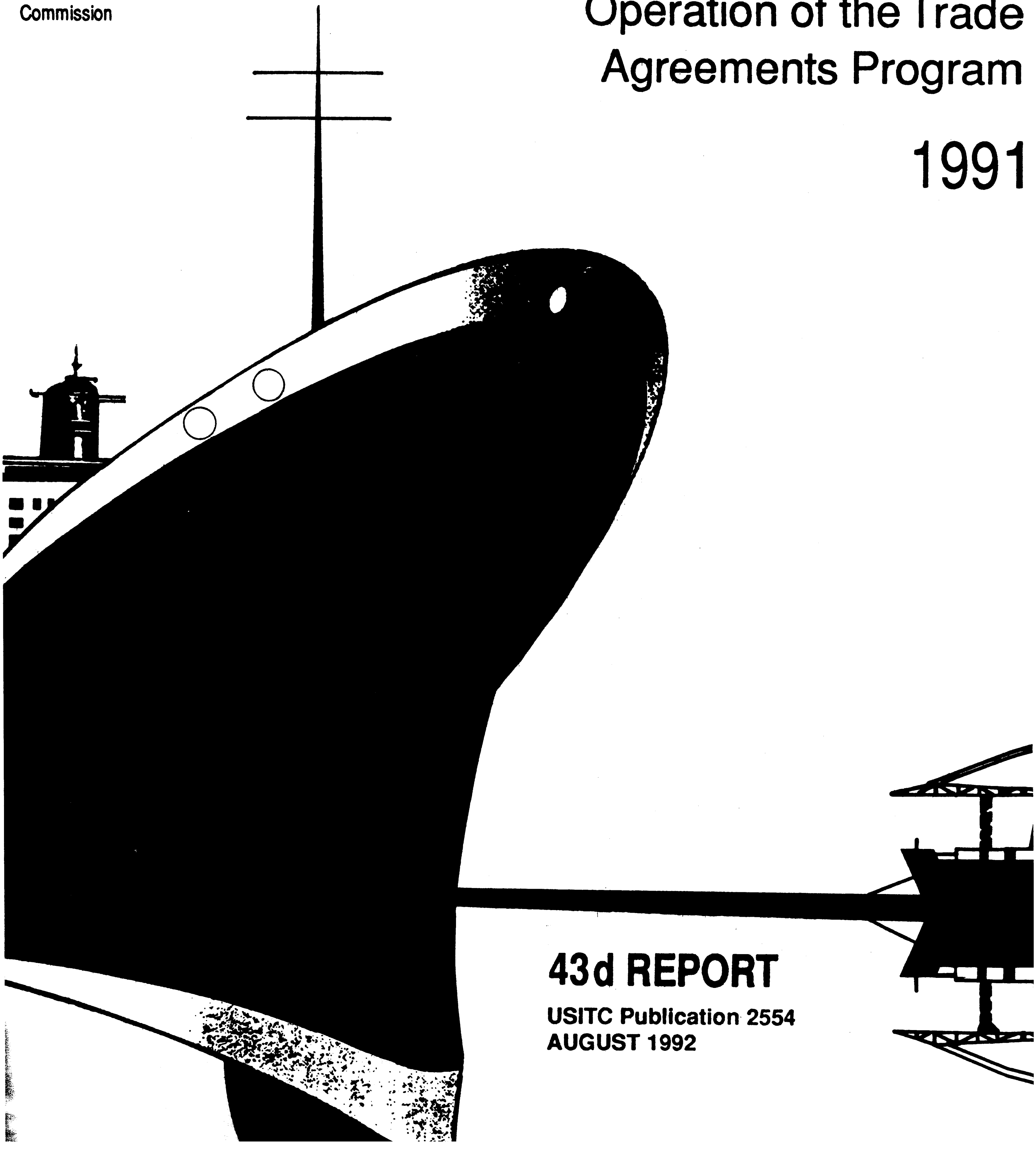
United States
International
Trade
Commission

THE YEAR IN TRADE

Operation of the Trade Agreements Program

1991



43d REPORT

USITC Publication 2554
AUGUST 1992

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Address all communications to
Secretary of the Commission
United States International Trade Commission
Washington, DC 20436

THE YEAR IN TRADE:
OPERATION OF THE TRADE AGREEMENTS PROGRAM

43d REPORT
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Report prepared principally by
Office of Economics

Joseph F. Francois
Acting Director

Martin F. Smith
Chief, Trade Reports Division

Kim S. Frankena
Chief, Major Trading Nations Branch

Vivian Noble
Paul Gibson
Project Leaders

Joanne E. Guth
Constance A. Hamilton
Thomas F. Jennings
Magdolna B. Kornis
Diane L. Manifold
Todd T. Schneider
James E. Stamps
Edward C. Wilson
Michael S. Youssef

Office of Investigations
Anita Miller

Office of the General Counsel
Andrea C. Casson
William T. Kane
Lyle Vander Schaaf

Office of Tariff Affairs and Trade Agreements
Janis Summers

Office of Industries
Mary Elizabeth Sweet

Office of Unfair Import Investigations
Jeffrey Whieldon

Office of Management Services
David Saia, chief editor
Clifford Brown, Helen Troupos, associate editors
Pamela Chase, chief designer
Keven Blake, Joyce Bookman, and Paulette Henderson, designers

With the assistance of
Dean Moore and
interns Sandra Burnis and Cortney Todd

Supporting assistance was provided by:
Paula Wells, secretarial services
Linda Cooper, clerical services

PREFACE

The annual *Operation of the Trade Agreements Program* report is one of the principal means by which the U.S. International Trade Commission (USITC) provides the U.S. Congress with factual information on trade policy and its administration. The report also serves as an historical record of the major trade-related activities of the United States, for use as a general reference by Government officials and others with an interest in U.S. trade relations. This report is the 43d in a series submitted under section 163(b) of the Trade Act of 1974 and its predecessor legislation.[1] The trade agreements program includes "all activities consisting of, or related to, the administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution" and congressional legislation.[2] Among such laws are the Reciprocal Trade Agreements Act of 1934 (which initiated the trade agreements program), the Trade Expansion Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, and the Omnibus Trade and Competitiveness Act of 1988.

The report consists of an introduction, five chapters, a statistical appendix, and an index. The introduction sketches the economic and international trade environment within which U.S. trade policy was conducted in 1991. Chapter 1 treats selected topics in trade. Chapter 2 focuses on activities in the General Agreement on Tariffs and Trade (GATT), the main area of multilateral trade agreement activities. Activities outside the GATT are reported in chapter 3. Chapter 4 discusses bilateral relations between the United States and its major trading partners. Chapter 5 discusses the administrative actions taken under U.S. laws, including decisions taken on remedial actions available to U.S. industry and labor. The period covered in the report is calendar year 1991, although events in early 1992 are occasionally mentioned, to help the reader understand developments more fully.

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

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

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List of Frequently Used Abbreviations and Acronyms

ATPA	Andean Trade Preference Act
BIT	bilateral investment treaty
CAP	Common Agricultural Policy
CBERA	Caribbean Basin Economic Recovery Act
CCC	Customs Cooperation Council
CFTA	U.S.–Canada Free–Trade Agreement
EAI	Enterprise for the Americas Initiative
EC	European Community
FTA	free–trade agreement
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
HS	Harmonized System
IPR	intellectual property rights
MFA	Multifiber Arrangement
MFN	most favored nation
MOSS	market–oriented, sector–selective
NAFTA	North American Free–Trade Agreement
NICs	newly industrializing countries
NTMs	nontariff measures
OECD	Organization for Economic Cooperation and Development
SII	Structural Impediments Initiative
SITC	standard international trade classification
TAA	trade adjustment assistance
TRIPs	trade–related aspects of intellectual property rights
TRIMs	trade–related investment measures
UNCTAD	United Nations Conference on Trade and Development
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
VRA	voluntary restraint agreement

INTRODUCTION

Trade Policy in 1991

The year 1991 saw the emergence of several cross-cutting trends in trade policy. In the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), efforts to reach a multilateral consensus on liberalizing global trade were stymied by a U.S.-EC disagreement on agriculture. Although some progress was made during the year in areas such as services, the overall effect of the disagreement was to slow momentum in the Round and to encourage major trading nations to pursue their commercial objectives through other means and forums. There was a spate of highly publicized disputes between the United States and its major trading partners, as well as more purposeful efforts toward forging regional accords, such as the proposed North American Free-Trade Agreement (NAFTA) among the United States, Canada, and Mexico. Some viewed this trend toward creating regional spheres of economic influence as a threat to the multilateral trading system. Others, notably environmentalists, worried that stronger international trade disciplines might limit the options available to achieve environmental protection. The year also saw a rise in the use of trade policy for foreign policy purposes, as the major industrialized countries launched trade liberalization initiatives intended to integrate the former Communist countries into the global market. (See figure 1 for a listing of significant events in trade during the year.)

The stated U.S. trade policy priority in 1991 was the successful conclusion of the GATT Uruguay Round, which has been in progress for more than five years. The negotiations, which had stalled at the end of 1990, were resumed in February 1991. The talks, however, continued to be weighted down by the issue of agriculture, leading GATT Director-General Arthur Dunkel to introduce his own draft version of a final text in December. Despite the mixed reception it received, the 1991 Dunkel text was the most comprehensive text yet to emerge from the Uruguay Round. It was still being reviewed by Round participants at year's end.

The focus for U.S. trade policy on the regional level was the negotiation of a NAFTA with Mexico and Canada. Building on the free-trade agreement negotiated between Canada and the United States in 1988, the NAFTA is projected to create a free market of some 360 million consumers, with a total output of $6 trillion. President Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney announced in early February that they would seek a trilateral NAFTA; the next month, President Bush formally requested an extension of "fast-track" negotiating authority from Congress to pursue the NAFTA (and Uruguay Round) negotiations. Congress could have disapproved U.S. participation, but resolutions to do so were defeated in late May. The NAFTA negotiations were formally inaugurated in Toronto in mid-June, and were still in progress at year's end.

Once it is concluded, the NAFTA is expected to serve as a model for the negotiation of free-trade agreements with other Latin American countries, as envisioned by President Bush's Enterprise for the Americas Initiative (EAI). In 1991 framework trade agreements were concluded under the auspices of the EAI with 24 nations in Latin America and the Caribbean, bringing to 30 the total number of such agreements concluded since the EAI was announced in 1990. Countries in these regions were also the target of U.S. preference programs such as the ongoing Caribbean Basin Economic Recovery Act (CBERA), which accounted for $1.1 billion in duty-free U.S. imports in 1991, and the new Andean Trade Preference Act (ATPA), which is aimed at slowing drug traffic from such nations as Bolivia, Colombia, Ecuador, and Peru by enhancing their legitimate trade revenues. The ATPA was enacted late in the year.

On a more global scale the U.S. Generalized System of Preferences (GSP) program provided duty-free entry for $13.4 billion in U.S. imports from more than 130 countries, representing an increase of more than $2 billion from the previous year. With the demise of communism in Eastern Europe, the U.S. GSP program expanded to new territory in 1991: the Czech and Slovak Federal Republic and Bulgaria both became eligible for GSP treatment in the course of the year. (Immersed in a bitter ethnic civil war Yugoslavia was, in contrast, suspended from the program.)

In addition, President Bush announced in March the Trade Enhancement Initiative, which is designed to improve bilateral trade between the United States and the formerly Communist states of Central and Eastern Europe. Concerning the Soviet Union, the United States renewed its long-term grain agreement in January, for a period of 5 years. However, given the demise of the Soviet Union on Christmas Day, and its devolution into 12 independent republics, the future of the agreement—and of general trade relations with the region—became uncertain.

Figure 1
Dates in Trade, 1991

JANUARY	
January 1:	U.S.-Soviet Union Long-Term Grain Agreement enters into force
FEBRUARY	
February 5:	President Bush, President Salinas, and Prime Minister Mulroney announce intention to pursue trilateral North American Free-Trade Agreement (NAFTA)
February 26:	GATT Uruguay Round talks resume
MARCH	
March 1:	President Bush formally requests Congress for renewal of fast-track authority to pursue a NAFTA with Canada and Mexico and to complete the GATT Uruguay Round
March 26:	Treaty of Asuncion signed by Brazil, Argentina, Paraguay, and Uruguay, establishing Southern Common Market (MERCOSUR)
March 30:	President Bush announces Trade Enhancement Initiative
APRIL	
April 25:	Czech and Slovak Federal Republic granted GSP benefits
MAY	
May 22:	First annual report on Structural Impediments Initiative (SII) released
May 24:	Senate rejects resolution denying renewal of fast-track authority (for negotiating Uruguay Round and NAFTA) by a vote of 59-36
JUNE	
June 1:	United States and Japan conclude agreement on construction-related services
June 4-5:	Annual ministerial meeting of the Organization for Economic Cooperation and Development (OECD)
June 11:	United States and Japan formalize new semiconductor agreement
June 12:	NAFTA negotiations initiated in Toronto
JULY	
July 23-24:	Market-oriented sector selective (MOSS) talks on auto parts held between United States and Japan in Tokyo
AUGUST	
August 1:	Multifiber Arrangement extended for fourth time, to December 31, 1992
August 1:	Draft of U.S.-Mexico Integrated Border Environmental Plan released
SEPTEMBER	
September 15:	Mexico and Chile sign free-trade accord
OCTOBER	
October 22:	EC and EFTA (European Free-Trade Association) agree to form European Economic Area (EEA)
October 29:	President Bush announces embargo on nonhumanitarian exports to and most imports from Haiti
NOVEMBER	
November 27:	Congress approves Andean Trade Preference Act (ATPA)
DECEMBER	
December 3-4:	47th meeting of GATT contracting parties
December 4:	President Bush signs ATPA
December 4:	President Bush invites high-level U.S. auto executives to participate in mission to Japan
December 4:	Bulgaria receives GSP benefits
December 5:	Yugoslavia suspended from eligibility for GSP benefits
December 9-10:	At Maastricht summit, EC members agree to text of Treaty on European Union
December 14:	Presidents Bush and Salinas meet at Camp David, reaffirm commitment to NAFTA
December 20:	GATT Director-General Arthur Dunkel releases draft final text of Uruguay Round agreement
December 25:	Soviet Union is dissolved

The Office of the United States Trade Representative (USTR) initiated six investigations relating to unfair trade practices under section 301 of the Trade Act of 1974—double the number initiated in the previous year. Two of the investigations focused on intellectual property, an area of particular concern for U.S. trade policy makers. An increase in the number of filings under the U.S. antidumping and countervailing-duty laws was seen as likely in light of President Bush's 1991 announcement that he would allow voluntary export restraints on steel to expire in early 1992.

A handful of U.S. disputes with major trading partners—Japan, the EC, and Canada—dominated bilateral relations and attracted considerable press attention in 1991. The $44.3 billion U.S. merchandise deficit with Japan, continued high imports of Japanese autos and auto parts, and the persistent U.S. recession all led to calls by members of Congress and the U.S. auto industry for protection and Japanese concessions. In early December President Bush invited the chief executive officers of Chrysler, Ford, and General Motors to accompany him on a winter "trade mission" to Tokyo. For its part, Japan put protectionist sentiment on display in an incident in March, when Japan's Ministry of Agriculture demanded the removal of samples of raw U.S. rice at the Tokyo Trade Fair. Nevertheless, bilateral negotiations continued on a number of other issues. Progress was announced on such measures as the Structural Impediments Initiative, which seeks to identify and remove basic impediments to trade, competition, and balance-of-payments adjustments. Additional progress came when U.S. and Japanese negotiators agreed in June on a revised, 5-year U.S.-Japanese Semiconductor Arrangement, and with the expansion of an agreement on construction-related services to permit U.S. firms to bid on more Japanese public-works projects.

Longstanding disputes over oilseeds, meat imports, and Airbus Industrie continued to color U.S. trade relations with the EC. Particularly contentious was the issue of the EC's Common Agricultural Policy (CAP). In July the EC Commission made a formal proposal to reform the CAP radically, which was still being debated at year's end. The EC continued its march toward economic and monetary union and a measure of political union as well. In 1991 its efforts culminated in the Treaty on European Union, the result of a 2-day, 12-member conference held in December in the Dutch city of Maastricht. The EC also concluded an agreement in October for a European Economic Area with the seven countries of the European Free-Trade Association.

Present and future trade agreements with the United States were the focus of considerable attention in Canada, the United States' single largest trading partner. As the Canadian Government sought to avert a constitutional crisis that could lead the Province of Quebec to secede from Canada, the issue of whether an independent Quebec would be included in the U.S.-Canada Free-Trade Agreement (CFTA) arose. In its 3d year of operation in 1991, the CFTA had increased bilateral trade by 13.9 percent, according to U.S. estimates. Nonetheless, the pact received a measure of criticism in recession-plagued Canada, where many complained that it had caused significant job losses. Adding to the tension were unusually heated disputes between the two countries that centered on pork, softwood lumber, and beer. These disputes, however, did not appear to obstruct the NAFTA negotiations that Canada was conducting with the United States and Mexico.

In light of the NAFTA negotiations, Mexican trade disputes with the United States were down-played. The largest dispute, over a U.S. embargo on Mexican tuna, was referred to a GATT panel, which in September circulated a report that largely supported the Mexican position; however, both countries subsequently requested that the issue be removed from GATT consideration so they might resolve it between themselves. Mexico indicated its increasing commitment to open trade throughout 1991 by enacting legislation that more vigorously protects intellectual property rights, by continuing its massive program of privatization, and by concluding a free-trade agreement with Chile. Mexico also worked toward dismantling its import-licensing requirements. This move was echoed in Brazil and Taiwan, which also sought to lower tariffs and other barriers to trade. Joining with Argentina, Paraguay, and Uruguay, Brazil signed the Treaty of Asuncion in March, agreeing to establish the Southern Common Market.

The increasing emphasis on plurilateral trade pacts that characterized the 1991 world trading environment helped to focus unprecedented attention on a new consideration: the relationship (and tensions) between trade and environmental policy. Congressional and public concern over the environmental effects of a NAFTA, for example, led the Bush administration to make a commitment to address the subject "in parallel" with the NAFTA negotiations. In May the GATT Council held a structured debate centered on environmental issues, and a good portion of the annual Ministerial statement issued by the Organization for Economic Cooperation and Development (OECD) was devoted to trade and the environment. Further, domestic restrictions to achieve environmental goals were introduced or enacted in a number of nations, including the United States and the countries of the EC. Such efforts seem likely to expand in coming years, but the effect that they will have on trade initiatives in the United States and elsewhere remains to be seen.

The International Economic Environment in 1991

World output and trade grew relatively slowly in 1991. World real output grew at an estimated annual rate of 1.2 percent in 1991, in contrast to actual growth rates of 2.1 percent in 1990 and 3.3 percent in 1989.

The slowdown reflected sluggish growth in major industrial countries and actual declines in output in the Middle East, Latin America, Eastern Europe, and the former Soviet Union.

Concomitant with the slowdown in world output was a slowdown in world trade growth. GATT estimates show that the nominal value of world trade expanded by 1.5 percent in 1991, compared with an increase of 13.5 percent in 1990. The 1991 increase was the smallest since 1983 and reflected weak investment spending in export-oriented industries. Further, the breakdown of the trading system among the former Eastern Bloc countries dramatically reduced these countries' trade with one another.

In the 24 countries of the OECD as a group, output grew by an estimated 1.1 percent in 1991, down from an actual growth rate of 2.6 percent in 1990 and 3.3 percent in 1989. Inflation is estimated at 4.8 percent in 1991—slightly lower than the 4.9-percent inflation rate in 1990 but higher than the 4.3-percent inflation rate in 1989. Unemployment is estimated to have risen to 6.8 percent in 1991 from 6.2 percent in 1990 and 1989. OECD exports increased by 2.5 percent in 1991, compared with an increase of 5.1 percent in 1990; imports increased by 3.1 percent, compared with a 5.0-percent increase in 1990.

Debt remained a major concern for developing nations, whose collective external debt rose in nominal value by 4.4 percent in 1991. The IMF's developing-country debt table shows that the external debt of these countries rose by an estimated $56 billion, to $1,362.2 billion in 1991. Exchange-rate adjustments, a net rise in interest rates, and rescheduled interest arrears increased the debt stock. Some indebted countries experienced faster growth in exports than in debt, and thus their creditworthiness improved somewhat. However, arrears of the severely indebted groups grew rapidly.

North America

United States

In the United States real growth slowed in 1991. Real gross domestic product (GDP) fell in 1991 by 1.2 percent, compared with an increase of 1.0 percent in 1990. With inflation slowing to an annual rate of 4.0 percent, down from 5.0 percent in 1990, the Federal Reserve concentrated in 1991 on strengthening domestic demand by cutting bank reserve requirements and key interest rates to their lowest levels in many years. However, in spite of the Federal Reserve's progressive easing of monetary policy, sagging consumer confidence, high levels of consumer and business debt, and more cautious bank lending practices combined to limit demand growth. Private consumption spending increased by just 0.3 percent in 1991, down from an increase of 1.2 percent in 1990. Public spending, restrained by the recession and by the Omnibus Budget Reconciliation Act, increased by a meager 0.7 percent after increasing by 3.2 percent in 1990. Domestic private fixed investment declined by 6.6 percent. Moreover, the Federal budget deficit deepened in 1991. The economic slowdown reduced Government revenue at the same time that a massive bailout of savings and loan institutions required higher outlays, suggesting that in spite of a hard-fought 1990 budget compromise, tremendous efforts may still be needed to balance the budget. According to Congressional Budget Office estimates, the Federal deficit was expected to grow from $220.5 billion in 1990 to $268.7 billion in 1991. Slow economic growth increased the unemployment rate to 6.7 percent from 5.5 percent in 1990.

The United States regained its position as the world's largest merchandise exporter in 1991, after losing it to the Federal Republic of Germany in 1990. In 1991 the U.S. merchandise trade deficit reached its lowest level since 1983, declining to $66.2 billion from $101.7 billion in 1990. Exports rose by 7.2 percent in 1991 to an all-time high of $421.9 billion from $393.6 billion in 1990, and imports declined by 4.6 percent, to $488.1 billion, from $495.3 billion in 1990. Exports grew in almost every end-use category: capital goods gained 9.2 percent, automotive vehicles and parts gained 6.7 percent, consumer goods gained 6.5 percent, and industrial supplies and materials gained 4.6 percent. Exports of manufactures grew by 9.3 percent, to $325.9 billion, and constituted 77.3 percent of total exports. Within the manufactured goods category, exports of advanced-technology products grew by 7.0 percent; the United States ran a trade surplus in these products of $36.7 billion in 1991. Other exporting sectors showed balanced growth and contributed variably to total exports. Airplanes and parts, scientific instruments, specialized industrial machinery, and general industrial machinery contributed markedly to the surge in U.S. exports in 1991. Imports of oil declined to $37.2 billion in 1991 from $43.8 billion in 1990.

U.S. trade performance improved significantly in 1991 with all its major trading partners except Japan and China. The 1991 merchandise trade deficit with Canada declined by around $1.7 billion, and the trade deficit with the newly industrializing countries (NICs) declined by about 45 percent, to $1.8 billion from $3.2 billion. Most notable was the large decline in the U.S. trade deficit with the Organization of Petroleum Exporting Countries (OPEC). This deficit declined by around $11.0 billion to $13.9 billion, due to decreasing oil prices. The trade surplus with the EC increased fourfold, to $16.7 billion. U.S. total trade (exports plus imports) with Eastern European countries grew to $6.6 billion in 1991 from $6.4 billion in 1990. The United States incurred a trade surplus with the former Soviet Union of $2.0 billion in 1991 and a small trade deficit with other Eastern European countries. The 1991 trade deficit with Japan increased by $2.3 billion, to $43.4 billion. U.S. exports to Japan amounted to $46.1 billion, and imports amounted to $90.5 billion. The deficit with China increased by $2.2 billion, to

$12.7 billion in 1991, and U.S. total trade with China climbed to $25.3 billion from $20.0 billion in 1990.

Surges in exports of goods and services and in the surplus in transfer payments reduced the U.S. current account deficit. The deficit dropped to $8.6 billion in 1991 from $92.1 billion in 1990. This marked decline reflected a dramatic decrease in the merchandise trade deficit, an increase in the surplus in services transactions, and an increase in the surplus in transfer payments (mainly due to contributions from U.S. allies for the Persian Gulf War). The U.S. surplus in services trade increased to $35.9 billion from $26.4 billion in 1990. The surplus on unilateral transfers reached $19.7 billion in 1991, following a deficit of $22.3 billion in 1990. In contrast the U.S. surplus in income from foreign investment declined to $9.4 billion in 1991, compared with a surplus of $12 billion in 1990, because of the decline in earnings of U.S. affiliates abroad. These earnings were depressed by the economic slowdown in the major industrial countries and the sharp drop in foreign interest rates. Net inflows of capital into the United States declined to $11.8 billion in 1991 from $28.6 billion in 1990, reflecting increased U.S. purchases of foreign portfolio assets and declining participation by foreigners in the U.S. securities market.

