tobacco	400,955	528,479	698,343
2	Crude materials, inedible, except fuels	1,093,025	961,686	1,000,990
3	Mineral fuels, lubricants and related materials	6,012,906	8,024,077	7,829,476
4	Animal and vegetable oils, fats and waxes	18,845	22,813	18,301
5	Chemicals and related products, nesi	1,299,219	1,578,881	1,791,399
6	Manufactured goods classified chiefly by material	4,919,612	5,628,895	6,552,053
7	Machinery and transport equipment	33,208,578	40,596,350	46,899,121
8	Miscellaneous manufactured articles	8,329,981	10,237,485	12,916,290
9	Commodities and transactions not classified elsewhere in SITC	2,609,387	2,949,618	3,389,504
	Total all commodities	61,721,000	74,179,119	85,004,793

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, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
9880.00[1]	Estimate "low value export" shipments	1,624,591	1,951,768	2,465,472
8708.99	Parts and accessories for motor vehicles, nesi	1,605,286	1,868,127	1,658,078
8708.29	Parts and accessories of bodies (including cabs) of motor vehicles, nesi	1,350,015	1,007,352	1,533,609
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude	764,615	988,223	1,413,561
8540.11	Cathode-ray television picture tubes, color, including monitor	567,622	917,180	1,082,988
3926.90	Articles of plastics, nesi	656,829	880,137	1,049,673
8473.30	Parts and accessories for automated data processing machines and units	599,517	834,572	931,677
1201.00	Soybeans, whether or not broken	485,346	858,812	909,354
8538.90	Parts for electrical apparatus for electrical circuits; for electrical control nesi	447,577	697,303	855,770
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight, not exceeding 5 mt	37,563	335,552	836,068
8542.30	Other monolithic integrated circuits	([2])	566,752	761,959
8544.30	Insulated ignition wiring sets for vehicles, ships or aircraft	557,949	685,678	743,336
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine cylinder capacity over 3,000 cc	179,264	590,874	742,338
8471.50	Digital processing units, nesi	([3])	337,634	677,396
8534.00	Printed circuits	426,788	528,647	618,090
7326.90	Articles of iron or steel nesi	385,506	536,455	592,281
9401.90	Parts of seats (except medical, barbers and dental, etc.)	427,819	442,382	565,191
8708.40	Gear boxes for motor	125,492	184,646	561,379
8504.90	Parts for electrical transformers, static converters and inductors	543,527	442,410	556,794
8708.50	Drive axles with differential for motor	190,838	158,439	547,631
8542.13	Metal oxide semiconductors	([4])	287,920	542,128
8536.90	Electrical apparatus for switching or protecting electrical circuits, nesi	493,976	522,885	507,364
4819.10	Cartons, boxes and cases corrugated paper and paperboard	442,815	471,489	468,896
8407.34	Spark-ignition reciprocating piston engines, of a cylinder capacity over 1,000 cc	29,088	259,979	457,508
8503.00	Parts of electric motors, generators and sets	302,755	390,693	449,923
	Total of items shown	12,744,779	16,745,910	21,528,466
	Total all commodities	44,880,776	54,685,865	68,393,219

[1] Special "Census Use Only" reporting number estimating low-valued exports.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports reported under *Schedule B* 8471.91 part.
[4] 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-12
Leading imports from Mexico, by *HTS* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
2709.00	Petroleum oils and oils from bituminous minerals crude	5,681,586	7,032,759	6,565,114
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	5,478,466	5,972,387	5,601,248
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	2,717,792	3,013,814	3,579,345
8528.12	Incomplete or unfinished color reception apparatus for televisions	(1)	2,725,954	2,810,572
8703.24	Passenger motor vehicles with spark-ignition internal-combustion piston engine, cylinder capacity over 3,000 cc	871,675	2,267,745	2,677,954
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	1,923,081	2,043,373	2,433,200
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, gross vehicle weight not exceeding 5 mt	1,297,014	2,176,852	2,292,556
8471.30	Portable digital automated data processing machines not exceeding 10 kg, with at least a CPU, keyboard, and display	(2)	1,034,153	1,659,449
8407.34	Reciprocating spark-ignition piston engines, of a cylinder capacity over 1,000 cc	1,275,846	1,372,663	1,470,243
8473.30	Parts and accessories for automated data processing machines and units	810,082	924,133	1,293,941
9401.90	Parts of seats (except medical, barbers, dentist, etc.)	765,097	938,360	1,171,271
8471.60	Input or output units for automated data processing machines	(3)	601,535	1,104,529
8527.21	Radiobroadcast receivers for motor vehicles	918,188	1,005,551	1,102,366
8704.21	Trucks, nesi, diesel engine, gross vehicle weight not exceeding 5 mt	466,836	818,695	1,074,222
6203.42	Men's or boys' trousers, bib and brace overalls, breeches and shorts not knitted or crocheted, of cotton	593,094	745,376	938,319
8529.90	Parts, except antennas, for transmission, radar, radio, television, etc., nesi	874,170	782,156	868,475
8708.29	Parts and accessories of bodies (including cabs) for motor vehicles	303,811	440,634	815,072
8708.21	Safety seat belts for motor-vehicles	646,788	702,186	777,064
6204.62	Women's or girls' trousers, etc., of cotton, not knitted or crocheted	330,493	451,217	728,087
8525.10	Transmission apparatus for radio or television	806,657	1,081,821	717,490
8708.99	Parts and accessories of motor-vehicles, nesi	680,803	774,685	715,002
8504.40	Static converters	278,573	480,035	700,361
9999.95[4]	Estimated "low value" shipments	425,357	498,012	583,062
9032.89	Automatic regulating or controlling instruments and apparatus, nesi	414,920	437,009	582,830
0901.11	Coffee, not roasted, not decaffeinated	508,372	472,674	545,814
	Total of items shown	28,068,703	38,793,778	42,807,588
	Total all commodities	61,721,000	74,179,119	85,004,793

[1] Prior to 1996, exports reported under *HTS* 8528.10 part.
[2] Prior to 1996, exports reported under *HTS* 8471.20 part.
[3] Prior to 1996, exports reported under *HTS* 8471.92 part.
[4] 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-13
U.S. merchandise trade with China, by SITC numbers (revision 3), 1995-97

(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	1,305,359	769,631	396,593
1	Beverages and tobacco	8,582	3,173	8,677
2	Crude materials, inedible, except fuels	1,674,633	1,871,381	1,636,719
3	Mineral fuels, lubricants and related materials	25,287	67,587	226,044
4	Animal and vegetable oils, fats and waxes	395,186	113,629	169,069
5	Chemicals and related products, nesi	2,008,017	1,722,182	1,928,933
6	Manufactured goods classified chiefly by material	662,385	783,853	801,654
7	Machinery and transport equipment	4,747,820	5,464,882	6,385,836
8	Miscellaneous manufactured articles	633,556	847,386	826,925
9	Commodities and transactions not classified elsewhere in SITC	151,721	157,540	153,031
	Total all commodities	11,612,547	11,801,243	12,533,479
		U.S. imports		
0	Food and live animals	594,807	655,224	728,995
1	Beverages and tobacco	11,753	15,168	18,904
2	Crude materials, inedible, except fuels	332,770	376,751	481,495
3	Mineral fuels, lubricants and related materials	430,685	462,465	390,659
4	Animal and vegetable oils, fats and waxes	2,537	7,549	8,465
5	Chemicals and related products, nesi	893,699	1,077,181	1,290,242
6	Manufactured goods classified chiefly by material	4,234,204	4,548,265	5,762,918
7	Machinery and transport equipment	11,879,776	13,813,261	17,366,754
8	Miscellaneous manufactured articles	26,585,800	29,819,465	35,416,085
9	Commodities and transactions not classified elsewhere in SITC	403,953	434,046	531,409
	Total all commodities	45,369,985	51,209,376	61,995,926

