IV. World Trade Organization[1]

The Director-General of the World Trade Organization (WTO), Renato Ruggiero, referred to 1997 as WTO's "golden year" in the light of the major successes realized by the organization and its members. Three important trade agreements were achieved in 1997: an agreement on trade in basic telecommunications services covering more than 95 percent of the global market for telecommunications; a landmark agreement to eliminate tariffs on information technology products among countries accounting for nearly 95 percent of trade in information technology products; and a most-favored-nation (MFN) agreement on trade in financial services covering $18 trillion in global securities assets, $38 trillion in global domestic bank lending, and $2.2 trillion in world wide insurance premiums. In many ways, the truly impressive agreements concluded under WTO auspices in 1997 reflect a closing of the final unfinished chapter of the Uruguay Round, and a challenge to continue producing high quality market-opening agreements on an accelerated basis.

1997 saw WTO membership increase to 132 countries and customs territories, with active negotiations under way in connection with applications from 31[1] non-members. Recourse to the dispute settlement system reached an all-time high in 1997 and many longstanding problems were finally resolved through panel and Appellate Body decisions. Big gains were realized in transparency of WTO activities, in no small part as a result of the WTO's highly successful Internet website (http://www.wto.org) where well over 30, 000 users in a given month have cumulatively downloaded over 5 million pages of WTO text and information. Final dispute settlement reports are now posted immediately on the website.

Following on the results of the Singapore Ministerial Conference in December 1996, WTO members engaged in far-reaching discussions on the "new" issues of investment, trade and competition policy, and transparency in government procurement, with each of the new working groups actively pursuing their mandates in 1997. In addition, members satisfied their Singapore commitment to the least-developed countries with a highly successful high-level meeting in October which produced an integrated and coordinated technical assistance plan for these countries.

1997 served to clearly demonstrate that significant success in trade liberalization and rule-making is possible in the context of the still-young WTO even without the structure associated with past "rounds" of multilateral trade negotiations. As we approach WTO's second Ministerial Conference, scheduled for May 18-19, 1998, we can acknowledge great satisfaction with the operation of the WTO system to date. The United States continues to have a broad-based agenda of issues to pursue in the WTO in 1998, ranging from implementation of Agreements to new challenges, such as Global Economic Commerce and new market access initiatives, and to the business of the WTO and negotiations already agreed. The sections which follow describe in greater detail the activities pursued in WTO over the course of 1997 and prospects for progress in 1998.

[1] The information in this section is provided pursuant to the reporting requirements contained in sections 122 and 124 of the Uruguay Round Agreements Act.

Looking Ahead to May 1998 and Beyond

WTO's Second Ministerial Conference

The Agreement Establishing the World Trade Organization provides that the Members of the WTO shall meet at ministerial level at least once every two years. The WTO's second Ministerial Conference, scheduled to meet in Geneva on 18-19 May, 1998, will be an important opportunity to take stock of progress made in the work program in the period since Singapore and chart the members' course for the remainder of the decade.

While plans for the May 1998 meeting will not be finalized in all respects as this text goes to print, we can expect that the coming Ministerial Conference will focus on what needs to be done by way of preparation for the major negotiations in 1999-2000 called for in the WTO's so-called "built-in agenda" (see Annex). Members are already mandated to conduct across-the-board negotiations in agriculture and services and many feel that liberalization in these sectors should be balanced by new negotiations on industrial tariffs. With this in mind, a natural outcome to the May meeting will be a ministerial-level directive to the General Council to return for the WTO's third Ministerial Conference in 1999 with a plan to launch negotiations in these and possibly other areas, and to implement market access and other new agreements concluded this year.

Coincident with the second Ministerial Conference, WTO Members have agreed to commemorate 50 years of the multilateral trading system in a special event set for May 20, 1998.

Implementation of the WTO Agreements

General Council Activities

Status

The WTO General Council is the highest decision-making body in the WTO that meets on a regular basis each year. It exercises all of the authority of the Ministerial Conference, which is only required to meet once every two years. The General Council and Ministerial Conference consist of representatives of all WTO members. Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the agreements for consideration by members, and grant waivers of obligations. All accessions to the WTO must be approved by the General Council or the Ministerial Conference.

Technically, meetings of both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are meetings of the General Council convened for the purpose of discharging the responsibilities of the DSB and TPRB.

Three major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS). To ensure a coherent and integrated process of decision-making in the WTO, all subsidiary bodies report up through this hierarchy, with the exception of the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trading Arrangements, which all report directly to the General Council. In 1997 and 1998, the working groups established in Singapore to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council.

The General Council uses both formal and informal processes to conduct the business of the WTO. In practice, informal groupings, which always include the United States, may initiate the process of consensus-building. Formal meetings of the General Council are necessary for informally-developed consensus to be translated into actual decisions.

Major Issues in 1997

Second Ministerial Conference: At several meetings over the course of the year, the General Council debated different aspects of the WTO's second Ministerial Conference. In July, the General Council decided that the Ministerial Conference should be held on 18-19 May 1998, and that it should be followed by a special event on 20 May 1998 designed to celebrate fifty years of the multilateral trading system. At its meeting of 10 December, 1997, the General Council decided on reporting arrangements in connection with the Ministerial Conference and agreed that consultations on other aspects of the meeting would be intensified in 1998.

High-Level Meeting for LLDCs: At its meeting on 7 October 1997, the General Council took up proposals in connection with the meeting agreed at Singapore for the purpose of coordinating technical assistance to least- developed countries. The High-Level Meeting on Inegrated Initiatives for Least-Developed Countries' Trade Development was held on 27-28 October in the WTO, with assistance from the Secretariats of the United Nations' Conference on Trade and Development (UNCTAD), the WTO-UNCTAD International Trade Centre (ITC), the United Nations' Development Programme (UNDP), and the staffs of the International Monetary Fund (IMF), and the World Bank. Information on the results of the meeting is included later in this document as part of the report of the Committee on Trade and Development.

Waivers of Obligations: Acting by consensus, the General Council reviewed and agreed at its meeting of October 22, 1997, to extend a number of waivers granted to WTO members in order to permit them to operate regional preferential trade arrangements. Three such waivers apply to the United States and are concerned with: the Andean Trade Preference Act; the Caribbean Basin Economic Recovery Act; and, preferences for the Former Trust Territory of the Pacific Islands. At the same meeting, the General Council approved a waiver for Hungary designed to bring Hungarian agricultural export subsidies back into line with Hungary's Uruguay Round schedule over a set period of time. This waiver represented a mutually satisfactory solution in a dispute settlement action brought against Hungary by the United States and several other WTO members. (The Annex to this chapter contains the list of waivers currently in force).

Accessions: In the course of the year, new working parties were established to consider the membership applications received from Azerbaijan and Andorra and chairpersons were designated for already-established working parties concerned with the accessions of Georgia and the Seychelles. Panama completed its domestic ratification procedures and became a member of the WTO in the second half of 1997, bringing the total number of WTO members to 132 as of year-end 1997.

Establishment Activities: The WTO is *sui generis* and is not a specialized agency of the United Nations. Notwithstanding the creation of a special working group to intensify efforts to establish the Secretariat of the WTO, the General Council was not able in 1997 to agree on the terms and conditions for employment of the Secretariat staff. As a result, the secretariat staff continues to exist through the ad hoc structure of the Interim Committee for the International Trade Organization (ICITO) first established in the early years of the GATT 1947. Late in 1997, an informal consensus emerged among WTO members, including the United States, that the WTO Secretariat could be established outside the ambit of the United Nations Common System (now applied *de facto* to the WTO staff) if certain conditions could be met. Work is continuing on translating these conditions into a General Council decision which might be taken in early 1998.

Prospects for 1998

The General Council will play a major role in the preparations for the 1998 Ministerial Conference and will no doubt be tasked with important follow-on work by the Ministers. By the end of the year, the General Council will need to consider what, if anything, should be done with the three specialized working groups established pursuant to the Singapore Ministerial Declaration. These working groups' mandates expire at the end of 1998. It is hoped that the General Council will succeed in establishing the WTO Secretariat in the course of 1998.

Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of eleven committees, the Textiles Monitoring Body, the Working Party on State Trading, and the Working Party on Preshipment Inspection. In 1997, the CTG held 15 meetings.

Major Issues in 1997

As the central oversight body in the WTO for all agreements related to goods, the CTG had an ambitious agenda in 1997. Much of its attention was devoted to providing formal approval for earlier decisions and recommendations of its subsidiary bodies. The CTG also served as a forum for airing initial complaints regarding actions taken by individual members. Many of these were resolved by interested members through consultations, although some were subsequently pursued through the Dispute Settlement Body.

The actions taken by the CTG in 1997 include:

- Referral of a number of newly notified regional agreements to the Committee on Regional Trading Agreements for consideration of their consistency with WTO obligations.

- Approval of extension of a number of waivers related to implementation of the Harmonized System and renegotiation of tariff schedules and referred these to the General Council for final decision. (The Annex to this chapter lists waivers currently in force).

- The major review of the implementation of the Agreement on Textiles and Clothing (ATC) during the first stage of the integration and operation of the Textiles Monitoring Body.

- Discussion of concerns raised by the United States regarding restrictive business practices in the Japanese photographic film and paper market, Brazilian Import Financing Restrictions, and increases in the Mercosur Common External Tariff.

- Implementation of the Information Technology Agreement.

Prospects for 1998

The CTG will continue discharging its responsibilities as the final approving body for decisions and recommendations made by the various goods committees and as a sounding board for initial complaints about individual members' actions. In this role, the CTG should provide a unified and coherent framework for the more day-to-day operations of its subsidiary bodies.

Committee on Agriculture

Status

The WTO Committee on Agriculture oversees the implementation of the Agreement on Agriculture and provides an opportunity for members to consult on matters related to provisions of the Agreement. It is also charged with monitoring the follow-up to the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries.

Major Issues in 1997

During the past year, the Committee has been an effective forum for raising issues concerning

agricultural trade policy. The United States has been able to join other countries in putting pressure on WTO members that have not yet implemented their commitments, or are not in compliance with provisions of the Agreement on Agriculture.

The Committee initiated the process of Analysis and Information Exchange (AIE) as mandated by the final report of the Singapore Ministerial. In this process, the Committee is reviewing issues arising out of the implementation of the Uruguay Round agreement and identifying areas that may need to be addressed in the continuation of the agricultural reform process.

The Committee held four formal meetings, which were supplemented by informal consultations and meetings for the AIE process. During its formal meetings, the Committee reviewed progress on the implementation of commitments negotiated under the Uruguay Round reform program. This review process was undertaken on the basis of notifications submitted by members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments. Notification requirements to facilitate the implementation and monitoring of the Decision on Least-Developed and Net Food-Importing Developing Countries were also established.

Specific issues addressed by the Committee in 1997 included:

Notifications: The principal focus of the Committee's review process has been the implementation of market access commitments, particularly with regard to the administration of tariff and other quota commitments, and compliance with export subsidy and domestic support commitments. The rate of compliance with notification obligations has been good, although there have been several instances where notifications have been incomplete or have not been submitted within the specified time frames. Most of the major trading partners of the United States are in full compliance.

Country-specific Issues: Some matters raised in the course of the review process remain outstanding, such as inadequate implementation of tariff-rate quota commitments (Philippines), the introduction or maintenance of non-tariff border measures (Ecuador, Egypt), and non-compliance with export subsidy commitments (Switzerland). The allocation of tariff-rate quotas to domestic producers (Philippines, Korea), the auctioning of tariff-rate quota licenses, and making imports conditional on absorption of domestic production of the products concerned (Colombia, Switzerland) are additional trade issues that surfaced in the course of the review process. Some of these issues were the subject of informal consultations organized by the Chairman of the Committee, such as the one focusing on Canadian dairy pricing. The Committee continues to apply the multilateral pressure needed to encourage countries to come into conformity with their obligations, in lieu of initiating dispute settlement. The United States used the Committee in this manner on several occasions during the course of the year. For example, the United States has successfully used the WTO to obtain favorable settlements without having to proceed all the way through the dispute settlement panel process in disputes involving Korean shelf-life restrictions for processed foods; EU duties on grain imports; Hungarian export subsidies; and Japanese taxes on distilled spirits.

Analysis and Information Exchange: The informal AIE forum allows countries to discuss issues related to implementation of Uruguay Round commitments and identify areas of interest for future formal discussions. The United States has actively participated in the process.

Prospects for 1998

Noncompliance with Uruguay Round commitments will continue to be the focus of the Committee's review process. Members are expected to give priority attention to any problems that are revealed in the notifications. The Committee is also likely to remain active in identifying and addressing other emerging agricultural trade problems.

The Committee will also follow up on any initiatives that arise from the May Ministerial in

Geneva, as well as continue and intensify the AIE process in preparation for the continuation of agricultural negotiations scheduled to resume at the end of 1999. Further progress can be expected on more general topics including administration of tariff rate quotas, re-instrumentation of subsidy policies, the operation of state trading enterprises and non-tariff measures that serve as disguised barriers to trade.

Committee on Market Access

Status

WTO members established the Committee on Market Access in January 1995, in part, consolidating the work of the Committee on Tariff Concessions and the Technical Group on Quantitative Restrictions and other Non-Tariff Measures from the GATT 1947. The Committee on Market Access supervises the implementation of concessions on tariffs and non-tariff measures (where not explicitly covered by another WTO body, e.g., the Textile Monitoring Body) agreed in negotiations under WTO auspices. The Committee also is the working-level body responsible for future negotiations and verification of new concessions on market access in the goods area.

Major Issues in 1997

During 1997, WTO members continued implementing the ambitious package of tariff cuts agreed to in the Uruguay Round, verifying that implementation is proceeding on track. Committee activities also focused on other aspects of its mandate. The Committee held five meetings in 1997 to discuss the WTO Integrated Data Base (IDB), procedures for modifying WTO schedules to accommodate modifications to the Harmonized System nomenclature and procedures for preparing a WTO consolidated loose-leaf schedule of concessions.

Many WTO members have implemented changes to the Harmonized System. In 1993, the Customs Cooperation Council (informally known as the World Customs Organization, WCO) agreed to approximately 400 sets of amendments to the Harmonized System, to enter into effect on January 1, 1996. These affect bound schedules of tariff concessions of a large number of WTO members. In keeping with their WCO obligations, many WTO members implemented changes in their customs nomenclature on January 1, 1996. The Committee previously had developed the procedures for verifying the revised WTO tariff schedules, which are based on the new HS nomenclature. Members have the right to object to any proposed nomenclature affecting bound tariff items because the new nomenclature (as well as any increase in tariff levels for an item above existing bindings) represents a modification of the tariff concession. Unresolved objections can trigger a GATT 1994 Article XXVIII process.

Most WTO members were unable to carry out the procedures related to the introduction of HS changes in WTO schedules prior to their implementation in January 1996, and waivers were granted until the procedures could be finalized. These waivers which concern 38 countries and the European Communities were, by successive decisions of the General Council, extended until April 30, 1998. The Committee also examined issues related to the transposition and renegotiation of schedules of certain members which had adopted the Harmonized System in the years following its introduction on January 1, 1988. While a number of members have been able to complete this transposition in recent years, four members--Bangladesh, Guatemala, Nicaragua, and Sri Lanka-- received an extension of their waiver until 30 April 1998. Technical assistance is being provided to some members to assist in the transposition of their pre-Uruguay Round schedules into the Harmonized System.

The Committee addressed issues concerning the future of the IDB. The IDB is intended to be updated annually with information on the tariffs, trade and non-tariff measures maintained by WTO members. Our objective is to develop a method to make the trade and tariff information publically available. In recent years, members had not provided the required information to the IDB, in part due to the complicated formatting requirements developed in the early 1980's for a mainframe computer. The United States took an

active role in pushing for a more relevant database structure with the aim of improving the trade and tariff data supplied by WTO members. In June 1997, the Committee agreed to a complete restructuring of the IDB from a mainframe environment to a personal computer-based system ("PC IDB"). The user friendly framework of PC IDB should improve the scope and timeliness of data submissions by members. The Committee initiated a discussion of technical assistance that might be provided The establishment of a PC compatible structure for tariff and trade data will facilitate the Committee's ongoing work to establish and verify electronically consolidated loose-leaf schedules on goods.

An important compliment to new database structure was the Committee's agreement on a draft Decision on the Supply of Information to the PC IDB mandating that all WTO members supply tariff and trade information on an annual basis. After review by the Council on Trade in Goods, the General Council adopted the Decision in July 1997. In November, the Committee agreed to an annual time table for Members to provide the tariff and trade data to the Secretariat. Initial submissions were due in December 1997 with updates to be provided in March (tariffs) and September (trade) thereafter.

The Committee adopted a format for the submission of notifications on quantitative restrictions in July. After reviewing the notifications, several members indicated a need to more clearly define the scope of the notification requirement and suggested this issue be included in the work program of the Committee in 1998.

WTO members also verified the schedules containing tariff concessions resulting from the information technology agreement (ITA) and the expansion of product coverage for the Uruguay Round zero-for-zero agreements on pharmaceuticals and distilled spirits. The Committee heard a report of the sectoral liberalization initiatives on environmental services and technology, medical equipment and instruments, fish and fish products, toys, gems and jewelry, chemicals, energy sector goods and services, telecommunications mutual recognition agreement, and forest products endorsed by APEC Leaders, setting the stage for further discussion of these initiatives in the WTO during 1998.

Prospects for 1998

The Committee needs to develop a procedure to verify electronically the consolidated loose-leaf schedules on goods. This highly technical task is essential in order to generate an up-to-date schedule of tariff bindings for WTO members that reflects in a single document Uruguay Round tariff concessions, HS96 updates to tariff nomenclature and bindings, and any other modifications to the WTO schedule (e.g., participation in the information technology agreement). The loose-leaf schedule will be the basis for conducting future tariff negotiations in the WTO, such as the mandated negotiations on agriculture scheduled to begin in 1999 and those anticipated in industrial tariffs. The Committee also provided the venue for discussions of additional sectoral liberalization efforts by WTO members, such as those initiated in APEC and another updating of the pharmaceutical agreement.

Committee on Sanitary and Phytosanitary Measures

Status

The WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes rules and procedures to ensure that sanitary and phytosanitary measures address legitimate human, animal and plant health concerns, do not arbitrarily or unjustifiably discriminate among Members' agricultural and food products, and are not intended as disguised barriers to trade. Sanitary and phytosanitary measures protect against risks associated with plant- or animal-borne pests or diseases, or with additives, contaminants, toxins or disease-causing organisms in foods, beverages, or feedstuffs. Most fundamentally, the Agreement requires that such measures be based in science and developed through systematic risk assessment procedures. At

the same time, the SPS Agreement preserves every WTO Member's right to choose the level of protection it considers to be appropriate with respect to legitimate sanitary and phytosanitary risks.

The Committee on SPS Measures (SPS Committee) serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussion of specific sanitary and phytosanitary measures that are perceived to violate the Agreement and the exchange of information on implementation of the obligations in the Agreement. It also includes the ongoing review of the Agreement's operational provisions related to transparency in the development and application of SPS measures. The Committee met three times in 1997.

Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate, in accordance with guidance agreed to by the General Council. Representatives of a number of international organizations are invited to attend meetings of the Committee as observers: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the FAO International Plant Protection Convention Secretariat (IPPC); the International Office of Epizootics (OIE); the International Organization for Standardization (ISO) and the International Trade Center (ITC).

Major Issues in 1997

During 1997, the Committee adopted procedures for: (a) conducting the required three-year review of the SPS Agreement; and (b) monitoring international harmonization and the use of international standards, guidelines or recommendations (Articles 3.5 and 12.4). The monitoring procedures are intended to help the Committee identify international standards which have a major impact on trade and which may warrant review because they are out of date or otherwise technically inappropriate or because they have not, for other reasons, been adopted by WTO members. The Committee also considered further U.S. proposals for improving implementation of the Agreement's transparency and notifications requirements, and conducted informal consultations on trade restrictions that have been adopted in response to risks associated with bovine spongiform encephalopathy ("mad cow disease"). The Committee continued its work on the Agreement's mandate to develop guidelines to further the practical implementation of the obligation for each Member to avoid arbitrary or unjustifiable distinctions in the levels of SPS protection it considers to be appropriate in different situations (Article 5.5).

A key opportunity resulting from the SPS Agreement is the ability to obtain information on WTO Members' proposed SPS regulations and control, inspection and approval procedures, and to provide comments on those proposals before they are finalized. These procedures have proved to be extremely useful in preventing the emergence of problems associated with SPS measures before trade is affected. The United States continued to press all members to establish an official notification authority, as required by the Agreement, and to ensure that the Agreement's notification requirements are fully and effectively implemented.

Each member is also required to establish a central contact point, known as an inquiry point, to be responsible for responding to requests for information or making the appropriate referral.

U.S. INQUIRY POINT

Office of Food Safety and Technical Services
Attn: Carolyn F. Wilson
Foreign Agricultural Service
U.S. Department of Agriculture
AG Box 1027
Room 5545 South Agriculture Building
14th and Independence Avenue, S.W.
Washington, DC 20250-1027
Telephone: (202) 720-2239
Fax: (202) 690-0677

email:	OFSTS@AG.GOV

This inquiry point circulates notifications received under the Agreement to interested parties for comment.