Canada

In Canada, a deep recession seemed to have ended in the second quarter of 1991, after four consecutive quarters of output contraction. Although economic activity started picking up after the 1991 second quarter, output for 1991 as a whole declined by 1.5 percent, following the positive growth rate of 0.5 percent in 1990. The upturn in economic activity in the second half of 1991 was a result of growth in government spending on public investment and growth in foreign demand. Canada's trade surplus was $9.3 billion in 1990 but fell to $6.4 billion in 1991 as a strong Canadian dollar hurt exports. Canada's deficit on the current account, moreover, increased to $23.4 billion from $18.9 billion in 1990. Canada's consumer price index rose by 5.6 percent in 1991, up from 4.8 percent in 1990, reflecting the introduction of the Goods and Services Tax and other indirect tax increases. The unemployment rate rose to 10.3 percent from 8.1 percent in 1990.

Mexico

In Mexico output grew by an estimated 4.0 percent in 1991. Consumer price inflation rose by 18.8 percent. Expectations for lower inflation were improved by Mexico's adoption of fiscal restraint policies, which generated a surplus of $1.4 billion in the budget, following a deficit of $3.2 billion in 1990. The surplus was supplemented by the privatization of the Government telephone company (TELMEX) and other former Government-owned firms. Oil exports amounted to around $7.5 billion in 1991. Total merchandise exports grew to $27.2 billion, and imports grew to $38.0 billion, resulting in a trade deficit of around $10.8 billion. Foreign investment flows are expected to increase and help finance Mexico's current account deficit, which is estimated to reach more than $4 billion in 1991. An improvement in invisible receipts from services and tourism, combined with a fall in Mexico's interest payments on external debt, was expected to bring the services account deficit down to $4.3 billion in 1991 from $5.7 billion in 1990. Capital inflows soared in 1991, with portfolio investment showing the most dramatic increase, followed by inflows of direct investment and new loans to the private and public sectors. Such inflows produced a substantial capital account surplus and an increase in Mexican reserves of $7 billion in 1991.

European Community

In the European Community (EC) as a whole output growth slowed to an average of 1.4 percent in 1991, compared with actual growth of 2.9 percent in 1990 and 3.5 percent in 1989. EC world exports increased slightly, to $1.11 trillion in 1991 from $1.1 trillion in 1990; imports increased to $1.2 trillion from $1.1 trillion in 1990, resulting in a trade deficit ($95.6 billion) that was almost double the trade deficit in 1990 ($47.7 billion). Inflation declined to 5.0 percent from 5.2 percent in 1990, and unemployment increased slightly, to 8.6 percent from 8.4 percent in 1990. EC economic and monetary policies have been determined by EC moves toward fuller economic and monetary integration. The first stage toward economic and monetary union (EMU) will include the completion of the single market, full participation of all EC currencies in the narrow band of the exchange-rate mechanism (2-1/4 percent on each side), and enhanced policy coordination. Obstacles remain, however, with regard to major issues such as the role of the European Currency Unit in replacing national currencies, the nature and length of the transition period to full economic and monetary union, the constraints to be placed on national budget policies, and the design and powers of the new European System of Central Banks. Similarly the approximation of the value-added tax and excise duty rates, rate structures, and documentation requirements continued to represent a difficult challenge for the EC. Resolution of the indirect tax issue is necessary as a prerequisite to the removal of customs frontiers at the end of 1992 under the EC 92 program. However, considerable progress was made during 1991, and it appeared likely that agreement on the necessary tax issues could be reached in 1992.

Germany

In Germany real output grew by 3.2 percent in 1991, compared with 4.5 percent in 1990 and 3.8 percent in 1989. Consumer prices increased by 3.4 percent in 1991 due to an increase in indirect taxes, compared with increases of 2.6 percent in 1990 and 3.1 percent in 1989. Investment in plant and equipment rose by 10 percent in 1991, compared with a 12.9-percent increase in 1990. Investment as a ratio of gross national product (GNP) rose to 22.2 percent, the highest since 1973, from 21.5 percent in 1990. Germany's unemployment rate was 6.4 percent in 1991, down from 7.2 percent in 1990 and 7.9 percent in 1989. Germany's merchandise exports declined to $383 billion in 1991 from $391 billion in 1990, and imports increased to $363 billion from $318.1 billion in 1990. As a result Germany's 1991 merchandise trade surplus declined to $20 billion from $72.9 billion in 1990. Germany's current account surplus of $47.9 billion in 1990 turned into a deficit of $21 billion (6 percent of GNP) in 1991, reflecting both increased spending on imports of capital goods (following German reunification) and public transfer payments for the 1991 Persian Gulf War. Short-term capital inflows financed the current account deficit. (The above statistics do not include the former East Germany.)

United Kingdom

The United Kingdom's recession seemed to have ended by the third quarter of 1991. Overall, output declined in 1991 by 1.9 percent, after growing by 0.8 percent in 1990. Consumer prices increased by 6.2 percent, up from 6.0 percent in 1990, and the unemployment rate climbed to 8.7 percent, up from 5.9 percent a year earlier. The monetary policy of the United Kingdom has remained tight and has continued to focus on keeping the pound within its European Monetary System bands and on attaining a low rate of inflation. Increased public consumption and exports appear to have started a modest recovery in the third quarter of 1991. British merchandise exports in 1991 increased to $184 billion from $182.5 billion in 1990, and imports declined to $201 billion from $214.5 billion. The result was a reduction of the merchandise trade deficit to $17 billion in 1991 from $32.0 billion in 1990. Reflecting the economic slowdown, which caused imports to decline, the British current account registered a lower deficit of $11 billion, down from a deficit of $24.5 billion in 1990.

Asia

In Japan economic activity continued to expand in 1991, but more slowly. In other Asian countries, the introduction of market-oriented policies that enhance the efficient allocation of resources and open up economies to free international trade improved prospects for continued economic growth. Particularly brisk output gains were recorded in the Asian NICs, which together expanded at an estimated rate of 6.3 percent. Among Asian countries economic growth has been strongest and most sustained in China, Hong Kong, Indonesia, Korea, Malaysia, Singapore, Taiwan, and Thailand. Output in these countries is estimated to have grown on average by 7 to 8 percent in 1991.

Japan

Japan's output grew by 4.5 percent, following a growth rate of 5.6 percent in 1990. Gross fixed investment expenditures grew by 4.0 percent in 1991, after growing by 10.9 percent in 1990. Administrative controls over banks' activities, in addition to more cautious bank lending and balance sheet adjustments, restricted banks' supply of new loans. However, an increase in private consumption and in public spending cushioned the impact of the decline in investment spending. Exports of goods increased by 9.6 percent, to $307 billion in 1991, from $280 billion in 1990; imports declined by 6.4 percent in 1991, to $203 billion, following an increase of 11.9 percent in 1990, to $217 billion. Japan's merchandise trade surplus grew to $103.3 billion from $63.5 billion in 1990. The rise in the trade surplus is expected to be a source of friction between Japan and its trading partners. Japan's current account surplus doubled to $72.6 billion in 1991 from $35.8 billion in 1990. Japanese industries facing tight bank credit and tight labor markets experienced declining profits. However, in spite of such constraints, the Japanese economy is still operating at a high level of capacity utilization due to labor-saving techniques and technology-enhancing investment. Business investment has been maintained at 20 percent of GNP through corporate internal financing. Inflation in Japan rose by 3.2 percent in 1991 and 3.1 percent in 1990. The unemployment rate reached 2.2 percent—0.1 percent higher than in 1990.

Korea

In the Republic of Korea output growth reached 8.5 percent, led by a surge in domestic demand, investment in housing, and high rates of investment in capital-intensive production equipment to compensate for labor shortages. Korean exports were buoyed by increasing demand in Europe and Southeast Asia, as well as by the opening of new markets in the formerly socialist countries. Exports in 1991 totaled $72 billion, up from $65 billion in 1990, and imports totaled $82 billion, up from $70 billion in 1990. The result was a trade deficit of $10 billion in 1991, up from $4.8 billion in 1990. Korea's current account is expected to show a deficit of $8.5 billion in 1991, up from a $2.1 billion deficit in 1990, largely reflecting the increase in the merchandise trade deficit. Korea's foreign reserves, excluding gold, declined slightly, by $1.3 billion to $23 billion; Korea's total external debt increased to $38.7 billion from $31.7 billion in 1990. The growth in Korea's domestic demand in 1991 led to a 10-percent inflation rate. Tight monetary policy, however, is expected to reduce Korea's inflation in 1992, in spite of the growth in wages.

Taiwan

In Taiwan output growth reached 7.0 percent in 1991, sustained by increased Government spending and easy monetary policy. With inflation stabilizing at a moderate rate of about 4 percent a year, the Central Bank cut its discount rate to boost private investment. Taiwan's trade with mainland China sharply increased: exports to China rose by 16 percent in 1991, and imports from China rose by 19.5 percent. Taiwan's total exports were around $76 billion; its total imports, around $63 billion. Taiwan's merchandise trade surplus reached $13 billion, and the current account recorded a surplus of $11.5 billion in 1991. Taiwan's foreign reserves, excluding gold, swelled to $72 billion, and its public external debt declined sharply.

Latin America

In Latin America growth has recovered in some countries following the implementation of structural economic changes. Restored confidence in the world financial markets allowed these countries a limited access to new credit. Moreover, foreign direct investment flows to these countries increased, financing deficits on their current accounts. Nonetheless, some countries—notably Brazil—continued to face severe economic setbacks in 1991.

Brazil

In Brazil the failure of yet another economic stabilization program introduced in January 1991 to stimulate strong growth and reduce inflation resulted in economic disarray in the second half of the year. Wages rose, and annual inflation crested at 466 percent. Output, though, increased in real terms by 1.0 percent, a significant improvement following a 3.8-percent contraction in 1990. A trade surplus of $10.6 billion was recorded in 1991, down from $11.1 billion in 1990. After payment of interest on foreign loans, the current account recorded a surplus of $3.0 billion in 1991, up from a surplus of $1.6 billion in 1990. Promising developments included renewed access to international capital markets by some private firms. However, the securing of a $2.0 billion standby loan from the International Monetary Fund (IMF), and an agreement with commercial banks to reschedule $52 billion in medium- and long-term debts, remained crucial to a restoration of confidence.

Eastern Europe/Soviet Union

The economies of Eastern Europe and the former Soviet Union declined at an average rate of 11.9 percent. Eastern European countries as a group recorded a loss of output at an estimated annual rate of 9.8 percent in 1991. The collapse of trade within the Council for Mutual Economic Assistance (CMEA) countries was an important element in the decline. The former Soviet Union recorded an estimated decline of output of 12.5 percent in 1991. Production bottlenecks, a reduction in imports of industrial inputs and spare parts, the collapse of traditional distribution channels, hyperinflation, and the breakdown in budgetary and monetary controls have contributed to the decline in the region's economy.[1]

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[1] The previous section was compiled using data from the U.S. Department of Commerce; *World Economic Outlook*, International Monetary Fund, May 1991; *GATT Annual Report on International Trade, 1991; IMF Survey*, Apr. 13, 1992; OECD, *World Economic Outlook*, vol. 50, Dec. 1991; *U.S. Department of Commerce News*, Mar. 17, 1992; *U.S. Department of Commerce News*, Apr. 28, 1992; *Economic Report of the President*, Feb. 1992; *Bureau of Labor Statistics Newsletter*, Mar. 1992; *Federal Reserve Bulletin*, Mar. 1992; *International Economic Review*, USITC, Mar. 1992; U.S. Bureau of the Census, Foreign Trade Division, *Report FT 900*, Feb. 15, 1992; Deutsche Bank Research, *Focus Germany: The German Economy in 1991—Investment-Led Growth*, Feb. 1992; U.S. Department of the Treasury, *Canada: Economic Situation and Outlook*, Mar. 16, 1992; IMF, *International Financial Statistics*, Apr. 1992; *Monthly Economic Review of Japan* (several issues); *Japan Economic Journal*, Dec. 15, 1992; U.S. Department of Commerce, Office of EC Affairs, *Community Fact Sheet*, Apr. 1992; Economist Intelligence Unit, *Mexico Report*, No. 11992; Economist Intelligence Unit, *Brazil Report*, No. 11992.

CHAPTER 1
Selected Topics in Trade

This chapter highlights three major developments in U.S. trade policy in 1991: the launching of negotiations toward a comprehensive North American Free-Trade Agreement (NAFTA), the ongoing Uruguay Round of Multilateral Trade Negotiations, and the relationship between trade and the environment. Free trade among the United States, Canada, and Mexico moved closer to reality when the countries' leaders resolved in February to build upon the liberalization embodied in the U.S.-Canada Free-Trade Agreement (CFTA). By the end of the year, negotiations were well under way to eliminate or further reduce barriers to the flows of goods, services, and investment among the North American partners. Progress was less noticeable in the Uruguay Round, launched in 1986 in hopes of overhauling the General Agreement on Tariffs and Trade (GATT) to reflect new market realities. The Round's collapse in December 1990 was attributed to lack of substantive agreement on numerous issues. Agriculture was the most conspicuous example, but intellectual property rights, antidumping measures, and services were also areas of contention.[1] Although the over 100 participants came back to the table in February 1991, little headway had been made by December in bridging the divide over agriculture, which was considered the linchpin for achieving progress in all other areas of the negotiations.

In addition to ongoing bilateral and multilateral trade discussions, world trading partners faced another challenge in 1991: how to address concerns about the protection of the earth's environment within a rule-based system designed to ensure predictable, nondiscriminatory commerce among nations. Recognizing the significance of this debate, the GATT and other international organizations grappled with these tensions formally by reviving or creating new forums for discussion on how best to balance the two policy goals.

North American Free-Trade Agreement

Toward an Accord

Announced on June 27, 1990, President George Bush's Enterprise for the Americas Initiative (EAI) envisioned a hemispheric free-trade area extending "from Alaska to Argentina."[2] One of the key elements in the initiative was the negotiation of a free-trade agreement with Mexico, which was to set a precedent for similar agreements with countries throughout Latin America and the Caribbean. On September 25, 1990, President Bush informed Congress of his intention to pursue negotiations for a free-trade agreement with Mexico. The President's announcement also mentioned Canada, which had signed a free-trade agreement with the United States in 1988 and wished to participate in the new negotiations.[3] On February 5, 1991, President Bush, Canadian Prime Minister Brian Mulroney, and Mexican President Carlos Salinas de Gortari issued a joint communique announcing their intention to pursue a trilateral NAFTA.

President Bush made a formal request in his March 1, 1991, report to the Congress for an extension of the fast-track authority granted him under the Omnibus Trade and Competitiveness Act of 1988.[4] By this time, however, public debate over the merits of a NAFTA had reached a critical level. Labor and environmental groups had been particularly vocal in the NAFTA debate, predicting job loss and environmental degradation as two major byproducts of a NAFTA. Such concerns were echoed in the U.S. Congress and threatened the extension of fast-track authority. By way of addressing the controversy, the administration articulated its position on NAFTA in a May 1 document entitled *Response of the Administration to Issues Raised in Connection With the Negotiation of a North American Free Trade Agreement* (May 1 *Response*). In this statement, the administration not only made a case for the merits of a possible NAFTA, but also committed itself to reviewing labor, environmental, and health and safety issues associated with the agreement. These reviews were to be held in parallel with, but not as a part of, the NAFTA negotiations. (See "Parallel Issues" section below; see also the "Trade and the Environment" section of this chapter.)

On May 23 the U.S. House of Representatives defeated a resolution that would have denied President Bush's request for fast-track authority, and voted 329 to 85[5] to support a resolution that called on the Bush administration to adhere to the commitments it had made in its May 1 *Response*. On the following day the Senate defeated by a vote of 59 to 36 another resolution to deny the President fast-track authority,[6] thus freeing the administration to pursue its goal of creating "the largest market in the world."[7] The administration's fast-track authority was extended through June 1, 1993.

On June 12, 1991, United States Trade Representative Carla Hills, Mexican Commerce Secretary Jaime Serra Puche, and Canadian International Trade Minister Michael Wilson convened in Toronto to initiate NAFTA negotiations.[8] It was agreed that the talks would be used to build on the liberalization already incorporated into the 1988 CFTA. Agreement was also reached on the structure of the talks, and the trade ministers designated six areas to be the focus of future discussions: trade rules, services, investment, intellectual property, dispute settlement, and market access.[9] Initially, 17 groups were set up to deal with the issues to be covered in the negotiations;[10] the number was later expanded to 19. Under the aegis of market access were groups focusing on tariff and nontariff barriers, rules of origin, government procurement, agriculture, automobiles, and other industrial sectors (including textiles and energy). There were three groups under trade rules: safeguards, subsidies and trade remedies, and standards (including sanitary and phytosanitary standards, health and environment standards, and industry standards). Under services, the working groups were: principles for services, financial, insurance, land transportation, telecommunications, and other services. A group focusing on principles and restrictions operated under the aegis of investment. The areas of intellectual property and dispute settlement were not subdivided into special working groups. There were no special groups devoted to examining antidumping or countervail mechanisms.[11]

From August 18 to 20, the ministers reconvened in Seattle, Washington, and reported on August 20 that progress had been made on "broad overarching issues" such as services, investment, and dispute resolution.[12] As a result Canada, the United States, and Mexico exchanged initial tariff staging proposals, as well as non-tariff-barrier request lists, on September 19 in Dallas, Texas.[13] About a month later, from October 25 to 28, the ministers met again in Zacatecas, Mexico. After this consultation, they directed the working groups—which had been concentrating on setting out negotiation issues, sharing information, and organizing work—to start writing draft texts for a NAFTA and to exchange those texts.[14]

As negotiations proceeded, however, the NAFTA continued to be a subject of intense controversy. The prolonged U.S. recession, increased calls for protection from U.S. industries, and the surprise victory of Harris Wofford (an opponent of extending fast-track authority for the NAFTA) in a Pennsylvania race for U.S. Senator in the fall of 1991 created a climate that some believed could jeopardize congressional approval of the agreement. After a December 14 meeting at Camp David between Presidents Bush and Salinas, however, the two reaffirmed their commitment to the NAFTA.[15] President Bush stated that he wished to complete the agreement as soon as possible. The leaders asked Ambassador Hills and Mexican Commerce Secretary Serra to present a composite draft text, with brackets highlighting areas of disagreement, by the end of January 1992.[16]

Issues on the Table

As the Bush administration envisioned it in 1991, the NAFTA would entail a North American market of 360 million consumers, with a total output of $6 trillion.[17] Several factors provided the impetus for creating this enormous open market: (1) the respective movements of the European Community (EC) and East Asia toward creating regional trading blocs; (2) the negotiation (and subsequent success) of the CFTA; (3) the attraction that the concept of hemisphere-wide trade integration, embodied in the EAI, has held for numerous U.S. administrations; (4) liberalization measures that Mexico has undertaken in recent years; and (5) the consequent leap in trade volume between Mexico and the United States. Mexico is the world's fastest-growing major market for U.S. exports, which have increased at an average annual rate of 23 percent since 1987. U.S. exports of capital goods to Mexico have risen from $5 billion to about $9.5 billion; U.S. exports of consumer goods have tripled, from $1 billion to $3 billion. Certain sectors have grown especially quickly. Since 1986, for example, U.S. exports of telecommunications equipment have doubled to about $1.2 billion (in 1990). In 1991 Mexico was the United States' third-largest single trading partner[18] behind Japan and Canada, which remains the United States' largest single partner in trade.

Nonetheless, Mexico has maintained many trade barriers that prevent full access for U.S. exports. Tariffs and other barriers related to rules of origin, foreign investment, services, standards, petroleum, and agriculture were among the special concerns of the U.S. NAFTA negotiating teams. Canadian concerns, on the other hand, centered on preserving the rights that Canada had acquired in its 1988 accord with the United States and on addressing long-term questions relating to such key areas as trade in automobiles. For its part, Mexico sought to ensure secure access to the U.S. market, to attract foreign capital and investment, to increase national employment, and to enhance productivity and competitiveness. The following sections delineate activity in selected negotiating groups during 1991.

Tariffs and Nontariff Measures

Mexico has a 50-percent allowable tariff ceiling under the GATT.[19] However, Mexico chose to set its maximum tariff rate a full 30 percentage points lower, at 20 percent. Currently, Mexico's trade-weighted average applied tariff is roughly 10 percent,[20] compared with 4 percent for the United States. In 1991 some 12.6 percent of Mexico's exports to the United States were granted duty-free status under the U.S.

Generalized System of Preferences program.[21] In the two-way trade between Canada and the United States, the question of tariffs has been addressed in the CFTA, which calls for the elimination of tariffs over a 10-year period (by 1998).[22]

In the NAFTA negotiations the United States sought trilateral tariff elimination (either immediately or over a number of years) as well as a reduction in nontariff trade measures (NTMs). More than 27,000 tariff line items—the full range of tradables among the United States, Canada, and Mexico currently covered by tariffs—were to be under negotiation.[23] In mid-September the three countries exchanged lists that reportedly specified about 8,000 products. These products were classified according to a desired timeframe for reduction or elimination of tariffs or NTMs. The three nations agreed to consider different tariff phaseout periods (immediate, medium-term, and long-term) for three categories of products and later considered a fourth, "extra-long" category for especially sensitive products.[24]

The products within these categories were said to vary considerably from from one country's list to another's. The U.S. proposal reportedly sought to eliminate immediately duties on products already subject to low tariffs (about 15 percent of imports from Mexico) and to retain the status quo for the 44 percent of Mexican imports that enter the United States duty free. It also called for an intermediate phaseout of tariffs on 6 percent of imports, and long-term phaseouts for such products as glassware, citrus fruits, and textiles. In contrast, Mexico's proposal was said to opt for the immediate elimination of duties on 25 percent of its imports, an intermediate phaseout of duties on 10 percent of imports, and a long-term phaseout for 65 percent of imports.

In November the negotiating parties began a line-by-line review of each country's position on tariff elimination, which continued well into 1992.[25] Negotiators also continued discussions on safeguard measures that would allow a temporary suspension of NAFTA tariff reductions if potentially injurious import surges were to result from the agreement.[26] In the area of nontariff barriers subjects for review included import licenses and quotas. Many nontariff barriers, however, were dealt with in other negotiating groups.[27]

Rules of Origin

A primary goal of the NAFTA talks was to ensure that the benefits of the agreement would be limited to its signatories. To this end negotiators sought to establish rules of origin that would indicate which items could and could not be treated as "North American" for trade purposes. The United States, Mexico, and Canada concurred on the need for a single set of rules of origin for traded goods and agreed that, in general, "origin" under NAFTA would be determined according to the "change of tariff heading" test that is currently the basic eligibility standard used in the CFTA.[28] Using this standard a good originating in a nonparticipating country is eligible for preferential treatment if, after importation into a participating country, it undergoes enough processing to change its tariff classification before being exported to another participating country. An additional method of determining origin that applies to some goods under the CFTA, the so-called value-content test, was under discussion in the NAFTA negotiations for a small number of sectors, among them chemicals, automobiles, and auto parts. Under value-content rules, a good must contain at least a certain percentage of "North American" content, measured by the value of its originating materials and the direct costs of processing them.

Harmonization and simplification of customs procedures was another goal of the NAFTA talks on market access, but the sheer number of agencies involved in customs clearance made it an uncertain prospect.