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* numbers, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	870,672	1,310,778	1,769,198
3100.00[1]	Fertilizers	1,204,154	891,052	1,049,662
5201.00	Cotton, not carded or combed	828,811	727,497	572,415
1201.00	Soybeans, whether or not broken	50,657	414,476	410,960
8708.99	Parts and accessories for motor vehicles	17,661	62,814	233,796
8431.43	Parts for boring or sinking machinery, nesi	68,359	85,537	231,404
8803.30	Parts of airplanes or helicopters, nesi	104,712	166,991	202,188
8529.90	Parts nesi for transmission, radar, radio, television, etc., excluding antennas	215,663	157,737	157,199
1507.10	Soybean oil and fractions, crude, whether or not degummed	298,680	99,135	153,238
8525.20	Transmission apparatus incorporating reception apparatus	146,664	144,873	147,781
8479.89	Machines and mechanical appliances having individual functions, nesi	117,668	136,439	135,459
2709.00	Petroleum oils and oils from bituminous minerals	4	16,425	118,759
8402.90	Parts for super-heated water boilers and steam or other vapor generation boilers	18,782	33,163	115,412
8517.90	Parts of telephonic or telegraphic apparatus	162,208	120,077	103,484
4101.21	Whole raw hides and skins of bovine animals, nesi, fresh or wet-salt	87,590	91,569	102,109
8542.13	Metal oxide semiconductors	([2])	66,933	97,928
8473.30	Parts and accessories for automatic data processing machines and units thereof	50,070	67,825	96,434
4804.11	Kraftliner, uncoated, unbleached, in rolls or sheets	51,754	102,362	95,053
9504.90	Game machines except coin-operated; board games; mah-jog; dominoes; dice	58,357	109,586	88,235
2710.00	Petroleum oils and oils from bituminous minerals, other than crude	19,064	35,193	87,430
7606.92	Aluminum alloy plates, sheets or strip, over 0.2 mm thick, nesi	21,372	59,242	87,287
8802.60	Spacecraft including satellites spacecraft launch vehicles	[3]133,790	121,674	86,000
2304.00	Soybean oilcake and other solid residue, whether or not ground	0	116,700	84,429
9880.00	Estimate “low value” shipments	73,743	73,117	77,126
9001.10	Optical fibers, optical fiber bundles and cables	31,260	38,344	74,314
	Total of items shown	4,631,694	5,249,540	6,377,300
	Total all commodities	11,612,547	11,801,243	12,533,479

[1] Special “Census Use Only” reporting number aggregating certain fertilizer products to prevent disclosure.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports reported under *Schedule B* 8802.50 part.
[4] 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* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	1,856,584	2,122,236	2,338,496
8473.30	Parts and accessories for automated data processing machines and units	974,800	1,351,827	1,848,810
9503.90	Other toys and models, nesi	1,227,590	1,436,373	1,831,389
9503.41	Stuffed toys, representing animals or nonhuman creatures and parts and accessories	735,428	994,784	1,585,199
6402.99	Footwear with outer soles and uppers of rubber or plastics nesi	1,292,246	1,472,666	1,570,037
6403.91	Footwear covering the ankles, with outer soles and uppers of rubber or plastics, excluding waterproof footwear	915,444	953,078	1,352,779
9502.10	Dolls representing only human beings and parts and accessories thereof, whether or not dressed	794,796	998,797	1,155,177
8471.60	Input or output units for automated data processing	([1])	674,960	1,092,629
8527.13	Other radiobroadcast apparatus combined with sound recording or reproducing apparatus	([2])	693,448	879,467
9505.10	Articles for christmas festivities and parts and accessories thereof	715,175	755,140	821,458
8471.70	Automatic data processing storage units	([3])	580,485	816,562
4202.92	Trunks, cases, bags and similar containers, with outer surface of plastic sheeting or of textile materials	548,358	565,907	741,464
8504.40	Static converters	147,409	434,200	691,208
6110.90	Sweaters, pullovers, sweatshirts, vests and similar articles, knitted or crocheted, of textile materials, nesi	547,383	599,558	685,176
4203.10	Articles of apparel of leather or composition leather	603,023	600,275	646,094
9503.49	Toys representing animal and nonhuman creatures and parts and accessories	378,643	529,105	622,284
8517.11	Line telephone sets with cordless handsets	[4]522,419	490,597	622,226
9504.90	Game machines	396,478	441,154	592,807
9503.70	Toys, put up in sets or outfits and parts and accessories, nesi	347,603	442,619	544,235
6404.11	Sports footwear, tennis shoes, basketball shoes with outer soles of rubber, plastics, or leather and uppers of textile materials	271,484	370,570	504,421
6402.91	Footwear, with outer soles and uppers of rubber or plastics nesi	544,490	516,885	485,061
8527.31	Radiobroadcast receivers nesi, combined with sound recording or reproducing apparatus	345,992	305,011	469,190
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	471,990	410,477	464,450
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesi	512,838	550,345	462,154
4202.22	Handbags with outer surface of plastic sheeting or textile materials	374,977	386,913	420,570
	Total of items shown	14,525,148	18,677,408	23,243,344
	Total all commodities	45,369,985	51,209,376	61,995,926

[1] Prior to 1996, exports reported under *HTS* 8471.92 part.
[2] Prior to 1996, exports reported under *HTS* 8527.11 part.
[3] Prior to 1996, exports reported under *HTS* 8471.93 part.
[4] Prior to 1996, exports reported under *HTS* 8525.20.50.

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 numbers (revision 3), 1995-97
(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	1,559,987	1,888,389	1,568,005
1	Beverages and tobacco	127,356	122,744	163,585
2	Crude materials, inedible, except fuels	1,665,421	1,602,357	1,561,341
3	Mineral fuels, lubricants and related materials	293,480	370,772	236,845
4	Animal and vegetable oils, fats and waxes	27,432	13,702	15,012
5	Chemicals and related products, nesi	2,873,580	2,307,854	2,424,310
6	Manufactured goods classified chiefly by material	1,278,447	1,067,385	1,028,466
7	Machinery and transport equipment	8,228,400	7,631,698	9,799,262
8	Miscellaneous manufactured articles	1,314,096	1,444,697	1,686,710
9	Commodities and transactions not classified elsewhere in SITC	667,457	470,701	399,323
	Total all commodities	18,035,656	16,920,298	18,882,858
		U.S. imports		
0	Food and live animals	282,413	278,041	294,733
1	Beverages and tobacco	6,163	6,305	6,279
2	Crude materials, inedible, except fuels	114,708	105,751	127,392
3	Mineral fuels, lubricants and related materials	2,833	1,128	66
4	Animal and vegetable oils, fats and waxes	3,470	3,399	3,203
5	Chemicals and related products, nesi	396,896	402,112	425,052
6	Manufactured goods classified chiefly by material	3,781,827	3,756,175	4,095,465
7	Machinery and transport equipment	16,667,647	18,032,603	20,447,233
8	Miscellaneous manufactured articles	7,237,730	6,736,369	6,518,447
9	Commodities and transactions not classified elsewhere in SITC	380,885	475,152	556,416
	Total all commodities	28,874,572	29,797,035	32,474,286