Prospects for 1998

In 1998, the Committee will focus on its mandate, set out in Article 12.7 of the Agreement, to review the operation and implementation of the Agreement three years after the date of entry into force of the WTO. To accommodate the additional workload, the Committee has scheduled an additional meeting in Geneva for 1998 (there will be a total of four meetings, the first of which is scheduled for March 12-13). The Committee will also continue to discuss the development of guidelines to avoid arbitrary distinctions in the levels of protection foreseen under Article 5. Finally, the Committee will continue to monitor implementation of the Agreement by WTO members. The increase in disputes in this area is evidence of the importance the members are placing on the effective operation of the Agreement.

Committee on Trade-Related Investment Measures

Status

The Trade-Related Investment Measures (TRIMs) Agreement prohibits measures such as local content requirements and trade balancing requirements, and requires any such measures existing as of the date of entry into force to be notified and then eliminated. Developed countries were required to bring notified measures into conformity by January 1, 1997. Developing countries have until January 1, 2000, and the least-developed countries until January 1, 2002. Twenty-four WTO Members submitted notifications as required to the TRIMs Committee.

The Committee met twice in formal session during 1997. Work is ongoing to ensure compliance with the Agreement. The notification and elimination of TRIMS is also an important component for all WTO accessions.

Under the terms of the TRIMs Agreement, not later than five years after the date of entry into force of the WTO, by January 1, 2000, the Council for Trade in Goods (CTG) must review the operation of the Agreement and, as appropriate, suggest improvements. At the same time, the CTG should consider whether the Agreement should be complemented by addressing investment policy and competition policy.

Major Issues in 1997

The Committee was a forum in 1997 for the United States and other Members to address concerns, gather information, and raise questions about the recent introduction or modification of TRIMs by certain WTO Members, particularly in the automotive and agriculture sectors. Other issues raised during meetings included the adequacy of information provided in notifications, and plans of members notifying TRIMs regarding phase-out and elimination.

Notifications submitted under Articles 5.5 and 6.2 are issued unrestricted, unless Members making the notification request that they be issued as restricted.

Prospects for 1998

The United States and other Members will use the Committee to ensure adherence to the provisions of the Agreement. In this regard, the Committee will examine any modifications to notified TRIMs, new TRIMs (whether notified or not), and also review the plans of developing country members notifying TRIMs to phase out the TRIMs by January 1, 2000. The Committee will also collect and review notifications made by WTO members under Article 6.2 of the Agreement.

Committee on Rules of Origin

Status

The main objective of the WTO Agreement on Rules of Origin is to increase transparency, predictability, and consistency in both the preparation and application of rules of origin. In addition to setting forth disciplines related to the administration of rules of origin, the Agreement also includes a three year work program leading to the multilateral harmonization of rules of origin used for non-preferential trade regimes.

The WTO Committee on Rules of Origin met formally four times in 1997, and also conducted numerous informal consultations and working party sessions related to the harmonization work program negotiations. As of the end of 1997, 56 WTO members had made notifications concerning non-preferential rules of origin, and 58 had made notifications concerning preferential rules of origin.

Major Issues in 1997

Much of the focus of the WTO Committee on Rules of Origin continues to be on conducting the harmonization work program negotiations. The Committee is being assisted in its work by the Technical Committee on Rules of Origin that was established at the World Customs Organization (WCO) under the terms of the WTO Agreement on Rules of Origin. The Technical Committee on Rules of Origin provides technical interpretations and opinions which are then considered at the WTO Committee on Rules of Origin, developing what will be another annex to the WTO Agreement.

U.S. proposals for the WTO origin harmonization negotiations are being developed under the auspices of a Section 332 study being conducted by the U.S. International Trade Commission pursuant to a request by the U.S. Trade Representative. The proposals are formulated utilizing the input received from the private sector and there are ongoing consultations with the private sector as the negotiations progress. Deliberations at the WTO Committee pertaining to the product-specific rules that could not reach resolution on a technical basis began in the fall of 1997.

The Committee also served as a forum to exchange views on notifications by members concerning their national rules of origin, along with those relevant judicial decisions and administrative rulings of general application. Increasing attention is being given to addressing the Agreement's disciplines related to ensuring transparency for the private sector when determinations are provided by Members' customs administrations

Prospects for 1998

The harmonization work program is currently in its second phase, which, in accordance with the Agreement, involves consideration of product-specific rules utilizing a methodology involving change in tariff classification without any further supplemental criteria. The third phase of the work program will involve consideration of possible requirements other than change in tariff classification for developing rules of origin. Virtually complete is the first phase of the work program, which consisted of developing a harmonized definition of goods that are considered to be "wholly obtained" in one country, as well as a harmonized definition of "minimal operations that do not by themselves confer origin to a good."

A primary goal for the Committee will be to ensure continuing progress and to meet the July 1998 deadline to complete the negotiations. In accordance with the Agreement, this work is being done through a sector-by-sector approach, as defined in various chapter groupings in the Harmonized Tariff Schedule. The WTO Committee on Rules of Origin is continuing to deliberate as issues related to the development of product specific rules of origin will also be undertaking its continued responsibilities related to reviewing implementation of the procedural disciplines set forth in the Agreement.

Committee on Subsidies and Countervailing Measures[2]

Status

The Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement") provides rules and disciplines for the use of subsidies and the application of remedies -- through either WTO dispute settlement or countervailing duty ("CVD") action -- to address subsidized trade that causes harmful effects to others. The Agreement divides subsidy practices among three classes: prohibited ("red light") subsidies; permitted yet actionable ("yellow light") subsidies; and permitted, non-actionable ("green light") subsidies. Export subsidies and import substitution subsidies are prohibited. Green light subsidies consist of certain circumscribed assistance granted for industrial research and development (R&D), regional development or environmental compliance purposes. All other subsidies are permitted, yet are actionable if they are (i) limited to a firm, industry or group thereof within the territory of a WTO member (*i.e.*, "specific" subsidies) and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another WTO member. However, certain subsidies, referred to as "dark amber" subsidies, are presumed to cause serious prejudice -- *i.e.*, subsidies to cover an industry's operating losses, repeated subsidies to cover a firm's operating losses, the direct forgiveness of debt or when the *ad valorem* subsidization of a product exceeds five percent. In such cases, if challenged in a WTO dispute settlement proceeding, the subsidizing government has the burden of showing that serious prejudice has **not** resulted from the subsidy.

Throughout 1997, the Subsidies Committee continued to focus on the implementation of the Agreement. This work has progressed in two important ways. On the one hand, much attention has been devoted to reinforcing the ongoing responsibilities of WTO membership, such as the notification and review of members' CVD legislation, CVD actions and subsidy programs. In other respects, the Committee's work has involved the development of guidelines and procedures that are intended both to facilitate and to clarify the use of specific provisions of the Agreement. This latter work contributes not only to the improved implementation of the Agreement, but will also be useful to members' preparations for reviewing the operation of the provisions in question-- a step which the Agreement requires be completed by mid-1999.

Major Issues in 1997

The Committee held two regular meetings in 1997. Much of its work remained concentrated on increasing the transparency and mutual understanding of members' domestic measures vis-a-vis WTO obligations. At the same time, this and other Committee work served to enhance members' understanding of the Agreement itself and of each other's views on the appropriate interpretation and application of its provisions. Among the more significant activities undertaken in 1997 are the following:

- *Review and discussion of notifications:* Throughout the course of the year, members submitted notifications of (i) new or amended CVD legislation; (ii) CVD investigations initiated and decisions taken; and (iii) measures which meet the definition of a subsidy and which are "specific" to certain recipients within the territory of the notifying member. All of these notifications were reviewed and discussed by the Committee at its regular meetings. In the cases of CVD legislation and subsidies, the Committee's review also entailed exchanges of written questions and answers for purposes of clarifying the operation of the notified measures and their relationship to the obligations of the Agreement. Among the new or amended CVD laws under review were those of India, Japan, Korea, and Singapore, while questions relating to such previously notified laws as those of Canada, the EU and the United States, among others, were also raised and addressed. With respect to subsidy notifications, the table contained in the annex to this chapter shows the WTO members whose 1995 full notifications or 1996 updating notifications were reviewed by the Committee in 1997.

- *Green light subsidies:* The Committee approved a detailed format for submitting updating notifications of subsidy programs which have been previously notified as

qualifying for non-actionable treatment.[3] Adoption of this format has cleared the way for renewed consideration of procedural rules to govern the arbitration of disputes over whether the terms of a subsidy program are consistent with the Agreement's green light rules or whether such green light terms have been violated in specific instances of subsidization.

- *Dark amber subsidies:* The Committee's informal group of experts issued a report and recommendations for calculating various types of subsidies on the basis of the cost to the subsidizing government, the methodology prescribed by the Agreement for determining whether the subsidization of a product exceeds five percent *ad valorem* in cases of presumed serious prejudice. The Committee is now reviewing these recommendations.

Prospects for 1998

Work will continue in 1998 on most of the activities noted above. A new round of full subsidy notifications will come due on June 30, 1998, as the Committee begins its next three-year cycle in the notification process. This means that, pursuant to Article 26 of the Agreement, the Committee will schedule additional special meetings for purposes of reviewing such notifications, beginning perhaps as early as the fall of this year. In addition, the work which resumed at the end of last year on procedural rules for green light subsidy arbitrations will be pursued this year, as will consideration of the informal group's recommendations for calculating subsidies under the quantitative standard for presuming serious prejudice. While not essential, completion of these activities will be viewed as important preliminary steps to the review of the operation of Article 6.1 (dark amber) and Articles 8 and 9 (green light) of the Agreement before mid-1999. Under Article 31 of the Agreement, these provisions will expire at the end of 1999 unless there is an affirmative decision to extend them, with or without modification, for a further period.

Committee on Customs Valuation

Status

The purpose of the WTO Agreement on Customs Valuation is to ensure that the valuation of goods for customs purposes, such as for the application of duty rates, is conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Valuation has become an increasingly important issue for U.S. exporters and a priority for all countries in the process of acceding to the WTO. Valuation hold the key to realize market access commitments.

Major Issues in 1997

The Agreement is administered by the WTO Committee on Customs Valuation. The Agreement also established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization. The WTO Committee on Customs Valuation met twice in 1997, exchanging views on the implementation and administration of the Agreement, and also held several informal sessions on the question of technical assistance for those developing country members who will be implementing the provisions of the Agreement in the year 2000. Information was also gathered on implementation of the 1984 GATT Decision on the valuation of carrier media bearing software for data processing equipment. The United States has exerted substantial effort in the Committee in order to impress upon members the importance of improving adherence to this critical Agreement.

Prospects for 1998

The Uruguay Round Agreement provided special transitional measures for developing countries to delay the application of the provisions of the Agreement. Some 52 members have opted for recourse to delayed application, which cannot exceed five years from the date of entry into force of the WTO Agreement. Preparation for these countries to undertake applying the Agreement's provisions, including ensuring the availability of effective technical assistance, will continue to be a high priority of the WTO Committee on Customs Valuation driven in large measure by the United

States and the interests of U.S. companies. The resources and expertise of the WCO Technical Committee will also be utilized for this purpose.

Committee on Technical Barriers to Trade[4]

Status

The Agreement on Technical Barriers to Trade (TBT Agreement) establishes rules and procedures regarding the development, adoption and application of voluntary product standards, mandatory technical regulations and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The Agreement's provisions apply to a broad range of industrial and agricultural products, though sanitary and phytosanitary measures (SPS) and specifications for government procurement are covered under separate agreements. The Agreement establishes rules that help to distinguish legitimate standards and technical regulations from protectionist measures. Standards, technical regulations and conformity assessment procedures are to be applied on a non-discriminatory basis and should be based on international standards and guidelines, when appropriate.

The TBT Committee serves as a forum for consultation on issues associated with the implementation and administration of the Agreement. This includes discussion and/or presentations concerning specific standards, technical regulations and conformity assessment procedures maintained by another Member that are creating adverse trade consequences and/or are perceived to be violations of the Agreement. It also includes an exchange of information on relevant international developments.

Participation in the Committee is open to all WTO Members. Certain non-WTO Members also participate, in accordance with guidance agreed by the General Council. Representatives of a number of international organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); and the UN Economic Commission for Europe (UN/ECE).

A key opportunity resulting from the TBT Agreement is the ability to obtain information on proposed standards, technical regulations and conformity assessment procedures, and to provide comments on those proposals before they are finalized. Members are also required to establish a central contact point, known as an inquiry point, to be responsible for responding to requests for information (or for making the appropriate referral).

U.S. Inquiry Point

National Center for Standards and Certification Information
National Institute of Standards and Technology (NIST)
Bldg. 820, Room 164
Gaithersburg, MD 20899

Telephone: (301) 975-4040
Fax: (301) 926-1559
email: ncsci@NIST.GOV

NIST maintains a reference collection of standards, specifications, test methods, codes and

recommended practices. This reference material includes U.S. government agencies' regulations, and standards of U.S. private standards-developing organizations and foreign national and international standardizing bodies. The inquiry point responds to all inquiries for information concerning federal, state and private regulations, standards and conformity assessment procedures. On questions concerning standards and technical regulations for agricultural products, including sanitary and phytosanitary measures, NIST is assisted by the U.S. Department of Agriculture, which also maintains the U.S. inquiry point under the Agreement on Sanitary and Phytosanitary Measures. This office circulates notifications received under the Agreement to interested parties.

Major Issues in 1997

The Committee met four times in 1997. At those meetings, the Committee heard statements concerning implementation of the Agreement, including information on measures taken domestically to ensure implementation of the Agreement and the identification of specific trade issues believed to create unnecessary barriers to trade. The Committee also heard a number of presentations on developments in international standardization fora, including developments in the ISO/IEC on conformity assessment guides and on environmental management standards. The Committee conducted its second Annual Review of the Implementation and Operation of the Agreement (G/TBT/4) and of the Code of Good Practice for the Preparation, Adoption and Application of Standards (Annex 3 of the Agreement) (G/TBT/CS/2 and Rev.3). Decisions and recommendations adopted by the Committee are contained in G/TBT/1/Rev.4.

In 1997, there were three meetings of an *ad hoc* Technical Working Group established by the Committee to study the implications under the Agreement of ISO/IEC guides for conformity assessment procedures. Discussion in the Technical Working Group was to assist the Committee in evaluating whether it would be appropriate to develop a Committee Recommendation concerning the use of specific guides (e.g., ISO/IEC Guide 22, *General Criteria for Supplier's Declaration of Conformity (1996);* ISO/IEC Guide 25, *General Requirements for the Competence of Calibration and Testing Laboratories;* among others). (A recommendation concerning the use of such guides had been agreed by the Tokyo Round Committee). Participants in the Technical Working Group exchanged information on their experience with the use of the international guides. Discussions on the need to avoid the creation of unnecessary obstacles to international trade due to conformity assessment procedures (as foreseen under Articles 5 and 6 of the Agreement) will continue in 1998 in the Committee.

First Triennial Review of the Operation and Implementation of the Agreement: At its eleventh meeting in November, the Committee completed its first Triennial Review of the Agreement (WTO document G/TBT/5 is included in the Annex to this chapter). Such reviews are mandated under Article 15.4 of the Agreement and provide an opportunity for in-depth discussion of issues associated with implementation, "with a view to recommending an adjustment of the rights and obligations of the Agreement where necessary to ensure mutual economic advantage and balance of rights and obligations." The Committee considered that adjustment of the rights and obligations and amendments to the text of the Agreement were not necessary at this time, but the review did highlight a number of areas for further consideration in the Committee's work program. The Committee adopted a number of decisions, recommendations and arrangements that are reflected in its report with a view to improving the operation and implementation of the Agreement, and to frame future discussions in the Committee. The following summarizes the topics discussed in the review, and related future work:

- *Implementation and Administration of the Agreement by Members* (Article 15.2): Committee Members agreed to make detailed presentations on the arrangements they have in place domestically in order to assure effective and continued compliance with the Agreement. This exchange will assist all Members seeking ways to improve compliance, and should help to identify specific needs for technical assistance.

- *Operation and Implementation of Notification Procedures* (Articles 2, 3, 5 and 7): The Committee highlighted the importance for suppliers and other interested parties to obtain early information on proposals for new technical regulations and conformity assessment procedures, to provide comments on them while still in draft and have those comments considered before a final rule adopted. It therefore agreed that the procedural aspects of notification should be the subject of ongoing review.

- *Acceptance, Implementation and Operation of the Code of Good Practice by Standardizing Bodies* (Article 4; Annex 3): The Committee noted that compliance with the Code of Good Practice was necessary to ensure that voluntary standards, whether developed by governments or private or regional bodies, do not create unnecessary barriers to trade. It also noted that the provisions of the Code were not applicable to the activities of international bodies. The Committee invited Members to share experiences on difficulties associated with voluntary standards and the nature and reasons for deviations from relevant international standards. It agreed that the obligation to publish notices of draft standards containing voluntary labeling requirements was not dependent upon the kind of information provided on the label.

- *International Standards, Guides and Recommendations*: The Committee acknowledged that the Agreement accords significant emphasis to the development and use of international standards for preventing unnecessary trade barriers. It recognized, however, that trade problems could arise through, *inter alia*, the absence of international standards, or their non-use due to possible outdated content. Further examination of such issues was warranted and Members were encouraged to bring specific examples to the Committee. The Committee also intensify its exchange of information with international bodies, with a view to ensuring that such standards emanate from processes consistent with the objectives of the Agreement (e.g., are developed in an open and transparent process).

- *Preparation, Adoption and Application of Technical Regulations*: The Committee emphasized that good regulatory practice was essential to ensure that technical regulations did not unnecessarily block trade. For example, it was important to avoid promulgating technical regulations where they were not necessary. When they were necessary, their preparation, adoption and application should be in accordance with the provisions of the Agreement. This requires coordination among trade and regulatory officials. The Committee agreed to exchange further information on their approaches to regulation.

- *Conformity Assessment Procedures*: The Committee noted the growing concern with the restrictive effect on trade of multiple testing and conformity assessment procedures, and the call by industry for "one standard, one test." The Committee noted that the supplier's declaration of conformity was recognized as saving costs. And, that the recognition of the results of conformity assessment could be achieved through different approaches which might have different trade impacts. There was an emerging interest in concluding mutual recognition agreements (MRAs) as a means of facilitating trade, while at the same time such agreements raised concerns for non-participants and overall questions about their utility in solving the problems of multiple testing and conformity assessment procedures. It noted the use of common procedures for conformity assessment, such as international guides, would be an essential basis for confidence between parties. As noted above, the Committee will continue its consideration of ISO/IEC guides for conformity assessment. And, it will continue to examine the various approaches for solving the problems and costs of multiple requirements for conformity assessment.

- *Technical Assistance (Article 11) and Special and Differential Treatment (Article 12)*: The Committee will continue to exchange information on assistance provided by

Members, as well as specific needs of Members for assistance. The Committee will consider a more detailed work program to assist developing countries.

Prospects for 1998

As noted above, the Triennial Review of the Agreement resulted in a detailed work program for the Committee. It foresees intensified information exchange and discussion of a range of issues associated with the implementation of the Agreement. It will be incumbent on Members to advance these discussions. The United States will continue to advance discussions to ensure that Members develop and institutionalize procedures to ensure ongoing and effective implementation of the range of obligations under the Agreement.

Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) provides detailed rules and disciplines which allow members to impose antidumping duties in carefully circumscribed situations to offset injurious dumping of products exported from one member country to another.

In 1997, the Committee on Antidumping Practices (Antidumping Committee) held two regular meetings, in April and October. At its meetings, the Antidumping Committee continued to focus on implementation of the Antidumping Agreement. In particular, the Committee continued its work to review members' antidumping legislation on an on-going basis. This included the review of legislation newly notified by members, as well as the review of certain legislation which the Committee had previously reviewed. The Ad Hoc Group on Implementation, created by the Antidumping Committee in 1996, also met twice in 1997, and began detailed discussions of the ten topics which the Committee referred to it. A great deal of useful information was exchanged on these topics regarding members' practices in implementing the requirements of the Antidumping Agreement. At its April 1997 meeting, the Antidumping Committee established an Informal Group on Anticircumvention, after taking note of a framework which members had agreed upon for discussing the subject of anticircumvention. The Informal Group held its first meeting in October 1997 to discuss the topic "what constitutes circumvention?"

Major Issues in 1997

The Antidumping Committee's work continues to be an important avenue for ensuring members' understanding of the detailed provisions in the Antidumping Agreement, and for providing opportunities for discussing each other's views on the interpretation and application of the Agreement's provisions. Among the more significant activities undertaken in 1997 by the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention are the following:

- *Notification and review of antidumping legislation:* The Antidumping Committee reviewed 17 notifications of new or amended antidumping legislation, and also reviewed 9 notifications of legislation which had been previously reviewed. Members were active in formulating written questions and making follow-up inquiries at Committee meetings.

- *Notification and review of antidumping actions:* 21 members notified antidumping actions taken during the first half of 1997 and 22 members notified having taken antidumping actions during the latter half of 1997. These actions, in addition to outstanding antidumping measures currently maintained by WTO members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion.

- *Ad Hoc Group on Implementation:* The Ad Hoc Group took up the ten topics which the Antidumping Committee referred to it for discussion: (1) treatment of confidential information under Article 6.5, (2) period of data

collection for a dumping investigation, (3) sampling method, (4) "special circumstances" in Article 5.6, (5) notification of the government of the exporting member pursuant to Article 5.6, (6) the provision for hearings in Article 6.2, (7) provision of essential facts and disclosure of findings under Article 6.9, (8) public notices under Article 12, (9) content of affirmative preliminary determinations, and (10) duty assessments under Article 9. A number of members submitted papers and follow up papers on these topics, and other members indicated an interest in doing so in the future. The Ad Hoc Group engaged in useful exchanges of views on these topics regarding their practices to implement the requirements of the Antidumping Agreement. In the short span of its existence, the Ad Hoc Group has opened important opportunities for members to examine technical implementation issues.