Automobiles

Automotive products have traditionally been a mainstay of North American trade, accounting for more than $62 billion in three-way trade among the NAFTA parties in 1991.[29] Automotive trade between the United States and Canada is governed by the 1965 U.S.-Canadian agreement popularly referred to as the Auto Pact.[30] The agreement provides for duty-free entry of specified motor vehicles and original equipment parts that are produced in the United States or Canada. Vehicles entering the United States must meet a local value-content requirement of 50 percent. Vehicles not covered by the Auto Pact are covered by the CFTA, under which most vehicles that meet the requirement of 50-percent North American content by value are now duty-free. Vehicles imported from Mexico, in contrast, are dutiable at MFN rates, although they usually enter at lower duties under various U.S. duty-reduction programs.[31] Imports of automobiles into Mexico are subject to a 20-percent ad valorem tariff, are limited to 15 percent of total Mexican auto sales, and are limited by individual importers' export performance. (In the 1991 model year, automakers had to earn $2.50 in auto exports for each dollar's worth of auto imports.)[32]

Over the years the U.S. auto trade with Mexico has been determined in great part by Mexico's Auto Decrees. These decrees, issued from the 1960s through the 1980s, protected Mexico's automotive industry and placed heavy restrictions on foreign auto manufacturers with plants in Mexico—such as local content requirements, limits to the number of lines and models that foreign manufacturers could produce, and foreign-exchange regulations. On December 11, 1989, the Mexican Government published two new decrees that eased restrictions on these automakers and allowed for greater foreign investment in the auto-parts industry.[33]

In the NAFTA negotiations the United States sought to eliminate the Mexican Auto Decrees entirely, as well as to develop rules of origin that are clearer—and less expensive to administer—than the rule used in the CFTA. Responding to industry concerns that under a NAFTA Mexico might be used as an automobile export platform to Canada and to the United States by third-country producers, the U.S. negotiating team favored a rule that would require automobiles to contain at least 60-percent North American content by value to qualify for duty-free treatment. Both Canada and Mexico, whose automobile industries are composed primarily of U.S. or other foreign subsidiaries,[34] preferred 50-percent North America content. The negotiations were ongoing at year's end.[35] All three parties, however, recognized the need for transition provisions to allow for orderly adjustment to increased competition.[36]

Foreign Investment

The United States is Mexico's largest foreign investor, accounting for almost two-thirds of all direct foreign investment in 1990.[37] Such investment is regulated by the 1973 Law to Promote Mexican Investment and to Regulate Foreign Investment and by the Mexican Constitution.[38] The 1973 law prohibits foreign investment in certain sectors and limits foreign ownership in others, generally to 49 percent.[39] Executive regulations in 1989 interpreting the 1973 law resulted in greater effective foreign investment in sectors that, all told, account for the majority of Mexico's economic output.[40] The approval process for foreign investment was simplified as well.[41] Nonetheless, "activities" in 141 areas—including transportation equipment, transportation services, secondary petrochemicals, mining, and auto parts—remain "classified" and hence limited.[42] In contrast the CFTA calls for national treatment of most foreign investment. Existing laws and regulations are, however, "grandfathered," which means that restrictions on foreign ownership in certain sectors (such as the communications and transportation industries) still apply. In addition, Canada has retained the right to review the acquisition of Canadian firms by U.S. investors.[43]

The U.S. position on investment traditionally has called for a "foundation of principles" that would apply to investments in every goods and services industry.[44] In the NAFTA negotiations U.S. negotiators declared themselves committed to establishing an "open" investment climate[45] and pushed for national treatment in most areas, save those related to national security. Although Mexico, the United States, and Canada generally agreed that North American companies should be able to operate subsidiaries, operate partnerships, and take over other firms in one another's countries,[46] exceptions were requested—for example, in the case of Mexico's petroleum sector (see "Petroleum" section below).

Services

Financial services

Under current law the U.S. financial-services market is generally open to Mexican banks, as is the Canadian market.[47] Mexico opened Government banks to foreign and domestic investors in 1989; in January of the next year, it altered its Constitution to allow privatization of its banks.[48] Nonetheless, Mexico still imposes considerable limitations on activities by U.S. banks within its borders. More than 40 U.S. banks maintain representative offices in Mexico, but only one U.S. bank, Citibank, conducts business within Mexico. (Citibank, however, is prohibited from opening new offices in Mexico and from offering a full range of banking services.) Under current law foreign ownership in Mexican banks is limited to 30 percent of voting stock.[49] Other restrictions include limitations on the entry of U.S. broker-dealers into Mexican capital markets. Again, foreign firms are limited to a roughly 30-percent equity stake and, although they may conduct research, cannot offer broker-dealer services.[50]

Even before the NAFTA negotiations began, many Mexicans claimed that because their country's financial-services industry had been privatized only recently, it would suffer unfair competition from other, more established North American firms. The U.S. administration nonetheless maintained that it wished to seek openings in a variety of financial services, such as banking.[51] According to press reports Mexico was willing to ease restrictions on foreign investment in its banks. A December 1 draft of the Mexican position reportedly indicated that Mexico would permit U.S. and Canadian financial institutions to establish subsidiaries inside its borders in 1998. These subsidiaries, however, would be limited to an investment ceiling of 0.5 percent of total industry capital. This ceiling would be increased in subsequent years, attaining a maximum of 5 percent by 2010.[52]

Other services

With regard to land transportation, the United States sought to liberalize "laws prohibiting foreign-owned or -operated motor carriers from doing business in a country, and [address] other barriers that impede transportation efficiency among the three countries."[53] According to early reports, the United States, Canada, and Mexico concurred that the agreement should cover international trucking, railroads, and buses, and landside aspects of ports. Among the areas excluded were maritime shipping and civil aviation.

Trade in telecommunications services was a topic of consideration in the NAFTA negotiations as well. In this context the United States sought "to ensure access and use of the services of the public telecommunications network for the provision of covered goods and services."[54] One area of disagreement that arose at the beginning of the negotiations was so-called cultural industries (such as broadcasting and publishing), which had been exempted almost entirely from the provisions of the CFTA.[55] In the NAFTA negotiations Canada continued to maintain that its cultural industries required protection; the United States held that such industries should be open to foreign competition. Ambassador Hills repeatedly indicated that the United States wished to include cultural industries in the NAFTA if possible.[56]

Finally, barriers to professional service providers (such as accountants, architects, and lawyers) were also discussed among the NAFTA parties. Both the United States and Canada wished to follow the lead of the CFTA in this area,[57] which seeks to ensure that Canadian and U.S. businesses and service providers have the necessary access to each other's markets to supply their goods and services.[58]

Standards

The Mexican Government is extensively involved in the setting of product, labor, health, safety, and environmental standards. Since the passage of 1988 legislation addressing the subject, the Government has developed about 5,500 national standards, both mandatory and voluntary.[59] This degree of involvement has not, however, ensured a fully transparent system of establishing standards and technical regulations. In Mexico public notification of standardsmaking is virtually nonexistent, and the channels through which the private sector can participate in the process are limited.[60]

Further, Mexican standards affecting the environment, labor practices, and working conditions have caused concern because they are in some cases not as stringent as U.S. standards, not adequately enforced, or both. Questions about the potential impact of Mexico's standards regime within a NAFTA led to a trilateral factfinding meeting that was held May 14 to 16 in Mexico City and that focused on the country's standards system.

In the subsequent NAFTA negotiations the standards group generally did not address issues related to labor or the environment. These topics were dealt with in separate, "parallel" forums. (See "Parallel Issues" section below.) Instead, the group focused its efforts on the subjects of sanitary and phytosanitary conditions; other health and safety issues such as medical devices, hazardous materials, pharmaceuticals, and cosmetics; and technical standards and regulations affecting industrial and consumer products.[61]

The focus was not on standards themselves but on the process by which they are established.[62] The United States sought to increase access to the Mexican system through the creation and maintenance of a system for both mandatory and voluntary standards that would be open to input from domestic and foreign parties. The U.S. negotiators also sought agreement on the following issues: the importance of compatible standards among the United States, Mexico, and Canada; assurances that standards and technical regulations would not pose barriers to trade; recognition of the right of each country to establish regulations necessary to address safety, health, and environmental concerns; elimination of redundant or excessive testing and other approval requirements; and the creation and maintenance of conformity-assessment regimes that would be open to both foreign and domestic parties.[63]

Government Procurement

Both the United States and Canada are signatories to the GATT Government Procurement Code, which requires them to allow suppliers from all code signatories to compete for government contracts under conditions no less favorable than those given to domestic suppliers.[64] Accordingly, the CFTA was based on the GATT code with a few exceptions: it has lower threshold criteria for choosing what should be open to competitive bidding, for example, and it improves on the transparency procedures outlined in the code by incorporating an effective set of bid-challenge procedures.[65]

In its NAFTA negotiations on government procurement, the United States sought to extend the agreement negotiated under the CFTA to cover Mexico (which is not a signatory to the GATT code) and to liberalize it wherever possible.[66] Issues to be negotiated included transparency of procurement procedures, a bid-protest mechanism, coverage, thresholds for coverage, and rules of origin.

Safeguards

In the NAFTA negotiations, as in the CFTA negotiations, all parties shared concerns about possibly injurious increases in imports resulting from a future accord. To that end there was agreement in both sets of negotiations on the need for "safeguards" that would temporarily curtail import surges causing harm to domestic agricultural and industrial sectors. However, there was also concern that this privilege not be abused. Under the CFTA, safeguards (in the form of a suspension of duty reductions or a temporary return to a most-favored-nation tariff level) could be employed only in response to serious injury during the agreement's "transition period" (until the end of 1998). These safeguards could not last longer than 3 years and could not extend beyond 1998.[67]

In the 1991 negotiations the United States sought a "two-track" safeguard system. It would include (1) a bilateral provision during a transition period enabling an injured party to respond "quickly and effectively" to increases in imports from a NAFTA partner that adversely affected any industrial or farm sectors, and (2) a global provision that would allow a NAFTA party employing a safeguard measure to limit imports from other NAFTA members as well as from all sources.[68] (For more on safeguard measures discussed in the talks, see "Agriculture" section below.)

Dispute Settlement

One of the chief innovations of the CFTA was its dispute-settlement mechanism. Under the CFTA general trade disputes between the United States and Canada can be referred to a binational panel of five trade experts—two each chosen by each side, and the fifth chosen jointly.[69] There is also provision for a binational panel of experts to review antidumping and countervailing-duty determinations.[70]

In the NAFTA negotiations the United States also sought to establish a panel system to quickly resolve controversies. However, it was noted that the actual drafting of the text for such a panel would occur at a more distant point in the negotiations, once the actual framework of the NAFTA was clearer.[71]

Intellectual Property

In congressional testimony on May 15, 1991, Ambassador Hills noted that "the Mexican intellectual property regime has suffered from a number of deficiencies." Among the deficiencies she cited were a weak industrial property law and copyright laws that (1) did not protect producers of sound recordings, (2) granted no explicit protection to computer programs, or (3) had lax provisions that led to considerable misappropriation of copyrighted U.S. works such as films and computer programs. Ambassador Hills pointed out that as a result of such practices Mexico had been placed on the Special 301 "priority watch list" in 1989[72] but had been removed when, in early 1990, the Salinas administration announced plans to revise the country's industrial property law. The Salinas government went on to introduce revised copyright legislation in May of 1990. If these new laws were enacted, Ambassador Hills said, the U.S. negotiating team would "use the NAFTA negotiations to codify. . . our respective regimes and to correct any remaining deficiencies."[73]

In June 1991 the Mexican Congress passed the new industrial property law, which extended product patent protection to pharmaceutical, chemical, and metal alloy products, and even to some biotechnological inventions.[74] The Mexican Congress also passed the revised copyright law in July.[75] After U.S. and Mexican industry expressed dissatisfaction with the limited scope of the copyright legislation, the law was amended in August to include larger fines for copyright violators and to add protection for computer software. As a result of this new legislation, the director of intellectual property for USTR declared that intellectual property had ceased to be "an issue of contention" between the United States and Mexico in the NAFTA negotiations.[76] The NAFTA parties "generally agreed on the structure of the [NAFTA] chapter on intellectual property," thus permitting the United States to present an initial chapter text in November.[77]

Petroleum

Petroleum has long been the United States' chief import from Mexico.[78] Petroleum is, however, a highly protected sector in Mexico, and it is controlled by the Government-owned Petroleos Mexicanos (PEMEX). Under the Mexican Constitution crude petroleum exploration and production, production of refined products and primary petrochemicals, and the profits stemming from such activities are the province of PEMEX alone.[79]

Although a number of Government-owned enterprises, such as TELMEX, Mexico's telephone company, were privatized in 1990,[80] it seemed unlikely that the petroleum sector would follow suit or be opened significantly to foreign entrepreneurs. In June 1991 Ambassador Hills declared that Mexico's constitutional prohibition on foreign ownership was considered to be off the negotiating table.[81] In early November, President Salinas vowed in his State of the Nation address that he would not seek to alter constitutional bans on foreign ownership of either oil or electricity.[82] Throughout the fall, however, Ambassador Hills noted that Mexico's constitutional restrictions did not preclude liberalization of the oil sector in areas not covered by the constitution, such as joint ventures and service agreements. She said that, in this context, the Bush administration wished to open up the Mexican oil sector as much as possible.[83]

Agriculture

Mexico and the United States have traditionally engaged in an active trade in agricultural products. Three-quarters of Mexico's agricultural imports come from the United States and, in 1990, the United States purchased a full 90 percent of Mexico's total farm exports. In 1990 the value of this trade was almost equal in each direction, at $2.55 billion (U.S. exports to Mexico) and $2.6 billion (U.S. imports from Mexico). However, U.S. exports to Mexico have continually faced a number of barriers, including tariffs, sanitary requirements, and import-licensing and export-performance regulations. The Mexican import-licensing system covers 200 product categories[84] and applies to about 40 percent of the value of U.S. exports to Mexico.[85] Mexican agricultural exports to the United States have for their part faced tariffs and other barriers such as quantitative restrictions, health and sanitary requirements, and marketing orders.

In 1991, as part of an ongoing effort to reduce the number of foreign products subject to import-licensing requirements, Mexico determined that nectarines, peaches, and apples did not require further licensing. Commodities that still had to be licensed, however, included poultry, table grapes, potatoes, corn, wheat, barley, malt, and most dairy products.[86] Maintaining that such licenses "are granted or withheld in an arbitrary manner and often act as import bans," Ambassador Hills expressed a desire to "dismantle" both the licensing system and the export-performance regulations through the NAFTA negotiations.[87]

The U.S. position in the NAFTA talks also called for "an effective transition mechanism to enable sensitive sectors to adjust to trade liberalization, as well as a timely safeguard provision for certain agricultural items."[88] Notably, the mechanism under consideration in the NAFTA talks was not the "snap back" tariff for agricultural products that had been negotiated under the CFTA.[89] (Under this scheme, a high tariff could be reinstated if imports of a "sensitive" agricultural product were large enough to cause potential injury to domestic industry.) Instead, U.S. NAFTA negotiators reportedly presented their Mexican and Canadian counterparts in December with a proposal to replace the "snap back" tariff in favor of a tariff-rate quota. Under the U.S. proposal two sets of tariffs would apply to sensitive agricultural goods: one would apply under normal circumstances, and a higher one would be instituted when imports exceeded a predetermined level. Over time, the "normal" tariff would be reduced and the quota expanded.[90]

Food safety—particularly the effect of contamination from pesticides used by Mexican farmers—has been a major concern of the U.S. administration, which in its May 1 *Response* committed itself to "maintain the right in the FTA to exclude any products that do not meet our health and safety requirements."[91] In the NAFTA negotiations it was expected that Mexico might seek agreement to permit agricultural products to be shipped from disease- and pest-free zones as a way to ease the effect of meeting U.S. sanitary and phytosanitary regulations on Mexican shipments. The subject of U.S. marketing-order requirements is also expected to be addressed.[92]

As a liberalizing coda to the year, President Salinas introduced a bill on November 7 that, by amending article 27 of the Mexican Constitution, dismantled barriers to private and foreign investment in the country's ejido (communal farm) system.[93] The bill passed both houses of the Mexican Congress in December.

Parallel Issues

Environment

One issue that was not covered in great depth in the NAFTA talks but was of particular concern on Capitol Hill and within the environmental communities in all three countries was the impact of a NAFTA on recently industrialized Mexican areas along the 2000-mile border region between the United States and Mexico. This so-called "maquiladora" region has served as a home to foreign-owned production facilities, or maquilas, since the adoption of Mexico's Border Industrialization Program in 1965.[94] Among other concerns it was feared that the increased volumes of trade expected under the NAFTA would lead to further degradation of this environment—as well as the general environments of all three NAFTA countries.

In its May 1 *Response*, the administration committed itself to addressing environmental issues related to the NAFTA "in parallel" with, but not as part of, the actual negotiations. Several moves, including an independent environmental review, were made in this direction. (For additional discussion of this issue, see the "Trade and the Environment" section of this chapter.)

Labor

The possible effect of a NAFTA on U.S. jobs and on labor standards was also a topic of intense discussion. The Bush administration forecast a net gain of up to 64,000 U.S. jobs within 10 years;[95] other sources predicted net gains of up to 130,000 U.S. jobs.[96] Estimates of jobs lost in absolute terms ranged from 21,100[97] to 112,000[98] to as many as 550,000.[99] Workers in such sectors as construction, medicine, hotels, apparel, lumber, finance, and real estate were considered to be among the most vulnerable. Accordingly, unions in both the United States and Canada voiced strong opposition to the agreement.[100]

U.S. law currently provides for adjustment assistance in the case of worker dislocation through such programs as the Trade Adjustment Assistance program (TAA) and the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA). (For additional discussion of the TAA program, see chapter 5, "Import Relief Laws" section.) Although President Bush's budget for 1993 proposed eliminating the TAA program, the administration's May 1 *Response* included a commitment to "a worker adjustment program that is adequately funded and ensures that workers who may lose their jobs as a result of an FTA with Mexico will receive prompt, comprehensive, and effective services." In addition, the administration announced its intention to pursue a parallel review on workers rights issues through the U.S.-Mexican Binational Commission.[101] It also announced that on May 3 it had signed a Memorandum of Understanding with Mexico that called for joint action and cooperation on health and safety conditions, as well as labor standards and enforcement. By the end of 1991, USTR reported, the U.S. Department of Labor and its Mexican counterpart had set up with organized labor a series of conferences on hazardous industry. A study on child labor was under way, and Mexican and U.S. officials responsible for enforcement of workplace safety standards and industrial hygiene testing had exchanged visits.[102]

Striking a Deal

As Ambassador Hills maintained throughout the year, the timing of the NAFTA was secondary to its content. The talks, she said, would "take as long as necessary to produce a good agreement."[103] At the outset some believed that the negotiations could take anywhere from 18 months to 2 years to complete.[104] Significantly, ongoing trade disputes involving the NAFTA partners—notably over pork, softwood lumber, beer, and tuna—did not appear to sidetrack the negotiations. At year's end it seemed that the NAFTA talks were well on their way and that an agreement might be ready for initialing in the summer of 1992.

Uruguay Round Negotiations in 1991

Technical Talks Resumed and Groups Restructured

The Uruguay Round of multilateral trade negotiations resumed on February 26, 1991, more than 4 years after the Round opened on September 20, 1986. The February date marked the resumption of talks that had been suspended the preceding December, when negotiators in Brussels reached an impasse on agricultural subsidies.[105] Arthur Dunkel—who, in his capacity as GATT director-general (D-G), presides over the Round—announced the resumption at the brief February meeting of the Trade Negotiating Committee (TNC), the body that oversees Round activities. D-G Dunkel also announced that the original 15 Uruguay Round negotiating groups would be restructured into 7 issue-specific groups: agriculture, textiles and clothing, services, rulemaking, trade-related investment measures (TRIMs) and trade-related intellectual property rights (TRIPs), dispute settlement and the final act,[106] and market access. These groups began technical-level talks on March 1, 1991, and chairmen for the groups were announced in April.

Final Negotiating Group Texts Prepared

Following the March resumption of talks, negotiators concluded that new deadlines for the Round would be of little value until differences evident at the Brussels meeting were narrowed further—and, in particular, until the outcome of the effort to renew "fast-track" negotiating authority in the United States was clear. In May 1991, however, the U.S. House of Representatives, followed by the Senate, voted not to oppose the 2-year extension of fast-track authority.

On July 30 D-G Dunkel held a brief TNC meeting to review the progress made in 1991's technical-level talks. He announced that all elements were at hand to enter the decisive phase in September, following the summer recess, that would conclude the Round. At the review he singled out agriculture, textiles, market access, and services as areas that could move into "negotiations proper," following work done both before and after the Brussels meeting. TRIPs, as well as some areas covered under the rulemaking group, were deemed "ripe for the final political tradeoffs." D-G Dunkel even foresaw agreements in such areas as TRIMs and antidumping—for which no common negotiating text yet existed. He asserted that such agreements would "fall into place fairly quickly" once the essential political decisions were taken.[107]

Introduction of the Dunkel Text

On September 20 D-G Dunkel announced that trade negotiators should aim to reach agreement on all negotiating texts by late October or early November, in order to conclude the Round by the end of 1991. He indicated that he would present governments with a complete revision of the Uruguay Round Final Act presented at the Brussels meeting.[108]

At a TNC meeting on December 20, 1991, D-G Dunkel issued this revision of a complete Uruguay Round agreement, with final texts for all subjects. Entitled the *Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, the document included proposed compromise texts that, drawn up on the initiative of the director-general in consultation with the chairmen of the negotiating groups, covered areas in which negotiators had not yet reached agreement. As he explained it, "This document is the outcome both of intensive negotiation and/or arbitration and conciliation: negotiation among you, the participants, and arbitration and conciliation by the Chairmen when it became clear that, on some outstanding points, this was the only way to put before you a complete, consolidated text."[109]

D-G Dunkel noted that his draft agreement (commonly known as the "Dunkel text") represented the first comprehensive text available. It would, he observed, permit Round participants to begin assessing the balance of potential benefits and concessions that would accrue from an overall trade-liberalization package. D-G Dunkel underscored the fact that the Punta del Este declaration, which inaugurated the Round, called for negotiations to take place as a "single undertaking" and that, as such, "these negotiations are governed by the principle that nothing is final until everything is agreed." Accordingly, the director-general urged participants to evaluate the draft text on its merits as a single package.

Once a final text was agreed upon, D-G Dunkel noted, there would be several outstanding matters to resolve before the Uruguay Round could conclude. Foremost among them was the completion of commitment schedules[110] for the market-access negotiations, agriculture negotiations (including reductions for both domestic supports and export subsidies), and trade-in-services negotiations. Completion of these schedules would allow the Group of Negotiations on Goods (GNG) to proceed with its final evaluation of the Uruguay Round package of agreements, as called for in the Punta del Este declaration. The sole remaining requirement would be to review the entire package for legal conformity and internal consistency.

On a final note at the December meeting, D-G Dunkel called for the TNC to reconvene on January 13, 1992. After an initial review of the director-general's text, participants would enter the final leg of negotiations in the Uruguay Round. During this time, they would amend the text in accordance with tradeoffs negotiated by the highest level officials of governments participating in the Round.

Four-Track Process to Conclude Round

At the TNC meeting held on January 13, 1992, participants agreed to follow a four-track process toward conclusion of the Uruguay Round. D-G Dunkel set out four areas that, although not precisely defined, would be pursued simultaneously by countries engaged in the Round. These areas included—

(1) Negotiations on market-access issues, such as tariff and nontariff barriers, in bilateral and multilateral meetings;

(2) Negotiations on opening markets to trade in services;

(3) Legal review of the conformity and internal consistency of the Dunkel text, which would in particular focus on enforcement procedures to ensure a strong legal foundation and sanctions against noncompliance; and

(4) Possible changes or adjustments to specific items in the Dunkel text, to be agreed at the TNC level.

No formal schedule was set at the January meeting for completing this four-track process, although at the time negotiators initially saw Easter (April 19, 1992) as an informal target date. Participants believed that after Easter, political events, such as elections in the United States and a number of European countries, would begin to overtake events in the Round and would disrupt the negotiations necessary at the political level until late in 1992. Thus, in January 1992 negotiators were aiming to reach an agreement in principle among all participating governments that would "conclude" the Round in a few months, although drafting of implementing legislation and ratification by national governments might extend beyond that time.[111]

Dunkel Text Highlights

D-G Dunkel stressed that his text was comprehensive and took account of the "substantial progress" made since January 1991, striking the "best possible balance across the board of the long negotiating agenda of this Round," while pointing out missing ingredients (schedules of commitments from each country for the three areas of market access, agriculture, and services). Dunkel indicated that work from January 1992 onward would be based on a global approach—meaning, among other things, that nearly all of the individual negotiating groups under the GNG would cease to exist. The sole survivor, the Market Access Group, would continue to help complete country commitments in the market-access area, as the Group of Negotiations of Services (GNS) would continue to help complete country commitments in its area of services.[112] Following are highlights of the text's[113] key provisions.[114]

Agriculture

Agriculture remained the most hotly disputed item in the 1991 sessions of the Uruguay Round. The Government of France announced its rejection of the Dunkel text even before the text was released,[115] and 3 days after the text became public, trade and agriculture ministers of the EC said that substantial revisions would be required before they could agree to it.[116]

The agriculture text presented a complicated regime of support reductions in the three areas under discussion—internal support, market access, and export competition—over the 6-year span from 1993 to 1999. Developing countries would receive special and differential treatment: they would be allowed up to 10 years to implement the measures. The text called for a review of the reform process after 5 years, with a view to continuing to liberalize trade in agriculture..

Internal support

Except for agreed exemptions internal support prices would be cut by 20 percent, using an aggregate measure of support (AMS) based on average support levels prevailing in 1986-88. Agricultural programs with little or no production- or trade-distorting effects would be eligible for exemption from support reductions. These programs included general government service programs (research, pest control, extension services, and so on); food-security stockpiles; domestic food aid; direct producer payments, decoupled income support, and income safety-net programs; disaster-relief payments; structural adjustment and environmental payments; and regional assistance programs. All programs not exempt would be reduced, although credit would be allowed for liberalization measures taken since 1986. Reductions would also not be required below a de minimis level of 5 percent (10 percent for developing countries).