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* numbers, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8542.13	Metal oxide semiconductors	([1])	769,423	1,174,156
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,201,660	662,099	766,506
8802.30	Airplanes and aircraft of an unladen weight over 2,000 kg but not over 15,000 kg	3,900	0	735,550
8479.89	Machines and mechanical appliances having individual functions, nesi	368,523	470,327	711,246
1005.90	Corn (maize), other than seed corn	770,817	962,061	692,643
1201.00	Soybeans, whether or not broken	600,467	776,798	649,244
8803.30	Parts of airplanes or helicopters, nesi	459,192	394,120	492,454
8542.30	Other monolithic integrated circuits	([2])	363,400	445,324
8473.30	Parts and accessories for automated data processing machines and units	230,286	248,316	391,344
8456.91	Machines tools nesi for dry etching patterns on semiconductor materials	[3]165,622	228,526	376,312
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 1,500 but not over 3,000 cc	781,545	482,805	301,229
9880.00[4]	Estimate “low value” shipments	219,934	213,897	222,981
8542.14	Circuits obtained by bipolar technology	([5])	263,679	204,733
8479.90	Parts of machines and mechanical appliances having individual functions, nesi	93,234	118,737	194,677
4101.21	Whole raw hides and skins of bovine animals, nesi, fresh or wet-salted	200,376	173,731	191,691
1001.90	Wheat and meslin, excluding durum wheat	155,240	214,490	160,714
2905.31	Ethylene glycol (ethanediol)	126,284	113,807	154,506
8529.90	Parts (except antenna) for use with radio transmission, radar, radio navigational aid, reception and television apparatus, nesi	50,041	99,459	149,013
8471.49	Other digital automated data processing machines, entered in the form of systems	([6])	176,131	147,773
9306.90	Bombs, grenades, torpedoes, mines, missiles, etc., and parts	145,692	214,913	144,622
2844.20	Uranium and its compounds enriched in u235; plutonium and its compounds	16	22,778	135,501
8548.90	Other waste and scrap of primary cells, primary batteries, etc	([7])	129,973	123,132
2903.15	1,2-dichloroethane (ethylene dichloride)	108,024	157,991	120,920
8543.11	Ion implanters for doping semiconductor materials	([8])	127,481	117,536
5201.00	Cotton, not carded or combed	141,705	77,509	111,272
	Total of items shown	5,822,559	7,462,450	8,915,080
	Total all commodities	18,035,656	16,920,298	18,882,858

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports reported under *Schedule B* 8456.90.50.40.
[4] Special “Census Use Only” reporting number estimating low-valued exports.
[5] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[6] Prior to 1996, exports reported under *Schedule B* 8571.91 part, .92 part, .93 part, and .99 part.
[7] Prior to 1996, exports reported under *Schedule B* 8548.00 part.
[8] 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* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
8473.30	Parts and accessories for automated data processing machines and units	3,536,231	3,832,695	4,434,286
8471.60	Automated data processing input or output units	([1])	2,150,889	2,623,974
8542.13	Metal oxide semiconductors	([2])	2,031,877	2,008,173
8471.30	Portable digital automated data processing machines not exceeding 10kg, with at least a CPU, keyboard and display	([3])	984,759	1,304,980
8542.30	Other monolithic integrated circuits	([4])	565,027	800,817
8534.00	Printed circuits	442,414	506,159	585,612
8525.10	Transmission apparatus for radio or television	231,679	351,014	495,956
8471.70	Automatic data processing storage units	([5])	229,545	465,554
8504.40	Static converters	169,581	373,709	460,506
8471.80	Other units of automated data processing machines	([6])	347,292	424,876
6110.30	Sweaters, pullovers, sweatshirts, vests and similar articles, knitted or crocheted, of manmade fibers	327,084	298,539	341,919
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported or returned	163,191	243,168	309,192
7318.15	Threaded screws and bolts, of iron or steel, nesi, whether or not with their nuts or washers	292,388	287,754	301,579
8712.00	Bicycles and other cycles (including delivery tricycles) not motorized	373,356	320,944	291,414
9506.91	Gymnasium, playground or other exercise articles and equipment; parts and accessories thereof	240,435	399,401	282,498
8414.51	Table, floor, wall, window, ceiling or roof fans, with a self-contained electric electric motor of and output not exceeding 125W	250,595	242,661	237,398
9999.95[7]	Estimated “low valued”	200,727	211,169	232,740
8517.50	Other apparatus for carrier-current line systems or for digital line systems	[8]132,606	228,471	230,318
8481.80	Taps, cocks, valves and similar appliances, nesi	215,006	226,360	227,698
9403.60	Wooden furniture, other than of a kind used in the bedroom	273,797	227,416	214,833
7318.14	Self-tapping screws of iron or steel	194,343	201,473	208,016
9403.20	Metal furniture, other than of a kind used in offices	234,410	208,055	193,955
8708.29	Parts and accessories of bodies (including cabs) for motor vehicles, nesi	145,787	161,743	183,243
8465.91	Sawing machines for working wood, cork, bone, hard rubber, hard plastics, etc	120,833	144,953	181,091
8536.69	Electrical plugs and sockets for a voltage not exceeding 1,000 v	134,163	138,432	165,347
	Total of items shown	7,678,628	14,913,504	17,205,977
	Total all commodities	28,874,572	29,797,035	32,474,286

[1] Prior to 1996, imports reported under *HTS* 8471.92 part.
[2] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, imports reported under *HTS* 8471.20 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, imports reported under *HTS* 8471.99 part.
[7] Special “Census Use Only” reporting number estimating low-valued imports.
[8] Prior to 1996, imports reported under *HTS* 8517.40.

Note.—Because of rounding, figures may not add to totals shown.The abbreviation, nesi, stands for “not elsewhere specified of included.”

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

Table A-19
U.S. merchandise trade with Korea, by SITC numbers (revision 3), 1995-97
(1,000 dollars)

SITC section No.	Description	1995	1996	1997
		U.S. exports		
0	Food and live animals	2,249,909	2,490,823	1,597,285
1	Beverages and tobacco	188,052	197,183	236,278
2	Crude materials, inedible, except fuels	3,201,465	2,645,975	2,514,433
3	Mineral fuels, lubricants and related materials	649,323	736,105	664,539
4	Animal and vegetable oils, fats and waxes	107,502	59,588	69,894
5	Chemicals and related products, nesi	2,602,781	2,576,711	2,481,135
6	Manufactured goods classified chiefly by material	1,667,959	1,454,480	1,352,588
7	Machinery and transport equipment	11,458,695	12,316,061	12,693,838
8	Miscellaneous manufactured articles	1,906,648	2,245,938	2,214,149
9	Commodities and transactions not classified elsewhere in SITC	450,615	710,541	463,292
	Total all commodities	24,482,948	25,433,405	24,287,441
		U.S. imports		
0	Food and live animals	148,026	143,845	154,844
1	Beverages and tobacco	10,576	16,527	13,134
2	Crude materials, inedible, except fuels	155,977	143,846	151,622
3	Mineral fuels, lubricants and related materials	134,829	93,944	69,147
4	Animal and vegetable oils, fats and waxes	1,181	1,397	1,608
5	Chemicals and related products, nesi	438,134	494,916	563,952
6	Manufactured goods classified chiefly by material	2219,552	2,200,218	2,486,930
7	Machinery and transport equipment	16,485,315	15,437,528	15,567,136
8	Miscellaneous manufactured articles	4,178,715	3,555,100	3,484,240
9	Commodities and transactions not classified elsewhere in SITC	253,399	444,275	446,397
	Total all commodities	24,025,703	22,531,596	22,939,009