- *Informal Group on Anticircumvention:* The Antidumping Committee's establishment of the Informal Group on Anticircumvention marked an important step in taking up the Decision of Ministers at Marrakesh to refer this matter to the Committee. At its first meeting, the Informal Group on Anticircumvention had productive discussions on the subject of "what constitutes circumvention?". The Informal Group will continue to discuss this subject and, per the framework agreed for the Informal Group's work, will take up additional, agreed subjects.

Prospects for 1998

Further work in 1998 will continue in all of the areas that the Antidumping Committee, the Ad Hoc Group on Implementation and the Informal Group on Anticircumvention addressed this past year. The Antidumping Committee will continue to review members' notifications of antidumping legislation and members will continue to have the opportunity to submit additional questions concerning previously reviewed notifications. This on-going review process in the Committee is important to ensuring that antidumping laws around the world are properly drafted and implemented, thereby contributing to a well-functioning, liberal trading system. As notifications of antidumping legislation are unrestricted documents, it will remain possible for U.S. exporters to have access to the antidumping laws of other countries in order to better understand their operation and take them into account in commercial planning.

The preparation by members and review in the Committee of semi-annual reports and reports of preliminary and final antidumping actions will continue in 1998. The 1996 decision of the WTO General Council's to liberalize the rules on the restriction of WTO documents has resulted in these reports becoming accessible to the general public, in keeping with the objectives of the Uruguay Round Agreements Act (information on accessing WTO notifications is included in the Annex to this chapter). This has been an important development in ensuring the merited degree of public awareness regarding Members antidumping actions.

The discussions in the Ad Hoc Group on Implementation will continue to provide opportunities for the United States to learn in more detail about the administration by other countries of their antidumping laws, particularly by those Members who have newly enacted legislation. As members continue to submit additional papers on the topics selected by the Antidumping Committee for the Ad Hoc Group's consideration, it is anticipated that the Group's discussions will deepen. Although not yet the subject of discussion in the Antidumping Committee, it is possible for the Committee to refer additional topics to the Ad Hoc Group for consideration.

The work commenced in 1997 by Informal Group on Anticircumvention will continue to be pursued in 1998, according to the framework for discussion which members agreed.

Committee on Import Licensing

Status

The Agreement on Import Licensing Procedures

establishes rules governing the administrative procedures that many governments impose requiring the submission and approval of applications or other documents as pre-conditions for the importation of certain goods. Governments use both "automatic" and "non-automatic" licensing systems. An automatic licensing system, which is typically used to monitor, rather than restrict, imports, is one in which completed applications for importation are always approved. Governments use non-automatic licensing to administer import restrictions, such as quotas and tariff-rate quotas. In non-automatic systems, only a limited number of all applications are approved.

Import licensing regimes that are not purely automatic can have trade restrictive effects beyond those necessary to administer an import quota. Import licensing procedures were previously the subject of a 1979 Tokyo Round Agreement between 28 GATT Contracting Parties, including the United States.

The WTO Agreement on Import Licensing Procedures -- which applies to all WTO member governments -- builds on the Tokyo Round Agreement. It strengthens disciplines on governments that use import licensing systems and is designed to increase the transparency and predictability of such regimes. For example, the Agreement sets firm deadlines for the publication of information on new or revised licensing requirements and places limits on the time for processing licensing applications. The Agreement also establishes a limit on the number of government agencies an importer must approach to obtain a license.

Major Issues in 1997

The WTO Committee on Import Licensing, which oversees the WTO Licensing Agreement, met twice in 1997. The primary focus of the Committee in 1997 was overseeing compliance with the notification obligations of the Agreement. The Committee established and implemented a process for the review of the notifications.

Prospects for 1998

The Committee will continue its efforts to ensure effective implementation of the Agreement in WTO member countries. The most important contribution the Committee will make is to increase transparency of all WTO members' licensing regimes, primarily through improved compliance with the Agreement's notification obligations.

Committee on Safeguards

Status

The Committee on Safeguards was established to administer the WTO Agreement on Safeguards. The Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994. The Committee Reports to the Council on Trade in Goods.

The Agreement on Safeguards incorporates into WTO rules many concepts embodied in U.S. safeguards law (i.e., section 201 of the Trade Act of 1974, as amended). The Agreement requires all WTO members to use transparent and objective procedures -- fully consistent with U.S. laws and regulations - when taking emergency actions to prevent or remedy serious injury to domestic industry caused by increased imports.

Among its key provisions, the Agreement:

- requires transparent, public process for making injury determinations;
- sets out clear definitions of the criteria for injury determinations;
- requires safeguard measures to be steadily liberalized over their duration;
- establishes an 8-year maximum duration for safeguard actions, and requires a review and determination no later than the mid-term of the measure;
- allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and
- prohibits so-called "grey area" measures, such

as voluntary restraint agreements and orderly marketing agreements, which had been utilized by countries to avoid GATT disciplines and which adversely affect third-country markets. Measures of this type in existence when the Agreement entered into force are required to be phased out over four years.

Major Issues in 1997

The Committee held two regular meetings, in May and October. There was also one special meeting, in February, at the request of the European Communities, to discuss Korea's safeguard investigation on dairy products.

During the regular meetings, the Committee continued its initial reviews of members' laws, regulations and administrative procedures, based on notifications as required by Article 12.6 of the Agreement. During the reviews, the Committee considered the compatibility of the members' safeguards legislation with the requirements of the Safeguards Agreement. As of late October 1997, 72 members had notified the Committee of their domestic safeguards legislation or made communications in this respect to the Committee (G/SG/N/1 and addenda). Forty-five members had not yet made Article 12.6 notifications. As in prior years, the Committee discussed the extent of non-compliance with the notification obligation and the implications of the situation during both meetings in 1997.

At the October regular meeting, four of the five members[5] that had notified pre-existing Article XIX measures and measures subject to prohibition and elimination under Article 11.1 of the Agreement, reported on their progress in phasing out those measures.

The Committee received three Article 12.1(a) notifications of the initiation of an investigatory process relating to serious injury or threat thereof and the reasons for it. These notifications were received from Argentina (footwear), the United States (wheat gluten) and India (acetylene black). Because the U.S. and Indian notifications were received by the Committee after the agenda had closed for the final meeting of the year, only the Argentine notification was reviewed by the Committee.

The Committee received and reviewed four Article 12.1(b) notifications of a finding of serious injury or threat thereof caused by increased imports. These notifications were received from Brazil (toys), Korea (dairy products and bicycles) and Argentina (footwear).

The Committee received and reviewed three Article 12.1(c) notifications of decisions to apply safeguard measures, from Brazil (toys), Korea (dairy products) and Argentina (footwear). The Committee also reviewed an Article 12.,1(c) notification from the United States (broom corn brooms), that had been submitted in late 1996.

The Committee also received and reviewed one Article 12.4 notification of application of a provisional safeguard measure from Argentina (footwear). The Committee received and reviewed one notification of the termination of an investigation, with no safeguard measure applied from Korea (bicycles).

The Committee received and reviewed several notifications regarding consultations under Article 12 of the Agreement. Included among these notifications were the results of the United States' consultations on broom corn brooms and Argentina's consultations with the United States on footwear.

Prospects for 1998

The Committee has substantially completed its initial reviews of the laws and regulations of the 72 members who have notified their safeguards regimes. The Committee's work in 1998 will focus on the reviews of safeguard actions that have been notified to the Committee. In addition to reviewing the outstanding notifications from 1997, the Committee will also likely review an Article 12.1(b) notification of a finding of serious injury submitted by the United States on wheat gluten, and the reasons for it, that is being prepared for submission to the Committee in early 1998.

Textiles Monitoring Body

Status

The Textiles Monitoring Body (TMB), established in the Agreement on Textiles and Clothing supervises the implementation of all aspects of the Agreement. In 1997, TMB membership was composed of appointees from the United States, the EU, Japan, Canada/Norway, Switzerland./Turkey, Uruguay, Malaysia, Pakistan, India/Egypt, and Hong Kong/Korea. Each TMB member serves in a personal capacity.

The Agreement on Textiles and Clothing (ATC) succeeded the Multifiber Arrangement (MFA) as an interim arrangement establishing special rules for trade in textile and apparel products on January 1, 1995. All members of the WTO are subject to the disciplines of the ATC, whether or not they were signatories to the MFA, and only members of the WTO are entitled to the benefits of the ATC. The ATC is a ten-year, time limited arrangement which provides for the gradual "integration" of the textile and clothing sector into the WTO Agreements, and the gradual and orderly phase-out of the special quantitative arrangements that have regulated trade in the sector among the major exporting and importing nations.

Most of the significant suppliers of textiles and apparel products to the United States are members of the WTO. Therefore, quota arrangements on a bilateral basis are governed by the provisions of the ATC. Regarding non-members, the United States negotiated extensions of expiring bilateral agreements with Laos, Oman, Taiwan, and Ukraine in 1997.

Members of the WTO with whom the United States maintains quantitative restrictions are:

Article 2			Article 3	Article 6
Bahrain	Hong Kong	Poland	Burma	Dominican Republic
Bangladesh	Hungary	Qatar Singapore	Kuwait	El Salvador
Brazil	India	Slovak Republic	Mexico	Guatemala
Bulgaria	Indonesia	Sri Lanka		Honduras
Colombia	Jamaica	Thailand		Thailand
Costa Rica	Kenya	Turkey		Turkey
Czech Republic	Korea	United Arab Emirates		
Dominican Republic	Macau	Uruguay		
Egypt	Malaysia			
El Salvador	Mauritius			
Fiji	Pakistan			
Guatemala	Philippines			

Major Issues in 1997

1997 was an active year in the TMB, with the United States continuing to pursue its interests in enforcement and implementation of the ATC. The main focus of work was in the following areas:

Special Safeguard: A special three-year safeguard is provided in the ATC to control surges in uncontrolled imports that cause damage or threat thereof to domestic industry. In 1997, the United States made determinations that four categories of domestic production had been damaged or were threatened with damage as a result of imports, and issued requests for consultations under the safeguard provision with one member (and three Non-members) to whom damage/threat thereof from low-priced import competition was attributed. As required by the ATC, the TMB automatically reviews: (1) any bilateral agreement reached under the safeguard provision, and (2) any case where an importing country has exercised its rights to apply a quota in the absence of an agreement on the safeguard measure. The TMB reviewed the bilateral agreement that was reached in conjunction with the safeguard negotiations with El Salvador,

regarding the treatment of U.S. imports of cotton and man-made fiber skirts in category 342/642.

Anti-Circumvention Commitments: The ATC contains significant anti-circumvention commitments, which, in conjunction with specific agreed elaborations negotiated with most of our trading partners on a bilateral basis, will substantially improve the U.S. ability to enforce our textile restraints. In 1997, the TMB undertook a review of a dispute raised by Pakistan concerning charges to quotas for circumvention. The United States and Pakistan reached agreement on the issues in dispute before the TMB review was completed.

Market Access: The ATC requires that members take necessary steps to improve market access "through such measures as tariff reductions and bindings, and reduction or elimination of non-tariff barriers." Significant gains were achieved with most WTO trading partners on a bilateral basis in the Uruguay Round market access negotiations, which resulted in lowering of tariffs, "binding" of tariffs at reasonable ceilings, and elimination of non-tariff barriers.

Major Review of the ATC: Article 8.11 of the Agreement on Textiles and Clothing (ATC) requires the Council on Trade in Goods (CTG) to Aconduct a major review before the end of each stage of the integration process." The first stage was completed at the end of 1997. In preparation for the review, the Textiles Monitoring Body (TMB) prepared a comprehensive report on the implementation of the ATC and submitted it to the Council on 31 July 1997. The Council began its review at its regular meeting on 6 October 1997. It was agreed that a series of Council meetings be arranged to analyze the various issues in depth. The Council agreed to hold meetings on 16 and 29 October and 7 and 13 November 1997 to discuss the integration process, the transitional safeguard mechanism, the application of GATT rules and disciplines. The discussions on these topics revealed wide differences in the perceptions of importing and exporting countries. Exporting countries expressed concern that importing countries were not abiding by what they see as the liberalizing spirit of the ATC. Importing countries strongly disagreed with this view maintaining that they had fulfilled all of their commitments under the agreement. Given the wide gap between the parties, agreement on a text of these deliberations was not possible at the final meeting scheduled for this meeting in December 1997. At a special CTG meeting devoted to this purpose on February 16, 1998 a text reflecting the views of both sides was agreed along with conclusions reiterating the commitment of all Members to the full and faithful implementation of the ATC.

Prospects for 1998

The United States will continue to monitor compliance of market opening commitments by trading partners and to pursue further market openings, including in the negotiation of new members' accession to the WTO. The United States will respond to surges in imports threatening serious damage to U.S. industry. Efforts will continue to ensure that quota restraints either under the Agreement or involving non-members are not circumvented through transshipment or other means.

Working Party on State-Trading

Status

Article XVII of the GATT 1994 requires governments to place certain restrictions on the behavior of their trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires governments to ensure that these "state trading enterprises" act in a manner consistent with the general principle of non-discriminatory treatment, e.g. to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines.

To address the ambiguity regarding which types of firms fall within the scope of "state trading enterprises," agreement was reached in the Uruguay Round on "The Understanding on the

Interpretation of Article XVII." It provides a working definition and instructs members to notify all firms in its territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

All members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities. During every fourth year "new and full" notifications are required, while in the intervening years an updating notification is to be made indicating any changes since the full notification. A Working Party was established to review the notifications and their adequacy.

Major Issues in 1997

Since the first request for "new and full" notifications of state trading enterprises was circulated (in March 1995), 55 members (counting the European Communities and their member States as one) submitted such notifications. Twenty-eight members submitted updated notifications in 1996 and 16 members in 1997. The existing notifications, however, indicate a need for more extensive work on updating the 1960 questionnaire and developing the illustrative list of state trading practices. The Working Party addressed this issue during its discussions of possible revisions to the existing questionnaire. Many of the questions raised on specific notifications indicated varying interpretations of what constituted notifiable state trading entity and emphasized the need to accelerate work on revision of the questionnaire and development of an illustrative list.

In considering the adequacy of information provided in the questionnaire, the Working Party discussed the possibility of establishing an illustrative list of relationships between governments and state trading enterprises and the types of activities in which they engage. The United States has led the push to broaden the notification requirements with regard to state trading entities, and we have made progress over the last year in this regard. The two issues should move in tandem, as they are inextricably linked and both are fundamental to improving transparency in the area of state trading.

Throughout the year the Chairman of the Working Party held informal consultations on a draft notification format and on ideas for an illustrative list of state trading practices. In its annual report to the Council on Trade in Goods, the Chairman reported good progress on the notification format and accelerated work on an illustrative list.

Prospects for 1998

The Working Party will focus on the revised notification questionnaire and the illustrative list of state trading practices. Under agreed-upon procedures, a "new and full" notification of state trading enterprises is required in 1998, and the U.S. objective is to have the notification form and the illustrative list of state trading practices approved in time for these notifications. The Working Party also will continue its review of notifications. The illustrative list of state trading practices and notification requirement will become increasingly important as countries with economies in transition from substantial state control become members of the WTO.

Working Party on Preshipment Inspection

The purpose of the WTO Agreement on Preshipment Inspection (PSI) is to ensure that PSI programs are carried out in a transparent manner without giving rise to unnecessary delays or unequal treatment. More than 30 countries require, as a condition of importation, that a preshipment inspection be performed in the country of exportation by a private entity. This situation often reflects inadequacies in the customs administrations of those countries which resort to the use of a PSI regime.

A Working Party on Preshipment Inspection was established in 1997 to conduct a review of the Agreement's implementation and operation. The Working Party produced a report which included recommendations for immediate action by members

to improve transparency and nondiscrimination in PSI. The General Council adopted the report in December, and also extended the operation of the Working Party for another year to conduct work in areas such as customs administration reforms and simplification of procedures.

Council on Trade-Related Aspects of Intellectual Property Rights

Status

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) monitors implementation of the TRIPS Agreement and provides a forum for WTO members to consult on intellectual property matters. The TRIPS Agreement has yielded enormous benefits for a range of U.S. industries, including those engaged in the production of pharmaceuticals, agricultural chemicals, motion pictures, sound recordings, software, books, magazines, and consumer goods. In 1997, the TRIPS Council held five formal meetings.

Major Issues in 1997

The United States has used aggressively the TRIPS Council to press for full and timely implementation of the TRIPS Agreement by all members. This has included vigorous use of WTO dispute settlement procedures where appropriate; the United States has initiated nine TRIPS-related WTO cases. This objective was also manifested in a TRIPS Council recommendation to Ministers at Singapore stating: "members reaffirm the importance of full implementation of the TRIPS Agreement within the applicable transition periods and that each member will take the steps which it considers appropriate so that the provisions of the Agreement will be applied." Another primary U.S. objective has been to accelerate TRIPS implementation by those countries granted a transition period under the terms of the Agreement. A number of developing countries have already decided to implement in advance of the close of transition periods.

Although the TRIPS Agreement entered into force January 1, 1995, some obligations are phased in based on a country's level of development (developed country members were required to implement by January 1, 1996; developing country members generally must implement by January 1, 2000; and least-developed country members must implement by January 1, 2006). A general "standstill" obligation, and an obligation on those members that fail to provide patent protection for pharmaceuticals and agricultural chemicals to provide patent "mailbox" and exclusive marketing rights systems, became effective on January 1, 1995. Obligations on all members to provide national treatment and most-favored-nation treatment became effective on January 1, 1996.

As a result of these staggered implementation provisions, the TRIPS Council has focused on: (1) monitoring the Agreement's implementation by developed country members; (2) providing assistance to developing country members so they may implement as quickly as possible; and (3) institution building internally and with the World Intellectual Property Organization (WIPO).

To facilitate monitoring of developed country members' implementation, such members were required to notify in early 1996 all of their national laws and regulations governing the acquisition, maintenance and enforcement of intellectual property rights. The Council then initiated an in-depth review of their implementation, beginning with a week-long review in July 1996 of implementation of the Agreement's copyright provisions, followed by a comparable review in November of trademark, industrial design and geographic indication provisions of the Agreement.

The Council continued this work in 1997, reviewing legislation of 33 members in the areas of patents, layout-designs (topographies) of integrated circuits, protection of undisclosed information and control of anti-competitive practices in contractual licenses in May 1997. At the Council's meeting in November 1997, legislation of 32 members in the area of enforcement was reviewed. In the enforcement review session, the U.S. delegation noted that Article 41.1 required members to ensure that enforcement procedures sufficient to permit

effective action against acts of infringement were available. Such procedures must include expeditious remedies which constitute a deterrent to further infringement. The United States also expressed its view that it was impossible to get a complete picture of the enforcement situation in a member country without understanding how its enforcement remedies were applied in practice. Therefore, the United States requested statistical data regarding enforcement activity from all members participating in the review. The United States noted that enforcement statistics were the most useful guide to the practical application of a member's enforcement procedures and that requests for such statistics were fully consistent with the TRIPS Agreement. Support for the U.S. request for statistics was expressed by a number of members as well as the Chair of the Council. At the request of the Government of South Africa, review of its enforcement legislation was postponed until the Council's February 1998 meeting. Utilizing a written "question and answer" process, this undertaking yielded a useful collection of information about the status of TRIPS implementation in each of these members beyond that described in public laws and regulations. It has also provided an opportunity to educate developing country members as to how these provisions must be implemented in their laws.

In 1997, the United States used meetings of the Council to keep pressure on developing country members to implement fully the "mailbox" and exclusive marketing rights provisions found in Articles 70.8 and 70.9 of the Agreement. One result of this activity was the U.S. decision to initiate WTO dispute settlement proceedings against India and Pakistan for their failure to meet these obligations. In 1997, Pakistan agreed to fully implement these provisions and the case was resolved. The United States pursued the formal dispute settlement process in the case against India through both the panel and Appellate Body levels. In December 1997, Ambassador Barshefsky announced that the WTO Appellate Body had upheld a Panel's earlier ruling in favor of the United States. This was the first intellectual property rights dispute decided by a WTO Panel and the WTO Appellate Body and represents a significant victory that will benefit U.S. pharmaceutical and agricultural chemical companies' interests in several developing countries.

The United States also raised other implementation questions with a number of developed countries, including Denmark and Sweden regarding their failure to provide provisional relief in civil enforcement proceedings and Ireland for its failure to amend its copyright law to comply with TRIPS.

The United States also used the Council as a forum to confirm U.S. interpretations of the TRIPS Agreement. For example, the TRIPS Council's report to Ministers at Singapore stated that, in concluding a WTO dispute settlement case between the United States and Portugal, "the parties involved expressed their understanding that Article 70.2 in conjunction with Article 33 requires developed country parties to provide a patent term of not less than 20 years from the filing date for patents that were in force on 1 January 1996, or that the result from applications pending on that date."

Prospects for 1998

In 1998, the TRIPS Council will continue to focus on monitoring and implementation issues. The in-depth reviews of members' implementation will continue; the Council agreed to complete in the spring of 1998 the review of five members, whose legislation was already subject to the on-going review but for whom the review was not completed by the end of 1997. These members are Bulgaria, Hungary, Romania, Poland and the Slovak Republic. In addition, the Council will review in the fall of 1998 the legislation of three members--Ecuador, Mongolia and Panama--who have recently acceded to the WTO but have not yet been subject to the review.