Market access

Barriers to market access would be converted to tariffs (so-called "tariffication"), would be bound in the tariff schedules, and would be reduced by an average of 36 percent from 1993 to 1999. The minimum reduction per tariff line item was 15 percent. Although there was no provision in the draft text for "rebalancing" as proposed by the EC—a process through which certain tariff barriers could be increased in return for reductions in others—the 15-percent minimum reduction meant that some products could be reduced by this minimum reduction and others could be reduced more than the average to achieve the overall 36-percent reduction. The text also contained a provision that would ensure, beginning in 1993, minimum access equal to 3 percent of domestic consumption to be established in countries where there is no current access or access less than 3 percent. This 3 percent minimum would rise to 5 percent by 1999. Countries with access above 3 percent would maintain and increase that percentage during 1993-99. The market-access provisions also included agricultural safeguard provisions, which would be triggered by changes in both prices and quantities. Participants would initiate negotiations to continue the reform process 1 year before the implementation period ends.

Export competition

The export-subsidy reductions in the Dunkel text focused primarily on subsidies that are linked to export performance. Export subsidies would be reduced by 24 percent in terms of volume and by 36 percent in terms of budget outlays, based on export subsidies in force during 1986-90. Export subsidies for primary products used in processed products would be subject to the budgetary reductions only. Participants would undertake to avoid introducing export subsidies on agricultural products not already included during the base period.

Health measures

A Draft Agreement of Sanitary and Phytosanitary Measures provided that signatories would endeavor to apply only health measures based on scientific evidence to traded agricultural goods. The text encouraged use of international standards, although it recognized the right to use stricter ones. It also recognized the benefit of agreement on the equivalency of standards and on pest- and disease-free areas (areas or regions that do not necessarily cover the same area as do national political boundaries).

Textiles

Textile negotiations in the Round have resulted in a complicated proposal for a regime to bring world textile trade under GATT rules within 10 years. The liberalization of trade in textiles, according to the Dunkel text, would be achieved through a three-stage phaseout of the textile quotas under the Multifiber Arrangement (MFA), while items remaining under quota during the transition would receive increases in within-quota growth rates that are greater than those already in place. Stage one would be the 3-year period from 1993 to 1995; stage two would be the 4-year period from 1996 to 1999; and stage three was slated to last 3 years, from 2000 to the end of 2002.

At the start of stage one, products which in 1990 accounted for not less than 16 percent of the total volume of products covered by the agreement would be integrated into GATT disciplines and removed from quota restrictions. These products shall include items in each of the textile groupings of tops and yarns, fabrics, madeup textile products, and clothing. In stage two, 17 percent would be removed from quota. In stage three, 18 percent would be removed. Any remaining textile quotas would be eliminated in 2003 at the end of stage three, and all textiles under the agreement would be integrated into the GATT.

Items remaining under a quota during the transition would enjoy an increase in the quota growth rates already existing under bilateral agreements in 1992. In stage one, the level of each quota would increase annually by 16 percent more than the existing growth rate; in stage two, the growth rate mandated by the first stage must be raised annually by 25 percent; and in stage three, the rate established in the second stage must be raised annually by 27 percent. When restrictions applied by an importer to a supplier represent 1.2 percent or less of an importer's total restrictions, as measured at the end of 1991, market access for the supplier would be qualified to advance one stage in quota growth rates or gain improved market access through equivalent improvements mutually agreed by the two parties.

Signatories would be authorized during this transition to apply GATT article XIX safeguard restrictions to trade in textiles based on certain provisions for selective, rather than nondiscriminatory, most-favored-nation (MFN) safeguard action, until these products are integrated into the GATT under the draft agreement. Safeguard action would be based on the concept of cumulative damage from increased quantities in total imports of a product rather than from injuries sustained from individual instances. The text also provided for action consistent with domestic laws and procedures to prevent illegal transshipments. In addition, it would require both industrialized and developing countries to improve market access for textiles, although the text would apply only to current GATT members.

Services

Framework Agreement

Negotiations on a General Agreement on Trade in Services (GATS) made up one of the four tracks set out by D-G Dunkel at the January 1992 TNC meeting. Discussions would revolve around (1) the "framework" agreement that sets out basic obligations, such as MFN treatment and transparency; (2) annexes that would contain additional provisions for particular sectors, which currently include financial services, labor mobility, telecommunications, and air-transport services; and (3) market-access commitments that would secure the specific elements to which the general legal provisions apply in (1) and (2).

The draft framework in the Dunkel text set out universal obligations that apply to trade in services, presented in six sections or parts. Part I contained an introduction. In part II the Dunkel text included articles on general obligations and disciplines that concern MFN, transparency, disclosure of confidential information, increasing participation of developing countries, economic integration, domestic regulation, recognition, monopolies and exclusive service providers, business practices, emergency safeguard measures, payments and transfers, restrictions to safeguard the balance of payments, government procurement, general exceptions, security exceptions, and subsidies.

Other parts of the draft GATS covered specific commitments on market access (part III), such as national treatment; progressive liberalization (part IV), including negotiating schedules of commitments and their modification; institutional provisions (part V), such as dispute settlement, joint action, and a GATS Council, as well as relations with other international organizations; and final provisions (part VI) covering accession, denial of benefits, and annexes.

Sector annexes

The four sector annexes to the draft GATS covered financial services, labor mobility, telecommunications, and air-transport services. Previous discussions concerning an audiovisual annex or cultural exemption for national media industries were dropped from the text.[117] The financial services annex would allow regulators to take prudential measures to safeguard the integrity of financial systems and to harmonize with the prudential measures of another country. The market-access and national-treatment provisions in the annex were reduced from obligations to guidelines.

MFN derogations

A sanctioned departure from otherwise accepted GATT rules, a derogation is considered an adaptation by a contracting party to the accepted norm that does not lessen or challenge the accepted or permanent validity of the general rule or regime. According to the Dunkel text derogations from applying MFN treatment would still be possible on a sector-by-sector basis, but in principle derogations would last for no longer than 10 years (with a review after the first 5 years). An overriding aspect of any MFN derogation from a draft services agreement is that the United States has insisted that no services agreement can go forward containing provisions for generalized MFN treatment until satisfactory market-access commitments have also been agreed.[118] The United States has argued that without substantial market-access commitments from other countries, across-the-board MFN treatment would tend to keep U.S. markets for certain services open, while operating to keep other countries' markets closed.[119] Thus the United States has sought a tradeoff between granting MFN treatment in services and other countries' commitments to open their markets to foreign competition concerning those services.[120]

The United States has also sought specific derogations from market-access opening and national-treatment commitments in service sectors that have been extensively covered by bilateral agreements, such as the maritime and civil aviation sectors.[121] The United States has sought exemption as well from applying MFN commitments for basic long-distance services in the telecommunications sector. However, U.S. negotiators have made it clear that this derogation may be open to negotiation, in a bid to ensure that other countries meet certain liberalizing conditions in their home markets.

GATT Rulemaking

Safeguards

As presented in the Dunkel text, the safeguards agreement would require that a country taking a safeguard action under GATT article XIX follow more open, transparent procedures in taking such action. The text would discourage taking safeguard-like actions outside of GATT disciplines, so-called "gray area" measures such as voluntary restraint agreements (VRAs), by prohibiting their future use. The draft text also would require a phaseout of VRAs and similar "gray area" measures over a "reasonable" period of time. But, as a tradeoff, the text would also provide that affected exporters waive their rights to retaliation for the first 3 years of any safeguard action. Safeguard measures would be limited to a maximum of 8 years. Procedures to ensure a transparent, public process for taking safeguard measures against imports surges would include (1) a public hearing or similar opportunity to present and challenge opposing views, (2) a published report with a detailed analysis by the investigative body explaining the decision to take safeguard action, (3) clearly defined criteria for injury determinations, (4) progressive liberalization of safeguard measures each year they are effective, and (5) the right to take special safeguard measures when perishable products are concerned.

Trade-related investment measures

The Dunkel text would strengthen disciplines regarding TRIMs by prohibiting both domestic-content and trade-balancing requirements where firms must export in order to import. This prohibition would apply whether export balancing were a requirement to invest or a precondition to qualify for certain benefits.

However, the text would not prohibit export requirements.

Industrial countries would be given 2 years to ban these trade-balancing measures. Developing countries, which typically make use of such investment measures, would be given 5 years to phase out investment measures that conflict with the text's prohibitions. Least developed countries would be given 7 years to remove trade-balancing rules. However, new firms entering the market could have equivalent TRIMs imposed on them during this phaseout, so that they would not put firms already present at a disadvantage.

Antidumping

The Dunkel text contained a number of additions and clarifications to the Antidumping Code. The text's anticircumvention provisions would address, for the first time, cases in which foreign exporters invest in minimal assembly plant operations in a host country so that they can avoid (or "circumvent") antidumping duties.[122] Concerns about circumvention had been raised by both the EC and the United States.

The text also addressed requirements to be followed in antidumping proceedings, (1) providing a de minimis dumping margin of 2 percent; (2) instituting a "sunset" provision to phase out dumping orders after 5 years; and (3) changing certain methodologies currently used to determine dumping margins, such as national price averaging. These changes have been very controversial with U.S. manufacturing interests.

Subsidies

The Dunkel text would provide stricter disciplines for trade-distorting subsidies than currently exist. The text would prohibit both de facto and de jure export subsidies, as well as local-content subsidies. The text also would provide that large domestic subsidies—greater than 5 percent of total ad valorem value—would be considered automatically as likely to have injurious effects on the trade interests of other signatories. The Dunkel text set out a category of subsidies that signatories would agree not to challenge. Certain regional development subsidies would be permitted, as well as certain research subsidies. Basic industrial research subsidies, totaling up to 50 percent of the total research cost, would be allowed; applied industrial research subsidies of up to 25 percent of cost would also be permitted. No development or prototype subsidies, however, would be allowed. For the same reasons as in the antidumping text (above), the draft text on subsidies and countervailing measures also would provide anticircumvention provisions to prevent an exporter's minimal investment in plant operations in a host country as a means to avoid or "circumvent" countervailing duties that have been levied on a product.

Government procurement

Negotiations concerning the GATT Government Procurement Code proceeded in the GATT Committee on Government Procurement; they were held in parallel with, but were not part of, the Uruguay Round. A yearend draft of the Government Procurement Code, released under the responsibility of the Committee chairman, indicated that issues concerning coverage of the code were the main items to be concluded in 1992. The Dunkel text would, however, seek to clarify the existing procedures for accession aimed at helping developing countries join the code.

Key signatories, notably the United States and the EC, favor expansion of the code to cover as much remaining central government procurement as possible. This expansion would include coverage of the European government-dominated utilities industries, encompassing the energy, telecommunications, and transportation sectors. These sectors, which U.S. negotiators have sought to include, were excluded under the original Government Procurement Code, which was negotiated during the Tokyo Round. Negotiators have also sought coverage of procurement markets for services. However, a particular stumbling block for EC negotiators has been equivalent coverage of the U.S. telecommunications sector, which is dominated by private firms, notably the regional Bell operating companies that enjoy monopolies in the provision of certain basic telephone services. The yearend draft of the code covers only government-controlled telecommunications entities, such as European Post, Telephone, and Telegraph (PTT) agencies or Telecommunications Administrations (TA). Hence, the code would not extend to U.S. private telecommunications firms unless specifically negotiated. The draft provisions of the code would prohibit procurement offsets for developed-country signatories and also improve enforcement of the code through a bid-challenge procedure.

Dispute settlement

The Dunkel draft envisions an integrated dispute-settlement system that would aim to provide stricter GATT disciplines to all Uruguay Round agreements. The text would provide for more automatic establishment of panels, adoption of panel reports, and compensation.

Under the Dunkel draft, panel reports would be adopted within 60 days unless GATT Council members rejected the report by consensus. Panel reports could be appealed to a newly created Appellate Body, which would ensure consistent interpretation of all the Uruguay Round accords. The Appellate Body would be composed of a pool of seven members, each a recognized authority in law, international trade, and GATT matters. Three members chosen from this pool would serve on any one case. Failing implementation of panel recommendations, compensation through retaliation would be permitted within 30 days of a request by the injured party, unless GATT Council members were to reach a consensus and reject the request. The Dunkel draft would also provide for the principles for "cross-retaliation" across sectors and agreements. Such cross-retaliation could serve to increase the effectiveness of the dispute-settlement system by strengthening the leverage of sanctions against traded items considered more significant by the offending disputant.

Intellectual Property Rights

The text concerning trade-related intellectual property would set new or higher standards for protection of the intellectual property rights embodied in patents, copyrights, trademarks, trade secrets, and semiconductor chips, as well as for enforcement of these standards within countries and at their borders.

The Dunkel draft would protect a patent for 20 years from its filing date, would limit compulsory licensing, and would protect product and process patents for such goods as pharmaceuticals and agricultural chemicals. The text would require signatories to provide copyright protection to sound recordings for 50 years, give computer software the same protection as "literary works," afford data bases protection as compilations under copyright, and extend exclusive rental rights to sound recordings and computer programs.

Trademark protection would be extended to include service marks and would be strengthened for internationally known trademarks. The draft text would also prohibit compulsory licensing or linking of trademarks. In addition, it would protect trade secrets.

Developing countries would have a 10-year transition period before they would be required to comply with the text's patent and copyright provisions. Signatories would aim to avoid conflict over geographical indications by avoiding future situations in which misleading names might misrepresent a product to consumers. Such indications already in use, however, would not be required to be changed.

GATT Institutions

The draft text would establish a Multilateral Trade Organization (MTO), which would administer (1) the GATT and the Tokyo Round agreements, as amended by the final act of the Uruguay Round; (2) the GATS; (3) the Agreement on TRIPs; (4) the integrated dispute-settlement process; and (5) the trade policy review mechanism. The MTO would therefore be in a position to administer already-concluded GATT rules and agreements covering trade in goods on a consistent and integrated basis with the new agreements negotiated during the Uruguay Round, such as for trade in services and for TRIPs. Membership would be limited to those GATT contracting parties that would accept the entire package of rights and obligations. As a result the problem of "free riders"—nations that take advantage of rights arising from certain GATT rules but that do not honor the obligations of other rules—would be avoided. Many members of Congress have been critical of the MTO, stating their beliefs that U.S. laws would be undermined by this "higher authority," particularly that the United States would not be permitted to have tougher trade laws than those agreed to in the Uruguay Round (e.g. concerning antidumping laws). However, the U.S. administration does not agree that the MTO would have this kind of authority, being instead more of an elaboration of the present organization simply in order to give the current GATT a clearer legal status.

Market Access

Negotiations on market-access commitments that involve reductions of tariff and nontariff barriers to goods (including tropical products), were slated to continue into 1992, as one of the four tracks outlined by D-G Dunkel at the January 13 meeting of the TNC. The commitments offered in these market-access negotiations will depend in large part on what is ultimately agreed to in the final text of the other Uruguay Round agreements. These access commitments will help adjust or "fine tune" the balance of rights and obligations undertaken by signatories accepting the final text. Major items still at issue include the U.S. initiative for reciprocal duty elimination ("zero-for-zero" proposals) in nine industrial areas[123] and the EC's desire to reduce certain U.S. tariff peak rates.

Trade and the Environment

The formulation of trade and environmental policies have, up to now, been pursued on largely separate tracks. However, the Office of Technology Assessment (OTA) has suggested that "the potential for conflict between environmental concerns and international trade is increasing," as a result of a proliferation of domestic and international environmental rules and the rapid expansion of global trade and investment flows.[124] Several developments in 1991 pinpointed potential conflicts between trade and environmental interests and spurred global efforts to find common ground. Late in the year a GATT panel ruled against an environmentally driven U.S. ban on Mexican tuna, and pressure was exerted on the U.S. administration to address environmental issues in the context of negotiations toward a North American Free-Trade Agreement (NAFTA).

Partly as a result, several important steps were taken by international organizations in 1991 to address the tensions between trade and environmental policies. The GATT Council held a discussion on the issues on May 29-30, 1991, and in the fall decided to reactivate the long-dormant Group on Environmental Measures and International Trade. In June, the Organization for Economic Cooperation and Development (OECD) issued a report on the matter and undertook to pursue additional study. Extensive preparatory work was also under way for the United Nations Conference on Environment and Development slated to be held in June 1992 in Rio de Janeiro, Brazil. Various other organizations and academics also attempted to analyze the interrelationship between trade and environmental policy.

This work has already resulted in the publication of numerous papers on the matter, and much more is in process. A review of several of the studies suggests that there is widespread agreement that trade policy can affect the environment and vice versa. However, there is considerable debate about the nature of these effects. This section looks at the issue from a trade policy perspective. It briefly reviews some of the major policy connections identified so far; describes several major institutions, international agreements, and U.S. domestic laws relevant to trade and the environment; and highlights the steps taken in 1991 to respond to the challenge of achieving the dual objectives of maintaining a liberal system for the conduct of international trade and protecting the earth's environment in the interest of current and future inhabitants.

The Impact of Trade Policy on the Environment

The GATT Secretariat notes that "views differ regarding the impact of international trade on the quality of the natural environment. For some, expanding trade is a source of increased wealth and diffusion of technology, both of which enhance societies' ability to protect and up-grade their environments. Others argue that unrestricted trade can be harmful to the environment, especially when a country's environmental policies are weak or non-existent."[125] Because prices and markets do not necessarily fully account for environmental benefits and costs, the OECD notes that "trade can sometimes contribute to environmentally adverse patterns of production, unsustainable exploitation of natural resources, or commerce in polluting or hazardous products."[126] At a more general level, there is concern about the environmental impact of increased economic growth engendered by trade liberalization and by rapid economic development.[127]

Sectoral trade policy may affect the environment in a number of ways.[128] The structure of trade barriers and preferences in developed countries, for instance, may encourage less developed countries to export products involving manufacturing processes or agricultural practices that harm the environment. Agriculture is one sector in which this deleterious effect has been alleged. Developed countries like the United States, Japan, and the EC restrict access to their markets for foreign agricultural goods and sometimes dispose of surplus crops on world markets, depressing prices and thereby discouraging agricultural production in the developing world. Export subsidies on products such as agricultural commodities and domestic subsidies on fertilizers and water credits can lead to the overuse of land resources in developed countries. Some allege that, on balance, these practices harm the environment.[129]

Perhaps the most common concern expressed by environmentalists is that trade liberalization may result in a lowering of environmental standards. There are two principal ways this relaxation of standards may come about. First, there is concern that trade and investment liberalization could result in pressure on domestic regulatory authorities to loosen enforcement or lower standards so that they might preserve local jobs and income.[130] Second, environmentalists sometimes perceive that efforts to remove nontariff trade barriers and equalize regulatory burdens on producers undermine the goal of environmental protection. For example, there are fears that efforts to create uniformity in environmental regulation through the harmonization of standards may result in a lowest-common-denominator approach. Furthermore, to the extent that regional and multilateral trade liberalization efforts strengthen the process for imposing and enforcing environmental standards, environmentalists warn that these efforts may also limit the options available to policymakers to achieve environmental goals.[131] For this reason some U.S. environmental groups have expressed concern about efforts within the GATT Uruguay Round intended to ensure not only that domestic regulations are fully justified by scientific evidence, but also that such regulations are no more stringent than needed to achieve the desired end. They argue that flexibility may be needed to prevent environmental damage even in the face of uncertain scientific evidence.[132]

The Impact of Environmental Policy on Trade

Environmental policy can have both direct and indirect effects on trade. The most straightforward effects on trade result from the use of trade measures as a means of advancing environmental goals. Import and export controls have been imposed to restrict or prevent shipment of hazardous materials and scarce resources. Unilateral or multilateral trade restraints have been used to deter trade in endangered species and to prevent the transborder spillover of pollution. Some countries have used trade measures in an attempt to influence other nations' environmental priorities and practices. Among the reasons cited for such actions are the need to preserve endangered species that belong to a foreign or international habitat or to end production practices that are considered cruel to animals. Furthermore, trade measures have been used to encourage participation in multilateral agreements intended to deal with global environmental problems.

More subtle effects may result from domestic environmental regulation. The OECD notes that "environmental policies have been dominated by regulatory approaches" such as the setting of mandatory standards for environmental performance by producers (such as controlling factory emissions of pollutants or the handling of hazardous wastes) and their products (such as the use of emission controls on automobiles). However, a country's use of standards labeled as environmental may actually serve as a trade barrier. For example, the requirements may be unclear or difficult to comply with, inconsistently administered, or "unnecessary."[133] Deciding whether a particular measure is "necessary" involves an assessment of the risk associated with the situation at hand as well as the availability of other, less onerous measures to achieve the goal.[134]

From a trade policy perspective, it is important to draw a distinction between regulations regarding production processes and those addressing end products in terms of their final characteristics, use, or disposal. Differences in the former types of environmental regulation among nations can affect the international competitiveness of producers, as they are generally only applicable to manufacturers or farmers located within a country's own territory. For instance domestic regulations that prohibit certain manufacturing processes or ban or restrict the use of certain inputs in the manufacture of a product may raise production costs and constrain domestic firms' participation in the global market. Competing firms in other countries may be able to produce the same product through cheaper but less environmentally safe procedures and then market this product at lower prices.[135]

The OECD has suggested that domestic regulatory authorities often fail to take into account how the cost of compliance with new environmental standards affects the global competitiveness of producers.[136] Partly as a result, domestic producers may complain that they are no longer operating on a "level playing field" and urge action to rectify the situation. These business interests often find common cause with environmental groups and with workers wishing to deflate political pressures to lower the standards at home, the GATT Secretariat notes.[137]

One result is that trade liberalization initiatives have increasingly been accompanied by efforts to encourage countries with lower environmental standards to raise them to levels comparable to those of the importing country.[138] This proposition certainly was suggested in the U.S. debate on NAFTA, although it was not ultimately part of the formal NAFTA agenda. As part of its 1992 program, the European Community (EC) is in fact "harmonizing" a number of disparate national standards. The effort is difficult since it involves bridging differences in regulations reflecting the various climatic conditions, social values, and wealth of 12 countries whose histories of environmental protection are quite different. Nevertheless, at least one analyst has concluded that the EC is succeeding in "harmonizing up" regulatory requirements.[139] A slight variation on the theme is contained in 1990 amendments to the Clean Air Act.[140] Among other things, Congress directed the President to:

> . . . identify and evaluat[e] the economic effects of [the differences between U.S. and foreign] air quality standards and controls, [and to propose a strategy] for addressing such economic effects through trade consultations and negotiations.

Alternatively, producers and environmentalists have joined to advocate the provision of subsidies, such as pollution-abatement assistance, to cover the costs incurred in complying with strict domestic regulations. These subsidies may, however, represent competitive barriers to foreign producers.[141] Similarly, the use of environmental taxes and charges may have trade implications if their impact on domestic and foreign suppliers differs.[142] It has also been suggested that cooperative international programs, such as tradeable emission quotas and permits, can be used to control transborder pollution.[143]

Not a Zero-Sum Game

Some experts believe that trade and environmental concerns can not only complement each other, but actually can often be mutually beneficial.[144] In a recent book, Michael Porter argues that—

> stringent standards for product performance, product safety, and environmental impact contribute to creating and upgrading competitive advantage. They pressure firms to improve quality, upgrade technology, and provide features in areas of important customer (and social) concern. . . .Particularly beneficial are stringent regulations that anticipate standards that will spread internationally.[145]

With the advancement of environmental regulation, such countries as the United States have seen the growth of an entire multifaceted environmental industry comprising developers of environmental technology, manufacturers of environmental controls, engineers, and consultants. As other countries move toward more environmental regulations, firms that can offer such products and skills are likely to be among the beneficiaries. By the same token, trade can benefit the environment by fostering greater access to environmental technology and less ecologically damaging inputs (for instance low- as opposed to high-sulfur coal).[146]

Years of Concern

Unlike the global trading system, which has been largely governed by a single set of rules and an international institution, the GATT, to administer them for nearly half a century, there is no comprehensive international agreement or single body on environmental matters. International attention to environmental issues was institutionalized in 1972 with the adoption of the Stockholm Declaration on Human Environment. That declaration codified basic international principles recognizing the responsibility of nations to ensure that activities within their jurisdiction do not cause damage to the environment of other countries.[147] The Stockholm Conference at which the declaration was adopted was the first major international conference on the global environment.[148] Another important contribution of the conference was the establishment of the United Nations Environment Programme (UNEP), which continues to facilitate international research and education programs and to bring countries together to negotiate treaties.[149]

A recurring theme underlying discussions of the environment is that of "sustainable development," which the GATT Secretariat says connotes two notions: the need to do a better job of identifying and valuing the environmental effects of economic activity, and the desirability of passing on to future generations at least as much environmental and manmade capital as the present generation inherited.[150] One outgrowth of this concept is an increasing awareness of the need to reconcile trade rules with the fostering of environmentally sustainable growth. This need is particularly pressing in light of the marked disparity between the economic conditions in developed and undeveloped countries. Less developed countries often have to cope with such overwhelming problems as unemployment, malnutrition, and infectious disease, and therefore lack the resources to turn their attention to environmental quality and occupational health risks.[151]

In 1983, the World Commission on Environment and Development (the Brundtland Commission), established by the United Nations (U.N.) General Assembly, called for the mandates of the GATT and the U.N. Conference on Trade and Development to include attention to the environmental problems of developing countries. In 1987 the Brundtland Commission presented a report emphasizing that the activities of these organizations "should reflect concern with the impacts of trading partners on the environment and the need for more effective instruments to integrate environmental and developmental concerns into international trading agreements."[152] The main findings and recommendations of the Brundtland Commission were approved by consensus by the U.N. General Assembly in 1987, along with another document prepared by UNEP entitled *Environmental Prospective to the Year 2000 and Beyond.*[153]

These documents provided a broad framework for national action and international cooperation on programs aimed at sound environmental development and served as the foundation for the concept of the 1992 United Nations Conference on Environment and Development (UNCED), otherwise known as the Earth Summit. This conference, marking the 20th anniversary of the Stockholm Conference, was to be held in June 1992 in Rio de Janeiro, Brazil. It was to focus on sustainable development issues, which in turn address trade-related matters such as technology transfer from developed to developing countries; monitoring of energy supplies; protection of depletable natural resources (water, soil, forests, biological, and genetic resources); changes in the systems of incentives and penalties that motivate economic behavior; and transitions in production and consumption patterns in industrialized countries.[154] In addition, some environmental organizations recommended that UNCED endorse the establishment of a U.N. environmental organization with the authority to set international environmental standards.[155]

National Environmental Measures With Trade Provisions

The environmental interests in some countries have garnered support for the passage of environmentally based laws that affect international commerce. For example, the treaty that established the European Economic Community permits member states to promulgate national environmental measures that are more stringent than those adopted by the Community as a whole.[156] (U.S. environmental laws also generally allow individual states to adopt state programs that incorporate more stringent requirements than those imposed by the Federal law.) This provision has been cited as justification for some member states, such as Germany, Denmark, and the Netherlands, to pass bottling and packaging laws that affect trade by restricting the types of containers in which certain products can be imported. Although the European Court of Justice upheld a Danish law mandating the use and recycling of bottles,[157] the EC Commission threatened to challenge Germany's plastic-bottle deposit scheme, under which only shopkeepers could collect returns. The other members of the EC believed that this provision was discriminatory because it favored local producers: first, because local producers were more likely to use glass rather than plastic bottles and, second, because shopkeepers would not have foreign bottles cluttering up their shelves when local bottles could be returned more easily. Germany eventually modified its law.[158]

Several U.S. laws either already in effect or under consideration address the protection of the environment through trade-related measures. Virtually all existing measures are aimed at the protection of marine life.[159] These laws date back to 1971, when Congress enacted the Pelly amendment to the Fisherman's Protective Act of 1967.[160] Originally enacted to conserve Atlantic salmon, the amendment now includes protection for all species of fish as well as endangered wildlife.[161] It grants the President discretionary authority to prohibit the importation of fish or wildlife products from a country that has conducted fishing operations or has taken an endangered species in a manner that diminishes the effectiveness of an international conservation program.