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 Korea, by *Schedule B* numbers, 1995-97

(1,000 dollars)

Schedule B No.	Description	1995	1996	1997
8542.13	Metal oxide semiconductors	([1])	923,321	1,853,313
8802.40	Airplanes and other aircraft of an unladen weight exceeding 15,000 kg	1,255,114	1,393,126	1,375,270
8803.30	Parts of airplanes or helicopters, nesi	737,852	643,830	722,910
8479.89	Machines and mechanical appliances having individual functions, nesi	865,102	873,948	527,299
8473.30	Parts and accessories for automatic data processing machines and units	275,404	365,600	478,362
4101.21	Whole and raw hides and skins of bovine animals, nesi, fresh or wet-salted	614,210	457,249	460,665
1005.90	Corn (maize), other than seed corn	1,110,315	1,259,806	450,431
1201.00	Soybeans, whether or not broken	335,769	438,684	372,331
8479.90	Parts of machines and mechanical appliances having individual functions, nesi	241,862	385,349	340,088
7204.49	Ferrous waste and scrap, nesi	331,702	281,587	334,079
8525.20	Transmission apparatus incorporating reception apparatus	438,291	529,926	316,014
8708.99	Parts and accessories for motor vehicles, nesi	247,798	225,418	315,609
8542.14	Circuits obtained by bipolar technology	([2])	419,652	288,178
8471.49	Other digital automated data processing machines entered in the form of systems	([3])	305,280	253,797
2709.00	Petroleum oils and oils from bituminous minerals, crude	0	173,180	237,503
9880.00	Estimate “low value” shipments	[4]228,475	244,075	235,401
5201.00	Cotton, not carded or combed	361,490	256,601	223,540
1001.90	Wheat and meslin, excluding durum wheat	260,308	328,082	222,028
8529.90	Parts, nesi, for radar, radio, television, etc. transmission except antennas	147,109	147,848	206,786
0202.30	Meat of bovine animals, boneless, frozen	233,199	155,447	203,776
8411.91	Parts of turbojets or turbopropellers	84,139	81,942	199,588
8542.30	Other monolithic integrated circuits	([5])	154,148	162,894
9030.39	Instruments and apparatus for measuring or checking electrical quantities, nesi	46,762	84,885	160,618
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	164,385	161,192	153,734
2402.20	Cigarettes containing tobacco	136,303	129,481	153,507
	Total of items shown	8,115,589	10,419,658	10,247,721
	Total all commodities	24,482,948	25,433,405	24,287,441

[1] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[3] Prior to 1996, exports reported under *Schedule B* 8471.91 part, .92 part, .93 pat, and .99 part.
[4] Prior to 1996, exports reported under *Schedule B* 8542.11 part, .19 part, .20 part, and .80 part.
[5] Special “Census Use Only” reporting number estimating low-valued exports.
[6] 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* numbers, 1995-97

(1,000 dollars)

HTS No.	Description	1995	1996	1997
8542.13	Metal oxide semiconductors	([1])	5,479,323	5,258,762
8473.30	Parts and accessories for automated data processing machines and units	2,383,535	1,940,961	1,915,474
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	1,100,581	1,259,739	1,453,573
8471.60	Input or output units for automated data processing machines	([2])	1,487,729	1,399,141
8471.70	Automatic data processing storage units	([3])	231,475	622,029
8703.22	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine over 1,000 but over 1,500 cc	549,750	586,827	446,449
8542.30	Other monolithic integrated circuits	([4])	401,436	419,072
8516.50	Microwave ovens of a kind used for domestic purposes	399,302	385,822	359,567
9801.00	U.S. articles exported and returned, not advanced or improved in condition	179,807	360,447	343,335
8525.20	Transmission apparatus incorporating reception apparatus	389,041	176,416	306,659
6110.30	Sweaters, pullovers, sweatshirts, vests and similar articles, knitted or crocheted, of manmade fibers	209,507	182,541	240,096
6201.93	Men’s or boys’s jackets and windbreakers of manmade fibers, not knitted or crocheted	190,379	180,870	197,499
8523.13	Prepare unrecorded magnetic tapes or sound recording, of a width exceeding 6.5mm	157,340	146,984	145,541
8429.52	Self-propelled mechanical shovels and excavators, with a 360-degree revolving superstructure	73,654	115,381	133,966
8534.00	Printed circuits	89,882	119,600	133,519
5407.61	Other woven fabrics at least 85 percent by weight of nontextured polyester filaments	([5])	122,002	117,820
7208.39	Flat-rolled products of iron or nonalloy steel in coils nesi, of a thickness less than 3 mm	([6])	112,468	116,149
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	([7])	115,737	114,748
6001.92	Pile fabrics nesi, knitted or crocheted, of manmade fibers	11,290	56,511	111,402
4202.92	Container bags, etc. nesi plastic/textile materials	144,139	122,080	107,834
8527.21	Radiobroadcast receivers for motor vehicles	105,438	89,577	106,948
8542.19	Electronic monolithic integrated circuits, digital, nesi	347,000	65,139	98,383
6110.20	Sweaters, pullovers, etc. of cotton, knitted or crocheted	82,567	83,838	96,787
7117.19	Imitation jewelry nesi, of base metal, whether or not plated with precious metal	96,477	97,388	96,309
8521.10	Magnetic tape-type video recording or reproducing apparatus	561,632	272,659	96,103
	Total of items shown	7,071,320	14,192,953	14,437,167
	Total all commodities	24,025,703	22,531,596	22,939,009

[1] Prior to 1996, imports reported under *HTS* 8542.11 part, .19 part, .20 part, and .80 part.
[2] Prior to 1996, imports reported under *HTS* 8471.92 part.
[3] Prior to 1996, imports reported under *HTS* 8471.93 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* 5407.60 part.
[6] Prior to 1996, imports reported under *HTS* 7208.14.50 part and 7208.24.50 part.
[7] Prior to 1996, imports reported under *HTS* 7208.13.50 part and 7208.23.50 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 1997, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation numbers