The Council will also continue work on the so-called "built-in" agenda issues in the TRIPS Agreement. These issues include an examination of implementation of Articles 24.1, 24.2, and 23.4 regarding the protection of geographical indications. The Council will also initiate work on

Article 27.3(b) regarding the exclusion from patentability of plants and animals.

The Council would also be expected to continue efforts to assist developing country members in implementing their obligations under the Agreement in the shortest possible time, and by the dates prescribed in the Agreement at the latest.

U.S. objectives for 1998 remain similar to those for 1997. They include:

- pursuit of dispute settlement consultations and panels where appropriate;
- continued efforts to encourage acceleration of TRIPS implementation by developing country members;
- review of formal notifications of intellectual property laws and regulations to ensure their consistency with TRIPS obligations by other country members; and
- consideration of the relationship between the TRIPS Agreement and the WIPO Copyright Treaty and Performance and Phonogram Treaty, which address copyright protection for information products in the digital environment.

Council for Trade in Services

Status

The General Agreement on Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely provided across national borders or that discriminate against locally-established service firms with foreign ownership. The Agreement provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in national schedules, similar to the national schedules for tariffs. The Council for Trade in Services oversees implementation of the GATS and reports to the General Council.

Ministerial Decisions at the conclusion of the Uruguay Round called for negotiations on further liberalization in, *inter alia*, the financial services and basic telecommunications sectors, as well as a work program in professional services.

Major Issues in 1997

During its meetings in 1997, the Council for Trade in Services:

- Adopted Decisions concluding the extended negotiations on basic telecommunications and financial services (see below).
- Approved the Guidelines for Mutual Recognition Agreements in the Accountancy Sector, developed by the Working Party on Professional Services (see below).
- Began preparations for the next round of GATS negotiations, including an information exchange on developments in trade in services since the end of the Uruguay Round.
- Extended the deadline for negotiations on the question of emergency safeguards, in the Working Party on GATS Rules, to June 30, 1999 (see below).

Prospects for 1998

Work in the Council in 1998 will focus largely on overseeing preparation for the next round of multi-sectoral services negotiations, required to begin not later than January 1, 2000. In addition to work in the Committee on Specific Commitments, the Council will continue with work on the information exchange, and development of guidelines and procedures for the negotiations.

Agreement on Basic Telecommunications Services

Status

On February 15, 1997, 70 WTO members agreed to market access, national treatment, and regulatory commitments to open their domestic and, in most cases, their international on basic telecommunications services markets to competition. Three other WTO members--Suriname, Malta and Cyprus--later made specific commitments in line with those made by other WTO members under the Agreement.

In January 1998 the WTO Council for Trade in Services decided that the commitments would enter into force on February 5, 1998. Most of the OECD countries' commitments came into effect immediately upon entry-into-force of the Agreement; however, other countries are phasing in their specific commitments between 1998-2003. The Council also decided to give WTO Members that had participated in the WTO basic telecom negotiations but which had not formally accepted the Agreement as of January 1998 until July 31, 1998 to provide those acceptances. Their specific commitments under the Agreement will come into force upon acceptance. All WTO Members must provide MFN treatment for basic telecommunications services as of February 5, regardless of whether they have accepted the Agreement.

The WTO Members making these commitments account for over 95 percent of world telecommunications revenue. Their commitments ensure that U.S. companies can compete against and invest in all existing carriers. Before this Agreement, only 17 percent of the top 20 telecommunications markets were open to U.S. companies; now they have access to nearly 100 percent of these markets.

The specific commitments of each member fall in three categories: market access, national treatment, and procompetitive regulatory principles. With respect to market access, the commitments provide U.S. companies market access for local, long-distance and international service through any means of network technology, either on a facilities basis or through resale of existing network capacity. On national treatment, the commitments ensure that U.S. companies can acquire, establish or hold a significant stake in telecommunications companies around the world. Finally, 64 countries adopted procompetitive regulatory principles based upon the landmark 1996 United States' Telecommunications Act. These commitments are fully enforceable under WTO dispute settlement procedures. (A copy of these principles are included in the Annex to this chapter.)

Today, telecommunications is a $675 billion industry; under this Agreement it will double and possibly triple over the next ten years. U.S. companies are the most competitive telecommunications providers in the world; they are in the best position to compete and win under this Agreement.

Major Issues in 1997

Negotiations on basic telecommunications services were initiated but not concluded during the Uruguay Round. Under the Marrakesh Decision on Negotiations on Basic Telecommunications Services, the negotiations were extended until April 1996. The United States took the initiative to forge a consensus on a further extension of the basic telecommunications negotiations when it became clear that a critical mass of high quality offers was not on the table. The additional time allowed other nations to improve their market-opening offers and helped to achieve in February 1997 our common goal--global commitments on basic telecommunications services. Subsequent to the conclusion of the negotiations in February, the Federal Communications Commission proposed and adopted new rules to implement U.S. commitments. The United States also initiated a variety of steps to assist and monitor the implementation efforts of its trade partners in multilateral, regional and bilateral discussions and technical assistance efforts.

Prospects for 1998

Implementation of the commitments will present major challenges to the WTO Members which made specific commitments (see Annex). Other WTO members also will be affected by greater competition and lower prices in the global market for international telecommunications services, and likely will come under greater domestic pressure to liberalize and modernize their telecommunications policies. In recognition of this, the International Telecommunication Union has scheduled a World Telecommunication Policy Forum, in March 1998, to discuss the ramifications of the agreement and how the ITU and its members can best facilitate the agreement's success. The results of the World Telecommunication Policy Forum will then be reported to the ITU World Telecommunication Development Conference in Valletta, Malta the following week. The United States aims to support ITU and other efforts to facilitate effective implementation, in recognition of the major policy and regulatory challenges faced by many WTO members in undertaking a rapid transition from monopoly to competitive supply of basic telecommunications services. In addition, the United States will carefully monitor implementation of WTO commitments by its trade partners, as mandated by Section 1377 of the Telecommunications Trade Act of 1988.

Committee on Trade in Financial Services

Status

In 1997 the Committee became the negotiating body for renewed negotiations on financial services. At the Singapore Ministerial, Ministers agreed to "resume financial services negotiations in April 1997 with the aim of achieving significantly improved market access commitments with a broader level of participation in the agreed time frame." Under U.S. leadership, the negotiating group was able to successfully achieve its goal by reaching a comprehensive multilateral agreement in financial services on December 12, 1997.

Major Issues in 1997

The Agreement on Financial Services was adopted by a decision of the Council for Trade in Services on December 12, 1997. Under the terms of the Agreement, each of the 70 countries that submitted new or improved commitments will have until January 29, 1999, to ratify the protocol on Financial Services under the General Agreement on Trade in Services (GATS) and to take whatever domestic steps are necessary to implement the commitments included in their offer.

Based on revenues, the Agreement covers 95 per cent of world trade in financial services among a total of 102 countries (70 of which made new or improved commitments during the 1997 round of negotiations). The range of financial services covered by the Agreement is equally impressive -- from traditional banking services such as depositing and lending, to securities services including trading in equities and derivatives and the full range of insurance services such as the sale of traditional life and non-life products to brokerage and reinsurance. The Agreement ensures that U.S. banking, securities, insurance and other financial services firms can compete and invest in overseas markets on clear and fair terms and conditions consistent with the guarantees provided under the GATS for MFN, national treatment, market access and transparency of regulation.

While the United States is today the largest financial services market in the world, this Agreement is about the future. Today, financial services is a multi-trillion dollar industry that is expected to grow exponentially over the next ten years. This sector is one of the fastest-growing areas of the global economy. The Financial Services Agreement locks into place fair, open, and transparent practices across the global financial services industry, and will contribute significantly to a climate of greater global economic security.

Prospects for 1998

The United States will continue discussions with interested trading partners, with a view to achieving further liberalization in the financial

services sector. A priority in 1998 will be to pursue implementation on schedule for those that made commitments. Equally important for the United States will be to obtain high quality commitments from countries in the process of acceding to the WTO.

Working Party on Professional Services

Status

Since its first meeting in July 1995, the Working Party on Professional Services (WPPS) has focused on three sets of issues in the accountancy sector as set forth in the Uruguay Round Ministerial Decision on Professional Services. These issues are (1) the development of multilateral disciplines to ensure that domestic regulatory requirements are based on objective and transparent criteria and are not more burdensome than necessary, in accordance with Article VI:4 of the GATS; (2) the use of international standards; and (3) the establishment of guidelines for the recognition of qualifications.

Major Issues in 1997

Guidelines for Mutual Recognition Agreements: The WPPS completed the development of non-binding guidelines for the negotiation of mutual recognition agreements in the accountancy sector. The guidelines were adopted by the WTO's Council for Trade in Services on May 29. The guidelines are intended to be used by governments to make it easier to negotiate agreements on the mutual recognition of professional qualifications. In adopting these guidelines, the WTO has concluded part of the work program mandated in the GATS.

Differences in education, examination and experience requirements among nations make it difficult for professionals to provide services in foreign markets. Bilateral negotiations, which are permitted under conditions specified in Article VII of the GATS, have been the most pragmatic means of achieving recognition of accountants' credentials in other countries. Through this process, negotiators can determine the level of equivalence of education and experience in the respective countries. Use of the WTO guidelines will establish a common structure for such agreements, making it easier to negotiate, link, or expand the agreements to extend mutual recognition more broadly.

These guidelines will also serve as an effective means of facilitating the movement of accountants across borders, and of avoiding the emergence of new disparities between recognition regimes around the world. Although the Working Party focused solely on accountancy, the guidelines could be useful for other professions. The text of the guidelines is available through the WTO Home Page (http://www.wto.org).

Development of Multilateral Disciplines on Domestic Regulation in the Accountancy Sector: The United States and several other delegations submitted proposed disciplines in the Summer of 1997, which became the basis for discussions. Ideas from each of the papers and from the discussions were merged into a single draft text, which is currently under consideration of the Working Party. The objective is to develop rules and principles for regulation that will assure that licensing and certification requirements and technical standards do not constitute unnecessary barriers to trade in services and that the procedures themselves are not restrictive. The disciplines are intended to make it easier for accountants to practice outside their home markets.

International Accounting Standards: On the use of international standards in the accountancy sector, the main role of the WPPS is to keep track of work going on elsewhere and to encourage cooperation with relevant international organizations. International accounting standards are being developed by the International Accounting Standards Committee (IASC), subject to review by the International Organization of Securities Commissions (IOSCO). These standards are aimed at achieving greater comparability in financial statements and facilitating the effective liberalization of accountancy services.

Prospects for 1998

The Working Party expects to complete its work on the multilateral disciplines for the accountancy sector. Afterward, it will decide on further steps to carry out its mandate. This could consist of selecting one or more professional services to review, or pursuing a more general approach to develop rules and principles for regulation. In any event, WPPS will work toward developing ways to make it easier for professionals to serve foreign clients.

Working Party on GATS Rules

Status

The Working Party on GATS Rules was established to determine whether the GATS should include new disciplines on safeguards, government procurement, and subsidies. The three issues are still the subject of information gathering (for example, through responses by Members to questionnaires) and submission of discussion papers. Discussions on all three issues are still at a relatively conceptual stage, focussed on the issue of how to apply disciplines, originally formulated for trade in goods, to trade in services.

Major Issues in 1997

In attempting to clarify the issues related to safeguards, the chair has focussed discussion on the following questions: on behalf of what entity would emergency safeguard action be taken (i.e., what is the "domestic industry?); under what circumstances would emergency safeguard action be taken and what would be the purpose of such action; how would "injury" be assessed and how would a causal link be established with GATS commitments; and what countermeasures would be permitted under the emergency safeguard mechanism?

In view of the large number of unresolved questions, and significant differences in approaches among Members, the Council extended the original deadline of December 31, 1997 to June 30, 1999.

With respect to government procurement, discussion has focussed on a compilation of responses by Members to a questionnaire, addressing issues such as transparency and the relationship of discussions in the Working Party to the Working Group on Transparency in Government Procurement.

With respect to subsidies, Members are in the process of responding to a questionnaire developed to allow for discussion based on concrete examples.

Prospects for 1998

Information-gathering work and discussion will continue on all three issues, with the Working Party generally aiming to complete its work in advance of the multi-sectoral GATS negotiations beginning not later than January 2000.

Committee on Specific Commitments

Status

The Committee on Specific Commitments oversees implementation of commitments in country schedules in sectors for which there is no sectoral body, such as the Committee on Trade in Financial Services. The Committee on Specific Commitments examines ways to improve the technical accuracy of scheduled commitments, primarily in preparation for the next multisectoral round of GATS negotiations, required to begin not later than January 2000, and oversees application of the procedures for the modification of schedules under Article XXI of the GATS.

Major Issues in 1997

The Committee continued its work on developing an agreed classification system for use in scheduling sectoral commitments. The Committee is reviewing a revision of a UN classification system, used by some Members in the Uruguay Round, as well as examples of sector-specific

classifications developed in the basic telecom and other sectoral negotiations. The Committee is also examining the question of including "new" services.

In another area, the Committee agreed that the Secretariat should maintain an electronic "looseleaf" version of each Member's GATS schedule, incorporating, for example, the results of the financial services and basic telecom negotiations in a single, consolidated country schedule. This version would primarily be for ease of reference and would not have legal status in the WTO.

Informal consultations were held in 1997 with respect to procedures under Article XXI, but consensus has not yet been reached.

Prospects for 1998

In addition to attempting to conclude work on the Article XXI procedures, the Committee is expected to devote most of its attention to developing a common approach to classification issues.

Dispute Settlement Body

The Dispute Settlement Understanding

The Understanding on Rules and Procedures Governing the Settlement of Disputes ("Dispute Settlement Understanding" or "DSU"), which is annexed to the WTO Agreement, provides a mechanism to settle disputes under the Uruguay Round Agreements. Thus, it is key to the enforcement of U.S. rights under these Agreements.

The DSU is administered by the Dispute Settlement Body (DSB), which includes representatives of all WTO members. The DSB is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB and authorize retaliation. The DSB makes all its decisions by "consensus." The background information at the end of this chapter provides a more detailed description of the WTO dispute settlement process.

Major Issues in 1997

The DSB met 12 times in 1997 to oversee disputes and to take care of tasks such as electing Appellate Body members and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be "well-qualified," such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. The Secretariat maintained a roster of non-governmental experts since 1985 for GATT 1947 dispute settlement, which was available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information to be submitted by roster candidates, to aid in evaluation of candidates' qualifications and to encourage appointment of well-qualified candidates who would have expertise in the subject matters of the Uruguay Round Agreements. In 1997, the roster was entirely renewed and the Administration submitted a list of 10 American candidates, including 5 new candidates who were approved for inclusion on the list. The Administration also scrutinized the credentials of other candidates to assure the quality of the roster.

The present WTO panel roster appears in the background information at the end of this chapter. The list in the roster notes the areas of expertise of each roster member (goods, services and/or TRIPs).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for

WTO dispute settlement and on December 3, 1996, adopted the *Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes*. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR Websites. There were no changes in these Rules in 1997.

The Rules of Conduct were designed to elaborate on the ethical standards built into the DSU, and to maintain the integrity, impartiality and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts. The Rules of Conduct also provide parties to a dispute an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the URAA, which directed the USTR to seek conflicts of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also (1) arbitrators; (2) experts participating in the dispute settlement mechanism (e.g., the Permanent Group of Experts under the Subsidies Agreement); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chairman of the Textile Monitoring Body ("TMB") and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings or observations under the Agreement on Textiles and Clothing; and (5) support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure-based system. Examples of the types of information that covered persons must disclose are set forth in Annex 2 to the Rules, and include the following: (1) financial interests, business interests, and property interests relevant to the dispute in question; (2) professional interests; (3) other active interests; (4) considered statements of personal opinion on issues relevant to the dispute in question; and (5) employment or family interests.

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body, with members serving four-year terms, except for three initial appointees determined by lot whose terms expire at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members, who took their oath on December 11, 1995, are: Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Professor Claus-Dieter Ehlermann of Germany, Dr. Said El-Naggar of Egypt, Justice Florentino Feliciano of the Philippines, Mr. Julio Lacarte Muró of Uruguay, and Professor Mitsuo Matsushita of Japan. The names and biographical data for the Appellate Body members appeared in Annex I of the 1995 Annual Report. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of for a final term of four years commencing on 11 December 1997.

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued revision of the Working Procedures, providing for a two-year term for the first Chairman (Mr. Lacarte-Muró); subsequent Chairmen would serve for one-year terms. On December 4, 1997, the Appellate Body notied the DSB that it had elected its next Chairman, Mr. Beeby, whose term of office will run from February 7, 1998 to February 6, 1999.

In 1997, the Appellate Body issued six reports, of which five involved the United States as a party and are discussed in detail below. The sixth report concerned Brazil's countervailing duty on Philippine exports of desiccated coconut; the United States participated in this proceeding as an interested third party. The reports are generally of

high quality and demonstrate a willingness on the part of the Appellate Body to correct legal errors made by panelists. This augurs well for the future of the WTO dispute settlement mechanism.

Prospects for 1998

In 1998, we expect that the DSB will continue to focus on the administration of the dispute process in the context of individual disputes. Confidence in the results of the dispute settlement mechanism should grow in light of the enhanced transparency arising from the application of the General Council's decision to circulate most documents as unrestricted, the DSB's adoption of an ethical code of conduct, and the Appellate Body's willingness to correct errant panel reports. Experience gained with the DSU will be incorporated into the Administration's litigation and negotiation strategy for enforcing U.S. WTO rights. The Administration also will draw on this experience in formulating the U.S. position for the general review of the DSU, which must take place by January 1, 1999 and will start in late May 1998.

Dispute Activity in 1997

As of February 1, 1998, 117 requests for consultations concerning 82 distinct matters had been brought since the WTO Agreement entered into force on January 1, 1995. There were 25 requests in 1995, 40 in 1996, 50 in 1997 and 2 in January 1998. A number of disputes commenced in earlier years continued to be active in 1997. What follows is a description of developments in those disputes in which the United States was either a complainant or a defendant.

Disputes Brought by the United States

In 1997, the United States continued to be the most active user of dispute settlement in the WTO. This section includes brief summaries of dispute settlement activity in 1997 with respect to those cases in which the United States was a complainant. These cases involve a variety of different WTO-inconsistent trade barriers maintained by several different governments. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in many instances, the United States has been able to achieve satisfactory outcomes invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel procedures.

Argentina—Specific duties and other measures affecting imports of footwear, textiles and apparel: On February 25, 1997, a panel was established to examine specific duties imposed on various footwear, textile and apparel items in excess of Argentina's tariff commitments, and a statistical tax of 3 percent ad valorem. On April 4, the parties agreed on the following panel: Peter Palečka (Chair; Czech Republic); Peter May (Australia); and Heather Forton (Canada). The first panel meeting took place on June 17-18 and the second panel meeting took place on July 23. The panel report, circulated on November 25, 1997, found that the Argentine specific duties violate Argentina's tariff bindings under GATT Article II, and that the statistical tax violates GATT Article VIII. The panel rejected Argentina's claim that its general fiscal obligations under its agreements with the IMF excused GATT-inconsistent actions, particularly where Argentina supplied no evidence of IMF approval of GATT violations. On January 21, 1998, Argentina appealed a number of the panel findings. The Appellate Body division considering this case consists of Said El-Naggar (Chairman, Egypt), Florentino Feliciano (Philippines), and Mitsuo Matsushita (Japan). The appellate report is due by March 22, 1998.

Australia—Prohibited export subsidies on leather: On October 7, 1996, the United States requested consultations with Australia concerning subsidies available to leather under the Textile, Clothing and Footwear Import Credit Scheme (TCF scheme) and any other subsidies to leather granted or maintained in Australia which are prohibited under Article 3 of the Subsidies Agreement. After consultations held on October 31, 1996, the two sides reached a settlement announced on November 25, 1996, with an agreement by Australia to excise automotive leather from eligibility from these export subsidies by April 1, 1997. Australia then announced a new

package of subsidies to the sole Australian exporter of automotive leather. On November 10, 1997, the United States requested WTO consultations on the new measures; the consultations took place on December 16, 1997. On January 22, 1998, a panel was established under the expedited procedures of the Subsidies Agreement.

Belgium—Measures affecting commercial telephone directory services: On May 2, 1997, the United States requested consultations with Belgium under the General Agreement on Trade in Services concerning Belgian government measures which appear to discriminate against ITT Promedia, N.V., a U.S. supplier of commercial telephone directory services. Consultations took place on June 20, 1997.

Brazil—Local content regime for automotive investment: Brazil maintains a local content regime that benefits manufacturers of motor vehicles and parts and discriminates against U.S. exports. On August 9, 1996, the United States requested dispute settlement consultations regarding the Brazilian auto regime, and consultations were held on August 13. On January 10, 1997, the United States requested further consultations with Brazil concerning its new auto incentive programs. Consultations were held on February 20-21, 1997.

Canada—Export subsidies and tariff rate quotas on dairy products: Canada provides subsidies to dairy product exports without regard to the legally binding ceilings on the quantity of subsidized exports which Canada agreed to in the Uruguay Round. In addition, Canada has a tariff-rate quota on fluid milk which is never opened, because of the Canadian claim that cross-border purchases imported by Canadian consumers fill the tariff-rate quota. The United States requested dispute settlement consultations on October 8, 1997 and consultations were held on November 19. On February 2, 1998, the United States requested establishment of a panel in this dispute.