The theme of the Pelly amendment has been carried over into a number of marine protection statutes. For example in 1972 Congress passed the Marine Mammal Protection Act (MMPA), which restricted imports of certain types of fish and fish products[162] from countries that partake in fishing practices that incidentally kill marine mammals, such as whales, dolphins, porpoises, seals, walruses, and sea otters.[163] The statute permits imports of covered fish when the foreign country can show that U.S. standards are being met. However, 1984 and 1988 amendments to the MMPA have made it increasingly difficult for other countries to meet U.S. standards with respect to the harvesting of yellowfin tuna.[164] The MMPA was amended again in 1990 to ban imports of fish harvested using large-scale driftnets on high seas.[165] A court order imposing an MMPA-based embargo on tuna and tuna products from Mexico prompted a GATT challenge, discussed below.

Similarly, other statutes provide for the imposition of trade embargoes on fish or fish products harvested in a manner that may cause the incidental taking of whales[166] and sea turtles.[167] The Driftnet Impact Monitoring, Assessment, and Control Act of 1987 was enacted to protect Pacific Coast salmon that are hatched in U.S. rivers and then migrate beyond U.S. waters, by encouraging the negotiation of bilateral agreements to manage the use of driftnet salmon fishing.[168] As amended in 1990, the statute reaches beyond salmon fishing and sets a national policy supporting a permanent ban on all large-scale, high-sea driftnet fishing.[169] A pending bill would require an embargo on all fish and fish products that are harvested using driftnets,[170] but the Bush administration reportedly does not support this proposed legislation.

Congressional efforts to achieve environmental protection through the use of trade measures may eventually extend beyond fish and wildlife laws. A bill proposed by Senator Boren, although reportedly not likely to be passed by the 102d Congress, is notable because it reflects coextensive attention to environment and trade concerns.[171] Under the proposed International Pollution Deterrence Act (the Boren bill),[172] the failure to impose and enforce effective pollution controls and environmental safeguards would constitute a subsidy. The goods produced abroad under such less strict environmental standards would be subject to a countervailing duty. This added duty would be equal to the cost that would have been incurred by the manufacturer to comply with environmental standards imposed on U.S. producers of the same kind of merchandise. The duty would be used to support the research and development of new environmental technologies and to finance their introduction into developing countries.[173]

International Environmental Agreements With Trade Provisions

Trade provisions have also been used in multilateral environmental agreements.[174] Of the 127 active multilateral agreements on environmental matters, 17 have trade provisions.[175] The majority of these 17 concern the protection of fauna, flora, and wildlife. Most notably, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) protects certain species of plants and animals from overexploitation through international trade. CITES regulates trade in species that either are threatened with extinction or may become endangered if their trade is not regulated.[176] For instance all signatories to CITES have agreed to a ban on trade of ivory from tusks of African elephants, and some signatories have further agreed to bans on the trade of other endangered species.

In addition to direct incorporation of trade measures, a number of international conventions for the protection of marine mammals and endangered species are linked implicitly to U.S. trade measures. As explained above, the Pelly amendment permits the President to impose an embargo on imports of fish or wildlife caught in contravention of an international conservation program. There have been several occasions when the United States threatened use of the Pelly amendment to impose trade sanctions against countries that, in the view of the Secretary of Commerce, condoned whaling practices that contravened the International Whaling Convention.[177] Likewise the recently adopted South Pacific Drift Net Convention, which has not yet been adopted by Congress, provides a vehicle for imposition of trade sanctions under the Pelly amendment for foreign driftnet fishing.

The International Tropical Timber Agreement of 1985 (ITTA) also reflects an effort to control commercial exploitation of a natural resource. Among other objectives, the agreement aims to provide an effective framework for cooperation and consultation between tropical timber-producing and timber-consuming countries with a view to the diversification of international trade in tropical timber and the encouragement of sustainable use and conservation of tropical forests. (For additional discussion of this agreement, see chapter 3, "United Nations Conference on Trade and Development" section.)

There has been an increasing movement toward international negotiation of far-reaching global environmental treaties with important implications for international commerce. Examples of recent environmental agreements with strong trade implications are the Montreal Protocol on Substances that Deplete the Ozone Layer[178] and the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal.[179] Both of these agreements were negotiated under the auspices of the UNEP. In addition, in February 1991, 130 countries began negotiating a treaty on global warming that will seek to reduce emissions of greenhouse gases.[180] This treaty was to be one of the focal points at the UNCED conference.

The Montreal Protocol is the first global agreement adopted to protect the earth's atmosphere. It includes trade restrictions on ozone-depleting chemicals, as well as the technologies for manufacturing them. Resulting from action first begun in 1977, the protocol was adopted in 1987 and has been ratified by 63 countries (including the United States), representing more than 99 percent of the production of and 90 percent of the consumption of ozone-depleting chemicals.[181] It commits signatories to reversing the depletion of the earth's ozone layer by, among other things, restricting the production, use, and sale of ozone-depleting substances, most notably chlorofluorocarbons (CFCs). It further encourages a market shift to safer substitutes.

A primary objective of the Basel Convention was to regulate the flow of hazardous and toxic materials from industrialized nations to developing nations. The convention regulates the movement of hazardous wastes, municipal wastes, and municipal incinerator ash across international borders. It sets a standard of "environmentally sound management" as the basis for all movements of covered wastes and requires notice and consent prior to waste export. Parties to the convention will be prohibited from exporting covered wastes to or importing them from nonsignatory countries, absent a separate agreement that ensures environmentally sound waste management.

Negotiations of the Basel Convention were completed in 1989, and more than 50 countries, including the United States, have become signatories. The United States has not yet, however, ratified the convention. Implementing legislation has been introduced in Congress, but its passage is linked to the reauthorization for the domestic waste management statute, the Resource Conservation and Recovery Act (RCRA).

The Montreal Protocol, the Basel Convention, and the proposed global warming treaty are the most prominent international agreements that have forced confrontation with issues related to sustainable development. The developing countries have indicated that their willingness to join international environmental agreements is at least in part contingent upon the receipt of financial and technical assistance from the developed countries. This assistance will enable the developing nations to employ measures aimed at environmental protection and at the conservation of their natural resources.[182]

In addition to committing developed countries to reduce their reliance on ozone-depleting chemicals, the Montreal Protocol calls for developed countries to help developing countries to achieve the protocol's purposes through multilateral financial assistance and the transfer of technology. In this regard developed countries, especially the United States, have promised that trade barriers will not hinder any technology transfer.[183] Some developed countries want such transfers to be made on a strictly commercial basis, whereas developing countries are generally calling for concessionary terms. The enforcement and sanction schemes that are to accompany these agreements are also receiving increasing attention.

Conflicts in the Making: GATT and the Environment

The relationship between these environmentally motivated trade measures and international trade commitments is now being tested. Although environmental measures are not explicitly addressed in GATT, the GATT Secretariat has recognized that the trade provisions of such environmental agreements as CITES, the Montreal Protocol, and the Basel Convention create potential conflicts with GATT rules.[184] Specifically, these agreements require the parties to apply more restrictive trade provisions to nonparties than to parties. GATT members have not yet been faced with the need to decide whether such departures from GATT's nondiscrimination principle can be justified.

Although environmental measures are not explicitly addressed in the GATT, two of the exceptions contained in article XX implicitly apply to environmentally motivated standards and regulations. Under article XX, measures that would otherwise violate GATT obligations may nevertheless qualify for trade exceptions as follows:

> Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or disguised restriction on international trade, nothing in the Agreement shall be construed to prevent the adoption or enforcement by a contracting party of measures:
>
> * * *
>
> (b) necessary to protect human, animal or plant life or health; [or]
>
> * * *
>
> (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.[185]

The interpretation of the terms and reach of these provisions raise myriad issues,[186] some of which have been addressed by the handful of GATT disputes involving these provisions. Although the first 30 years of GATT marked little activity concerning environmental provisions, the use of the environmental exceptions has been the subject of five GATT panel reports in the past decade. Two of these disputes involved efforts to justify import or export bans under the article XX(g) exception for measures relating to the conservation of exhaustible natural resources. The panels in both matters rejected the claims of justification. In one dispute the panel found that a U.S. ban on tuna imports from Canada was not justified on conservation grounds, given that the United States did not have coextensive catch limits on its own fishing fleets.[187] In the other dispute involving subsection (g), the panel found that, because there were no limits on Canadian consumption of herring and salmon, a Canadian restriction on the export of unprocessed herring and salmon was not "primarily aimed" at conservation.[188]

In a third case, Thailand attempted to justify a ban on imported cigarettes as a measure "necessary" to protect human life or health, under article XX(b). The panel, noting that Thailand did not restrict domestic production and sales of cigarettes, found that Thailand's ban was not "necessary" because other, nondiscriminatory measures were available to control the quantity and quality of cigarettes for public health reasons.[189]

The fourth GATT panel report involving environmental concerns addressed U.S. taxes on petroleum and on certain imported substances (manufactured from chemicals taxable in the United States), which were used to finance the Superfund program for cleaning up toxic waste sites.[190] In addressing the legitimacy of the import taxes, the panel indicated that the environmental purpose of the taxes was not relevant and that the dispute would be resolved as a normal tax dispute. The panel found that the tax on the nonpetroleum imports constituted a legitimate border-tax adjustment permissible under GATT. However, the panel also found that the tax on imported petroleum was inconsistent with GATT rules on national treatment, because imports were taxed at a higher rate than domestic petroleum.

The most recent environmentally based GATT dispute, brought by Mexico, involved the U.S. embargo on tuna from countries that could not prove that their tuna fleets (or the tuna fleets from which they, as intermediaries, purchase their tuna) meet the dolphin protection standards set out in the U.S. MMPA. As discussed above, the MMPA, among other things, outlines the regulatory program on incidental dolphin taking that a foreign country must adopt before yellowfin tuna captured by its vessels can be imported into the United States. Following the implementation of the 1988 amendments, Mexico submitted the necessary documentation reflecting conformance with the MMPA and was permitted to export yellowfin tuna to the United States. However, a challenge to the implementation of the 1988 amendments resulted in a judicial order imposing an embargo on imports of yellowfin tuna from Mexico.[191]

Mexico challenged this embargo under the GATT. Mexico argued that the measures prohibiting imports of yellowfin tuna and yellowfin tuna products were quantitative restrictions on importation—which are prohibited by GATT article XI:1. The U.S. responded that the measures were not quantitative restrictions but were "internal regulations enforced at the time or point of importation." Such regulations are permitted under GATT article III:4, as long as they do not discriminate among products of other countries in violation of MFN principles, are not applied so as to afford protection to domestic production, and accord to imported products treatment no less favorable than that accorded to like domestic products.

In finding that the U.S. embargo was inconsistent with GATT,[192] the panel rejected the U.S. contention that the measures were internal regulations enforced at the time or point of importation under article III:4. In considering the arguments put forward by the United States and Mexico, the panel examined the language of article III (the national treatment provision), and in particular the following language of Note Ad article III:

> Any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in article III:1 which applies to an imported product and the like domestic product and is collected or enforced in the case of the imported product at the time or point of importation, is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in article III:1 and is accordingly subject to the provisions of article III.

The panel focused on whether the tuna harvesting regulations could be regarded as a measure that "applies to" imported and domestic tuna. The panel indicated that the note covers only measures applied to imported products that are of the same nature of those applied to the domestic products, and determined that the note covers only those measures applied to the product as such. The products that the United States claimed to be regulating were tuna and tuna products; but, according to the panel, the MMPA does not regulate tuna as a product. Instead, it regulates the domestic harvesting of yellowfin tuna to reduce the incidental taking of dolphin. The panel found that the MMPA therefore "could not be regarded as being applied to tuna products as such because they would not directly regulate the sale of tuna and could not possibly affect tuna as a product."[193]

The United States argued that, even if the MMPA were not consistent with article III, the regulations imposed under the MMPA were covered by the exceptions contained in GATT article XX(b) and (d) and (g). The panel rejected these arguments. First, the panel suggested that these provisions do not permit extrajurisdictional protection (i.e., measures necessary to protect life or health or exhaustible resources outside the jurisdiction of the importing country.) Although the panel conceded that the text of these articles "refers to life and health protection generally without expressly limiting the protection to the jurisdiction of the contracting party concerned"[194] and permits "each contracting party to set its human, animal or plant life or health standards,"[195] it found the interpretation of article XX(b) and (g) proposed by the United States too broad. If the U.S. interpretations of these provisions were accepted, the panel warned, "each party could unilaterally determine the life or health protection policies from which other contracting parties could not deviate without jeopardizing their rights under the General Agreement."[196] The panel also found that the MMPA did not in any event meet the requirements that would qualify it as a measure under article XX(b) because the measure was not, in its view, "necessary." Among other things, the panel said that the United States could have tried other approaches; namely, the negotiation of international agreements,[197] as Mexico had suggested, to achieve the desired ends. The panel therefore concluded that the ban on the importation of Mexican harvested tuna was inconsistent with U.S. obligations under article XI, which prohibits resort to quantitative restrictions.

Mexico has deferred submission of the tuna-dolphin panel report to the GATT Council for formal adoption in view of its efforts to resolve the matter bilaterally with the United States. Under a recently introduced bill supported by President Bush, the tuna embargo would be lifted if Mexico promises to stop netting dolphins for a 5-year period beginning in March 1994, as well as to take interim measures to reduce dolphin mortalities.[198] Mexico has already notified the State Department of its intention to honor these commitments.[199] (For other coverage of this dispute, see chapters 2 and 4.)

In addition to article XX of the general agreement, several other agreements supplementing the GATT speak to or have implications for environmental concerns. The 1979 Agreement on Technical Barriers to Trade (the Standards Code), which emerged from the Tokyo Round, encourages its parties to use international standards whenever possible.[200] Nonetheless, the code allows the parties to deviate from such standards if they are "inappropriate for the Parties concerned" for reasons such as "protection for human health or safety, animal or plant life or health, or the environment; [or] fundamental climatic or other geographic factors." Any such derogation is permissible only insofar as it does not result in an unnecessary obstacle to trade. A rarely used dispute mechanism allows an exporting country to challenge another country's ban on the sale of a particular product on the grounds that the ban is not based on scientific criteria and, therefore, creates an unnecessary obstacle to trade.

Signatories to the Standards Code are required to provide notification of products to be covered by their proposed technical regulations. Whenever a regulation is expected to have a significant effect on the trade of other parties, the country promulgating the regulation must briefly indicate the objective of the regulation and provide notification of, as well as the rationale for, any deviation from international standards. A determination by the promulgating country that compliance with existing international standards is inappropriate for health or environment reasons constitutes a permissible reason for deviation from international standards.

From 1980 to 1990, code signatories made 211 notifications of deviation based on protection of the environment and 168 notifications of deviation based on public health and safety. Of the 211 environmentally based deviations, 160 concerned ozone-depleting substances, particularly CFCs and halons.[201]

A revised and expanded Standards Code has been tentatively agreed to and included in the December 1991 Dunkel text. Among other things, the revisions would extend the code's coverage to include standards stated in terms of processes and production methods (which prescribe how a product is made rather than the characteristics of the end product itself). The Dunkel text would require parties to ensure that "technical regulations and standards are not prepared, adopted, or applied with a view to or the effect of creating unnecessary obstacles to trade." (The phrase "the effect of" is newly added.)

In explaining the concept of "unnecessary obstacle," the Dunkel text states that "technical regulations shall not be more trade-restrictive than necessary to fulfill the legitimate objective, taking into account the risks non-fulfillment would create."[202] A footnote explains that "this provision is intended to ensure proportionality,"[203] a well-established EC litmus test for determining whether member-state and EC actions are justified. In this context, "proportionality" means that the efforts directed toward achieving a given end must be proportional to the objective—that is, no more than that which is reasonable and necessary to achieve the desired end. Article II:3 states that "technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner."

With respect to sanitary and phytosanitary (SPS) measures, the Dunkel text requires that they be "based on scientific principles" and not be "maintained against available scientific evidence." Furthermore, if a country decides to impose a measure that differs from international standards, guidelines, or recommendations, it must have "a scientific justification."[204] Both the revised Standards Code and the SPS agreement would require signatories to ensure that subnational governments within their jurisdiction follow the code's rules.

The 1979 GATT Subsidies Agreement, which also emerged from the Tokyo Round, contains an exception for environmental purposes. The Subsidies Code stipulates that the parties are not restricted from using certain types of subsidies, including those for "the redeployment of industry in order to avoid . . . environmental problems." Thus these types of subsidies would be exempt from countervailing-duty measures. Participants in the Uruguay Round are considering whether to extend this exemption to domestic transitional assistance for certain pollution abatement expenditures.

A controversial twist on this proposal—and one that is unlikely to be seriously considered at this late date in the Uruguay Round—would allow an importing country to impose countervailing duties to offset weak environmental regulations in the exporting country, based on the notion that the exporting manufacturer has effectively received an implicit subsidy by not being required to adhere to stricter environmental standards. This concept of using countervailing duties to offset weak environmental regulation is reflected on the national level in the proposed Boren bill, discussed above.

Other issues under consideration in the Uruguay Round, such as agricultural trade liberalization and strengthened dispute resolution mechanisms, have also been identified as potentially relevant to environmental policy.[205] For example, the Dunkel draft's chapter on agriculture would exempt certain subsidies for land conservation and environmentally related R&D from application of countervailing duties.[206]

Some environmental groups have recently expressed concern about the impact of current and proposed GATT rules on environmental policymaking. For example, some have expressed strong reservations about efforts within the Uruguay Round to remove technical trade barriers associated with sanitary and phytosanitary standards, particularly to the extent that these efforts could limit the capacity of nations to impose and enforce rigorous standards for environmental protection. A key issue in both the agricultural and rulemaking (standards) negotiating groups has been the circumstances under which regulatory officials will be permitted to deviate from international standards in their domestic regulation. Others warn that measures may be deemed unnecessary precisely because they have been successful: conservation efforts are now restoring populations of some endangered species, for example. Some analysts also believe that the requirement to have a scientific justification could put GATT dispute-settlement panels in the position of weighing questions they are ill-equipped to resolve: first, such panels are typically composed of trade, not scientific, experts, and second, since reasonable minds can disagree on how to interpret and what to do about available scientific evidence, tradeoffs among environmental measures, economic effects, and societal values are at root political.[207] Environmental organizations say that the GATT panel finding in the tuna-dolphin case could be invoked to prevent the use of trade restrictions to achieve environmental ends. A particular worry is that the ruling could make imposition of process-based standards more vulnerable to GATT challenge.[208] Finally, changes under consideration in the Round could make it easier for aggrieved countries to retaliate should these measures be subject to a negative dispute-settlement panel ruling.

Common Ground?

Trade institutions took several steps in 1991 aimed at reconciling these tensions. In October 1991 GATT decided to convene for the first time the Group on Environmental Measures and International Trade, which was established by the contracting parties 20 years earlier but had never met. In February 1992, the GATT Secretariat published the organization's first-ever report on trade and the environment.[209] In that report the Secretariat stressed the GATT's central rule of ensuring nondiscriminatory trade by stating—

> The rules of the General Agreement are concerned primarily with preventing discrimination, that is, with limiting the extent to which countries can discriminate between home products and imports, between imports from different countries, and between goods sold in the home market and those exported. It is reasonable to conclude, therefore, that even though the General Agreement does not mention the environment explicitly, non-discriminatory environmental policies ordinarily would not be subject to GATT constraints.[210]

In this respect, a law or regulation covering environmental concerns, like other domestic laws and regulations, normally would not violate the GATT as long as the measure applies equally to imported and domestic goods.[211] The GATT report lists examples of nondiscriminatory measures: sales taxes on products, such as those containing CFCs; deposit refund schemes for recyclable waste; favorable tax treatment for environmentally friendly products; and taxes or limits on polluting activities.[212]

The GATT report notes that, even if a trade measure is discriminatory, a signatory may be able to justify its necessity under article XX. Failing that, countries wishing to use trade measures to achieve environmental ends have the option of seeking a waiver from GATT rules or their amendment. Both actions would be possible if two-thirds of GATT members agreed (currently, 69 out of 103 countries).

However, the Secretariat stated that "in principle, it is not possible under GATT's rules to make access to one's own market dependent on the domestic environmental policies or practices of the exporting country."[213] The report argued that unilateral trade restrictions, imposed either in an effort to offset cost advantages of producers with laxer environmental controls or as a means to encourage other countries to accept one's own environmental standards, are both dangerous for the international trading system and unlikely to be the best means of achieving environmental ends. In that regard, the Secretariat observed that environmental regulations are just one of many policy areas on which the GATT has remained silent, even though differences in such policy areas among nations may have an impact on international competitiveness. (Other such areas include tax, social welfare, and labor.)[214]

In June 1991 the economics and trade Ministers of the OECD endorsed a joint committee report that identifies major connections between the policy areas of trade and the environment. (For additional discussion, see chapter 3, "Organization for Economic Cooperation and Development" section.) The Ministers directed the OECD to continue its initial work on trade and environment issues and called for a progress report at the 1992 OECD ministerial meeting. In an effort to forge common, organization-wide positions on issues related to UNCED, the environment and development Ministers met jointly in December 1991.

Reflecting the growing awareness of the linkage between trade and environmental policy, U.S. authorization of the negotiation of a North American Free-Trade Agreement among the United States, Canada, and Mexico was linked to the initiation of a series of steps intended to address environmental concerns. After the President's announcement in 1990 that the United States would commence free-trade talks with Mexico, environmental and labor activists in all three negotiating countries voiced strong concerns about the impact that the negotiation of a NAFTA would have on environmental, safety, and health protections.[215] They argued that a free-trade agreement would encourage many U.S. companies that pollute to move to Mexico, where enforcement of environmental regulations is considered to be less strict than in the United States. They further expressed concern that the competition for investment among jurisdictions in a free-trade area could push standards and compliance to the lowest common denominator.[216] Some environmental groups also pointed to the possibility that a free-trade agreement would ease the importation into the United States of environmentally unsafe products, such as agricultural products with high levels of pesticides. A coalition of consumer and environmental groups has sued the Office of the United States Trade Representative, thus far unsuccessfully, to force the U.S. Government to file an environmental-impact statement on the effects of the NAFTA.[217]

The allegedly inadequate enforcement of environmental standards in Mexico created the real possibility, in the views of environmental groups and others, of cost advantages that would encourage U.S. firms to relocate, to the detriment of environmental protection.[218] Furthermore, there was particular concern about the impact of a NAFTA on the border "maquiladora" region between the United States and Mexico, portions of which are already regarded as highly polluted. The maquiladora region has served as a home to foreign-owned production facilities, or maquilas, since the adoption of Mexico's Border Industrialization Program in 1965. Among other concerns, it was feared that the increased volumes of trade expected under the NAFTA would lead to further degradation of this environment as well as the general environments of all three NAFTA countries.