(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: Commission	Preliminary determination: ITA[1]	Final determination: ITA[1]	Final determination: Commission	Date of final action[2]
				Affirmative				
731-TA-745	Steel concrete reinforcing bars	Turkey	Mar. 8, 1996	A	A	A	A	Apr. 9, 1997
731-TA-748	Engineered process gas turbo-compressor systems	Japan	May 8, 1996	A	A	A	A	June 9, 1997
731-TA-749	Persulfates	China	July 11, 1996	A	A	A	A	June 25, 1997
731-TA-750	Vector supercomputers	Japan	July 29, 1996	A	A	A	A	Oct. 3, 1997
731-TA-752	Crawfish tail meat	China	Sept. 20, 1996	A	A	A	A	Sept. 8, 1997
731-TA-757	Collated roofing nails	China	Nov. 26, 1996	A	A	A	A	Nov. 19, 1997
731-TA-759	Collated roofing nails	Taiwan	Nov. 26, 1996	A	A	A	A	Nov. 19, 1997
				Partial Affirmative				
731-TA-741	Melamine institutional dinnerware	China	Feb. 6, 1996	A	A	A	P	Feb. 18, 1997
731-TA-742	Melamine institutional dinnerware	Indonesia	Feb. 6, 1996	A	A	A	P	Feb. 18, 1997
731-TA-743	Melamine institutional dinnerware	Taiwan	Feb. 6, 1996	A	A	A	P	Feb. 18, 1997
731-TA-744	Certain brake drums and rotors	China	Mar. 7, 1996	A	A	A	P	Apr. 9, 1997
				Negative				
731-TA-746	Beryllium and high-beryllium alloys	Kazakstan	Mar. 14, 1996	A	A	A	N	Feb. 24, 1997
731-TA-751	Open-end spun rayon singles yarn	Austria	Aug. 20, 1996	A	A	A	N	Sept. 22, 1997
731-TA-760	Needle bearing wire	Japan	Feb. 14, 1997	N	([3])	([3])	([3])	Mar. 31, 1997
				Suspended				
731-TA-740	Sodium azide	Japan	Jan. 16, 1996	A	A	S	S	Jan. 7, 1997
731-TA-753	Cut-to-length carbon steel plate	China	Nov. 5, 1996	A	A	A	A	Dec. 2, 1997
731-TA-754	Cut-to-length carbon steel plate	Russia	Nov. 5, 1996	A	A	A	A	Dec. 2, 1997
731-TA-755	Cut-to-length carbon steel plate	South Africa	Nov. 5, 1996	A	A	A	A	Dec. 2, 1997
731-TA-756	Cut-to-length carbon steel plate	Ukraine	Nov. 5, 1996	A	A	A	A	Dec. 2, 1997
				Terminated				
731-TA-758	Collated roofing nails	Korea	Nov. 26, 1996	A	A	N	T	Oct. 1, 1997
731-TA-767	Ultra high temperature milk	Canada	Mar. 17, 1997	T	([3])	([3])	([3])	Mar. 28, 1997
				In Progress				
731-TA-761	Static random access memory semiconductors	Korea	Feb. 25, 1997	A	A	([4])	([4])	([4])
731-TA-762	Static random access memory semiconductors	Taiwan	Feb. 25, 1997	A	A	([4])	([4])	([4])
731-TA-763	Carbon steel wire rod	Canada	Feb. 26, 1997	A	A	([4])	([4])	([4])
731-TA-764	Carbon steel wire rod	Germany	Feb. 26, 1997	A	A	([4])	([4])	([4])
731-TA-765	Carbon steel wire rod	Trinidad & Tobago	Feb. 26, 1997	A	A	([4])	([4])	([4])
731-TA-766	Carbon steel wire rod	Venezuela	Feb. 26, 1997	A	A	([4])	([4])	([4])

See footnotes at end of table.

Table A-22—*Continued*
Antidumping cases active in 1997, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation numbers

(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-768	Fresh atlantic salmon	Chile	June 12, 1997	A	([4])	([4])	([4])	([4])
731-TA-769	Stainless steel wire rod	Germany	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-770	Stainless steel wire rod	Italy	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-771	Stainless steel wire rod	Japan	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-772	Stainless steel wire rod	Korea	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-773	Stainless steel wire rod	Spain	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-774	Stainless steel wire rod	Sweden	July 30, 1997	A	([4])	([4])	([4])	([4])
731-TA-775	Stainless steel wire rod	Taiwan	July 30, 1997	A	([4])	([4])	([4])	([4])

[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.
[4] In progress.

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, 1997

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 26, 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: Solid urea	July 14, 1987
Bangladesh: Cotton shop towels	Mar. 20, 1992
Belarus-Baltic: Solid 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 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:	
Cut-to-length carbon steel plate	Oct. 24, 1997
Collated roofing nails	Nov. 19, 1997
Crawfish tail meat	Sept. 15, 1997

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
China—*Continued*:	
Persulfates	July 7, 1997
Brake rotors	Apr. 17, 1997
Melamine institutional dinnerware	Feb. 25, 1997
Polyvinyl alcohol	May 14, 1996
Manganese metal	Feb. 6, 1996
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
Rayon staple fiber	Mar. 21, 1979
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

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
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
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
Solid 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
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
Indonesia: Melamine institutional dinnerware	Feb. 25, 1997
Iran: Raw pistachios	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:	
Vector supercomputers	Oct. 24, 1997
Gas turbo-compressor systems	June 16, 1997
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

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
Japan—*Continued:*	
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
Antifriction bearings	May 15, 1989
Electrolytic manganese dioxide	Apr. 17,1989
Microdisks	Apr. 3, 1989
Granular polytetrafluoroethylene resin	Aug. 24, 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
High powered amplifiers	July 20, 1982
Steel wire strand	Dec. 8, 1978
Impression fabric of manmade fibers	May 25, 1978
Melamine	Feb. 2, 1977
Acrylic sheet	Aug. 30, 1976
Tapered roller bearings 4 inches and under	Aug. 8, 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 manmade 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 nonalloy 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
Television receiving sets	Apr. 30, 1984

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
Kyrgyzstan: Solid urea	July 14, 1987
Latvia: Solid urea	July 14, 1987
Lithuania: Solid urea	July 14, 1987
Malaysia: Extruded rubber thread	Oct. 7, 1992
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 24, 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
Antifriction bearings	May 15, 1989
Solid urea	July 14, 1987
Tapered roller bearings	June 19, 1987
Russia:	
Cut-to-length carbon steel plate	Oct. 24, 1997
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:	
Cut-to-length carbon steel plate	Oct. 24, 1997
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

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
Sweden—*Continued:*	
Seamless stainless steel hollow products	Dec. 3, 1987
Brass sheet and strip	Mar. 6, 1987
Stainless steel plate	June 8, 1973
Taiwan:	
Collated roofing nails	Nov. 19, 1997
Melamine institutional dinnerware	Feb. 25, 1997
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
Welded stainless steel pipes	Dec. 30, 1992
Circular welded nonalloy 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:	
Steel concrete reinforcing bar	Apr. 17, 1997
Certain pasta	July 24, 1996
Aspirin	Aug. 25, 1987
Pipes and tubes	May 15, 1986
Turkmenistan: Solid urea	July 14, 1987
Ukraine:	
Cut-to-length carbon steel plate	Oct. 24, 1997
Pure magnesium	May 12, 1995
Uranium	Aug. 30, 1993
Ferrosilicon	Apr. 7, 1993
Solid 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
Antifriction bearings	May 15, 1989
Uzbekistan: Solid urea	July 14, 1987
Venezuela:	
Ferrosilicon	June 24, 1993
Circular welded non-alloy pipe	Nov. 2, 1992

See footnote at end of table.