Canada—Measures affecting split-run magazines: Canada imposes various measures that discriminate against "split-run" and other imported magazines: a ban on imports of magazines with advertising directed at Canadians, a special excise tax on split-run magazines, and discriminatory postal rates. On June 19, 1996, at the request of the United States, the DSB established a panel. The parties agreed on the following panelists: Lars Anell (Chair; Sweden), Victor Luiz do Prado (Brazil), and Michael Reiterer (Austria). The panel report, released on March 14, 1997, found that the import ban violates GATT Article XI, and is not justified as an exception under Article XX. In addition, the panel found that Canada's 80 percent excise tax discriminated against split-run magazines in violation of Canada's national treatment obligations under GATT Article III:2. Finally, the panel found that Canada's discriminatory postal rates for magazines mailed in Canada accord less favorable treatment to imported magazines than to like Canadian magazines, in violation of GATT Article III:4. However, the Panel found that this violation was excused in the case of Canada's so-called "funded" postal rates, because these rates qualify as a subsidy within the meaning of GATT Article III:8(b). On April 29, 1997, Canada filed a notice of appeal, and the United States then cross-appealed. The appeal was heard by Mitsuo Matsushita (Japan, presiding member), Claus-Dieter Ehlermann (Germany) and Julio Lacarte-Muró (Uruguay). The Appellate Body report, issued on June 30, 1997, rejected Canada's argument that the excise tax is a services trade measure; found that imported split-run magazines and domestic non-split-run magazines are "directly competitive or substitutable" under GATT Article III:2, second sentence; and agreed with the U.S. argument that Canada's "funded" postal rates for Canadian magazines violate GATT Article III. On July 30, the DSB adopted the panel and appellate reports. On August 29, Canada notified the DSB that it is Canada's intention to meet its obligations under the WTO Agreement with regard to this matter. On September 15, the United States and Canada reached agreement on a compliance period of 15 months starting July 30, and on September 25, 1997, they notified the DSB of their agreement. Canada will be required to submit progress reports on its implementation before each DSB meeting after March 25, 1998.

Chile—Taxes on distilled spirits: On December 11, 1997, the United States requested consultations with Chile concerning Chile's tax regime for

distilled spirits (as revised effective December 1, 1997). These taxes appear to be inconsistent with Chile's national treatment obligations under GATT Article III:2. Consultations were held on January 28, 1998.

Denmark—Measures affecting enforcement of intellectual property rights: The TRIPS Agreement requires that all WTO Members provide provisional relief in civil enforcement proceedings. Courts must be granted the ability to order unannounced raids to determine whether infringement is taking place, and to either seize allegedly infringing products as evidence or to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. On May 14, 1997, the United States requested consultations with Denmark concerning Denmark's failure to implement this obligation; consultations took place on June 10 and September 19, 1997.

EU—Margin of preference on grains: In the Uruguay Round, the EU made a tariff concession based on the margin of preference on its grains imports (the difference between the intervention price for grains and the world price). On September 28, 1995, the United States requested the establishment of a panel to examine problems in the EU's implementation of its concessions. In November 1995, the United States and the EU reached a settlement (signed on July 22, 1996) on this issue in conjunction with their agreement on EU enlargement. Discussions on the EU's implementation of this settlement are ongoing. However, the United States has indicated that unless implementation of the settlement is completed in the near future, it will renew its request for a panel.

EU—Regime for the importation, sale and distribution of bananas: The EC maintains a complex regime with respect to bananas that favors imports from certain countries (generally former British and French colonies), as well as bananas grown in EC member States. On May 8, 1996, the DSB, at the request of the United States, Ecuador, Guatemala, Honduras, and Mexico, established a panel. The panel examined the EU banana regime under the GATT 1994, the Import Licensing Agreement, the TRIMs Agreement, the Agreement on Agriculture, and the GATS. The final panel report was circulated on May 22, 1997. It found that the WTO's banana regime violates WTO rules on sixteen counts. The EU then appealed 19 points in the panel report. The appeal was heard by Appellate Body members James Bacchus (U.S., Presiding Member), Christopher Beeby (New Zealand), and Said El-Naggar (Egypt). All parties to the dispute and third parties (including Caribbean banana exporting countries) took part in the appellate proceedings. The appellate report, issued on September 9, 1997, rejected almost all of the EU arguments and accepted almost all of the arguments of the five complaining parties. The panel and Appellate Body findings confirm the broad scope of the coverage of the GATS and will be particularly important in eliminating barriers to U.S. exports in distribution and other service sectors. The case also sets important precedents for agricultural trade in the areas of tariff quotas and import licensing. The panel and appellate reports were adopted on September 25, 1997. At the October 16 DSB meeting, the EU stated its intention to "honor its international obligations." On November 17, the five complaining parties requested that the compliance period be determined by binding arbitration under DSU Article 21.3(c) primarily because the EU would not state its intentions to implement the reports' recommendations and rulings. On December 8, the WTO Director-General appointed Said El-Naggar as the arbitrator. Mr. El-Naggar's award, circulated on January 7, 1998, determined that the EU's compliance period runs from September 25, 1997, until January 1, 1998, for the EU "to implement the recommendations and rulings" of the Dispute Settlement Body.

EU—Hormone ban: In this dispute, the United States challenged the EU ban on imports of animals and meat from animals to which have been administered any of six hormones for growth promotion purposes. At the request of the United States, on May 20, 1996, the DSB established a panel; the parties agreed on the panelists Thomas Cottier (Chair; Switzerland), Peter Palecka (Czech Republic), and Jun Yokota (Japan). Canada also requested a panel, which was established on October 16 and was comprised of the same panelists as in the U.S. case. The final panel

report, released on August 18, 1997, upheld the claims of the United States, finding that the EU ban violates the EU's obligations under the SPS Agreement. The panel report affirmed that the EU ban is not based on science and was not based on a risk assessment or on the relevant international standards, and the EU had arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade. In this dispute, the panel decided to consult scientific experts, whose testimony appears in the panel report. On September 24, the EU filed a notice of appeal concerning five issues in both hormones panel proceedings. The appeal was heard by Florentino Feliciano (Philippines, presiding member), Claus-Dieter Ehlermann (EU), and Mitsuo Matsushita (Japan). The appellate report, issued on January 16, 1998 found that the EU's ban on importation of beef from animals treated with growth promotion hormones is not consistent with its obligations under the SPS Agreement. The report concluded that the EU measure failed to satisfy the requirements of Articles 3.3 and 5.1 of the SPS Agreement because the risk assessments that had been performed did not justify the ban. 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.

EU, Ireland and UK—Reclassification of LAN adapter cards and multimedia PCs: During 1995-1996, the customs authorities in Ireland and the United Kingdom, followed by the EU, took action to reclassify local area network (LAN) adapter cards, other computer networking equipment and certain multimedia-equipped personal computers (PCs) from "automatic data processing equipment" and parts thereof (HS 8471 and 8473) to other tariff categories. The reclassification substantially raised duty rates. A panel was established on February 25, 1997 to examine the U.S. complaint against the EU; the panel's terms of reference were expanded on March 20 to encompass the U.S. complaints against Ireland and the UK. The parties agreed on the following panelists: Crawford Falconer, chair (New Zealand), Ernesto de la Guardia (Argentina), and Carlos Antonio da Rocha Paranhos (Brazil). The panel's final report, released on February 5, 1998, found that the actions by customs authorities in the EU with respect to computer networking equipment violated the Uruguay Round tariff concessions on HS 8471 and 8473. The panel found that there was insufficient evidence that this concession applied to "PC-TVs" (PCs which incorporate a TV tuner card).

EU—Circumvention of export subsidy commitments on dairy products: The United States requested dispute settlement consultations on October 8, 1997 to challenge EU practices that circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese. The EU counts such exports against its limits on powdered milk and butterfat to avoid the limits on subsidies to cheese. Consultations took place on November 18.

Hungary—Compliance with Uruguay Round agricultural export subsidy commitments: In 1995, Hungary provided export subsidies that appear to violate Hungary's obligations under the Agreement on Agriculture. On February 25, 1997, a single panel was established to consider complaints by Argentina, Australia, and New Zealand concerning Hungary's lack of compliance with its schedule commitmentson agricultural export subsidies. At the July 30 meeting of the DSB, Australia, acting on behalf of the four, notified the DSB of a settlement reached between them and Hungary. In accordance with this agreement, in September 1997 Hungary requested a temporary waiver under Article IX of the WTO Agreement, and the WTO approved the waiver on October 22, 1997. The waiver decision specifies a program to bring Hungary into compliance with its commitments, provides for monitoring of the program, and is legally enforceable.

India—Implementation of "mailbox" and exclusive marketing rights provisions in the TRIPs Agreement: India has not complied with Article 70.8 of the TRIPS Agreement, which requires countries that did not provide patent protection for pharmaceutical and agricultural chemical products as of January 1, 1995, to establish a "mailbox"

mechanism through which persons may file patent applications for these products. These applications then are to be examined based on their filing date when patent protection is ultimately available. In addition, India has not complied with Article 70.9 of the TRIPS Agreement, which requires the grant of exclusive marketing rights to products that are subject to mailbox applications under certain circumstances. On November 20, 1996, at the request of the United States, the DSB established a panel to examine the U.S. complaint. The parties agreed on the following panelists: Thomas Cottier (Chair; Switzerland); Yanyong Phuangrach (Thailand); and Doug Chester (Australia). The final panel report, released on September 5, 1997, panel found that India must establish a TRIPS-consistent mailbox system and provide exclusive marketing rights, and agreed with U.S. arguments that India has not yet done so. The panel additionally found that the transparency obligations of TRIPS Article 63 now apply to measures in compliance with the LDC transitional provisions in Article 70.8, and found that if the administrative system were a means of such compliance India would be in violation of Article 63. On October 15, India filed a notice of appeal. The appeal was heard by Appellate Body members Julio Lacarte (Uruguay, Presiding member), James Bacchus (United States) and Christopher Beeby (New Zealand). The Appellate Body report, issued on December 19, 1997, upheld the panel on India's failure to comply with TRIPS obligations concerning a mailbox system and exclusive marketing rights. Like the panel, the AB rejected India's claim that receipt of mailbox applications through an unpublished administrative system qualified as compliance. The AB reversed the panel's finding on Article 63 as it found that Article 63 was outside the panel's terms of reference. The Appellate Body and panel reports were adopted on January 16, 1998. At the DSB's February 13, 1998 meeting, India must inform the DSB of its intentions in respect of implementation of the recommendations and rulings in the reports.

India—Import quotas on agricultural, textile and industrial products: On July 16, 1997, the United States requested consultations concerning import quotas on over 2700 product categories maintained by India, and India's licensing procedures for the quotas. India is no longer entitled to maintain such quotas under the balance-of-payments (BOP) exceptions of GATT. Consultations between the United States and India took place on September 17; the DSB established a panel in this dispute on November 18, 1997.

Indonesia—Certain measures affecting the automobile industry: Since 1993, Indonesia has granted tax and tariff benefits to producers of automobiles based on the local content of the finished automobile. In 1996, the Indonesian Government established the "National Car Program," which grants "pioneer" companies tax and tariff exemptions if they meet local content requirements. Pioneer companies must be Indonesian-owned, produce the automobile in Indonesia, and use a unique, Indonesian-owned trademark on the automobile. Pioneer companies also may be granted the right, over a one-year period, to import finished automobiles from outside Indonesia and still receive the exemption from the luxury tax and tariffs on the imported autos; in this case, the foreign company manufacturing the "national car" outside of Indonesia must enter a countertrade arrangement. One company, PT Timor Putra Nasional, was granted pioneer status, was given the right to import 45,000 finished cars in a one-year period, and began to do so from its Korean partner, Kia Motor Corporation. On June 12, 1997, a panel was established to examine complaints brought by Japan and the EU. Meanwhile, pursuant to a request by the EU, an information-gathering process regarding subsidies and serious prejudice was initiated under Annex V of the Subsidies Agreement. On July 29, in response to a request by Japan and the EU, the WTO Director-General composed the panel in the EU/Japan v. Indonesia dispute as follows: Mohamed Maamoun Abdel Fattah, chairman (Egypt), Ole Lundby (Norway) and David Walker (New Zealand). On July 30, the DSB approved a panel request by the United States, and this panel was consolidated with the EU/Japan v. Indonesia dispute in one panel proceeding. A separate information-gathering process under Annex V was initiated at the request of the United States. The EU and U.S. Annex V processes were completed in August and September, respectively. The first panel meeting took place on December 3-4, 1997,

and the second panel meeting took place on January 13-14, 1998. Arguments have now closed.

Ireland and EU—Measures affecting the grant of copyright and neighboring rights: The copyright law in Ireland does not yet provide copyright and neighboring rights consistent with the TRIPS Agreement. Examples of TRIPS inconsistencies include absence of a rental right for sound recordings, no "anti-bootlegging" provision, and very low criminal penalties which fail to deter piracy. On May 14, 1997, the United States requested consultations with Ireland, and consultations took place on May 30, September 19 and November 21, 1997. On January 6, 1998, the United States requested consultations with the EU concerning this matter; consultations were held on January 9. On January 9, the United States requested a panel in the disputes with Ireland and the EU. The panels are due to be established on February 13, 1998.

Japan—Taxes on distilled spirits: This case, which joined complaints by the United States, the EU and Canada, concerned Japanese excise tax rates that discriminate in favor of the Japanese distilled spirit shochu. On November 1, 1996, the DSB had adopted the reports of the panel and Appellate Body, finding that Japan's tax rates on distilled spirits were inconsistent with Article III:2 of the GATT 1994 and recommending that Japan change its liquor tax law. After Japan proposed a lengthy implementation period, on December 24, 1996 the United States requested that the issue be settled by arbitration. On February 14, 1997, the arbitrator, Julio Lacarte-Muró (Uruguay) rejected Japan's request for a 5-year implementation period, and found that a reasonable period of time for implementation would be 15 months from the date of adoption of the appellate and panel reports, or by February 1, 1998. Japan then enacted legislation complying with the recommendations, but on an unacceptably long timetable. On December 15, 1997, Ambassador Barshefsky announced conclusion of an agreement with Japan settling the U.S.' dispute concerning taxation of distilled spirits. Under the agreement, Japan will eliminate tariffs on white spirits, will accelerate Japan's elimination of tariffs on brown spirits, and will accelerate its compliance with the panel and AB reports. Japan has already reduced substantially its excise taxes on brown spirits such as Bourbon and Tennessee whisky. The United States and Japan jointly notified the settlement to the DSB on January 9, 1998.

Japan—Sound recordings: Prior to this dispute, Japan protected only those sound recordings produced after January 1, 1971, and not all sound recordings produced after January 1, 1946, as required by the TRIPs Agreement. As a result, owners of U.S. sound recordings produced between 1946 and 1971 were being improperly denied exclusive rights in those sound recordings in Japan. Following dispute settlement consultations, on December 26, 1996, the Japanese Diet adopted legislation that provides 50 years of protection for pre-existing sound recordings. On January 24, 1997, the United States and Japan notified the DSB that they had settled the dispute based upon the amending legislation.

Japan—Measures concerning imported consumer photographic film and paper: On October 16, 1996, at the request of the United States, the DSB established a panel to examine various laws, regulations and requirements of the Government of Japan that inhibit sales of imported consumer photographic film and paper. The panel consisted of William Rossier (Chair; Switzerland), Adrian Macey (New Zealand), and Victor Luiz do Prado (Brazil). The final panel report was issued to the parties on January 30, 1998.

Japan—Measures affecting distribution services: On June 13, 1996, the United States requested dispute settlement consultations with Japan concerning measures affecting distribution services, as applied by the Government of Japan under, or in connection with, its Large Scale Retail Stores Law. These measures constitute a serious barrier to foreign service suppliers, as well as to imports of photographic film and other consumer products. Consultations took place on July 10. On September 20, the United States requested broader consultations with Japan concerning additional laws, regulations and administrative guidance, as well as additional legal claims. These consultations took place November 7-8, 1997.

Japan—Measures affecting imports of 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 variety, even though the treatment has proven effective for other varieties of the same product. Japan's requirement operates as a significant barrier to U.S. exports of apples and other fruit. On April 7, 1997, the United States requested dispute settlement consultations, which took place on June 5. A panel was established on Novmber 18 in response to a U.S. request; on December 18, 1997, the parties agreed on the following panel: Kari Bergholm (Finland, chairman), Germain Denis (Canada) and Eirikur Einarsson (Iceland).

Korea—Requirements for importation of perishable products: In Korea, import clearance for agricultural products typically takes two to four weeks, as compared to three to four days elsewhere in Asia. The United States has raised at least five problem inspection and testing issues with respect to imports of agricultural products into Korea. The United States and Korea consulted four times in 1995 and three times in 1996. Further consultations took place on January 30-31, 1997. The United States continues to monitor changes in the Korean import clearance system for agricultural products.

Korea—Taxes on alcoholic beverages: This case, which joined complaints by the United States and the EU, concerns Korean excise tax rates that discriminate in favor of the Korean distilled spirit soju and against whisky and other Western-type distilled spirits. On May 23, 1997, the United States requested consultations; cnsultations took place on June 24. On October 16, the DSB established a single panel to consider both the EU and U.S. complaints against Korea. On December 5, the WTO Director-General composed the panel in response to a November 26 request from the United States and the EU. Its members are Åke Lindén (Sweden, retired GATT Secretariat, chairman), Prof. Frédéric Jenny (France), and Carlos Paranhos (Brazil).

Mexico—Antidumping investigation of high fructose corn syrup from the United States: On September 4, 1997, the United States requested consultations with Mexico under the Antidumping Agreement concerning Mexico's antidumping investigation of high fructose corn syrup (HFCS) from the United States. The antidumping investigation was initiated on the basis of a petition from the Mexican sugar industry. Consultations took place on October 9, 1997.

Pakistan—Implementation of "mailbox" and exclusive marketing rights provisions in the TRIPs Agreement: Like India, Pakistan failed to provide a "mailbox" mechanism and exclusive marketing rights in compliance with Article 70(8) and 70(9) of the TRIPS Agreement. On July 4, 1996, the United States requested the establishment of a panel to examine this matter, but a settlement was reached soon thereafter. On February 4, 1997, President Leghari signed an ordinance regarding the Patent and Designs Act of 1911 which met Pakistan's TRIPs "mailbox" obligations.

Philippines—Measures affecting pork and poultry: On April 1, 1997, the United States requested consultations with the Philippines regarding the implementation by the Philippines of its tariff-rate quotas for pork and poultry. The consultation request noted problems with tariff-rate quota administration (in particular the delays in permitting access for the in-quota quantities and the licensing system used to administer access to the in-quota quantities). The consultations were held on April 30; after the Philippines revised its import regime, the United States again requested consultations on October 6, 1997 and consultations were held on November 17.

Sweden—Measures affecting enforcement of intellectual property rights: The TRIPS Agreement requires that all WTO Members provide provisional relief in civil enforcement proceedings (see discussion of Denmark above). Sweden has not implemented this obligation. On May 27, 1997, the United States requested consultations with Sweden concerning Sweden's failure to implement this obligation. Consultations were held on June 27 and on September ?? 1997.

Turkey—Tax on film receipts: Turkey imposes a tax on box office receipts from the exhibition of foreign films, but not on receipts from the exhibition of Turkish films. Following dispute settlement consultations, Turkey agreed to eliminate the tax discrimination; a panel was established at the request of the United States on [date], but on [date] Turkey and the United States jointly notified the DSB of a settlement. Turkey eliminated the tax discrimination on [date].

Disputes Brought Against the United States

Section 124 of the URAA requires *inter alia* that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO, each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 1997 with respect to those cases in which the United States was a defendant.

United States -- EPA regulations on reformulated and conventional gasoline: This dispute involved a challenge by Venezuela and Brazil to a regulation issued by the U.S. Environmental Protection Agency (EPA) under the Clean Air Act. The complainants alleged that because the EPA regulation subjected imported gasoline to different requirements than domestic gasoline, the regulation violated the national treatment obligations of GATT Article III:4 of the GATT 1994. In addition, they argued that the difference in treatment was inconsistent with the non-discrimination provisions of the WTO Agreement on Technical Barriers to Trade (TBT Agreement) and its requirements that regulations not be more restrictive than necessary to fulfill a legitimate objective, taking into account the risks that non-fulfillment would create. In defense, the United States invoked the GATT Article XX "environmental" exceptions (Article XX(b) concerning measures necessary to protect human, animal and plant life or health and Article XX(g) for measures relating to the conservation of exhaustible natural resources), as well as the Article XX(d) exception for enforcement measures.

On January 29, 1996, the panel circulated its report to all WTO members. The report was released to the public and is available from the USTR public affairs office and on the WTO's Website. In compliance with section 123(f) of the URAA, the Administration notified and consulted with the appropriate Congressional committees promptly upon receipt of the panel report.