Congress raised these issues in a letter to the President from Senator Bentsen and Representative Rostenkowski, in their capacity as Chairmen of the Senate Finance and House Ways and Means Committees, and from House Majority Leader Gephardt. In May 1991, the President issued a response to Congress in which he committed the administration to a review of U.S.-Mexican environmental issues.[219] In addition, the President agreed to ensure the participation of U.S. Government environmental experts during NAFTA negotiations of any environment-related provision; to pursue with Mexico a comprehensive environmental program independent of, but parallel to, actual NAFTA negotiations; and to broaden the private-sector trade-negotiation process to include individuals with environmental expertise. Several moves were made in this direction, among them the appointment, on August 16, of five environmental experts to trade negotiations advisory committees on agricultural, intergovernmental, investment, industry, and services policy.

The administration also pursued an independent review of U.S.-Mexican environmental issues. This review featured an analysis of the possible environmental effects of a NAFTA. USTR coordinated the effort with the assistance of such agencies as the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration, the Fish and Wildlife Service, the Council of Economic Advisors, the Office of Management and Budget, and the Departments of State, Agriculture, Treasury, Justice, Commerce, Transportation, Labor, and the Interior.[220] A round of public hearings on the desirability, agenda, and economic effects of a NAFTA—which included substantial testimony on the agreement's potential effects on the environment—was held from August 21 to September 11 in six cities.[221] The interagency group issued a draft of the promised environmental study, *Review of U.S.-Mexico Environmental Issues*, on October 15; the group issued its final report on February 25, 1992.[222]

The report reviews all aspects of the U.S.-Mexican environmental relationship and the effect a free-trade agreement may have on border pollution, air and water quality, toxic chemical control, waste, chemical emergencies, and wildlife and endangered species. It concludes that a NAFTA would likely ameliorate, not exacerbate, environmental conditions along the U.S.-Mexican border. The interagency group found that, although growth in or outside the border area as a result of a NAFTA may lead to certain adverse environmental impacts, any negative consequences will be offset by the advantages that stimulation of economic growth will have on improving environmental protection. In this respect, the report suggests that it is easier to raise environmental protection in a growing economy, as growth allows companies to invest in the latest environmental technology (e.g., pollution-abatement controls), provides more government revenues for addressing public infrastructure aspects of environmental protection (e.g., sewage treatment, water-supply facilities), and reduces the burden of government's other human services responsibilities, which compete with the environment for scarce funding.[223]

With respect to border pollution, the report concludes that economic growth and industrialization in the border region are likely to continue irrespective of NAFTA. Accordingly, it stresses the importance of the completion and implementation of the U.S.-Mexican Integrated Border Environmental Plan independent of NAFTA negotiations. The project had been planned and was under way before the President requested fast-track authority to pursue a NAFTA. The Border Plan, a draft of which was released in August 1991, contains air-quality improvement measures, provides for increased investment in waste-water treatment plants, places greater restrictions on transborder hazardous waste shipments, and calls for the hiring of more enforcement officials by Mexico's environmental protection agency, the Secretariat of Urban Development and Ecology (SEDUE).

In further response to the environmental concerns raised by the NAFTA negotiations, the U.S. Government established a position for an EPA representative at the U.S. Embassy in Mexico. This is the first EPA position created at any U.S. Embassy. One function of the U.S. representative will be to work with SEDUE on enforcement of environmental laws and regulations in Mexico.

ENDNOTES

[1] For a discussion of these disagreements, see *Operation of the Trade Agreements Program (OTAP), 42nd Report, 1990*, USITC publication 2403, July 1991.

[2] President, "Remarks Announcing the Enterprise for the Americas Initiative," *Weekly Compilation of Presidential Documents*, June 27, 1990, pp. 1009-1013.

[3] U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade, Ambassador Carla A. Hills, testimony before the subcommittee, 102d Cong., 1st sess., Feb. 20, 1991.

[4] Such "fast-track" authority assures the President that Congress will either pass or veto implementing legislation for a trade agreement without amendment within 90 session days. In return the President agrees to consult actively with Congress and the private sector throughout the negotiation of the trade agreement. Before the President made his request, fast-track authority had been set to expire May 31, 1991. The 1988 legislation calls for an automatic 2-year extension of fast-track authority, provided that (1) the President submits his request for renewal to Congress with a report on progress made in the negotiations by March 1, 1991; and (2) the request is not overridden by a vote of Congress. Omnibus Trade and Competitiveness Act of 1988, sec. 1101-A, 19 U.S.C. 2903(b).

[5] H.R. Res. 146, 102nd Congr., 1st sess., 1991.

[6] S. Res. 78, 102nd Cong., 1st sess., 1991.

[7] President, *Response of the Administration*, May 1, 1991, p. 1.

[8] By this time, the three had already chosen the individuals who would serve as chief negotiators in the NAFTA talks. Deputy United States Trade Representative Julius Katz was designated chief negotiator for the United States, John Weekes was chosen to represent Canada, and Herminio Blanco was to negotiate for Mexico.

[9] U.S. Department of Commerce, International Trade Administration, *Mexigram*, July 1991.

[10] For additional information, see "Free Trade Negotiators Name 17 Working Groups," *North American Report on Free Trade*, June 24, 1991, p. 2.

[11] Office of the United States Trade Representative (USTR), "The Negotiating Groups," Nov. 1991.

[12] For additional information, see "Trade Negotiators Report Progress on NAFTA Agreement," *International Trade Reporter*, Aug. 21, 1991, p. 1236.

[13] *NAFTA Review*, USTR, vol. 1, No. 1 (Jan. 1992).

[14] USTR, *1992 Trade Policy Agenda and 1991 Annual Report of the President of the United States on the Trade Agreements Program*, 1992, p. 65. For additional information, see "Trade Negotiations Reach New Stage at Trilateral Ministerial Talks in Mexico," *U.S.-Mexico Free Trade Reporter*, Nov. 4, 1992, p. 1.

[15] *NAFTA Review*, USTR, vol. 1, No. 1 (Jan. 1992). For additional background information, see "Salinas Is Expected to Pressure Bush for Quick Conclusion of NAFTA Talks," *U.S.-Mexico Free Trade Reporter*, Dec. 2, 1991, p. 1.

[16] Ibid.

[17] President, *Response of the Administration*, May 1, 1991.

[18] Statistics from U.S. Department of Commerce, Office of Mexico, Feb. 1, 1992.

[19] *Report of the Working Party on the Accession of Mexico*, adopted on July 15, 1986, GATT, *Basic Instruments and Selected Documents, 33d supp., Protocols, Decisions, Reports*, 1985-1986 and 42nd sess., June 1987, p. 59.

[20] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 68.

[21] Based on official statistics of the U.S. Department of Commerce.

[22] *U.S.-Canada Free-Trade Agreement*, ch. 4, art. 401 (1).

[23] USTR, "The Negotiating Groups," Nov. 1991.

[24] Three phaseout periods—ending January 1, 1989, January 1, 1993, and January 1, 1998—were used in the CFTA. For additional information, see "'Extra-Long' Phaseout Period May Be Added for Tariff Reductions," *U.S.-Mexico Free Trade Reporter*, Oct. 7, 1991, p. 1.

[25] USTR, "The Negotiating Groups," Nov. 1991.

[26] *NAFTA Review*, USTR, vol. 1, issue 1 (Jan. 1992).

[27] USTR, "The Negotiating Groups," Nov. 1991.

[28] For a detailed discussion of this issue, see U.S. International Trade Commission, *Rules of Origin Issues Related to NAFTA and the North American Automotive Industry* (investigation No. 332-314), USITC publication 2460, Nov. 1991, p. vii.

[29] Derived from official U.S. Department of Commerce statistics.

[30] *Agreement Concerning Automotive Products Between the Government of the United States of America and the Government of Canada*, Jan. 16, 1965, 17 U.S.T. 1372.

[31] The rates are lowered by foreign trade zones and tariff provisions that impose no duties on parts of U.S. origin.

[32] For additional information, see USITC, *Rules of Origin Issues Related to NAFTA*, USITC publication 2460, p. 6.

[33] Executive Decree of Dec. 8, 1989, *Diario Oficial de la Federacion*, Dec. 11, 1989. For further discussion, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations*, (investigation No. 332-282), USITC publication 2275, Apr. 1990, pp. 4(9)-4(11), and USITC, *The Likely Impact on the United States of a Free Trade Agreement with Mexico* (investigation No.

332-297), USITC publication 2353, Feb. 1991, pp. 4(17)-4(22).

[34] General Motors, Chrysler, Ford, Volkswagen, and Nissan all operate plants in Mexico.

[35] Rules of origin became a subject of heated debate in a related context when, in early 1992, the U.S. Customs Service ruled that Canadian-made Honda Civics failed to meet local-content requirements for duty-free export. The Customs Service requested $17 million in back duties from Honda North America.

[36] USTR, "The Negotiating Groups," Nov. 1991.

[37] Statistics from U.S. Department of Commerce, Office of Mexico, Feb. 1, 1992.

[38] Mexican Constitution, art. 27, sec. 1.

[39] This figure can be increased if greater foreign ownership is deemed in the national interest.

[40] For further discussion of this topic, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico* (investigation No. 332-282), USITC publication 2275, pp. 5-7, 5-8.

[41] *Gist*, U.S. Department of State, Jan. 14, 1992, p. 2.

[42] USTR, *1992 Trade Policy Agenda and 1992 Annual Report*, 1992, p. 67.

[43] *U.S.-Canada Free-Trade Agreement*, ch. 16, arts. 1602-1611.

[44] These principles were to incorporate "the principles customarily included in bilateral investment treaties, such as national treatment, right of establishment, right to repatriate profits, guarantees against unfair expropriation, and access to arbitration for settlement of disputes." USTR, "The Negotiating Groups," Dec. 1991. For a discussion of the U.S. Bilateral Investment Treaty (BIT) program and model BITs, see USITC, *OTAP, 1983*, USITC publication 1535, June 1984, pp. 36-43.

[45] According to Assistant USTR for North American Affairs Charles E. Roh, Jr., the U.S. negotiators sought "an open, nondiscriminatory investment environment in Mexico, free of performance requirements and investment restrictions that distort trade and investment flows." U.S. House of Representatives, Committee on Banking, Finance, and Urban Affairs, Subcommittee on International Development, Finance, Trade, and Monetary Policy, testimony before the Subcommittee, Apr. 16, 1991.

[46] USTR, "The Negotiating Groups," Nov. 1991.

[47] Under the CFTA, rules governing financial services are designed to preserve, and in some cases increase, access for both U.S. and Canadian banks to each other's markets. One exception is the retention of Canada's 10-percent limitation on any individual resident or nonresident shareholder in a Canadian bank. This limitation, which applies to Canada's larger banks, is designed to ensure Canadian ownership of these banks.

[48] Regulation of May 15, 1989, *Diario Oficial de la Federacion*, May 16, 1989; Regulation of Jan. 25, 1990, *Diario Oficial de la Federacion*, Jan. 26, 1990.

[49] U.S. Department of the Treasury, *National Investment Study*, 1990, pp. 277-278.

[50] Regulation of May 15, 1989, *Diario Oficial de la Federacion*, May 16, 1989. For additional discussion of this issue, see USITC, *Likely Impact of an FTA With Mexico*, USITC publication 2353, pp. 4(41)-4(42); USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 132-133; and Kraus, James R., "U.S. Banks Say Free Trade Means Open U.S. Market," *North American Report on Free Trade*, May 27, 1991, p. 6.

[51] U.S. House, Roh testimony, Apr. 16, 1991.

[52] For additional information, see "Mexico's Financial Services Proposal Would Limit Foreign Subsidiaries," *U.S.-Mexico Free Trade Reporter*, Feb. 24, 1992, p. 1.

[53] USTR, "The Negotiating Groups," Nov. 1991. Another effort to enhance cross-border transportation was made through the late 1991 signing of a Memorandum of Understanding between the United States and Mexico that became effective April 1, 1992. It allowed for recognition of each country's commercial driver's licenses by the other, and ensured that bus and truck drivers from both nations would have comparable safety and operating skills. Department of Transportation, Federal Highway Administration, 49 C.F.R., part 383; RIN 2125-AC 98.

[54] USTR, "The Negotiating Groups," Nov. 1991.

[55] *U.S.-Canada Free-Trade Agreement*, ch. 20, art. 2005(1).

[56] On July 11, Ambassador Hills noted that in the case of cultural industries, "we [the United States and Canada] just agreed to disagree, and we still disagree. . . If we can make improvements and enhance the competitiveness of this region, then of course we will do so." However, she said, "we are not walking away from the Canada FTA." For additional information, see "Hills Doubts Trade Pact Threatens Canada's Culture," *North American Report on Free Trade*, July 22, 1991, p. 1.

[57] USTR, "The Negotiating Groups," Nov. 1991.

[58] The CFTA provides highly specific lists of professions and activities that are allowable under this provision. *U.S.-Canada Free-Trade Agreement*, ch. 15, art. 1502 (1).

[59] The latest Mexican legislation on standards is the Federal Law on Metrology and Standardization, which became effective on January 26, 1988, the date it was published in Mexico's *Diario Oficial*. For additional information, see Kim Frankena, "Role of Standards in NAFTA Talks," *International Economic Review*, USITC, Aug. 1991, pp. 12-15.

[60] "Standards in the North American Free Trade Agreement," U.S Department of Commerce, Office of Mexico, Oct. 17, 1991.

[61] Ibid.

[62] USTR, "The Negotiating Groups," Nov. 1991.

[63] Ibid.

[64] GATT, *GATT Activities, 1990*, p. 119.

[65] *U.S.-Canada Free-Trade Agreement*, ch. 13, arts. 1304-1305.

[66] USTR, "The Negotiating Groups," Nov. 1991.

[67] *U.S.-Canada Free-Trade Agreement*, ch. 11, arts. 1102-1102.

[68] This proviso echoes article 1102 of the U.S.-Canada Free-Trade Agreement. For additional detail on the U.S. position, see USTR, "The Negotiating Groups," Nov. 1991, p. 4.

[69] *U.S.-Canada Free-Trade Agreement*, ch. 18, arts. 1806-1807.

[70] *U.S.-Canada Free-Trade Agreement*, ch. 19, art. 1904(1).

[71] USTR, "The Negotiating Groups," Nov. 1991, p. 8.

[72] According to USTR, "the objective of Special 301 is to enhance the Administration's ability to negotiate improvements in foreign intellectual property regimes through bilateral and/or multilateral initiatives." The law requires USTR to identify "those foreign countries that deny adequate and effective protection of intellectual property rights, or deny fair and equitable market access for U.S. persons relying on intellectual property protection, and to determine which of those countries are priority foriegn countries." Trading partners not named as "priority foreign countries" but whose environment for protection of intellectual property rights is of concern to the United States may be placed on a "priority watch list" or a "watch list." Trading partners designated as a "priority foreign country" are subject to a 6-month section 301 investigation and face possible retaliation. For more details, see USTR, "Fact Sheet: 'Special 301' on Intellectual Property." Apr. 26, 1991. For a discussion of Special 301, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, pp. 6-7.

[73] U.S. House, Committee on the Judiciary, Subcommittee on Intellectual Property and Judicial Administration, statement of Ambassador Carla A. Hills, May 15, 1991.

[74] The Law of Development and Protection of Industrial Property, *Diario Oficial de la Federacion*, June 27, 1991.

[75] Executive Decree of July 11, 1991, *Diario Oficial de la Federacion*, July 17, 1991.

[76] For additional information, see "Some U.S. Firms Seek Changes in Mexican Patent, Copyright Laws," *U.S.-Mexico Free Trade Reporter*, July 26, 1991, p. 2.

[77] USTR, "The Negotiating Groups," Nov. 1991.

[78] This remains the case even though U.S. imports of crude petroleum decreased from more than half of total U.S. imports from Mexico in 1982 to 17.6 percent in 1990. For additional discussion of this trend, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 130.

[79] Mexican Constitution, art. 27. A pressing need for capital has, however, led PEMEX to engage in some joint ventures in oil exploration and petrochemical processing with foreign companies. For additional information, see "Mexicans Debate Whether Oil Is Subject of Free Trade Talks," *U.S.-Mexico Free Trade Reporter*, July 26, 1991, p. 6.

[80] For a discussion of Mexico's privatization efforts in 1990, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 132-133. See also chapter 4, "Mexico" section.

[81] For additional information, see "Trilateral FTA Negotiations Get Under Way," *Washington Trade Daily*, June 17, 1991, p. 1.

[82] President Salinas, *3d State of the Nation Report*, Nov. 2, 1991. For additional information, see "Salinas Vows Not To Give In on Energy, Sees Agriculture and Education as Key," *U.S.-Mexico Free Trade Reporter*, Nov. 18, 1991, p. 3.

[83] For additional information, see Damian Fraser, "Mexicans Resist US on Oil," *Financial Times*, Dec. 18, 1991.

[84] U.S. Department of Commerce, Office of Mexico, Feb. 1, 1992.

[85] President, *Reponse of the Administration*, May 1, 1991, p. 3.

[86] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, pp. 67-68.

[87] U.S. Department of Agriculture, Annual Agricultural Outlook Conference, remarks by Ambassador Carla A. Hills, Dec. 3, 1991. The U.S. position on agriculture made it likely that Canada, which maintains an extensive supply management system for such commodities as dairy products, would exempt itself from agricultural agreements made under the NAFTA. The supply management system had been permitted to continue under the CFTA.

[88] USTR, "The Negotiating Groups," Nov. 1991.

[89] *U.S.-Canada Free-Trade Agreement*, ch. 7, art. 702.

[90] For additional information, see "Proposed Safeguard Would Use 'Tariff-Rate Quotas,' Not 'Snap Backs,'" *U.S.-Mexico Free Trade Reporter*, Feb. 24, 1992, pp. 4-5.

[91] President, *Response of the Administration*, May 1, 1991, p. 11.

[92] For a discussion of these issues, see Kim Frankena and Allen Ruby, "Food Safety Issues in NAFTA," *International Economic Review*, Sept. 1991, pp. 12-16.

[93] The ejido system has historically been viewed as one of the most important outcomes of the 1910-17 Mexican Revolution. For additional information, see "Salinas' Land Reform Proposals Would Reverse Years of Mexican Law," *U.S.-Mexico Free Trade Reporter*, Nov. 18, 1991, p. 6.

[94] For background information, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 130. See also USITC, *The Impact of Increased United States-Mexico Trade on Southwest Border Development* (investigation No. 332-223), USITC publication 1915, Nov. 1986.

[95] President, *Response of the Administration*, May 1, 1991, p. 3, citing Interindustry Economic Research Fund, Inc., *Industrial Effects of a Free Trade Agreement Between Mexico and the USA*, 1990. This study is known as the Clopper Almon study.

[96] Gary Clyde Hufbauer and Jeffrey J. Schott, *North American Free Trade: Issues and Recommendations*, Institute for International Economics, 1992, p. 110.

[97] Over 5 years. Interindustry Economic Research Fund, Inc., *Industrial Effects of a Free Trade Agreement Between Mexico and the USA* (Clopper Almon study), research summary by Clinton R. Shiells and Robert C. Shelburne, U.S. Department of Labor, Mar. 12, 1991, pp. 4-9.

[98] Hufbauer and Schott, *North American Free Trade*, p. 110.

[99] Jeff Faux and William Spriggs, "U.S. Jobs and the Mexico Trade Proposal," *Briefing Paper*, Economic Policy Institute, May 1991, p. 1.

[100] The opposition voiced by U.S. and Canadian labor was not, however, shared by Mexican organized labor. In April the Mexican Workers Confederation, which boasts 5.5 million members and is the country's largest trade union, endorsed President Salinas' initiatives. Sovereign Assessment Group, "North American Free Trade Agreement: Prospects Improve Dramatically," Salomon Brothers, June 20, 1991, p. 3.

[101] President, *Response of the Administration*, May 1, 1991, pp. 6-9.

[102] *NAFTA Review*, USTR, vol. 1, issue 1 (Jan. 1992), p. 3.

[103] For additional information, see "Hills Says No Deadline Has Been Set for NAFTA Talks," *International Trade Reporter*, June 19, 1991, p. 935.

[104] Sovereign Assessment Group, "North American Free-Trade Agreement: Prospects Improve Dramatically," Salomon Brothers, June 20, 1991, p. 5.

[105] For a discussion of how near to agreement the 15 negotiating groups were at the end of the Brussels Ministerial, see *OTAP, 1990*, USITC publication 2403, July 1991, pp. 1-3.

[106] The final act will be the agreement that will encompass all negotiations reached and that will be implemented by national governments.

[107] GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 49, Aug. 6, 1991, pp. 2-3.

[108] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 2.

[109] GATT, *Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, MTN.TNC/W/FA, Dec. 20, 1991.

[110] The lists of trade restrictions to be removed by each country as well as time schedules for their removal.

[111] Notwithstanding a number of attempts at even the highest political levels, including discussions between the President of the United States and the President of the EC Commission, President of France, and the Chancellor of Germany, no conclusion to the Round was forthcoming as of mid-1992.

[112] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 2.

[113] GATT, *Draft Final Act*.

[114] For another discussion of the Dunkel text, see U.S. Department of Commerce, *Uruguay Round Update*, Apr. 1992.

[115] For background information, see William Dullforce, "Paris Quick to Oppose GATT Conclusions," *Financial Times*, Dec. 19, 1991, p. 6; "Farm Issue Is Still Snarling Trade Session," *Chicago Tribune*, Dec. 19, 1991, p. 2-1.

[116] For background information, see Keith M. Rockwell, "EC Council Rejects Proposal on Farm Subsidy," *Journal of Commerce*, Dec. 24, 1991, p. A-1.

[117] For further background, see GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, pp. 11-12.

[118] President, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, annex, pp. 55-56.

[119] Ibid., pp. 55-56; U.S. delegation in Brussels, *Uruguay Round Daily Report*, "Report on Additional Issues," Brussels, Dec. 3, 1990, p. 6.

[120] See Ambassador Rufus Yerxa, "GATT Ministerial: U.S. Briefing Transcript," Brussels, Dec. 4, 1990, p. 13.

[121] President, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, annex, p. 56. See also Ambassador Rufus Yerxa and Jeffrey Shane, Assistant Secretary for Policy and International Affairs, U.S. Deptartment of Transportation, "GATT Ministerial: U.S. Briefing Transcript," Brussels, Dec. 3, 1990, p. 2.

[122] The antidumping duties are likely to be levied on imports if their imported sales price is below the price prevailing for the same good on its home market. Foreign exporters therefore have an incentive to avoid importing the completed product, already assembled, by setting up assembly plants abroad where the good is to be marketed; they import nearly complete component parts for final assembly at the final market destination.

[123] These areas include beer, electronics, construction equipment, fish, nonferrous metals, paper, pharmaceuticals, steel, and wood.

[124] U.S. Congress, Office of Technology Assessment (OTA), *Trade and the Environment: Conflicts and Opportunities*, OTA-BP-ITE-94 (Washington, DC: GPO, May 1992).

[125] GATT, *Trade and the Environment*, GATT/1529, Feb. 3, 1992, derestricted Feb. 12, 1992, p. 2.

[126] Organization for Economic Cooperation and Development (OECD), *Joint Report on Trade and Environment*, OECD/GD(92)25, June 1991, derestricted in Feb. 1992, p. 7.

[127] Ibid., p. 8. In its report on *Trade and the Environment*, p. 39, OTA observes, "As the scale and rate of economic growth increases, environmental degradation may outpace environmental gains made through the use of environmentally preferable technology."

[128] For a general discussion of interrelated issues see, for example, comments of Gary Stanley, Esq.,

American Bar Association Conference on International Environmental Law: Recent Developments and Implications, Oct. 31-Nov. 1, 1991.

129 For a discussion, see GATT, *Trade and the Environment*, pp. 32-35, and OTA, *Trade and the Environment*, pp. 40-42.

130 GATT, *Trade and the Environment*, p. 17; OTA, *Trade and the Environment*, p. 8. On pages 20-21 of the GATT report the GATT Secretariat states that "empirical studies generally suggest caution in asserting that cost differences due to differences in environmental regulations are substantial, or that trade and investment effects within particular industries are large." However, it continues, there is "limited evidence of cross border relocation of business firms in response to national differences in environmental policy climates."

131 OECD, *Joint Report on Trade and Environment*, p. 8.

132 See, for example, James Cameron and Juli Abouchar, "The Precautionary Principle: A Fundamental Principle of Law and Policy for the Protection of the Global Environment," *Boston College International and Comparative Law Review*, vol. XIV, No. 1 (1991), p. 2, as cited in OTA, *Trade and the Environment*, p. 63.