Table A-23—*Continued*
Antidumping orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
Yugoslavia: Industrial nitrocellulose	Oct. 16, 1990
Suspension agreements in effect:	
Canada: Potassium chloride	Jan. 19, 1988
China: Honey	Aug. 16, 1995
Japan:	
Sodium azide	Jan. 7, 1997
Color negative photo paper	Aug. 12, 1994
Small electric motors	Nov. 6, 1980
Kazakstan: Uranium	Oct. 16, 1992
Kyrgyzstan: Uranium	Oct. 16, 1992
Mexico: Fresh tomatoes	Nov. 1, 1996
Netherlands: Color negative photo paper	Aug. 12, 1994
Russia: Uranium	Oct. 16, 1992
Ukraine: Silicomanganese	Oct. 31, 1994
Uzbekistan: Uranium	Oct. 16, 1992
Venezuela: Gray portland cement and cement clinker	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 duty cases active in 1997, filed under authority of title VII of the Tariff Act of 1930, by final outcomes and by USITC investigation numbers

(Affirmative (A);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	
				Negative				
701-TA-368	Carbon steel wire rod	Canada	Feb. 26, 1997	A	A	A	N	Nov. 28, 1997
701-TA-369	Carbon steel wire rod	Germany	Feb. 26, 1997	A	A	A	N	Nov. 28, 1997
701-TA-370	Carbon steel wire rod	Trinidad & Tobago	Feb. 26, 1997	A	A	A	N	Nov. 28, 1997
701-TA-371	Carbon steel wire rod	Venezuela	Feb. 26, 1997	A	A	A	N	Nov. 28, 1997
				In Progress				
701-TA-372	Fresh atlantic salmon	Chile	June 12, 1997	A	N	([3])	([3])	([3])
701-TA-373	Stainless steel wire rod	Italy	July 30, 1997	A	([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] In progress.

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, 1997

Country and commodity	Effective date of original action[1]
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
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 plate	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. 16, 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
Mexico:	
Cut-to-length carbon steel plate	Aug. 17, 1993
Porcelain-on-steel cookware	Dec. 12, 1986
Netherlands: Fresh cut flowers	Mar. 12, 1987
Norway: Atlantic salmon	Apr. 12, 1991

See footnotes at end of table.

Table A-25—*Continued*
Countervailing duty orders and findings in effect as of Dec. 31, 1997

Country and commodity	Effective date of original action[1]
Pakistan: Cotton shop towels	Mar. 9, 1984
Peru: Fresh cut flowers	Apr. 23, 1987
Spain:	
Cut-to-length carbon steel plate	Aug. 17, 1993
Stainless steel wire rod	Jan. 3, 1983
Sweden:	
Cut-to-length carbon steel plate	Aug. 17, 1993
Cold-rolled carbon steel flat products	Oct. 11, 1985
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 plate	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: Frozen concentrated orange juice	Mar. 2, 1983
Colombia: Textiles	Mar. 12, 1985
Peru: Cotton shop towels	Sept. 12, 1984
Singapore: Refrigerator compressors	Nov. 7, 1983
Thailand: Certain textile mill products	Mar. 12, 1985
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 1997 and those pending on Dec. 31, 1997

Status of Investigation	Article	Country[1]	Commission determination
Completed:			
337-TA-334	Certain Condensers, Parts Thereof and Products Containing Same Including Air Conditioners for Automobiles	Japan	Issued limited exclusion order.
337-TA-372	Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same	China	Formal enforcement proceeding terminated; Commission converted consent order to limited exclusion order and cease and desist order, and assessed civil penalty of $1,550,000.
337-TA-376	Certain Variable Speed Wind Turbines and Components Thereof	Germany	Remand by the Federal Circuit; Commission substituted purchaser of patent as co-complainant.
337-TA-380	Certain Agricultural Tractors Under 50 Power Take-Off Horsepower	Japan	Issued a general exclusion order and cease and desist orders.
337-TA-381	Certain Electronic Products, Including Semiconductor Products, Manufactured by Certain Processes	Korea	Terminated based on settlement agreement.
337-TA-382	Certain Flash Memory Circuits and Products Containing Same	Korea	Issued limited exclusion order and cease and desist order; orders rescinded based on settlement agreement.
337-TA-383	Certain Hardware Logic Emulation Systems and Components Thereof	France	Issued limited exclusion order and cease and desist order.
337-TA-385	Certain Random Access Memories, Processes for the Manufacture of Same, and Products Containing Same	Japan, Singapore	Terminated based on settlement agreement.
337-TA-388	Certain Dynamic Random Access Memory Controllers and Certain Multi-Layer Integrated Circuits, as Well as Chipsets and Products Containing Same	Taiwan	Terminated based on settlement agreement.
337-TA-389	Certain Diagnostic Kits for the Detection and Quantification of Viruses	Netherlands	Terminated based on settlement agreement.
337-TA-390	Certain Transport Vehicle Tires	Korea	Terminated based on withdrawal of complaint.
337-TA-391	Certain Toothbrushes and Packaging Thereof	China, Taiwan	Issued limited exclusion order.
337-TA-392	Certain Digital Satellite System (DSS) Receivers and Components Thereof	No foreign respondents	Terminated based on finding of no violation.

See footnote at end of table.

Table A-26—*Continued*
Section 337 investigations completed by the U.S. International Trade Commission during 1997 and those pending on Dec. 31, 1997

Status of Investigation	Article	Country[1]	Commission determination
Completed:			
337-TA-394	Certain Screen Printing Machines, Vision Alignment Devices Used Therein, and Component Parts Thereof	United Kingdom	Terminated based on settlement agreement.
337-TA-398	Certain Multiple Implement, Multi-Function Pocket Knives and Related Packaging and Promotional Materials	China, Singapore	Termination based on withdrawal of complaint.
Pending:			
337-TA-370	Certain Salinomycin Biomass and Preparations Containing Same	Germany	Ancillary sanctions proceeding pending before the Commission.
337-TA-383	Certain Hardware Logic Emulation Systems and Components Thereof	France	Ancillary sanctions proceeding pending before Commission.
337-TA-393	Certain Ion Trap Mass Spectrometers and Components Thereof	Germany	Pending before the ALJ.
337-TA-395	Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same	Taiwan, Japan	Pending before the ALJ.
337-TA-396	Certain Removable Electronic Cards and Electronic Card Reader Devices and Products Containing Same	France	Pending before the ALJ.
337-TA-397	Certain Dense Wavelength Division Multiplexing Systems and Components Thereof	Italy	Pending before the ALJ.
337-TA-399	Certain Fluid-Filled Ornamental Lamps	Taiwan	Pending before the ALJ.
337-TA-400	Certain Telephonic Digital Added Main Line Systems, Components Thereof, And Products Containing Same	Israel	Pending before the ALJ.
337-TA-401	Certain CD-ROM Controllers and Products Containing Same	Taiwan, Singapore, Malaysia	Pending before the ALJ.
337-TA-402	Certain Integrated Circuits and Products Containing Same	Korea	Pending before the ALJ.
337-TA-403	Certain Acesulfame Potassium and Blends and Products Containing Same	China Japan	Pending before the ALJ.
337-TA-404	Certain SDRAMs, DRAMs, ASICs, RAM-and-Logic Chips, Microprocessors, Microcontrollers, Processes for Manufacturing Same and Products Containing Same		Pending before the ALJ.

See footnote at end of table.

Table A-26—*Continued*
Section 337 investigations completed by the U.S. International Trade Commission during 1997 and those pending on Dec. 31, 1997

Status of Investigation	Article	Country[1]	Commission determination
337-TA-405	Certain Automotive Scissors Jacks	Canada	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 section 337 exclusion orders as of Dec. 31, 1997

Investigation No.	Article	Country[1]	Date patent expires[2]
337-TA-55	Certain Novelty Glasses	Hong Kong	Nonpatent
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	July 14, 1998
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 Components Thereof	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
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

See footnotes at end of table.