As described in the 1995 and 1996 Annual Report, the panel's findings pertained only to those parts of the EPA regulation that established different requirements for imports. The panel found that because imported and domestic gasoline were like products, and because imported gasoline received less-favorable treatment, the EPA regulation was inconsistent with U.S. obligations under Article III:4. The panel then addressed the Article XX exceptions cited by the United States. First, the panel—while recognizing that reducing air pollution was a legitimate health protection policy—concluded that the United States had not demonstrated that it was necessary to discriminate against all imported products to achieve this objective. The report stated that where data was available regarding the quality of imported gasoline in 1990, the EPA regulation did not go far enough to provide imports equal competitive opportunities. Second, the panel rejected U.S. arguments that the EPA's baseline rules were measures necessary to enforce otherwise legitimate measures, the panel concluding that the different treatment provided to imports was not an enforcement action. Third, the United States had argued that the regulation related to the conservation of an "exhaustible natural resource" within the meaning of Article XX(g). The panel agreed with the United States that clean air is an exhaustible natural resource even if it was renewable. However, it rejected the argument that U.S. treatment of imports was "related to" this conservation goal. The panel did not reach the arguments on the TBT Agreement.

On February 21, 1996, the United States filed its notice of appeal in this proceeding, seeking an appeal of the panel's findings with regard to Article XX and particularly with respect to Article XX(g).

The Appellate Body members assigned to this case were Florentino Feliciano (Chair; Philippines), Christopher Beeby (New Zealand), and Mitsuo Matsushita (Japan).

On April 29, 1996, the Appellate Body circulated its report to all WTO members. The report was released to the public and is available from the USTR public affairs office and the WTO Website. In compliance with section 123(f) of the URAA, the Administration notified and consulted with the appropriate Congressional committees promptly upon receipt of the report.

As noted above, the United States had limited its appeal to the panel report's interpretation of the GATT Article XX, with particular emphasis on Article XX(g) exception for measures relating to conservation of exhaustible natural resources. The Appellate Body found that the EPA regulations in question were inconsistent with U.S. GATT obligations due to the manner in which they were made, but the Appellate Body accepted the U.S. arguments and reversed the panel's narrow interpretation of the scope of the conservation exception in GATT Article XX(g). The Appellate Body also demonstrated that it is willing and able to correct legal errors in panel reports.

On May 20, 1996, the DSB adopted the Appellate Body report, and also adopted the panel report which preceded it, to the extent that the panel report was not modified by the Appellate Body report. At the DSB meeting of July 19, 1996, the United States announced that it intended to meet U.S. obligations under the WTO Agreement, that the EPA had initiated an open process to examine any and all options for compliance with the DSB's recommendations, and that a key criterion in evaluating options would be the full protection of public health and the environment. At the DSB meeting of December 3, 1996, Venezuela and the United States advised the DSB that they had agreed that the "reasonable period" for implementation of the recommendations in this case would be 15 months from the date of adoption, ending on 20 August 1997.

On June 28, 1996, EPA published an invitation for public comment in the Federal Register (61 FR 33703), inviting interested parties to provide views, and supporting information, regarding possible implementation options. A proposed rule was published on May 5, 1997 (62 FR 24775).

A final rule, completing the implementation process, was signed by EPA Administrator Carol Browner on August 19, 1997 and published on August 28, 1997 (62 FR 45533). The rule was developed through rulemaking procedures in compliance with the Administrative Procedures Act and the Uruguay Round Agreements Act. The final rule revised the rules for conventional gasoline (59 FR 7716, February 16, 1994) to allow a foreign refiner to choose to petition EPA to establish an individual baseline reflecting the quality and quantity of gasoline produced at a foreign refinery in 1990 that was shipped to the United States. The foreign refiner is required to meet the same requirements relating to the establishment and use of individual refinery baselines as are met by domestic refiners. This final action also includes additional requirements that address issues that are unique to refiners and refineries located outside the United States, namely those related to tracking the movement of gasoline from the refinery to the United States border, monitoring compliance with the requirements applicable to foreign refiners, and imposition of appropriate sanctions for violations. EPA will monitor the quality of imported conventional gasoline, and if it exceeds a specified benchmark, EPA will apply appropriate remedial action.

United States—Restrictions on imports of cotton and man-made fiber underwear: This dispute concerns a U.S. textile safeguard action imposed on underwear from Costa Rica. Costa Rica alleged that the findings of the U.S. Committee for the Implementation of Textile Agreements (CITA) regarding serious damage (or actual threat of serious damage) to the U.S. underwear industry were inconsistent with provisions of the Agreement on Textiles and Clothing (ATC). The panel was established on March 4, 1996, and the panelists were Thomas Cottier (Chair; Switzerland), Martin Harvey (New Zealand), and Johannes Human (South Africa).

The panel report was circulated to WTO members on November 8, 1996. The report was released to the public and is available from the USTR public affairs office. In compliance with section 123(f) of the URAA, the Administration notified and consulted with the appropriate Congressional committees promptly upon receipt of the panel report.

The panel found that on the basis of the facts in the case, CITA's findings failed to satisfy the requirements of Article 6 of the ATC. However, the panel agreed with U.S. arguments on a number of important issues of principle. In particular, the panel rejected the notion that WTO dispute settlement panels should engage in *de novo* review of textile restraint decisions by the administering authorities of WTO members. Instead, the panel substantially agreed with U.S. arguments concerning the appropriate standard of review to be applied by WTO panels.

On November 11, Costa Rica filed a notice of appeal restricted to the panel's finding concerning the permissible effective date of textile safeguards measures. The appeal was heard by Appellate Body members Claus-Dieter Ehlermann (presiding member; EU), Florentino Feliciano (Philippines) and Mitsuo Matsushita (Japan). On February 10, 1997, the Appellate Body issued its report, in which it agreed with Costa Rica that textile import restraints may not be routinely applied on a retroactive basis prior to the date on which the restraints are first imposed. However, the Appellate Body acknowledged the potential problem, cited by the United States, of a flood of imports occurring between the date on which import restraints are proposed and the date on which they are actually imposed. With respect to this problem, the Appellate Body indicated that a provision of the ATC, other than the one relied upon by the United States, offered a possible remedy. The report was released to the public and is available from the USTR public affairs office or on the WTO Website. In compliance with section 123(f) of the URAA, the Administration notified and consulted with the appropriate Congressional committees promptly upon receipt of the report.

On February 25, 1997, the DSB adopted the Appellate Body report, and also adopted the panel report which preceded it, to the extent that the panel report was not modified by the Appellate Body report. At the March 20, 1997 meeting of the DSB, the United States announced that it intended to meet U.S. obligations under the WTO Agreement. The textile safeguard action on underwear from Costa Rica had been instituted for a 12-month period from March 27, 1995 and then renewed for one more year. At the DSB meeting of April 10, 1997, the United States announced that the textile safeguard had expired on March 28, 1997.

United States—Restrictions on imports of woven wool shirts and blouses: This dispute concerned a U.S. textile safeguard action on imports of woven wool shirts and blouses from India. The United States imposed import restraints on July 14, 1995. The panel was established on April 17, 1996; the parties agreed on the following panelists: Jacques Bourgeois (Chair; Belgium), Robert Arnott (Australia), and Wilhelm Meier (Switzerland). On November 27, 1996, the Committee for the Implementation of Textile Agreements (CITA) decided to rescind the restraints, effective December 3, 1996, due to the decline in imports of these products from India.

The panel report was circulated to all WTO members on January 6, 1997. The report was released to the public and is available from the USTR public affairs office and from the WTO Website. In compliance with section 123(f) of the URAA, the Administration notified and consulted with the appropriate Congressional committees promptly upon receipt of the panel report.

The panel ruled against the United States on the narrow question of whether, in this particular case, CITA had adequately considered all of the economic factors listed in Article 6.3 of the ATC. The panel found that CITA had failed to consider certain factors at all, and that for other factors CITA had relied on data that were not sufficiently related to the particular industry. The panel also found that CITA had failed to adequately explain how imports were the cause of damage to the domestic industry in question.

However, the panel reaffirmed that in situations where domestic authorities have considered all of the requisite economic factors, it is not the role of panels to second-guess the judgments made by those authorities in collecting and interpreting data and in weighing the factors. In addition, the panel did not call into question, as had been urged by India, the finding of the WTO Textiles Monitoring Body (TMB) that imports from India posed a threat of serious damage to U.S. industry and that the restraint was warranted. The panel distinguished the role of the TMB from that of dispute settlement panels, and did not pass judgment on the TMB finding which had supported the U.S. measures.

The panel also declined to adopt India's argument that Article 6 of the ATC should be interpreted narrowly due to the alleged "exceptional" nature of safeguard actions. The panel also rejected India's argument that a safeguard action under the ATC must be "adequately endorsed" by the TMB, stating that "recommendations of the TMB are not binding." Because the United States already had removed the restraint in question due to changed market circumstances, the panel's findings will have no commercial impact.

On February 24, 1997, India appealed the panel findings on which party has the burden of proof, on the role of the TMB and on whether a panel is required to make findings on all claims made by a complaining party. The Appellate Body's report, issued on April 25, 1997, upheld the panel on all issues. The Appellate Body held that it is up to the complaining party to present evidence and argument sufficient to establish a presumption that a textile safeguard action is inconsistent with the ATC; if that presumption is established, it is up to the defending party to bring evidence and argument to rebut the presumption. The Appellate Body rejected India's claim that textile safeguard actions are "exceptions" and the burden of proof should therefore be reversed. The Appellate Body found that the panel's statements on the TMB had been merely *dicta* and were not subject to action by the Appellate Body. Finally, the Appellate Body concluded that the panel's approach of judicial economy was consistent with the DSU as well as GATT and WTO practice. On May 23, 1997, the DSB adopted the Appellate Body report and the panel report, as upheld by the Appellate Body. Because the United States previously had rescinded the restraint in question, no further action had to be taken.

United States—Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996: On May 3, 1996, the EU asked for WTO consultations concerning the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the Helms-Burton Act), as well as three pre-existing provisions of U.S. Cuban boycott legislation, regarding their consistency with the GATT and the GATS. Consultations took place on June 4 and July 2, 1996. On November 20, 1996, the DSB established a panel in response to the EU's request. On February 3, 1997, the EU asked WTO Director-General Ruggiero to appoint panelists. On February 20, the Director-General appointed the following panelists: Arthur Dunkel (chair, Switzerland); Tommy Koh (Singapore); and Edward Woodfield (New Zealand). In response to the appointment of the panel, USTR and the Department of Commerce announced that unless the dispute with the EU was resolved promptly, the United States would issue a formal statement to the effect that the panel is not competent to decide the matter inasmuch as the challenged measures reflect longstanding U.S. foreign policy and national security concerns regarding Cuba.

On April 11, 1997, the EC tentatively announced it would suspend its WTO case while it pursues with the United States an agreement establishing disciplines governing the acquisition of, and dealings in, investments expropriated in violation of international law. The Administration will consult with the Congress regarding a possible amendment to Title IV of the Helms-Burton Act providing the President with the authority to waive application of that Title to EC companies once the disciplines have been agreed and provided there is adherence to such disciplines. The EC reserved the right to reinstitute its WTO case if the United States takes action under the Act, or the Iran-Libya Sanctions Act, adversely affecting European interests. On April 25, the panel chairman gave notice that the EC had formally requested the panel to suspend the panel proceedings.

United States—Measures relating to the importation of shrimp and shrimp products: On October 8, 1996, India, Malaysia, Pakistan, and Thailand requested dispute settlement consultations concerning the requirements imposed on importation of shrimp and shrimp products from these countries by the United States under §609 of P.L. 101-162 (codified at 16 U.S.C. §1537 note) and guidelines issued thereunder on April 19, 1996. On October 25, the Philippines also requested consultations. Consultations took place on November 19, 1996 between the United States, India, Malaysia, Pakistan, Thailand and the Philippines. On January 9, 1997, Thailand and Malaysia requested a panel, and on February 7, Pakistan requested the establishment of a panel; the DSB established a single panel on February 25, 1997 to examine the complaints of Malaysia, Thailand and Pakistan. On February 26, India requested that it be added as a co-complainant. At its April 10 meeting, the DSB established a panel with respect to India's request, and consolidated this panel with the panel established on February 25. On April 15, the parties agreed on the following panelists: Michael Cartland (Hong Kong, chair), Carlos Cozendey (Brazil), and Kilian Delbrück (Germany). The first U.S. submission was filed on June 9. The panel held its first meeting with the parties on June 17-18. Australia, Colombia, Costa Rica, Ecuador, El Salvador, the European Communities, Guatemala, Hong Kong, Japan, Mexico, Nigeria, the Philippines, Senegal, Singapore, Sri Lanka and Venezuela made statements as interested third parties. The rebuttal submissions of the parties were submitted on July 28, and the panel met with the parties for the second time on September 16-17. The panel has consulted experts concerning the facts of turtle conservation, and their testimony will appear in the panel report, which is expected to be circulated in late April 1998.

United States—Anti-dumping measures on imports of solid urea from the former German Democratic Republic: On December 9, 1996, the EU requested consultations concerning an outstanding U.S. antidumping order on solid urea from Germany, originally issued in 1987 on solid urea from the German Democratic Republic (GDR). In its request, the EU claimed that by maintaining the order against the five States of the former GDR, the Department of Commerce had ignored the integration of the new States into the German market economy; failure to take into account the conversion of a territory into a market economy and full privatization of the exporter constituted a violation of Article 11 of the Antidumping Agreement. In addition, the EU claimed that Article 9.2 of the Antidumping Agreement precluded the imposition of duties on imports from only a region or part of a country. Consultations took place on December 18, 1996. On DATE, the petitioner in the U.S. antidumping proceeding indicated it is not interested in maintenance of the antidumping order. On DATE, the Commerce Department issued a preliminary determination of intent to revoke the order.

United States—Safeguard measure on imports of broom corn brooms: On April 28, 1997, Colombia requested dispute settlement consultations concerning Presidential Proclamation 6961 of November 28, 1996, adopting a safeguard measure on imports of broom corn brooms under Section 201 of the Trade Act of 1974. The Colombian request cited possible inconsistency with the Agreement on Safeguards and GATT 1994. Consultations took place on May 30, 1997.

United States—Rule of origin for textiles and apparel: On May 23, 1997, the United States received an EU request for consultations concerning U.S. rules of origin for textile and apparel products provided for in the Uruguay Round Agreements Act. The EU request stated that these rules adversely affect exports of EU fabrics, scarves and other flat products to the United States; it cited possible incompatibility with the ATC, the Agreement on Rules of Origin, GATT 1994 and the TBT Agreement. On July 15, the EU and United States agreed to commit themselves to achieving a satisfactory resolution in this case, in the context of the 1997-98 WTO negotiations on harmonization of rules of origin for textiles; the United States also agreed to measures including proposal of changes to the marking statute with respect to silk scarves and silk fabric. In light of this agreement, the consultations were not held.

United States—Massachusetts Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar): On June 20, 1997, the EU requested consultations under the Agreement on Government Procurement concerning the Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar) enacted by the Commonwealth of Massachusetts on June 25, 1996 (Chapter 130 of the Acts of 1996). This statute applies a pricing penalty on state procurements from companies that do business in Burma. The EU alleges that the Massachusetts law violates the GPA. On July 18, Japan too requested consultations concerning the same matter. USTR is coordinating with Massachusetts government officials as provided in section 102(b)(1)(C) of the Uruguay Round Agreements Act. Consultations with the EU and Japan took place on July 22, October 2 and December 17, 1997.

United States—Antidumping measures on televisions from Korea: On July 10, 1997, Korea requested consultations concerning a U.S. antidumping order on color television receivers (CTVs) from Korea. Korea alleged that the Department of Commerce's failure to conduct a revocation review of this antidumping order with respect to Samsung Electronics Co., Ltd. violated the WTO Antidumping Agreement. Korea claimed that from 1985 to 1991 the dumping margins on imports from Samsung's Korean operations were *de minimis,* and no CTVs had been imported into the United States from Samsung's Korean operations since 1991. Korea further asserted that Commerce's initiation of anti-circumvention inquiries to determine whether Samsung and two other Korean companies were circumventing the original antidumping order with exports of CTVs from facilities in Mexico and Thailand was inconsistent with GATT Article VI and the Antidumping Agreement. Commerce was conducting these anti-circumvention inquiries and had initiated a changed circumstances review to determine whether to revoke the antidumping order with respect to Samsung. Consultations were held on August 7 and October 8, 1997, and on November 6, Korea requested a panel. On December 19, the Commerce Department terminated its anticircumvention inquiry at the request of the petitioners, and issued an affirmative preliminary determination of changed circumstances and intent to partially revoke the anti-dumping duty order with respect to Samsung. On January 5, 1998, Korea withdrew its panel request pending the final determination by Commerce.

United States—Countervailing duty investigation of salmon from Chile: On August 5, 1997, Chile requested consultations concerning the Department of Commerce's initiation of a countervailing duty investigation of salmon from Chile. Chile alleges that the decision to initiate was inconsistent with the Subsidies Agreement in that (1) the petitioner failed to present adequate evidence of subsidies, injury, and causation; and (2) the petitioner failed to establish that it represented the relevant industry. Consultations were held on September 26, 1997.

United States—Antidumping measures on DRAMs from Korea: On August 15, 1997, the United States received a request by Korea for consultations concerning the Department of Commerce's decision not to revoke the anti-dumping duty on dynamic random access memory semi-conductors (DRAMS) of one megabyte or above from Korea. Korea alleges that this decision was inconsistent with provisions of the WTO Antidumping Agreement and GATT 1994. Consultations were held on October 9. On November 6, Korea requested a panel. The panel was established on January 16, 1998.

United States—Import ban on EU poultry products: On August 18, 1997, the EU requested consultations with the United States concerning a ban on imports of EU poultry and poultry products, imposed on May 5, 1997 by the Food Safety Inspection Service of the U.S. Department of Agriculture until the United States is able to obtain additional assurances of adequate product safety. The EU cited various provisions of the GATT, the Agreement on Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. Consultations took place on October 9, 1997.

United States—Foreign Sales Corporation (FSC) tax provisions: On November 18, 1997, the EU

requested consultations concerning the Foreign Sales Corporation provisions of U.S. tax law. The EU claims that these provisions are export subsidies prohibited by the Subsidies Agreement, and violate Article III of the GATT. The consultations took place on December 17, 1997 and further consultations will be held on February 10, 1998.

United States—Tariff rate quota for peanuts and peanut butter: On December 19, 1997, Argentina requested consultations concerning the administration of the U.S. tariff rate quota (TRQ) for peanuts for confectionery use and peanut butter. Argentina claims possible violations of various provisions of the GATT 1994, the Agreement on Agriculture, the Agreement on Rules of Origin, and the Agreement on Import Licensing Procedures. Consultations will be held in the week of February 16.

Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB), a subsidiary body of the General Council, was created by the Marrakesh Agreement Establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines national trade policies of WTO members on a schedule designed to cover all WTO members at least once every six years. The process starts with an independent report on a member's trade policies and practices that is written by the WTO Secretariat on the basis of information provided by the subject member. This report is accompanied by the report of the country under review, and together the reports are subsequently discussed by WTO members in the TPRB at a session at which country under review appears to explain and supplement the reports on its trade policies and practices and to answer questions. The purpose of the process is to strengthen member observance of WTO provisions and contribute to the smoother functioning of the multilateral trading system.

The current process reflects changes in the instrument, which was created in 1989, to streamline it and to give it more coverage and flexibility. Country reports are now statements of policy rather than detailed descriptions of a member's trade policies. Reports now cover services, intellectual property and other issues addressed by WTO Agreements. There is also more flexibility in the scheduling of reviews, particularly for members in the two-year review category (the United States, EU, Canada, and Japan). These changes took effect with entry-into-force of the WTO on January 1, 1995.

During 1997, the TPRB conducted eight trade policy reviews. The 1997 program included Fiji, Cyprus, Paraguay, Benin, Chile, Mexico, Malaysia and the European Union. Four of these have been first-time reviews for the Members concerned; the others were repeat reviews, the fourth overall in the case of the EU. The review of the EU was the first to be conducted under the "interim review" framework agreed by the TPRB in 1996; as such, it focused on developments in trade policies in the past two years and on selected sectoral issues, rather than being comprehensive in coverage. In addition, a number of reviews (Japan, the South African Customs Union, Hungary, India, Poland, Nigeria and Trinidad and Tobago) have been rescheduled from 1997 into 1998, for various reasons.

Major Issues in 1997

Reviews have emphasized the macroeconomic and structural context for trade policies, including the effects of economic and trade reforms, transparency with respect to the formulation and implementation of policy, and the current economic performance of members under review. Another important issue has been the balance between multilateral, bilateral, regional and unilateral trade policy initiatives; in particular, the priorities given to multilateral and regional arrangements have been important systemic concerns. Closer attention has been given to the link between members' trade policies and the implementation of WTO Agreements, focusing on members' participation in particular Agreements, the fulfilment of

notification requirements, the implementation of TRIPS, the use of antidumping measures, government procurement, state trading, the introduction by developing countries of customs valuation methods, and the adaptation of national legislation to WTO requirements.

Trade and Core Labor Standards: An important U.S. achievement at Singapore Ministerial Conference was the inclusion of language in the Ministerial Declaration whereby Trade Ministers from all WTO members recognized a commitment to the observance of internationally recognized core labor standards. Considering that Trade Ministers' reaffirmation of this commitment in Singapore made observance of labor standards a legitimate topic for discussion in WTO, the United States delegation routinely made observations and raised questions relative to labor standards in all those WTO members which underwent reviews in 1997. In some cases, U.S. interventions were critical of other members' policies, while in others, we complimented the country on its good record.