133 OECD, *Joint Report on Trade and Environment*, p. 5.

134 For a discussion, see Ibid., p. 11, and GATT, *Trade and the Environment*, p. 8.

135 OTA, *Trade and the Environment*, p. 59.

136 OECD, *Joint Report on Trade and Environment*, p. 5.

137 GATT, *Trade and the Environment*, p. 17.

138 Ibid. For example, article 18 of the EC's Single European Act, adding article 100A to the Treaty of Rome, requires the EC Commission "to take as a base a high level of protection" when preparing proposals concerning the protection of health, safety, environment, or consumers.

139 Charles S. Pearson and Robert Repetto, "Reconciling Trade and the Environment: The Next Steps," paper prepared for EPA, National Advisory Council on Environmental Policy and Technology, Trade and Environment Committee, Dec. 1991, pp. 11-12.

140 Pub. Law 101-549, sec. 811(b).

141 For a discussion, see OTA, *Trade and the Environment*, p. 32; OECD, *Joint Report on Trade and Environment*, p. 6; and GATT, *Trade and the Environment*, p. 17.

142 OECD, *Joint Report on Trade and Environment*, p. 6.

143 See, for example, Peter A.G. van Bergeijk, "International Trade and the Environmental Challenge," *Journal of World Trade*, vol. 25, No. 6 (Dec. 1991). The concept of tradeable emission permits is a central feature of the recently adopted U.S. Clean Air Act Amendments of 1990. 52 U.S.C. 7401-7671q (1990).

144 The OECD, on page 9 of its *Joint Report on Trade and Environment*, observes that "stringent regulations can contribute to trade competitiveness through encouraging the use of more efficient production technologies and the sale of environmental products and services." A 1986 OTA report reaches a similar conclusion. See U.S. Congress, OTA, *Serious Reduction of Hazardous Waste: For Pollution Prevention and Industrial Efficiency*, OTA-ITE-307 (Washington, DC: GPO, Sept. 1986), pp. 6, 20, 77.

145 Michael Porter, *The Competitive Advantage of Nations* (London: MacMillan, 1990), pp. 647-648.

146 GATT, *Trade and the Environment*, p. 2.

147 For a discussion see, for example, Louis B. Sohn, "From the Hills of Tennessee to the Forests of Brazil: A Short History of International Environmental Law," ch. in *International Environmental Law: Recent Developments and Implications* (Chicago: American Bar Association, 1991).

148 For a discussion see, for example, Elizabeth P. Barratt-Brown, "Building a Monitoring and Compliance Regime Under the Montreal Protocol," *Yale Journal of International Law*, vol. 16, No. 2 (summer 1991), pp. 519-521.

149 Ibid.

150 GATT, *Trade and the Environment*, p. 3. For a compendium of definitions of the term "sustainable development," see D.W. Pearce, E.B. Barbier, and A. Markyardya, *Sustainable Development: Environment and Economics in the Third World* (London: Edward Elgar, 1989).

151 For a discussion, see C. Ford Runge, "Trade Protectionism and Environmental Regulations: The New Nontariff Barriers," *Northwest Journal of International Law and Business*, vol. 11, No. 1 (1990), p. 52; U.S. Senate, Committee on Finance, Subcommittee on International Trade, Dr. Joseph LaDou, testimony before the subcommittee, 102d Cong., 1st sess., Oct. 25, 1991 (LaDou testimony).

152 United Nations, World Commission on Environment and Development, *Our Common Future*, 1987, p. 84, quoted in J. Patrick Adcock and Judith T. Kildow, "Environment and the Trading System," *The Fletcher Forum*, vol. 16, No. 1 (winter 1992).

153 U.N. Resolutions 42/186 and 42/187. Sohn, "From the Hills of Tennessee," pp. 55 and 59.

154 U.N. General Assembly, "Structure and Organization of Agenda 21," report of the Secretary-General of UNCED, July 9, 1991. The three issues that received the most attention at the summit were climate, as addressed in the Global Warming Treaty; biodiversity (i.e., preservation of plant and animal life), and forestry, as addressed in the Global Forestry Convention.

155 Consortium for Action to Protect the Earth (composed of the Environmental Defense Fund, Friends of the Earth, the Audubon Society, the National Wildlife Federation, the Natural Resources Defense Council, and the Sierra Club), "Working Paper on Reform of Global Environmental Institutions," June 10, 1991.

156 Treaty of Rome, art. 130t.

[157] European Court of Justice, Case 302/86, Commission vs. Denmark, judgement of Sept. 20, 1988.

[158] *European Report*, No. 1578, (Mar. 1, 1990) Internal Market, p. 2. For a discussion see OTA, *Trade and the Environment*, pp. 89-90.

[159]For a thorough discussion of these statutes and their international trade implications, see Ted L. McDorman, "The GATT Consistency of U.S. Fish Import Embargoes to Stop Driftnet Fishing and Save Whales, Dolphins, and Turtles," *George Washington Journal of International Law and Economics*, vol. 24, No. 77 (1991).

[160] Pelly amendment, Pub. L. No. 92-219, 85 Stat. 786 (1954), codified as amended at 22 U.S.C. 1978 (1988). Fisherman's Protective Act of 1967, 22 U.S.C. 1971-1980 (1988).

[161] McDorman, "GATT Consistency of U.S. Fish Import Embargoes," pp. 482-485. To date all Presidential invocations of the Pelly amendment have concerned marine protection.

[162] Under regulations promulgated by the Department of Commerce, the ban applies to imports of halibut, salmon, and yellowfin tuna and products containing these fish. 50 CFR 216.24(e) (1990).

[163] 16 U.S.C. 1371.

[164] McDorman, "GATT Consistency of U.S. Fish Import Embargoes," pp. 492-493. For example, the 1984 amendments required exporting countries to show that their regulatory programs governing the incidental intake of marine mammals and the average rate of incidental taking of marine mammals per foreign vessel were comparable with that of the United States. H. Rept. No. 758, 98th Cong. 2d sess., reprinted in *U.S. Code Congressional & Administrative News*, pp. 635, 640-641. The 1988 amendments added more detail to the regulatory program that must be matched by the foreign government and added provisions that prevent circumvention of a U.S. embargo by transporting tuna through an intermediary country. 16 U.S.C. 1371(a)(2)(B),(C).

[165] Driftnet Act Amendments, Pub. L. No. 101-627 (1990), codified at 16 U.S.C. 1826. Large-scale driftnets are used on the high seas primarily to harvest tuna, but they are also used to harvest salmon and squid. The use of driftnets has been associated with a high number of deaths of nontargeted species, such as dolphins.

[166] The Packwood-Magnuson amendment to the 1976 Magnuson Fishery Conservation and Management Act allows the President to impose an embargo on all fish imported from a country that does not comply with the International Whaling Convention. 16 U.S.C. 1821(e)(2) (1988); 22 U.S.C. 1978(a)(4)(1988). McDorman, "GATT Consistency of U.S. Fish Import Embargoes," pp. 478-479.

[167] In 1989 Congress amended the 1973 Endangered Species Act to include a provision prohibiting the importation of shrimp or shrimp products from countries that do not have regulatory programs comparable with the U.S. program for protection of sea turtles. Conservation of Sea Turtles: Importation of Shrimp, Pub. L. No. 101-162 609(a), 103 Stat. 1037, 19 U.S.C. 1537 note (1989). McDorman, "GATT Consistency of U.S. Fish Import Embargoes," pp. 479, 495-496.

[168] Pub. L. No. 100-220, 4004-4009, 101 Stat. 1477, 1478-80, 16 U.S.C. 1822 note (1987).

[169] Driftnet Act Amendments, Pub. L. No. 101-627, sec. 107, 104 Stat. 4436, 4441, 16 U.S.C. 1826 (1990).

[170] H.R. Rep. No. 2152, 102d Cong. 2d sess. (1991), introduced on April 30, 1991. The bill would deny driftnet fishing vessels access to U.S. ports and bar the importation of fish, fish products, and sport fishing equipment from countries that use large-scale driftnets.

[171] Various resolutions passed by the 102d Congress underline the desire of Congress to ensure that environmental interests are considered when negotiating trade agreements. For example, H.R. 146 indicated that the United States under NAFTA must be able to maintain and enforce strict health and safety standards for imported agricultural products and emphasized the importance of a joint border environmental program. House Concurrent Resolutions 246, 227, and 247 urge the President to ensure that U.S. obligations under the GATT do not undermine U.S. environmental laws, notably the Marine Mammal Protection Act.

[172] "The International Pollution Deterrence Act," S. 984, 102d Cong., 1st sess. (1991).

[173] LaDou testimony.

[174] Adcock and Kildow, "Environment and the Trading System."

[175] GATT, *Trade and the Environment*, p. 11. For a description of such agreements see USITC, *International Agreements to Protect the Environment and Wildlife*, (investigation No.332-287), USITC publication 2351, Jan. 1991.

[176] For a fuller description of the CITES treaty, see Ibid., pp. 5-29 to 5-33.

[177] McDorman, "GATT Consistency of U.S. Fish Import Embargoes," pp. 484-490.

[178] *International Legal Materials*, vol. 26 (Sept. 16, 1987), pp. 1541, 1544.

[179] *International Legal Materials*, vol. 28 (Mar. 22, 1989), p. 657.

[180] See, for example, Barratt-Brown, "Building a Monitoring and Compliance Regime," and U.S. Department of Justice, "A Comprehensive Approach to Addressing Potential Climate Change," *Report of the Task Force on the Comprehensive Approach to Climate Change*, Feb. 1991.

[181] Barratt-Brown, "Building a Monitoring and Compliance Regime."

[182] OTA, *Trade and the Environment*, p. 9.

[183] Lori B. Talbot, "Recent Developments in the Montreal Protocol on Substances That Deplete the Ozone Layer: The June 1990 Meeting and Beyond," *The International Lawyer*, vol. 26, No. 1 (spring 1992), p. 176.

[184] GATT, *Trade and the Environment*, p. 11.

[185] The discussions concerning the drafting of this particular exception reportedly focused on export

rather than import restrictions. Steve Charnovitz, "Exploring the Environmental Exceptions in GATT Article XX," *Journal of World Trade*, Oct. 1991, p. 45.

[186] For a discussion of potential issues see, for example, OTA, *Trade and the Environment*, chs. 2 and 4 and app. A; GATT, *Trade and the Environment*, ch. 2; and OECD, Joint Session of Trade and Environment Experts, *The Use of Trade Provisions in International Trade Agreements*, OECD/COM/ENV/TD (92) 6, Jan. 29, 1992, draft.

[187] GATT, *United States—Prohibition of Imports of Tuna and Tuna Products From Canada, reprinted in GATT, Basic Instruments and Selected Documents, Twenty-Ninth Supplement* (1983), p. 91.

[188] GATT, *Canada—Measures Affecting Exports of Unprocessed Herring and Salmon*, reprinted in GATT, *Basic Instruments and Selected Documents, Thirty-Fifth Supplement* (1989), p. 98.

[189] GATT, *Thailand—Restrictions on Importation of and Internal Taxes on Cigarettes*, reprinted in GATT, *Basic Instruments and Selected Documents, Thirty-Seventh Supplement* (1991), p. 200.

[190] GATT, *United States—Taxes on Petroleum and Certain Imported Substances*, reprinted in GATT, *Basic Instruments and Selected Documents, Thirty-Fourth Supplement* (1988), p. 160.

[191] For a brief overview of the litigation, see *Earth Island Institute v. Mosbacher*, 746 F.2d 964, 976 (N.D. Cal. 1990), *aff'd*, 929 F.2d 1449 (9th Cir. 1991).

[192] The text of the panel report is reprinted in *International Legal Materials*, vol. 30, pp. 1594-1623. On November 29, 1991, the report was derestricted at the joint request of Mexico and the United States.

[193] Panel report, par. 5.14.

[194] Ibid., par. 5.25.

[195] Ibid., par. 5.27.

[196] Ibid., pars. 5.27 and 5.32.

[197] Ibid., pars. 5.28.

[198] "International Dolphin Conservation Act," H.R. 5419, 102d Cong., 2d sess. (1992). The bill was reported out of the House Committee on Merchant Marine and Fisheries on July 1, 1992, and marked up in the Ways and Means Committee on July 23, 1992.

[199] *Congressional Record*, vol. 49, No. 87 (1992), p. 4765.

[200] The Standards Code entered into force in 1980, but only by a limited membership.

[201] GATT, *Trade and the Environment*, box 4, p. 23.

[202] Dunkel text, pp. G-2 and G-3, par. 2.2.

[203] Ibid., p. G-3, ftn. 1.

[204] Ibid., p. L-37, pars. 10 and 11.

[205] Other topics dealt with in the GATT Council's May 1991 debate were whether article XX should be amended to specifically include measures necessary to protect the environment, environmental issues related to the patenting of animal and plant varieties or their biological processes, and whether the draft framework agreement for the General Agreement on Trade in Services should include an exemption similar to article XX for the environment. For a discussion of other possible issues, see OTA, *Trade and the Environment*, pp. 25, 41, and 68.

[206] Dunkel draft, pp. L-20, 8, L-28, L-13, and L-17 (par. 10).

[207] OTA, *Trade and the Environment*, p. 63.

[208] For a discussion of possible ramifications of the panel ruling, see OTA, *Trade and the Environment*, pp. 46-52.

[209] GATT, *Trade and the Environment*.

[210] Ibid., p. 7.

[211] For additional discussion, see Charles S. Pearson and Robert Repetto, *Reconciling Trade and the Environment: The Next Steps* (draft, Dec. 1991).

[212] Although no measures of this type have been challenged under GATT, some of these types of measures could be challenged as discriminatory.

[213] GATT, *Trade and the Environment*, p. 10.

[214] Ibid., p. 20.

[215] Labor leaders also objected to fast-track authority for negotiation of NAFTA based on concerns about other labor issues, such as workers' rights. Except to the extent that labor-related concerns include worker safety and health, these issues are beyond the scope of this discussion.

[216] For a discussion see, for example, Peter Morici, University of Maine, *A Social Charter for a North American Free Trade Area?*

[217] *Public Citizen, Friends of the Earth, and Sierra Club v. Office of the United States Trade Representative and George Bush*, 782 F. Supp. 139 (D.D.C. 1992). The district court decision was appealed to the U.S. Court of Appeals for the District of Columbia (No. 92-5010, docketed Jan. 15, 1992), where it has been briefed and argued but is awaiting decision.

[218] It should be noted that the focus of the environmentalists' concerns was mainly on the *enforcement* of existing laws rather than on the absence of any Mexican environmental laws altogether. Since March 1988 Mexico has had on the books a comprehensive environmental protection law (the Ecologic Equilibrium and Environmental Protection Act) as well as implementing regulations, but resources for enforcement have been scarce.

[219] President, *Response of the Administration*.

[220] U.S. House, Committee on Small Business, Subcommittee on Regulation, Business Opportunities, and Energy, Daniel C. Esty, Deputy Assistant Administrator for Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, testimony before the subcommittee, 102d Cong., 1st sess., Sept. 30, 1991.

[221] U.S. House, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness, Charles Ries, Deputy Assistant USTR for North American Affairs, testimony before the subcommittee, 102d Cong., 1st sess., Oct. 31, 1991. The hearings, held in Seattle, Houston, Atlanta, Washington, Cleveland, and

Boston, were conducted by an interagency panel of USTR's Trade Policy Staff Committee.

222 U.S. Government Interagency Task Force on U.S.-Mexico Environmental Issues, *Review of U.S.-Mexico Environmental Issues*, Feb. 25, 1992.

223 The report states that "without a NAFTA. . . the border area could be under as much or more [environmental] stress," and that "completion and implementation of the NAFTA. . . is likely to strengthen the two countries' commitment to cross-border environmental cooperation." Ibid., p. 4.

CHAPTER 2
The General Agreement on Tariffs and Trade and the Tokyo Round Agreements

Operating both as a set of rules drawn up in 1947 to govern world trade in goods and as an organization based in Geneva, Switzerland, that oversees administration of these rules, the General Agreement on Tariffs and Trade (GATT) provides an ongoing forum for discussion among members on trade matters in general and interpretation and implementation of the GATT rules in particular. Members, known as contracting parties[1] to the general agreement, conduct its administration through the GATT Council of Representatives. The Council also oversees administration of the 1979 Tokyo Round agreements, even though these agreements have a limited membership and are not actually part of the general agreement itself. (See section below for further details on the Tokyo Round agreements.)

The contracting parties meet approximately eight times a year on a roughly monthly schedule for GATT Council sessions. An annual session is usually held in December to review GATT activities of the past year and to decide on work plans for the upcoming year. The Council acts on behalf of the contracting parties on virtually all GATT activities, both routine and urgent, with proposals debated at Council meetings until a consensus is reached on what course of action to take. Work is then delegated to committees or specially created bodies. (See figure 2 for an organizational structure of the GATT.)

As the Uruguay Round to improve current GATT rules and design new ones spilled over into 1992, existing rules and the Tokyo Round codes of conduct continued to be addressed by the GATT. The following describes events taking place during 1991 in the GATT, as distinct from 1991 events in the Uruguay Round discussed in chapter 1. It includes the work of the standing bodies and committees, dispute-settlement cases, and actions under the authority of the Tokyo Round agreements.

Regular GATT Activities and Work of Committees

The standing GATT bodies continued their usual work in 1991 and, despite the demands of the ongoing Uruguay Round trade negotiations, expanded regular GATT activity on Eastern Europe's developing market economies as well as on the issue of trade and the environment. Bulgaria began negotiations to join the GATT, and the former Soviet Union took up an observer role in the GATT committees for the antidumping and import-licensing codes. On trade matters related to the environment, the GATT contracting parties re-established the Working Group on Trade and the Environment, continued efforts in the Working Group on the Export of Domestically Prohibited Goods and Other Hazardous Substances, and addressed a panel dispute between the United States and Mexico over environmentally based import restrictions on tuna.

GATT Ministerial

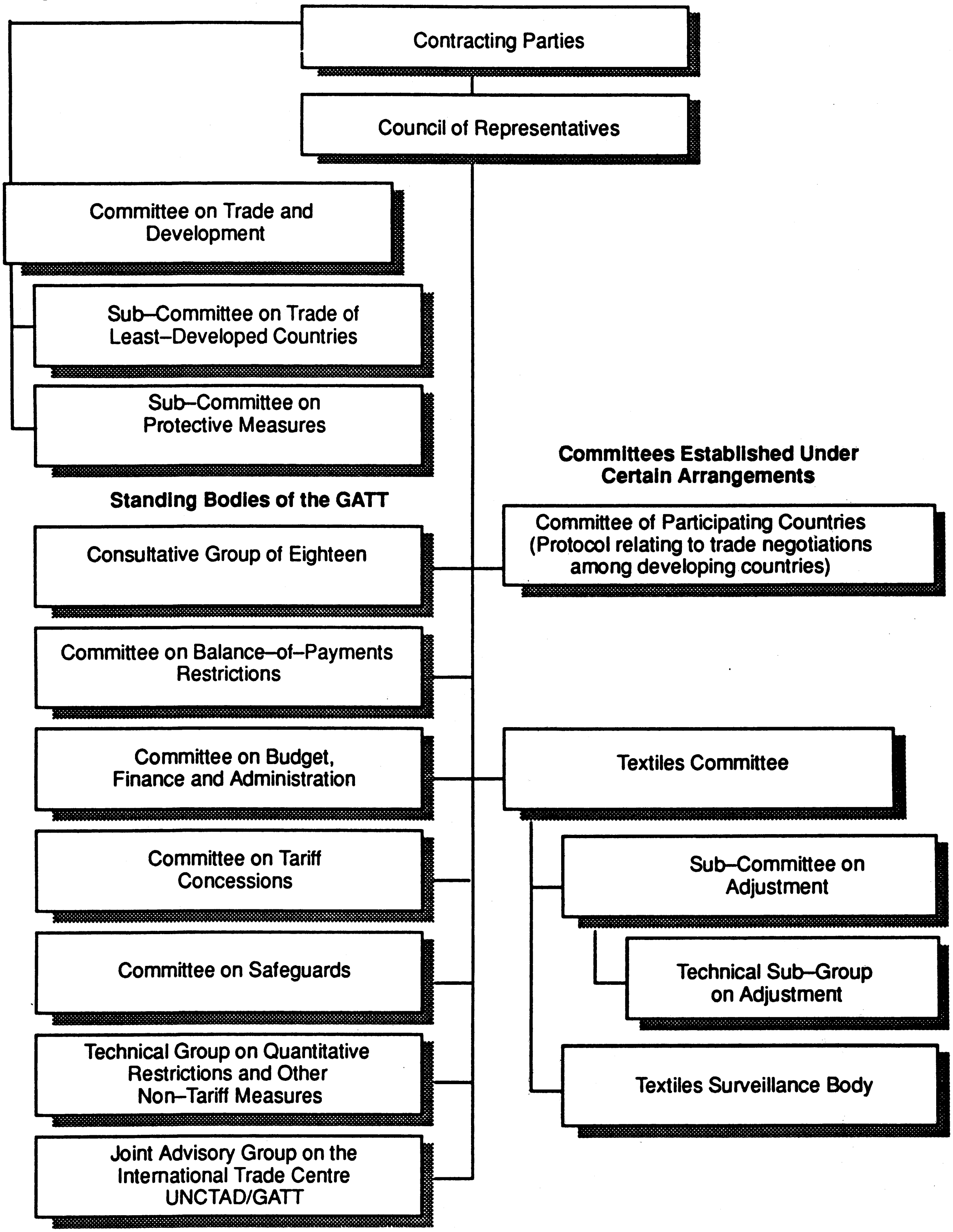
The 47th session of the contracting parties to the general agreement was held in Geneva from December 3 to 4, 1991. The major concern of the meeting was the need to complete the Uruguay Round of Multilateral Trade Negotiations.

The chairman of the contracting parties also conducted the annual review of work in GATT governing bodies, highlighting four international developments that should spur members to conclude the Round promptly:[2]

- Three years of decelerating growth in world production and trade;

- The breakdown of trade among the countries of Central and Eastern Europe and the former Soviet Union, as well as

Figure 2
Organizational structure of the GATT



Source: The GATT.

poor trade performance by most of the heavily indebted developing countries of the world;

- The need to support political and economic reforms undertaken by many developing countries; and

- Increasing nonimplementation of GATT dispute-settlement panel reports.

Council of Representatives

At the Ministerial meeting, the chairman of the GATT Council stressed problems with the dispute-settlement process.[3] The first problem, he noted, was the growing incidence of nonimplementation of panel reports, despite new procedures instituted in 1989 to streamline dispute-settlement procedures. This tendency undermined the credibility of the process, said the chairman, and would have adverse consequences for the world trade system if not soon halted. The second problem he highlighted was "forum shopping," the inclination of some members to pick and choose different GATT bodies for raising particular disputes. This practice pointed up the need to strengthen the GATT dispute-settlement procedures—a subject being addressed in the Uruguay Round.

Committee on Tariff Concessions

The Committee on Tariff Concessions, inter alia, oversees the maintenance of concessions negotiated during successive GATT trade negotiations. The principal focus of the Committee in 1991 continued to be the preservation of the balance of concessions as contracting parties convert from their previous national tariff schedules to the common international nomenclature embodied by the Harmonized System (HS), which standardizes the nomenclature used to classify traded goods. Each conversion of a national tariff schedule to the HS must be accompanied by article XXVIII (Modification of Schedules) negotiations to ensure this balance. Forty-eight countries have changed over to the HS but have not completed article XXVIII negotiations. Eighteen countries have finished these negotiations and annexed their HS tariff schedules in a protocol to the general agreement. In 1991 the Committee agreed on procedures that would facilitate the implementation of the first amendments to the HS nomenclature, which entered into force on January 1, 1992, and which could result in the modification of some rates of duty.[4]

Requests by members for waivers from their GATT obligations under article II (Schedules of Concessions) rose significantly in 1991, as a number of contracting parties sought to implement the HS before completing article XXVIII negotiations.[5] More than half of the contracting parties that are not members of the Organization for Economic Cooperation and Development (OECD) are renegotiating their tariff obligations; half of these members requested article II waivers or extensions of waivers.[6]

Committee on Trade and Development

At the two 1991 meetings of the GATT Committee on Trade and Development, Uruguay Round issues dominated discussions, as they did in the Subcommittee on Trade of the Least-Developed Countries.[7] The Committee has been a major conduit to developing countries for the assistance provided by the GATT Technical Cooperation program, as well as by other international organizations, in helping these countries analyze the trade consequences of the negotiations. The Committee expressed the hope that after the Uruguay Round concludes, the assistance program would be strengthened so that developing countries could better assess and take advantage of the Round's results.

The Committee also discussed the Generalized System of Preferences and regional integration schemes (e.g., integration efforts in Latin America) in relation to the "enabling clause" introduced into the general agreement as part of the Tokyo Round.[8] The clause allows exports from developing countries to receive special treatment without violating the nondiscrimination principle of the general agreement.