Table A-27—*Continued*
Outstanding section 337 exclusion orders as of Dec. 31, 1997

Investigation No.	Article	Country[1]	Date patent expires[2]
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] 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] June 22, 2006[3] July 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-334	Certain Condensers, Parts Thereof and Products Containing Same, Including Air Conditioners for Automobiles	Japan	Mar. 12, 2008
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
337-TA-364	Certain Curable Fluoroelastomer Compositions Precursors Thereof	Italy	Sept. 1, 1998

See footnotes at end of table.

Table A-27—*Continued*
Outstanding sec. 337 exclusion orders as of Dec. 31, 1997

Investigation No.	Article	Country[1]	Date patent expires[2]
337-TA-365	Certain Audible Alarm Devices For Divers	Taiwan	Aug. 21, 2007[3] Oct. 12, 2008[3]
337-TA-372	Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same	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	Certain Variable Speed Wind Turbines and Components Thereof	Germany	Feb. 1, 2011[3]
337-TA-378	Certain Asian-Style Kamaboko Fish Cakes	Japan	Nonpatent
337-TA-380	Certain Agricultural Tractors Under 50 Power Take-Off Horsepower	Japan	Nonpatent
337-TA-383	Certain Hardware Logic Emulation Systems and Components Thereof	France	Oct. 5, 2008[3] Oct. 5, 2008[3] Oct. 5, 2008[3] Apr. 28, 2009 Apr. 28, 2009
337-TA-391	Certain Toothbrushes and the Packaging Thereof	China, Taiwan	Aug. 4, 2006

[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, 1997

(1,000 dollars)

HTS Rank	*HTS* subheading	Description	Total U.S. imports for consumption[1]	Imports of GSP articles	
				GSP-eligible[2]	GSP duty-free[3]
1	2709.00.20[4]	Petroleum oils and oils from bituminous minerals, crude, testing 25 degrees A.P.I. or more	12,881,988	1,082,382	674,127
2	8517.11.00	Line telephone sets with cordless handsets	1,804,955	544,275	506,549
3	8521.10.60	Color, cartridge or cassette magnetic tape-type video recording apparatus	2,610,529	717,269	320,592
4	1701.11.10	Raw sugar not containing added flavoring or coloring	827,391	738,423	319,672
5	8471.60.35	Display units for ADP machines with color cathode-ray tube not entered with the rest of a system	7,333,854	803,861	200,197
6	9403.60.80	Wooden (except bent-wood) furniture, other than seats	1,857,878	352,784	198,897
7	7113.19.29	Gold necklaces and neck chains, other than rope or mixed link	720,736	206,246	178,083
8	7202.41.00	Ferrochromium containing more than 3 percent of carbon	191,719	176,254	176,224
9	7113.19.50	Articles of jewelry and parts thereof, of precious metal except silver, except necklaces and clasps	2,301,143	804,490	173,974
10	8527.21.10	Radio-tape player combinations	1,710,564	295,993	165,966
11	7403.11.00	Refined copper cathodes and sections of cathodes	1,344,874	575,505	158,839
12	8544.30.00	Ignition wiring sets, other wiring sets of a kind used in vehicles, aircraft or ships	4,279,997	474,672	152,762
13	4409.10.40	Standard wood moldings of pine	271,201	132,562	130,821
14	4015.11.00	Surgical, medical clothing (including gloves) of vulcanized rubber	728,066	197,724	125,577
15	8708.70.45	Roadwheels for motor vehicles	584,333	126,943	122,871
16	8414.30.40	Compressors of a kind used in refrigerating equipment (including air conditioning) not exceeding 1/4 horsepower	191,685	124,064	121,503
17	4104.31.40	Upholstery leather, from full grains and splits	371,389	184,813	110,856
18	4104.39.40	Upholstery leather, other than from full grains and splits	140,655	103,002	101,165
19	8517.19.80	Telephone sets; videophones nesi	1,061,290	180,543	96,623
20	8534.00.00	Printed circuits, without elements (other than connecting elements) fitted thereon	2,071,287	114,431	96,367
		Total, above items	43,285,533	7,936,237	4,131,665
		Total, all GSP items	434,007,834	28,078,693	15,545,585

[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 goods are from a beneficiary country that 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 of the top 20 products that actually received duty-free entry under the GSP program.

[4] This HTS subheading became eligible for duty-free treatment for imports only from countries designated as least developed beneficiary developing countries effective May 31, 1997.

Note.—Calculations based on unrounded data. 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*), 1997

(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	11,595	201	98
II	Vegetable products	13,338	805	184
III	Animal and vegtable fats, oils, and waxes	1,565	47	45
IV	Prepared foodstuffs; beverages, spirits; tobacco	17,501	2,031	919
V	Mineral products	73,875	1,545	763
VI	Chemical products	47,302	1,448	828
VII	Plastics and rubber	22,475	1,225	822
VIII	Raw hides and skins, leather, furskins; saddlery; handbags	7,127	635	444
IX	Wood; charcoal; cork; strawand other plaiting materials	13,226	1,157	665
X	Wood pulp;paper and paperboard	17,202	155	117
XI	Textiles and textile articles	57,009	260	177
XII	Footwear, headgear, umbrellas; artificial flowers	15,918	390	128
XIII	Stone, plaster, cement, asbestos, ceramic and glass articles	8,751	580	524
XIV	Pearls, precious or semi-precious stones; imitation jewellery	19,008	1,597	646
XV	Base metals and articles of base metal	46,799	2,666	1,834
XVI	Machinery and appliances; electrical equipment	261,289	9,416	5,129
XVII	Vehicles, aircraft, vessels, transport equipment	129,450	1,151	704
XVIII	Optical, photographic, medical, and musical instruments; clocks	29,772	1,257	419
XIX	Arms and ammunition; parts and accessories thereof	611	41	36
XX	Miscellaneous manufactured articles	32,905	1,470	1,065
XXI	Works of art, collectors' pieces and antiques	3,568	–	–
XXII	Special classification provisions	28,824	–	–
	Total, above items	859,110	28,079	15,546

[1] Excludes imports into the U.S. Virgin Islands.

[2] These import data show total imports, by sector that are 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 goods are from a beneficiary country that 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 program.

Note.—Calculations based on unrounded data.