Prospects for 1998

The program of reviews for 1998 contains, in addition to the reviews carried over from 1997, provision for reviews of 15 members. These comprise Canada on the two-year cycle; Australia, Hong Kong, Indonesia and Turkey on the four-year cycle; Argentina, Ghana, Uruguay, and Jamaica with Trinidad & Tobago (grouped review) on the six-year cycle and five reviews of least-developed countries, including Burkina Faso with Mali and Togo (grouped review), Guinea, and Solomon Islands. In addition to the program of reviews, work in the TPRB will continue to identify possible reforms to the TPRM. The TPRM process, while an important transparency tool in the WTO, is resource intensive for both the WTO Secretariat and member delegations. Some reviews, particularly those of developing countries, are not well-attended, yet serve as important sources of data on trade policy and performance. Others, particularly of developed country members, are well-attended but perhaps too frequent for meaningful analysis of broad trends and policy choices. Finally, others are not frequent enough; the limited size of the four-year review category, which covers 16 members, means that many important, yet smaller members are reviewed only every six years.

Other General Council Bodies/Activities

Committee on Trade and the Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995 pursuant to the Marrakesh Ministerial Decision on Trade and Environment. The mandate of the CTE is to make appropriate recommendations to the Ministerial Conference as to whether, and if so what, changes are needed in the rules of the multilateral trading system to foster positive interaction between trade and environment measures and to avoid protectionist measures. The CTE met three times in 1997. The Committee's work during the course of the year focused on deepening members' understanding of the many issues that fall within its mandate (see Annex).

Major Issues in 1997

Discussion in the CTE covered the full range of issues on its agenda (see annex I). The following provides highlights of this work.

Multilateral Environmental Agreements (MEAs): Inclusion of trade measures in MEAs has been and will continue to be essential to meeting the objectives of certain agreements but may raise questions with respect to WTO obligations. There continue to be sharp differences of view within the CTE on whether this is an issue that needs to be addressed and, if so, how. However, the Committee worked to improve Member's understanding of the issue by holding a meeting at which representatives from six MEA Secretariats and two Multilateral Environmental Funds provided briefings and engaged in a dialogue on the

relationship between trade and the objectives of their respective agreements.

Market Access: Work in this area focused on the potential environmental benefits of reducing or eliminating trade-distorting measures. There is a broad degree of consensus in the Committee that trade liberalization, in conjunction with appropriate environmental policies, can yield environmental benefits. Discussion continued over the course of the year on the potential for such a "double dividend" in the agriculture sector. In addition, the Committee began to broaden its analysis to other sectors. For example, the United States tabled papers on the potential environmental benefits of reducing or eliminating fisheries subsidies and of improving market access for environmental services and associated goods.

TRIPS: Discussion under this item reprised discussions over the past two years. India tabled two papers reiterating arguments made previously for consideration of changes to the TRIPS agreement to "facilitate" the transfer of environmentally friendly technologies and to address "contradictions" between the WTO and the Convention for Biological Diversity. These proposals have not drawn any substantial support in the CTE. The United States made clear its view that no logically supportable case has been presented for changing the TRIPS Agreement and that there are no "contradictions" between the WTO and the Convention on Biological Diversity.

Environmental Reviews: The United States has worked to improve other members understanding of environmental reviews by providing a well received briefing on its experience with the environmental reviews of the NAFTA and Uruguay Round Agreements.

Relations with NGOs: Following up on the WTO General Council's 1996 agreement on Guidelines for Relations with NGOs, the Secretariat organized a symposium on trade and environment that was held in May of 1997. This symposium provided a valuable opportunity for an exchange of views between WTO member delegations and NGOs representing diverse interests from all over the world. The Committee also made some progress in increasing transparency through the actions of a number of members to de-restrict documents and through an increasing trend on the part of a number of delegations of submitting documents as non-restricted in the first place. The United States continued to underline the importance that we attach to further work in developing adequate mechanisms for involving NGOs in the work of the WTO and adequate public access to documents.

Prospects for 1998

The CTE will continue its work on all items of its agenda, drawing upon what has been accomplished thus far. It is expected that all of the issues identified above will figure prominently in the Committee's work in 1998.

Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT's role in the economic development of less-developed GATT Contracting Parties. In the WTO system, the CTD is a subsidiary body of the General Council. During its six formal meetings in 1997, the CTD continued to address trade issues of interest to members with particular emphasis on the results in the Uruguay Round and on the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries). This included areas such as the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences, and regional integration efforts among countries. The CTD also has a role in advising the WTO Secretariat on technical assistance programs. The CTD also sponsored the High-Level Meeting on Integrated Initiatives to Assist Least-developed Countries' Trade Development.

Major Issues in 1997

The CTD focussed its work in the following areas in 1997: (1) technical cooperation and training activities as they relate to developing country members; (2) review of the participation of developing country members in world trade; and (3) review of the application of special provisions in the multilateral trading agreements and related Ministerial Decisions in favour of developing country members, in particular least-developed country members.

A major initiative of the Committee was the *High-Level Meeting* on Integrated Initiatives for Least-Developed Countries' Trade Development. At the Singapore Ministerial, WTO Ministers adopted the *WTO Plan of Action for the Least-Developed Countries* which envisaged a closer cooperation between the WTO and other multilateral agencies assisting least-developed countries" (LLDCs) in the area of trade. One element of the Plan of Action was the organization of a high-level meeting (HLM) to foster an integrated approach to trade-related technical assistance activities for the LLDCs aimed at improving their overall capacity to respond to the challenges and opportunities offered by the trading system. As noted earlier, the HLM was principally organized by the Secretariats of the WTO, UNCTAD, and the ITC, with assistance from the staffs of the IMF and the World Bank.

The HLM also provided an opportunity for WTO members to autonomously offer enhanced preferential market access opportunities for LLDCs. The meeting also included two focussed thematic discussions, one on building the capacity to trade and another on investment were part of the agenda. Finally, 12 LLDC countries--Bangladesh, Chad, Djibouti, Guinea, Haiti, Madagascar, Mali, Nepal, Tanzania, Uganda, Vanuatu, and Zambia--were the subject of roundtable discussions on their perceived technical assistance needs and the coordinated response of the six international organizations. During the first half of 1998, an additional 18 LLDCs will be subject to the roundtable process.

Prospects for 1998

During 1998, the Committee will continue to pursue its work program, primarily the examination of the participation of developing countries, particularly the least-developed countries, in the multilateral system and ways to increase and enhance such participation. The Committee will also continue its efforts to fully implement the WTO Guidelines for Technical Cooperation with respect to, for example, the monitoring, managing and evaluating technical cooperation activities of the WTO.

Committee on Balance of Payments Restrictions

Status

The Committee on Balance of Payments (BOP) Restrictions held consultations with eight countries in 1997. Pursuant to the GATT 1947 and the GATT 1994, any member imposing restrictions for balance of payments purposes is required to consult regularly with the BOP Committee to determine whether the use of restrictive measures is necessary or desirable to address its balance of payments difficulties. Full consultations involve a complete examination of a country's trade restrictions and balance of payments situation, while simplified consultations provide more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a member in view of improvements in the balance of payments.

The Uruguay Round Understanding on Balance of Payments Provisions made a number of clarifications to the two primary articles dealing with balance of payments in the GATT 1947 and now GATT 1994: Article XII (Restrictions to Safeguard the Balance of Payments) and Article XVIII:B (Governmental Assistance to Economic Development). The Understanding confirmed that price-based measures (i.e., import surcharges) are preferred, that the use of quantitative restrictions is allowed only under exceptional circumstances and that measures taken for BOP reasons may only be allowed to protect the general level of imports (i.e., applied across- the-board), not to protect specific

sectors from competition. Additionally, the Understanding established strict notification deadlines and explicit documentation requirements, and permitted "reverse notification" by members concerned with measures instituted by other members but not notified by them.

Major Issues in 1997

Since entry-into-force of the WTO on January 1, 1995, the WTO BOP Committee has demonstrated that the hard-won new WTO rules provide members additional, effective tools to enforce obligations under the BOP provisions. During 1997, four WTO Members (Poland, Czech Republic, Turkey and Hungary) have eliminated all BOP-justified restrictions, and three additional countries committed to the elimination of measures by a date certain (Tunisia, Slovak Republic and Bulgaria). Negotiations to eliminate measures are ongoing with India and Nigeria. During 1997, the Committee held consultations with the Slovak Republic, the Czech Republic, Tunisia, India, Nigeria, Bangladesh, Pakistan, and Bulgaria.

The Committee met three times with India during 1997 in an effort to agree on a schedule for India to phase-out its long standing quantiative restrictions previously justified on balance of payments grounds. India's economic situation no longer justifies the use of import restrictive measures justified on BOP grounds. Because India and the United States were unable to agree on such a schedule, the U.S. began dispute settlement proceedings with India on July 15, 1997. A panel to consider the matter was formed in November 1997. (See dispute settlement section of this chapter for further information.)

Prospects for 1998

In 1998, the Committee will consult with the following countries maintaining BOP-related restrictions: Nigeria, Sri Lanka, Bulgaria, and the Slovak Republic. We expect the Committee will make further progress in ensuring that the WTO BOP provisions are used as intended to address legitimate, serious BOP problems through the imposition of temporary, price-based measures.

Committee on Budget, Finance and Administration

Status

As predicted, the bulk this Committee's work in 1997 was devoted to the development of the 1998 budget for the WTO. Other issues of significance addressed by the Committee in 1997 include: sanctions on members with significant arrears; ongoing discussion of the Secretariat "conditions of service" issue; and, how to deal with the substantial surplus account realized by the WTO in fiscal year 1996.

Major Issues in 1997

The major issues taken up in the Committee in the course of its deliberations in 1997 are summarized below:

Agreed Budget for 1998: For the second year in a row, members of the Committee developed and gained approval for what is essentially a "zero nominal growth" budget of SFR 115,978,850. The small increase over last year's approved budget (SFR 286,000) is specifically ear-marked for an additional WTO-run training course. All other activities covered by the budget will be forced by the agreed total to make do with less in 1998. The United States is expected to pay 15.62 percent of that portion of the budget financed by contributions from Members. The assessed contribution for the United States comes to SFR 17,864,654. The United States suspended its agreed-on installment payments for arrears owed to the GATT/WTO after 1993 and did not pay all that it owed the WTO in 1996. The accumulated arrears of the United States amounted to SFR 3,205,232 at the beginning of 1998.

1996 Surplus Account: In large part because the United States paid a substantial portion of its 1995 WTO contribution only in calendar year 1996, the WTO accounts for 1996 finished with a surplus of SFR 10,127,456. Under WTO rules, the Budget Committee was responsible in 1997 for considering possible uses for this surplus. At its meeting of 27

November, the Committee agreed to defer until 1998 consideration of what to do with SFR 7,000,456 of the surplus. The following uses were agreed for the balance of the 1996 surplus account: SFR 195,000 to correct an overstatement in the 1996 accounts; SFR 982,000 to finance the 1998 Ministerial Conference and 50th Anniversary Celebration; SFR 1,500,000 to replenish the Appellate Body Operating Fund; and SFR 450,000 to finance an actuarial study which might be required as a result of decisions to be taken in connection with the Secretariat conditions of service issue.

Conditions of Service Issue: Once again, it did not prove possible to resolve the longstanding issue of conditions of service (salaries and pensions) which should apply in the case of the staff of the WTO Secretariat. By year-end 1997, a consensus had begun to emerge in favor of establishing the WTO Secretariat with an independent system outside the United Nations Common System, provided that certain conditions could be met. To date, it has not been possible to achieve a consensus in the WTO of the text of a decision containing a set of conditions acceptable to all WTO members. Work on this problem will continue in 1998.

Modification of Sanctions on Least-Developed Country Members: In late October, 1997, WTO organized a special high level meeting designed to coordinate technical assistance to least-developed countries. In connection with this meeting, the Budget, Finance and Administration Committee considered whether it was equitable to continue to deny training benefits to least-developed WTO members who owed more than four years of dues to the organization. Given that WTO technical assistance is routinely made available to other countries who are not even WTO members, the Committee recommended eliminating this sanction--a proposition which later met with the approval of the WTO General Council.

Prospects for 1998

Development and Agreement on a 1999 Budget: The bulk of the Committee's work in 1998 should be devoted to the consideration of the WTO's budget for 1999.

Conditions of Service Issue: The Committee will eventually need to take up any financial and management issues which might flow from the possible decision in 1998 to establish the WTO Secretariat on a basis which is independent of the United Nations Common System.

Committee on Regional Trade Agreements

Status

Free trade areas (FTAs) and customs unions (CUs), both exceptions to the principle of MFN treatment, are allowed in the WTO system if certain requirements are met. In the GATT 1947, Article XXIV (Customs Unions and Free Trade Areas) was the principal provision governing FTAs and CUs. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for less-than-comprehensive agreements between or among developing countries. The Uruguay Round added two more provisions: Article V of the General Agreement on Trade in Services (GATS), which governs the services-related aspects of FTAs and CUs; and the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV.

All FTAs and CUs must fulfill several requirements in the WTO. First, substantially all of the trade between the parties to the agreement must be covered by the agreement (i.e., tariffs and other regulations of trade must be eliminated on substantially all trade). Second, the incidence of duties and other regulations of commerce applied to third countries after the formation of the FTA or CU must not, on the whole, be higher or more restrictive than was the case in the individual countries before the agreement. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs can exceed ten years only in exceptional cases.

With respect to a CU, in which by definition common regulations of trade, including MFN duty rates, are adopted toward third countries, the parties to an agreement must notify WTO members and begin compensation negotiations prior to the time when any tariff bindings, services commitments or other obligations are violated.

All regional trade agreements in the WTO system are reviewed for compliance with WTO obligations and for transparency reasons. Prior to 1996, these reviews were typically conducted in a "Working Party." The Committee on Regional Trade Agreements (CRTA) , a subsidiary body of the General Council, was formed in early 1996 as a central body to oversee all regional agreements in the WTO system. The Committee is charged with conducting the reviews of all agreements, seeking ways to facilitate and improve the review process, to implement the biennial review requirement established by the Uruguay Round agreements, and to consider the systemic implications of such agreements and regional initiatives for the multilateral trading system.

Major Issues in 1997

The Committee met eight times during 1997. By the end of 1997, the Committee started, or continued, the examination of 45 regional trade agreements (A list of all regional integration agreements notified to the GATT/WTO and currently in force is included in the Annex to this chapter.) The North American Free Trade Area was among the agreements reviewed. Detailed discussions were conducted on procedures and objectives for the biennial review of each agreement. The Committee held extended discussions on ways to improve the notification and review process. Finally, the Committee had substantial,, but inconclusive, discussions on systemic effects of regional agreements on the multilateral trading system.

Prospects for 1998

During 1998, the Committee will continue the work started in 1996. Particular emphasis will be placed on completing the reviews of regional trade agreements that have already been notified, including the NAFTA, improving compliance with notification requirements, and establishing and implementing procedures for the biennial review process. Further discussions on improving the review process and the systemic effects of regional agreements will be major issues in the coming year.

Accessions

Status

Accession negotiating activity again reached a peak of 31 applications in 1997 with the requests of Andorra, Laos, and Azerbaijan. Mongolia and Panama, whose accessions were approved by WTO members in 1996, became members in 1997 after their parliaments ratified the negotiated terms. Through increased bilateral and multilateral efforts, a number of accession applicants were able to make significant progress in their accession negotiations, e.g., Russia, the Baltics, Armenia, the Kyrgyz Republic, Kazakhstan, and Ukraine, joining China and Chinese Taipei as accession applicants in the later stages of negotiations. U.S. technical assistance and/or focused bilateral effort was a key factor in furthering these negotiations. While none of these countries completed their accessions in 1997, some may do so in 1998. Of the 31 applicants currently seeking WTO accession, 13 are subject to the provisions of the "Jackson-Vanik" clause and the other requirements of Title IV of the TradeAct of 1974, and one, Laos, is not eligible to receive MFN treatment at all without legislative action.[2]

Major Issues in 1997

[2] The United States may grant MFN treatment to countries covered by Title IV of the Trade Act of 1974 only under certain conditions. Since the WTO Agreement requires a grant of "unconditional" MFN, the United States must invoke non-application of the WTO at the time of accession by any of these countries, unless Congress has previously acted to remove them from coverage by the law. The 13 accession applicants covered are: Albania, Armenia, Azerbaijan, Belarus, China, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, Russia, Ukraine, Uzbekistan, and Vietnam.

Working Parties (WPs) for 17 of the 31 accession applicants met in 1997, either formally or informally, and many more than once, including Armenia, Belarus, China, Chinese Taipei, Croatia, Estonia, Jordan, Kazakhstan, the Kyrgyz Republic, Latvia, Lithuania, Moldova, Oman, Russia, Saudi Arabia, the Seychelles, and Ukraine. Working Party efforts were focused on identifying areas of these trade regimes that require changes to meet WTO requirements and, in some cases, negotiating specific commitment language for a protocol of accession. In this period, the United States was also actively engaged in bilateral goods and services market access negotiations with 10 of the 31 applicants (Armenia, China, Chinese Taipei, Croatia, Estonia, the Kyrgyz Republic, Latvia, Lithuania, Russia, and Ukraine). Initial market access offers were tabled in 1997 by five others--Saudi Arabia, Oman, Kazakhstan, Vanuatu, and Seychelles--but these were not under active negotiation with the United States or most other WTO members by the end of the year. The chart included in the Annex to this section reports the status of each accession.

Article XII of the WTO Agreement provides that membership in the WTO is achieved through negotiation of terms with current WTO members. Accession negotiations are time consuming and technically complex, involving detailed review of an applicant's entire trade regime with special attention paid to the consistency of existing laws to WTO provisions and to any measures that block or impair market access. This meant that in 1997, U.S. Government staff work on the accessions grew exponentially, as progress in bilateral and Working Party deliberations required increased review and analysis of the expanding volume of documentation and proposals from the accession applicants.

Ultimately, progress in the accession process depends principally on the willingness of the applicant to address the concerns and requests of current WTO members in the process of establishing terms for WTO participation. Acceding governments must be prepared to implement WTO obligations and to establish commercially viable market access commitments and concessions in both goods and services, as well as to complete an agriculture country schedule making specific commitments on export subsidies and internal support. Unlike accession to GATT 1947, WTO accession normally requires applicants to make legislative changes to meet WTO institutional and regulatory requirements, in addition to the elimination of existing WTO-inconsistent measures. For this reason, actual accession to the WTO can be delayed even after the substantive negotiations have been completed, as the laws to implement accession commitments are approved and the final package ratified.

By the end of 1997, partially as a response to the burden of increased work on accessions both in capitals and in Geneva, a consensus developed among participating WTO members that Working Parties would only be convened when documentation for meetings was circulated to delegations at least four weeks prior to the scheduled meeting. Initial Working Party sessions would be delayed until the applicant had provided a critical mass of relevant documentation as outlined in technical notes developed by the Secretariat and WTO members. Subsequent WP meetings would normally be scheduled only if market access negotiations were underway. Time limits were also imposed for the receipt of written questions after a meeting (normally one month).

Prospects for 1998

Accession activity in 1998 will resemble 1997, but at a much faster pace. There are a number of applicants that may complete substantive negotiations this year, but actual membership will depend on the ability to enact implementing legislation and ratify the approved terms of accession. The remainder of the eighteen negotiations with active Working Parties will move from the information gathering stage into actual negotiations, and initial Working Parties can be expected for a number of applicants, e.g., Vietnam, Algeria, and Georgia.

Working Group on Trade and Competition Policy

Status

At the Singapore Ministerial Conference, Ministers decided to establish a working group "to study issues raised by members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework." Whereas the Ministers took note of the fact that certain existing WTO provisions are relevant or relate to competition policy, they were careful to specify that the aim of this Working Group was educative and not intended to prejudge whether, at some point in the future, negotiations would be initiated to establish multilateral disciplines in this area.

The Working Group on the Interaction between Trade and Competition Policy (WGTCP) was directed to draw upon the work of a companion working group, also established at Singapore, that was mandated to examine the relationship between trade and investment. The WGTCP was also encouraged to cooperate with UNCTAD and other intergovernmental organizations examining similar trade and competition policy issues in order to make the best use of available resources and to ensure that the development dimension is fully considered. The WTO General Council oversees the work of the WGTCP, and will determine after two years whether its work should proceed and, if so, what would be the nature of future work in this area.

Major Issues in 1997

Early last year, the General Council appointed Frederic Jenny, a senior French competition law official and Chairman of the Committee on Competition Law and Policy at the Organization for Economic Cooperation and Development (OECD), to be Chairman of the WGTCP. Chairman Jenny consulted informally with various WTO member delegations to share ideas for the organization of the Group's work. On the basis of these consultations, the Chairman established a useful and flexible framework for ensuring that all relevant "issues raised by members" can be addressed in the timeframe provided.

At its remaining two formal meetings in September and November 1997, the WGTCP reviewed submissions from members and held discussions on topics drawn from two basic areas of focus. The first area dealt with the relationship between the objectives, principles, concepts, scope and instruments of trade policy and competition policy, and the relationship of both to development and economic growth. The second consisted of a stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policies, and members' experience with their application. This inventory of instruments, etc. under review included national competition policies, laws and instruments as they relate to trade; bilateral, regional, plurilateral and multilateral agreements and initiatives; and existing WTO provisions.

While there is a diversity of priorities among WTO members as to where the Group should devote the most of its efforts, the majority of participants seemed to have shared the view that the WGTCP needs first to develop an sound intellectual foundation with respect to understanding competition policy concepts and practices before delving seriously into any detailed examination of the interaction between trade and competition policy. In the Group's work to date, there has been a vigorous interest among developing countries either to share their experiences in establishing and enforcing fledgling competition policy regimes or to gain from the experience of others. The trend in recent years toward accelerating economic globalization, privatization and transition from state-controlled economies has generated an appreciation for the role which competition policy can play in promoting dynamic economic growth.

Prospects for 1998

In many respects, the work program for 1998 will become more challenging, not least because the WGTCP will need to develop a report for the General Council outlining the results of its study, including any recommendations it may have for further work in the WTO context. Current plans are to hold at least four formal meetings. At its first meeting in 1998, the WGTCP will continue

last year's stocktaking and analysis discussions involving national, bilateral, plurilateral and multilateral (including WTO) provisions and instruments. In addition, however, the Group will engage in an introductory, overview discussion of the relationships among trade policy, competition policy and development, followed by a more focused examination of the impact of anti-competitive practices of enterprises and associations on international trade. At its subsequent meeting, the Group is expected to discuss the impact of state monopolies, exclusive rights and regulatory practices on competition and international trade as well as the impact of trade policy on competition. The third meeting will feature an examination of the relationship between competition policy and (i) the trade-related aspects of intellectual property rights and (ii) investment, respectively. Finally, the November meeting has been earmarked to return to any previous topics or discussions of interest to members and to finalize a report to the General Council.

The United States believes that much has been -- and can continue to be -- accomplished within the scope of the Working Group's present educative mandate. Specifically, the WGTCP can continue to provide an excellent forum in which to examine and discuss (i) the extent to which mutual international education and increased cooperation can facilitate the development and strengthened enforcement of national competition laws and improve the ability of governments to address anti-competitive practices, especially those with international implications; and (ii) how the development and enforcement of competition laws and policies and the introduction of greater market competition in over-regulated sectors can enhance the overall environment for trade liberalization, improved market access and economic development. None of these objectives or principles suggests the negotiation of multilateral rules governing competition policy.

Working Group on Transparency in Government Procurement

Status

Drawing largely upon proposals made by the United States, Ministers agreed to establish a Working Group on Transparency in Government Procurement at the Singapore Ministerial Conference. The Working Group's mandate calls for: (1) conducting a study on transparency in government procurement; and (2) developing elements for an appropriate WTO agreement on transparency in government procurement. The United States views this as a very significant step towards development of predictable and competitive bidding environments for government procurement throughout the world. Although government procurement is of great commercial significance -- the global procurement market is estimated to be worth over $3.1 trillion annually-- only 26 WTO members presently belong to the plurilateral WTO Government Procurement Agreement. The Administration took the initiative to launch this effort as part of the overall effort to combat bribery and corruption. A transparency agreement will build on the good governance practices that many countries are beginning to adopt as part of their reform program. Greater transparency in this area naturally will help to eliminate potential opportunities for corruption in government procurement.

Major Issues in 1997

The Working Group held its first meetings in 1997 and made considerable progress in studying transparency in government procurement. At these meetings, the Group discussed provisions regarding transparency in government procurement that are contained in existing international instruments, particularly the UNCITRAL Model Law on Procurement of Goods, Construction and Services, the World Bank's guidelines for procurements funded by the Bank, and the WTO Government Procurement Agreement. At the request of the Group, the WTO Secretariat has produced a paper that compares these provisions and includes information regarding present government procurement practices of WTO members.

Prospects for 1998

In 1998, it is anticipated that the Working Group will continue to study principles of transparency in government procurement and begin to develop elements for a WTO agreement on transparency in government procurement.

The Working Group is reviewing such provisions in preparation for the next phase of its mandate, development of an agreement on transparency in government procurement. The provisions under review address fundamental aspects of transparency, including requirements regarding:

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines;
- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements;
- Utilization of competitive procurement procedures;
- Clear specification in tender documents of evaluation criteria for award of contracts;
- Availability to suppliers of information on contracts that have been awarded; and
- Availability of mechanisms to challenge contract awards and other procurement decisions.

Working Group on Investment

Status

In fulfilling the mandate established at the WTO Singapore Ministerial in 1996, the WTO working group on trade and investment met three times in 1997. The group will meet four times in 1998 prior to making its final report to Ministers. The group is to 1) examine the relationship between trade and investment, review existing WTO obligations in investment, and review other existing investment agreements. As agreed in Singapore, any decision on negotiating investment rules in the WTO will be taken by consensus after the working group finishes its tasks.

Major Issues in 1997

The working group looked at implications of the relationship between trade, investment, growth, and development. It also began to examine existing international activities in the investment area. The group's work was facilitated by useful papers on the interrelationship between investment and trade produced by the WTO Secretariat and additional contributions from UNCTAD and the Organization for Economic Cooperation and Development. Several WTO members also provided studies that examined investment trends in their respective countries. Generally, all submission noted the positive relationship between trade and investment and the contribution of foreign direct investment in continued economic growth and job expansion. There was strong support in the working group among developed countries and many developing countries that investment is critical both for development as well as for trade and the need for the WTO to begin discussion of investment rules. Some developing countries expressed concern that the there was too much focus being placed on protection for investment and not enough on issues such as development, targeting of particular types of investment, and restrictions on multinationals.

Prospects for 1998

There are four meetings scheduled for 1998. The meetings shall focus on analysis and examination of existing investment instruments. Other items suggested for discussion were: performance requirements, issues not addressed by other WTO agreements, investment incentives, determinants for investment decisions by firms, the role of regional trade agreement and the difference between investment agreements and the WTO. It is expected that the working group will begin to discuss possible rules for investment in the WTO during the latter half of 1998. No decisions will be taken but the results will, as with other Working Groups, be reported to the WTO's General Council

at the end of 1998, as mandated by the Singapore Declaration of December 1996.

Trade and Labor Standards

At the 1996 Singapore Ministerial, Ministers reaffirmed their governments' commitment to observe internationally recognized core labor standards, and underscored their belief in the mutually supportive interaction among trade, economic growth, and the promotion of these standards. On this point, the Ministers also recognized that the WTO and International Labor Organization Secretariats had collaborated in a number of areas, and would continue to do so. Consistent with the provisions of Section 131 of the Uruguay Round Agreements Act, the Administration has continued to work with like-minded members to generate support for observance of internationally recognized core labor standards, building on the progress secured at Singapore and on agreement within the OECD that there is a mutually supportive relationship between core labor standards and economic development and trade.

During 1997 the United States worked actively to forge an international consensus on strengthening the commitment to core labor standards in the ILO through the adoption of a declaration and follow-up mechanism. In November 1997 the ILO's Governing Body agreed to place consideration of a declaration on fundamental principles and an appropriate implementing mechanism on the agenda of the June 1998 International Labor Conference. The United States will work actively in 1998 towards the adoption of a meaningful and credible declaration and mechanism. The United States is also working to ensure the continued collaboration between the WTO and ILO Secretaraiats on issues related to trade and labor standards.

Trade Facilitation

The 1996 Singapore Ministerial Declaration requested the Council for Trade in Goods to do exploratory and analytical work on the simplification of trade and customs procedures, to assess the scope for establishing additional WTO disciplines in this area. Throughout 1997 an exchange of views took place in the Council, which included an inventory conducted by the WTO Secretariat of efforts taking place in other fora as well as ongoing work under various WTO Agreements pertaining to trade facilitation. Members agreed to hold a symposium in March 1998 to provide an opportunity for presentations on issues related to the movement of goods across borders to be made by the private sector directly to trade policy officials. Effective implementation of the Agreements on Pre-Shipment Inspection and Customs Valuation, the successful conclusion of ongoing negotiations on harmonization of non-preferential rules of origin, and attention to issues such as express delivery, customs integrity, and transparency remain critical to the overall work in the trade facilitation area.

Information Technology Agreement

Status

At the Singapore Ministerial Conference in December 1996, 28 countries representing about 85 percent of world trade in information technology products endorsed a Ministerial Declaration to eliminate tariffs on a wide-range of products by the year 2000, recognizing that extended staging might be granted in limited circumstances. The agreement is generally known as the Information Technology Agreement or ITA. At this writing, ITA participants include 43 countries presenting close to 95 percent of world trade in information technology products. Additional countries, notably Latvia and China, have indicated their intention to join the ITA.

The product coverage included computers and computer equipment, semiconductors and integrated circuits, computer software products, telecommunications equipment, semiconductor manufacturing equipment and computer-based analytical instruments. The ITA is the only global, sectoral agreement to-date in which participating governments have agreed on a uniform list of products on which all duties will be eliminated. To

eliminate the potential for free riders, Ministers agreed that for the ITA to become operational, countries accounting for at least 90 percent of world trade in information technology products needed to participate in the agreement. Ministers also agreed that the product coverage would the subject to periodic review and expansion under the auspices of the Council on Trade in Goods to take account of the rapidly changing technology and differences in tariff nomenclature in the sector. The Committee on the Expansion of Trade in Information Technology Products was established to implement these committments.

Major Issues in 1997

In January 1997, as required by the Ministerial Declaration, the governments participating in the ITA reviewed product coverage and clarified certain technical issues. The basic product coverage specified in the Ministerial Declaration was left unchanged. Negotiators agreed, however, that in order to ensure a dynamic agreement, ITA participants would undertake a review of the agreement beginning in the Fall of 1997, aimed at improving product coverage and addressing non-tariff measures or other issues related to trade in ITA products. Each country's tariff phase-out timetable is inscribed in the ITA "schedule" and related annexes it has filed with the WTO. In March, ITA participants and those countries desiring to join the ITA submitted draft schedules, and negotiators worked to finalize the schedules and consider requests by additional governments to join the ITA.

On March 26, 1997, forty participants, representing 92.3 percent of world trade in ITA products, agreed to implement the agreement. They are: Australia, Canada, Costa Rica, Czech Republic, Estonia, European Communities (on behalf of 15 Member States), Hong Kong, Iceland, India, Indonesia, Israel, Japan, Korea, Macau, Malaysia, New Zealand, Norway, Romania, Singapore, Slovak Republic, Switzerland and Liechtenstein, Taiwan, Thailand, Turkey, and the United States. Participants also established a Committee on the Expansion of Trade in Information Technology Products to carry out the work program identified in the Ministerial Declaration and agreed that all decisions of the Committee shall be taken by consensus. The forty participants also agreed on procedures for consultations on and review of product coverage, often called "ITA II." Subsequently, ITA participants approved schedules submitted by the El Salvador, Philippines, Poland, bringing the current number of ITA participants to forty-three, covering nearly 95 percent of world trade.

The Committee held three formal meetings in 1997. In addition to addressing rules of procedure and other organizational matters, the Committee began work on customs classification issues and non-tariff measures. The ITA II process also started with a three month "open season," beginning in October 1997 in which participants had the opportunity to identify their priorities for this process. .

Prospects for 1998

Following the process established in March 1997, participants began negotiations in January 1998, with a view to reaching agreement on any amendments or modifications to the ITA by July 1998 and to implementing those changes on January 1, 1999. To date, 26 participants have submitted proposals for product expansion. The Committee also will continue its work on customs classification issues and non-tariff measures. The Administration has solicited advice and public comment on ITA coverage issues. The response has been overwhelming, indicating that there is substantial interest in forging a comprehensive and ambitious ITA II

Global Electronic Commerce

Status

This year $8 billion will be spent on the Internet. The *New York Times* estimates that by 2002, $327 billion will be spent on goods and services, representing a 4000% increase in a five-year period. *The Economist* reports that 5 million people have already made purchases online and

that by the year 2000, 46 million American consumers will be spending $350 each online.

In July 1997, President Clinton released a "Framework on Global Electronic Commerce" which sets out the Administration's policy for fostering the growth of electronic commerce by encouraging the private sector to lead in the development of solutions to the policy challenges. In a memorandum to federal agencies, the President instructed USTR, *inter alia,* to work on two issues: creating a duty-free environment for electronic transmissions and implementing the commitments on basic telecommunications made by 70 countries in the WTO.

Major Issues in 1997

USTR is a member of the interagency task force working on global electronic commerce issues. The task force is chaired by officials from the President and Vice President's offices. In the final six months of 1997, the task force held numerous official consultations at the bilateral and regional level. As a result of these consultations, joint statements on global electronic commerce were reached with the governments of The Netherlands and the European Union; in addition, at their meeting in Vancouver in November 1997, the leaders of the Asia-Pacific Economic Community (APEC) assigned ministers with the task of conducting work on electronic commerce issues. Information about the task force's activities can be found on the Worldwide Web at "www.ecommerce.gov".

In pursuing electronic commerce issues in 1997, USTR focused its activities on the two areas assigned to it by the President. The first activity is to lock-in current practice regarding the duty-free treatment of electronic transmissions. Currently, no country imposes customs duties on electronic transmissions because no country treats electronic transmissions as importations for customs duty purposes. This current practice applies both to transmissions of "digitized content" or "information products", as well as of services. USTR believes that countries should work together to codify this practice in the WTO. In addition, USTR believes that the WTO should look at ways to use electronic commerce to enhance trade, particularly in the areas of government procurement and trade facilitation

The second activity concerns the networks that form the backbone of electronic commerce. These networks will be built faster and of higher quality if there is more competition in telecommunications services. Increased competition is one of the result of the WTO basic telecommunications agreement. Under USTR's leadership, the WTO Agreement on Basic Telecommunications entered into force on February 5, 1998.

Prospects for 1998

USTR will continue as an active member of the global electronic commerce task force and thus serve as the chief advocate of the U.S. trade and investment related issues. Consultations on locking-in a duty-free environment for the internet will intensify, particularly in the WTO, as will work on integrating electronic commerce into the process of facilitating trade. Regional activities, in APEC and in the Free Trade Agreement of the Americas (FTAA), will continue in 1998, as will discussions with key trading partners including Canada and Japan.

As the issues surrounding electronic commerce become better understood by policy makers around the globe, it is likely that they will take an increasingly more important place in trade-related discussions. Thus, it is very likely that issues that today are handled as routine matters by technical experts will increasingly become trade-related matters. USTR will have a central role in the resolution of these issues as they emerge.

Plurilateral Agreements

Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement), was concluded in 1979 as part of the

"Tokyo Round" of multilateral trade negotiations and last amended in 1986. While the Aircraft Agreement was not renegotiated during the "Uruguay Round," it remains fully in force and is included in Annex 4 to the WTO as a plurilateral trade agreement.

The Aircraft Agreement requires Signatories to eliminate duties on civil aircraft, their engines, subassemblies and parts, ground flight simulators and their components, and to provide these benefits on a MFN basis to all WTO members. On non-tariff issues, the Aircraft Agreement establishes international obligations concerning government intervention in aircraft and aircraft component development, manufacture and marketing, including:

Government-directed procurement actions and mandatory subcontracts: The Agreement provides that purchasers of civil aircraft (including parts, subassemblies, and engines) shall be free to select suppliers on the basis of commercial considerations and governments shall not require purchases from a particular source.

Sales-related inducements: The Agreement states that governments are to avoid attaching political or economic inducements (positive or negative linkages to government actions) as an incentive to the sale of civil aircraft.

Under Article II.3 of the Marrakesh Agreement, the Aircraft Agreement is part of the WTO Agreement, but only for those members who have accepted it and not for all WTO members. The Aircraft Agreement currently has 23 signatory parties (a complete list is provided in the back ground information at the end of this chapter). In addition, accession applicants, China, the Russian federation and Chinese Taipei, have observer status in the Committee. The IMF and UNCTAD are also observers.

Major Issues in 1997

The Aircraft Committee, permanently established under the Aircraft Agreement, affords the Signatories an opportunity to consult on the operation of the Agreement, to propose amendments to the Agreement and to resolve any disputes. The Signatories established in 1992 an ad hoc Subcommittee on Negotiations to examine ways to substantively improve the Agreement through negotiations, pursuant to Article 8.3. During 1997, the full Committee met two times; the Subcommittee did not meet.

The Committee continued to discuss the technical rectification of the Aircraft Agreement to conform certain terminology to that which is used in the WTO. While no decision could be taken, the Signatories will continue to consult concerning the technical revision necessary to adapt the Aircraft Agreement to the WTO. The United States raised concerns that certain certification requirements and specifications on operating procedures established by some national aviation authorities may be being used as trade barriers rather than based on legitimate safety needs. The United States also expressed concern regarding continuing reports of inducements being offered and unreasonable pressures being brought on aircraft purchasers in connection with several recent international aircraft competitions, as well as charges of bribery and corruption of officials in connection with some sales.

Prospects for 1998

The United States will continue to seek to conform the Aircraft Agreement with the new WTO framework while maintaining the existing balance of rights and obligations. Notwithstanding the failure to achieve technical rectification, the United States also has made it a high priority for countries with aircraft industries that are seeking membership in the WTO to become signatories to the existing Aircraft Agreement. In addition, other countries that might procure civil aircraft products, but are not currently significant aircraft product manufacturers, are being encouraged to become members of the existing agreement in order to foster non-discriminatory and efficient selection processes for aircraft products solely based upon product quality, price and delivery.

With respect to the continuation of negotiations to substantively revise the agreement, the United States will seek to assure that any results are consistent with the scope and disciplines contained in the 1992 bilateral U.S.-EU agreement on large civil aircraft and maintain the full application of the WTO Agreement on Subsidies and Countervailing Measures to aircraft products.

Committee on Government Procurement

Status

The WTO Government Procurement Agreement (GPA), which entered into force on January 1, 1996, is a "plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO members that specifically signed it in Marrakesh or that subsequently acceded to it. The GPA's current membership includes the United States, the member states of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom), Aruba, Canada, Hong Kong, Israel, Japan, Liechtenstein, Norway, the Republic of Korea, Singapore and Switzerland. Chinese Taipei and Panama are in the process of negotiating accession to the GPA, although by the terms of the GPA, Chinese Taipei must become a WTO member prior to GPA accession.

Major Issues in 1997

In its Report to the Singapore Ministerial Conference, the Committee on Government Procurement, which monitors the GPA, stated its intention to undertake an "early review" of the GPA starting in 1997. The review would be aimed at implementation of Article XXIV:7(b) and (c) of the GPA, which call for further negotiations to achieve the following objectives:

- simplification and improvement of the GPA, including, where appropriate, adaptation to advances in the area of information technology and streamlined procurement methods;
- expansion of coverage of the GPA; and
- elimination of discriminatory measures and practices which distort open procurement.

An additional objective of the review is to stimulate expanded membership of the GPA by making the Agreement more accessible to non-signatories.

In 1997, the Committee concentrated its efforts on the review of the GPA and preparation for further negotiations. GPA signatories began to identify areas for possible simplification and improvement of the Agreement, which was originally negotiated during the Tokyo Round of Multilateral Trade Negotiations in the 1970s. In particular, the United States emphasized the importance of ensuring that the GPA's rules accommodate the use by governments of new information technologies in government procurement procedures. Many governments now use electronic forms of publication for procurement notices and other documents to improve dissemination capabilities and lower costs for both suppliers and governments. The United States believes it is imperative that the GPA not become an obstacle to such improvements in the operation of procurement systems. The United States also advocated that the review address modifications to the GPA to take into account other advances in procurement procedures, including simplified procedures that allow for greater efficiency and openness in procurement.

Prospects for 1998

In 1998, the Committee on Government Procurement will continue work on the review of the GPA. Specifically, GPA signatories will discuss specific proposals for modification of the Agreement's rules regarding procurement procedures. In addition, the signatories will begin to discuss areas for expanding the coverage of the Agreement and eliminating discriminatory procurement measures.

The Committee will also begin to monitor implementation of the Agreement by signatories. This will entail review and discussion of notifications submitted by each signatory setting forth its domestic legislation and other measures necessary for implementing the GPA.

It is anticipated that accession negotiations with Chinese Taipei and Panama will continue and that accession negotiations with Bulgaria and Mongolia will commence. The United States has made membership in the GPA a priority for most all of the WTO accession negotiations.

The United States will seek to initiate and conclude negotiation of such an agreement as early as possible and will work to ensure development of an agreement that promotes transparency, openness and due process in government procurement.

International Meat and Dairy Councils

Status

Effective January 1, 1998, the agreements underlying these councils, the International Bovine Meat Agreement (IBMA) and the International Dairy Agreement (IDA), are terminated. As such, the councils themselves no longer exist. The IBMA and the IDA were voluntary plurilateral agreements. Obligations for members were limited to providing information on market developments in the beef and dairy sectors, respectively. The United States was a member of the IBMA, but not the IDA.

Major Issues in 1997

The major issue in 1997 for both councils was the termination of both agreements. For some time, activities under these agreements consumed approximately 50 percent of the resources of the GATT agriculture division. The conclusion of the Uruguay Round resulted in the establishment of a significant number of new reporting requirements, increasing the data collection burden on members and the reporting work of the WTO Secretariat. Recognizing this, WTO Members sought ways to focus resources on these higher priority activities and away from the activities under the IBMA and the IDA. The United States actively supported this process, as these Agreements did little to advance the substantive work of the WTO and are more appropriately conducted in other fora.

1.A list of WTO Accession applications and their status is in the annex to this chapter.

2.For further information see also the Joint Report of the United States Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to the Congress*, February 1998.

3.As of this writing, since entry into force of the Agreement, no Member has notified a subsidy to the Committee under the provisions applicable to green light status.

4.Under the Uruguay Round Agreements Act, " as soon as practicable after the close of the three-year period" following the entry into force of the TBT Agreement, USTR is required to prepare and submit to Congress a report containing an evaluation of the operation of the WTO Agreement. This report is intended to fulfill this statutory requirement.

5.The European Communities, Korea, Slovenia ans South Africa. The fifth, Cyprus, was asked to provide a written statement on the subject.