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, 1995-97

(1,000 dollars)

HTS	Commodity	1995	1996	1997
2402.10.80	Cigars, cheroots and cigarillos, each valued 23¢ or over	74,815	154,951	330,704
1701.11.10	Raw sugar not containing added flavoring or color	127,475	240,394	280,714
6406.10.65	Footwear uppers, other than formed, of leather	186,753	194,789	200,376
7113.19.50	Jewelry and parts of precious metal except silver, except necklaces and clasps	142,386	134,610	139,028
9018.90.80	Medical, surgical, or dental instruments and appliances	119,831	80,475	98,891
2905.11.20	Methanol (Methyl alcohol), nesi	40,849	67,144	90,596
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates or other packages	35,240	43,017	72,621
1701.11.20	Other sugar to be used for the production (other than distillation) of polyhydric alcohols	9,289	76,022	72,476
0807.19.20	Cantaloupes, fresh, not entered Aug. 1-Sept. 15.	[1]51,419	62,912	65,044
7213.91.30	Bars and rods, hot-rolled, not tempered or treated, of iron or nonalloy steel	[2]57,279	60,491	62,478
8517.90.36	Printed circuit assemblies for telephonic apparatus for switching or terminal apparatus, nesi	–	35,938	55,153
0302.69.40	Fish chilled fish, including sable, ocean perch, snapper, grouper, and monkfish	34,963	45,739	52,807
8517.90.24	Parts of electrical telephonic switching or terminal apparatus, incorporating printed circuit	38	240	48,759
8536.20.00	Automatic circuit breakers, for a voltage not exceeding 1,000 V	34,725	33,975	44,358
8538.90.80	Terminals, electrical splices and couplings	37,201	41,320	42,304
8516.31.00	Electrothermic hair dryers	42,923	36,830	39,346
2009.11.00	Frozen concentrated orange juice	19,095	31,571	38,925
0202.30.50	Frozen boneless beef, except processed	45,293	37,359	35,633
6210.10.50	Other nonwoven disposable apparel designed for use in hospitals	15,705	21,001	31,052
4016.93.50	Nonautomotive gaskets, washers, and seals of vulcanized rubber	24,687	25,862	28,928
2207.10.60	Undenatured ethyl alcohol for nonbeverage purposes	54,139	59,905	28,058
8533.40.80	Electrical variable resistors, other than wirewound, including rheostats and potentiometers	14,842	13,551	27,209
0807.19.70	Other melons if not entered Jun 1-Nov. 30	[3]25,502	21,621	27,105
0201.30.50	Fresh or chilled boneless beef, except processed	51,598	33,403	26,732
7115.90.30	Gold (including metal clad with gold) articles (other than jewellry or goldsmiths' wares)	([4])	[4]8,837	23,602
	Total of items shown	1,246,045	1,561,959	1,962,899
	Total of all commodities	2,261,407	2,791,055	3,207,842

[1] Prior to 1996, imports reported under *HTS* 0807.10.20.
[2] Prior to 1996, imports reported under *HTS* 7213.31.30 and 7213.40.30.
[3] Prior to 1996, imports reported under *HTS* 0807.10.70.
[4] Prior to November 1996, imports reported under *HTS* 7115.90.10 part.

Note.—Because of rounding, figures may not add to totals show. The abbreviation, nesi, stands for "not elsewhere specified of 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 sources, 1993-97

(1,000 dollars)

Rank	Source	1993	1994	1995	1996	1997
1	Dominican Republic	657,673	751,028	845,356	932,413	1,136,523
2	Costa Rica	388,252	478,109	527,716	657,127	746,354
3	Guatemala	208,262	171,381	168,467	279,768	270,268
4	Honduras	127,399	139,838	156,840	207,289	263,814
5	Trinidad and Tobago	44,602	142,901	144,248	184,895	226,244
6	Nicaragua	74,408	80,554	78,543	116,007	135,340
7	El Salvador	26,530	41,126	68,550	91,254	81,799
8	Panama	38,524	35,141	39,357	51,352	81,064
9	Jamaica	76,496	69,316	87,330	95,965	74,515
10	Belize	12,526	13,112	16,676	24,760	34,710
11	Haiti	33,378	15,770	26,522	30,223	31,194
12	Guyana	1,246	13,100	17,409	32,285	28,512
13	Bahamas	167,110	45,062	22,855	20,765	25,132
14	Barbados	20,177	21,313	23,043	23,089	24,983
15	St Kitts-Nevis	15,986	17,220	18,776	19,241	24,636
16	St. Lucia	4,463	6,077	6,503	7,129	5,263
17	Montserrat	271	886	1,488	3,962	4,679
18	Grenada	144	768	724	1,007	4,071
19	Netherlands Antilles	3,490	3,214	4,468	4,357	3,862
20	St Vincent and Grenadines	233	1,299	2,527	3,580	2,373
21	Dominica	1,293	2,112	2,201	2,204	1,557
22	Antigua	1,111	809	1,683	1,615	522
23	British Virgin Islands	17	11	12	631	262
24	Aruba	21	12	114	138	166
	Total	1,903,613	2,050,158	2,261,407	2,791,055	3,207,842

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, 1995–97

(1,000 dollars)

Rank	Country	1995	1996	1997
1	Colombia	499,262	560,546	605,472
2	Peru	207,569	385,298	460,992
3	Ecuador	147,859	218,419	217,437
4	Bolivia	84,100	105,791	68,955
	Total	938,789	1,270,054	1,352,855

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, 1995-97

(1,000 dollars)

HTS No.	Commodity	1995	1996	1997
0603.10.60	Roses, fresh cut	126,897	156,039	184,116
7403.11.00	Cathodes and sections of cathodes of refined copper	11,995	91,749	158,790
0603.10.70	Chrysanthemums, standard carnations, anthuriums and orchids	147,875	161,918	147,786
0603.10.80	Cut flowers and flower buds suitable for bouquets, nesi	64,388	81,386	75,825
2843.30.00	Gold compounds	–	–	70,366
7113.19.10	Rope and chain for jewelry, of precious metal except silver	101,574	100,841	68,014
7113.19.50	Articles of jewery and parts thereof of precious metal except silver except necklaces and clasps	46,810	57,383	55,254
1604.14.40	Tuna and skipjack, not in airtight containers	36,524	57,933	47,261
7108.13.70	Other semimanufactured forms of nonmonetary gold	([1])	10,875	41,299
0603.10.30	Miniature (spray) carnations, fresh cut	32,360	36,035	36,801
3921.12.11	Nonadhesive plates, sheets, film, foil, strip	29,967	33,598	30,957
1701.11.10	Raw sugar not containing added flavoring or color	31,860	54,635	20,884
0709.20.90	Asparagus, fresh or chilled, not reduced in size, not entered Sept. 15-Nov 15	12,868	15,285	19,804
7113.19.29	Gold necklaces and neck chains, other than rope or mixed link	10,926	11,676	19,117
0302.69.40	Fresh or chilled fish, including sable, ocean perch, snapper, grouper, and monkfish	19,174	14,471	18,307
7905.00.00	Zinc plates, sheets, strip and foil	–	15,112	17,894
7402.00.00	Unrefined copper; copper anodes for electrolytic refining	13,395	5,197	15,690
7115.90.30	Gold (including metal clad with gold) articles	([2])	([2])	11,855
4421.90.98	Articles of wood, including pencil slats and others	10,682	10,166	11,752
4202.91.00	Leather golf bags, travel bags, sports bags, and cases	9,272	11,249	11,747
7113.19.21	Rope necklaces and neck chains of gold	13,966	29,033	9,676
8544.59.20	Insulated electric conductors nesi, of copper	386	677	9,577
2608.00.00	Zinc ores	–	–	8,634
1704.90.35	Confections ready for consumption	([3])	9,169	8,448
0709.20.10	Asparagus, fresh or chilled, not reduced in size, entered Sept. 15-Nov. 15	6,286	6,707	7,749
	Total of items shown	727,206	971,135	1,107,604
	Total all commodities	938,789	1,270,054	1,352,855

[1] Prior to November 1996, imports reported under *HTS* 7108.13.50 part.
[2] Prior to November 1997, imports reported under *HTS* 7115.90.10 part.
[3] Prior to 1996, imports reported under *HTS* 1704.90.20 part.

Note.—Because of rounding, figures may not add to totals show. The abbreviation, nesi, stands for “not elsewhere specified of included.”

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