Committee on Balance-of-Payments Restrictions

The Committee on Balance-of-Payments Restrictions met three times in 1991 to review trade restrictions that members impose to preserve stability in their balance of payments (as permitted by article XVIII of the general agreement).[9] In 1991 complete examinations of trade restrictions based on balance-of-payments concerns ("full consultations") were held with the Czech and Slovak Federal Republic, Israel, and Yugoslavia. Briefer reviews ("simplified consultations") were held in 1991 with Nigeria, the Philippines, Tunisia, and Turkey. The Committee also decided that full consultations for these four countries would be appropriate.

During the year Argentina, Brazil, and Peru took the unusual step of renouncing trade restrictions they had imposed based on article XVIII, thus ending the need for consultations with the Committee. Consultations scheduled for 1991 with Colombia, India, Pakistan, and Sri Lanka were put off until 1992 due to attention focused on the Uruguay Round.

Working Group on the Export of Domestically Prohibited Goods and Other Hazardous Substances

At the end of 1991 the Working Group on the Export of Domestically Prohibited Goods and Other Hazardous Substances reported to the GATT Council that it had reached an impasse in efforts to finalize and adopt a draft Decision on Products Banned or Severely Restricted in the Domestic Market.[10] The working group recommended that consultations continue in 1992. The draft decision aims to place all trade in domestically prohibited goods under the oversight of at least one international body, such as the World Health Organization or the Food and Agriculture Organization.

Textiles Arrangement and Committee

The Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), has been extended four times since it entered into force on January 1, 1974.[11] The third extension, agreed upon in 1986, expired on July 31, 1991. On that date the Textiles Committee moved to renew the MFA for a fourth time, under the 1991 Protocol of Extension. Consequently, the MFA will remain in force for another 17 months, from August 1, 1991, to December 31, 1992, with the expectation that a trade regime negotiated in the Uruguay Round will enter into force immediately thereafter.

The current MFA has 41 participants,[12] which account for roughly $196 billion, or two-thirds, of world textile and clothing exports. The participants make up the membership of the Textiles Committee, which oversees operation of the MFA. The daily administration of the MFA is carried out by the Textiles Surveillance Body (TSB), composed of the MFA chairman and 10 Committee members chosen for a balanced representation of the arrangement's membership. The TSB examines all unilateral and bilateral textile restrictions to ensure that they conform with the provisions of the MFA. It also provides a forum for settling disputes.

Actions Under Articles of the General Agreement

Emergency Actions on Imports

Article XIX (Emergency Action on Imports of Particular Products) of the general agreement allows contracting parties to escape temporarily from their GATT obligations and impose emergency trade restrictions when increased imports are causing or threatening serious injury to a domestic industry.[13] A country invoking article XIX must notify the GATT and consult with affected exporting countries to arrange compensation. Because affected countries have the right to suspend "substantially equivalent concessions or other obligations" unilaterally, countries invoking article XIX have an incentive to limit such "safeguard" actions—or simply to avoid using article XIX altogether and negotiate directly with other nations.

As of mid-April 1991 there were 24 article XIX actions in force. One-third involved agricultural products. During the year one new safeguard measure plus several extensions were notified to the GATT. In early 1991 the European Community (EC) imposed duties on imports of certain frozen or preserved strawberries and raspberries. Early in the year the EC notified a safeguard restriction on provisionally preserved cultivated mushrooms. In addition, the EC extended a measure on processed cherries that had been introduced in 1989.[14]

In early 1991 Austria announced the extension of a safeguard action begun in March 1990 on prepared fowls.[15] Later, Austria notified the GATT of a new article XIX action concerning certain types of cement and preparations containing cement; it set a global quota for the year beginning September 1, 1991. However, imports of the affected products coming from members of the EC or the European Free Trade Association (EFTA) were exempt from the action. In response to concerns expressed by a number of contracting parties about the selective nature of its action, Austria maintained that exceptions to most-favored-nation (MFN) treatment are permitted under GATT article XXIV (Free-Trade Areas and Customs Unions) for members of free-trade areas. Austria is a member of EFTA and has a free-trade agreement with the EC.[16]

Dispute Settlement: Panels and Followups Requested by the United States

Panel on Alcoholic Beverages

In February 1991 the GATT Council agreed to form a new panel, using the original panelists whenever possible, to address a U.S. complaint that Canada had failed to implement a previous panel report, adopted in March 1988, that addressed the issue of discriminatory practices of Canada's Provincial marketing boards against imported alcoholic beverages. The original panel had been requested by the EC to examine the liquor boards' discriminatory treatment of imports of EC wine. The United States requested a new panel, however, contending that

Canada had not only maintained the previous practices, but had instituted new ones as well (in particular, against beer imports). Canada responded that the practices of its Provincial liquor boards did not discriminate against imported beer and were in full compliance with the GATT.[17]

The panel report, circulated to the contracting parties in October 1991 and first presented for adoption in December 1991, found in favor of the United States. It concluded that certain practices of the Canadian Provincial liquor boards were inconsistent with the general agreement. Canada announced that it would agree to adopt the report in 1992 and would report on measures to implement the panel recommendations in March and July 1992.[18] (For additional information on this subject, see Chapter 4, "Canada" section.)

Followup on Ice Cream and Yogurt

In February 1991 the GATT Council again reviewed a U.S. request for implementation of a panel report that addressed a U.S. complaint on Canadian import restrictions on ice cream and yogurt. Canada maintained that it would implement the report, which was originally adopted in 1989, once possible changes resulting from the Uruguay Round of negotiations on agriculture were agreed upon.[19]

Followup on Agricultural Import Restrictions

In February 1991 the United States asked for an update on the implementation of a panel report concerning Japanese import restrictions on certain agricultural products (dairy products and starch in particular). The report had been adopted in February 1988. However, rather than adopt new measures that conform to the general agreement, Japan had established annual minimum access for these products through March 31, 1991, the United States said. Japan responded that it continued to have reservations about the panel's interpretation of article XI:2 (General Elimination of Quantitative Restrictions) concerning starch and dairy products, and that it would await the outcome of agriculture discussions in the Uruguay Round addressing article XI before deciding which measures to take on these commodities.[20]

Followup on Oilseeds

In April and throughout 1991 the United States expressed concern that a panel report addressing a U.S. complaint on EC subsidies to oilseed processors and producers had not yet been implemented. The report had been adopted in January 1990. In October, November, and December 1991 the United States requested that the panel be reconvened to determine whether a pending EC oilseed regulation conformed with the panel's findings and recommendations. In December the EC agreed to reconstitute the panel once the regulation was finalized.[21] In turn the GATT Council agreed to reconvene the members of the panel upon notice that the EC oilseed regulation was finalized.[22] Accordingly, upon notice from the EC of final adoption of its oilseed regulation on December 12, 1991,[23] the panel was reconvened and issued its followup report on March 16, 1992.[24] (For additional discussion of this dispute, see chapter 4, "European Community" section, and chapter 5, "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section.)

Followup on Third Country Meat Directive

In July 1991 the United States requested a panel under article XXIII:2 to examine whether EC meat import practices under the Third Country Meat Directive[25] were in conformity with various provisions under the general agreement, notably article I (MFN Treatment), article III (National Treatment), and article XI (General Prohibition of Quantitative Restrictions).[26] A panel established in December 1987 to examine this directive was never convened because a bilateral agreement had temporarily defused the issue by allowing U.S. meat shipments to continue. However, an EC decision that effectively halted U.S. shipments of beef, pork, and lamb to the EC by January 1, 1991, led the United States to request a new panel. The EC did not agree to a new panel at the July GATT Council meeting, saying that it wished to study the U.S. request further. (For additional discussion of this dispute, see chapter 4, "European Community" section, and chapter 5, "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section.)

Followup on Apples and Pears

In July 1991 the United States raised with the GATT contracting parties the issue of continued restrictions on imports of apples and pears into Norway. In response to an earlier U.S. complaint, a panel had been formed in March 1988, and in June 1989 it determined that Norway's restrictions on these products conflicted with the GATT. Norway had since changed its import regime on apples and pears, and responded to the 1991 U.S. complaint by asserting that its new import regime on apples and pears conformed to its GATT obligations.[27] Norway added, however, that it would reassess its import policy in light of new rules concerning agriculture reached in the Uruguay Round.

Dispute Settlement: Panels and Followups Examining U.S. Measures

Panel on Tuna

In February 1991 Mexico requested a panel to examine a U.S. ban on imports of yellowfin tuna and its products. The U.S. prohibition[28] came into effect in October 1990 under the U.S. Marine Mammal Protection Act (MMPA). The act is aimed at protecting dolphins that swim above schools of yellowfin tuna and become trapped in the purse seine nets used to catch the tuna. Under the MMPA the United States is required to prohibit imports from countries whose fishing methods are found to result in a higher dolphin mortality rate than that incurred by the U.S. fishing fleet. In December 1990 the United States adopted additional requirements for labeling tuna products through the Dolphin Protection Consumer Information Act, which was aimed at identifying "dolphin-safe" tuna products.[29]

Mexico contended that these practices violated GATT articles I (General MFN Treatment), XI (General Elimination of Quantitative Restrictions), and XIII (Nondiscriminatory Administration of Quantitative Restrictions). For its part, the United States argued that article III (National Treatment on Internal Taxation and Regulation) allowed border enforcement of protection standards for dolphins as set out in the MMPA.[30] The United States also maintained that the import ban could be justified under article XX (General Exceptions), because its purpose is to protect animal health or exhaustible natural resources.

In February 1991 the GATT Council established a panel. The panel's report,[31] which was completed in August and was circulated to contracting parties on September 3, 1991,[32] favored Mexico regarding the import ban but favored the United States concerning the labeling law.[33] The panel concluded that the U.S. import ban violated article XI and was not justified under articles III and XX.[34] In October, Mexico and the United States requested that the report be removed from GATT Council consideration pending attempts by both parties to reach a bilateral solution.[35] (For additional discussion of this matter, see chapter 1, "Trade and the Environment" section, and chapter 4, "Mexico" section.)

Panel on Nonrubber Footwear

In March and again in April 1991 Brazil asked that the GATT Council establish a dispute-settlement panel to examine certain issues arising out of a case established under the Subsidies Code at Brazil's request in October 1988. The case before the Subsidies Code examined whether U.S. countervailing duties levied on nonrubber footwear from Brazil conformed with U.S. GATT obligations. It was decided in October 1989, in favor of the United States. Brazil's 1991 request for a dispute-settlement panel before the GATT Council was to examine whether the United States removed these countervailing duties on Brazil's exports of nonrubber footwear in a discriminatory manner.

The issue revolved around U.S. countervailing duties in place on January 1, 1980, when the Subsidies Code entered into effect.[36] Brazil contended that U.S. duties were lifted promptly in January 1980 against a number of other products from other countries,[37] but that the duties on Brazilian footwear were not lifted until October 1981. The United States responded that the case had already been adjudicated, with Brazil blocking adoption of the Subsidies Code report three times. Brazil stressed that its request was not an appeal of the panel report of the Subsidies Code but instead raised an issue based on GATT articles I (General MFN Treatment) and VI (Antidumping and Countervailing Duties), which had not been considered by the code panel. Brazil maintained that the 1979 Tokyo Round agreements, one of which is the Subsidies Code, could not be considered a greater authority than the general agreement, adopted in 1948. In April 1991 the GATT Council established a panel to examine the complaint.[38]

Panel on Alcoholic and Malt Beverages

In April and again in May 1991 Canada requested a panel to examine U.S. measures affecting alcoholic and malt beverages. Canada contended that measures by the Federal and State Governments of the United States affect the pricing, distribution, and sale of alcoholic and malt beverages and discriminate in particular against beer, wine, and cider imports. Canada held that these measures[39] violated GATT articles III (National Treatment) and XI (General Elimination of Quantitative Restrictions). The United States responded that Canada's complaint was vague. It also asserted that the case should be limited to measures raised by Canada in bilateral consultations already held in March and April 1991. The Council established a panel in May 1991 to examine the issue.[40] (For additional discussion of this dispute, see chapter 4, "Canada" section.)

Followup on Pork

In July 1991 the GATT Council adopted a panel report that, in response to a Canadian complaint, concluded that the United States had levied countervailing duties on fresh, chilled, and frozen pork from Canada in a manner inconsistent with GATT article VI:3. The report had been presented in October 1990. (For additional discussion of this dispute, see chapter 4, "Canada" section.)

Followup on Section 337

In March and again in April 1991 Japan asked for an update on the implementation of a panel report adopted in November 1989 that in response to a Japanese complaint found inconsistencies between section 337 of the U.S. Tariff Act of 1930 and U.S. GATT obligations.[41] Japan noted that, rather than align U.S. legislation with the panel recommendations to conform with its GATT obligations, the United States had moved in the opposite direction and initiated a new section 337 case. The case, brought before the U.S. International Trade Commission in February 1991, involved possible intellectual-property-right infringement by a Japanese company (Seiko Epson Corp.) over static random-access memories.[42] The United States responded that it remained committed to developing a GATT-consistent section 337 mechanism and had worked diligently to that end since January 1990 by way of an interagency task force. However, the United States could not condone U.S. patent infringement in the interim before conclusion of the Uruguay Round, when U.S. legislation aligning section 337 with the panel's recommendations would most likely be implemented.[43]

Followup on Customs Users Fee

In March 1991 the EC notified the GATT Council of its concerns that, while U.S. implementing legislation had been enacted aimed at aligning U.S. law with the recommendations of a panel report on customs users fees, this legislation may not fully address the panel report. (The panel had been established in response to an EC complaint, and its report had been adopted in February 1988. The panel had concluded that a U.S. customs fee was inconsistent with the GATT to the extent that the fee levied a charge in excess of actual processing costs and services rendered for any given imported product.)[44] The EC expressed the view that although progress was apparent on the issue in the report concerning GATT articles II (Schedules of Concessions) and VIII (Fees and Formalities Connected with Importation and Exportation), the U.S. legislation might be insufficient. The United States responded that by enacting minimum and maximum fees it had directly addressed the issues raised by the panel.[45]

Customs Unions and Free-Trade Areas

In November 1991 the working party report on the U.S.-Canada Free-Trade Agreement (CFTA) was presented and adopted under article XXIV (Customs Unions and Free-Trade Areas) of the general agreement.[46] Article XXIV permits contracting parties to form free-trade areas or customs unions that provide mutual preferential treatment in contravention to the MFN-treatment principle of the general agreement, provided that these members submit such regional arrangements to the GATT for examination. Article XXIV permits the formation of these arrangements, notwithstanding the GATT MFN principle, in the belief that closer integration of regional economies on balance supports the basic economic and trade-liberalization aim of the general agreement. The regional arrangement must, however, liberalize "substantially all the trade" among members of the union, and the trade barriers among those in the arrangement and those outside it must not be "on the whole. . .higher or more restrictive than. . .prior to the formation of such union."[47] Working parties are typically formed to examine these agreements, although to date no formal ruling has been made on the conformity of any regional arrangement with the provisions of the general agreement.[48] Parties to a regional arrangement typically submit a biannual report on the functioning of their agreement.

The working party report on the CFTA was unable to conclude whether the agreement conforms with GATT provisions. Both Canada and the United States maintained that the agreement is fully consistent with the provisions of GATT article XXIV. However, working party members expressed concerns related to (1) the availability of statistics that would illuminate whether the agreement was trade-creating or trade-diverting, (2) exceptions allowing import restrictions on certain agricultural goods, (3) the restrictive effects of the rules of origin embodied in the agreement, and (4) provisions for selective exemption from safeguard action undertaken by the two parties.

Negotiations on Modifications of Schedules

In 1991 a significant increase in requests for waivers was registered in conjunction with members' efforts to implement HS tariff nomenclature, which entered into force internationally on January 1, 1988.[49] These requests sought to waive certain obligations under article II (Schedules of Concessions) concerning tariff schedules, until renegotiation of the conversion from national tariff schedules to the HS schedule is completed under article XXVIII (Modification of Schedules). (For further detail, see "Committee on Tariff Concessions" section.)

Accessions to the General Agreement

Macao acceded to the GATT under article XXVI (Acceptance, Entry Into Force and Registration) on January 11, 1991, as the general agreement's 101st contracting party.[50] Macao initially promised to set a tariff schedule within a year of accession but requested a year's extension in late 1991.

Two other countries—El Salvador and Guatemala—acceded under article XXXIII

(Accession) in May and in October.[51] At the end of 1991 there were 103 contracting parties to the GATT, as well as 29 other countries that apply the general agreement on a de facto basis. (See table 1 for a list of GATT signatories.)

Working parties that had previously been established to examine accession petitions by Bulgaria and Paraguay were activated again; working parties for Algeria, Honduras, and Nepal remained dormant.[52] Mongolia and Panama petitioned to begin the accession process. The working party on China's accession did not meet during 1991. In 1991 the United States announced its intention to work with other contracting parties in support of Taiwan's request to accede to the general agreement as the Taiwan, Penghu, Kinmen, and Matsu Customs Territory.[53]

Review of Trade Measures from German Unification

The working party that was set up following German unification on October 3, 1990, met twice in 1991 to review the transitional trade measures established to support previous trade agreements made between the former East Germany and Eastern European countries.[54]

Trade Policy Review Mechanism

In 1991 the GATT Council in special session met three times to conduct examinations of the trade policies of certain contracting parties under the Trade Policy Review Mechanism (TPRM). The TPRM was introduced provisionally in 1989, following the Montreal Mid-Term Review of the Uruguay Round.[55] Until the TPRM is adopted permanently, only countries that volunteer for review are examined.[56] Eight reviews—of Chile, the EC, Hungary, Indonesia, Nigeria, Norway, Switzerland, and Thailand—were held in 1991.[57] Three of these reviews (of the EC, Hungary, and Indonesia) were held over from 1990. Reviews that were scheduled in December 1991 for Argentina, Austria, Finland, Ghana, Singapore, and the United States were postponed because of the Uruguay Round.

Implementation of the Tokyo Round Agreements

The Tokyo Round agreements and arrangements (known informally as the Tokyo Round codes)[58] extend additional rights and obligations to code signatories for the subjects they cover. GATT contracting parties are not required to become signatories to any of the Tokyo Round codes, nor are code signatories required to extend code benefits to a nonsignatory country.[59] (See table 2 for a list of code signatories.)

The six codes govern nontariff barriers to trade: dumping, subsidies, customs valuation, import-licensing procedures, standards, and government procurement. Three additional agreements cover the specific sectors of bovine meat, dairy products, and civil aircraft. A committee[60] composed of the particular code's signatories administers the procedures of that code, such as notification matters or dispute-settlement proceedings.

Code on Subsidies and Countervailing Duties

The Code on Subsidies and Countervailing Duties[61] elaborates on provisions in the general agreement concerning the use of subsidies and countervailing measures. The code provides a mechanism to oversee the international use of subsidies and countervailing measures through a process of notification and review of the subsidy programs of its signatories. It sets guidelines for resort to countervailing duties and also creates rights and obligations to ensure that the subsidy practices of one member do not injure the trading interests of another. In addition, the Subsidies Code provides dispute-settlement procedures.

The Committee on Subsidies and Countervailing Measures oversees operation of the Subsidies Code. The code entered into force January 1, 1980, and in 1991 had 24 signatories. Poland and Yugoslavia have signed but not yet ratified the agreement.

Notification and Review

In 1991 the Committee reviewed notifications of national countervailing-duty legislation, circulated reports on actions taken under countervailing-duty laws, and examined subsidy notifications by code signatories. By late in the year virtually all of the 24 signatories to the code had submitted national legislation concerning countervailing duty procedures for Committee examination. The Committee finished reviewing the countervailing-duty legislation for Canada and New Zealand and continued examining the countervailing-duty legislation for Australia, Chile, Colombia, and Turkey.

The code requires signatories to submit semiannual reports on any countervailing-duty action taken during the previous 6 months.[62] In the first half of 1991, 15 signatories[63] notified the Committee that no countervailing-duty action had been taken; five gave notice of countervailing-duty actions.[64] No notice was forthcoming from the EC, Indonesia, Pakistan, the Philippines, or Uruguay as of late 1991.

When signatories do resort to subsidies, GATT article XVI:1 requires them to notify in writing the extent and nature of the subsidization, its estimated effect on the affected product(s), and the circumstances that require the subsidy.[65] In practice, GATT signatories are to respond once every 3 years to a questionnaire from the Committee on Subsidies and Countervailing Measures concerning their subsidy programs and to update these "full subsidy notifications" in intervening years between each review cycle.[66] The most recent review cycle began in 1990; the previous cycle began in 1987. In 1991 the Committee continued its examination of subsidy notifications required under GATT article XVI:1 that were submitted as part of the 1987 review cycle, and began to examine notifications submitted as part of the 1990 cycle.

Consultations and Dispute Settlement

The Subsidies Committee established three new dispute panels under the code, undertook to reconcile two signatories concerning a fourth case, and continued to consider five panel reports.[67] In March 1991 the Committee established a panel following a U.S. complaint about an exchange-rate "insurance" scheme that was offered by the German Government to counter losses incurred by Deutsche Airbus. (For additional discussion of this dispute, see "Agreement on Trade in Civil Aircraft" section below, and chapter 4, "European Community" section.) In September 1991 the Committee established a panel in response to a Norwegian complaint about U.S. countervailing duties on imports of fresh and chilled Atlantic salmon from Norway. The Committee established another panel in September, following a U.S. complaint about Canadian countervailing measures against grain corn. The Committee also undertook in September to resolve a U.S. complaint against the EC regarding subsidies to the Airbus consortium, an issue separate from the U.S. complaint against the aforementioned German exchange-rate scheme. (For additional discussion of this dispute, see chapter 4, "European Community" section.) At a special meeting in December 1991, the Committee established a panel regarding a Canadian complaint against the United States concerning U.S. trade measures that Canada considered inconsistent with U.S. obligations under the Subsidies Code. Canada contested both the U.S. imposition of a bonding requirement on imports of softwood lumber products from Canada and the initiation of a U.S. countervailing-duty investigation into Canadian policies on natural resource use and pricing, of which particular Provincial practices for harvesting lumber were to be scrutinized. (For additional information, see chapter 4, "Canada" section.)[68]

Antidumping Code

The GATT Antidumping Code[69] elaborates the provisions of article VI (Antidumping and Countervailing Duties) under the general agreement on the use of antidumping duties to offset the margin of dumping. Antidumping duties may be imposed only upon an official finding of dumping, as well as upon a finding that a domestic industry is being injured, threatened with injury, or that the establishment of a domestic industry is being retarded by reason of imports. Such injury arises typically from imported merchandise being sold, or "dumped," at prices below those prevailing in the domestic market where the products originate, but also from those imports sold at prices below the cost of production. The code provides for surveillance of antidumping measures by signatories through its notification and review requirements. Members must, for example, notify their antidumping legislation and regulations to the Committee for examination and twice a year must report antidumping actions taking place in the previous 6 months. The code also governs the dispute-settlement procedures under the agreement. The code is administered by the Committee on Antidumping Practices, which is composed of code signatories. In 1991 there were 25 signatories plus Argentina, which signed the agreement provisionally in April. No meetings took place of the Ad-Hoc Group on the Implementation of the Antidumping Code during 1991.

Notification and Review

By late 1991, 22 signatories had notified the Committee about their domestic antidumping legislation. Four signatories—Australia, Poland, the United States, and Yugoslavia—informed the Committee of changes to their antidumping legislation. The Committee proceeded to examine the changes and continued examining particular antidumping laws and regulations from Australia, the EC, Korea, and the United States. The Committee finished examining other antidumping legislation from Australia, Canada, New Zealand, and the United States during 1991.

By late 1991, 14 signatories[70] had told the Committee that they had instituted no antidumping action during the first half of 1991. Ten signatories, on the other hand, notified the committee of antidumping action during this period; they were Australia, Brazil, Canada, the EC, Finland, Korea, Mexico, New Zealand, Poland, and the United States.

Consultations and Dispute Settlement

In 1991 the Committee continued with the one case pending before it[71] and, in October, established two new dispute-settlement panels under the code. One panel dealt with a complaint brought by Norway against the United States, concerning antidumping duties levied on imports of fresh and chilled Atlantic salmon. The other panel focused on a complaint from Mexico against the United States, concerning antidumping duties imposed on imports of grey Portland cement and cement clinker from Mexico.

The Committee also assisted in consultations and attempted conciliation in a number of complaints brought by code signatories during 1991. Hong Kong requested the Committee's assistance in resolving a case concerning U.S. antidumping duties on manmade-fiber sweaters from Hong Kong. Another complaint was brought by the United States against Korea and concerned antidumping duties imposed on imports of polyacetal resins from the United States. A third complaint was registered by Sweden against the United States and its antidumping duties on imports of stainless steel plate from Sweden.

Several signatories informed the Committee that bilateral consultations would be held under the auspices of code article 15:2. Brazil informed the Committee of its request for bilateral consultations with the EC, concerning antidumping proceedings initiated on imports of cotton yarn from Brazil. Japan informed the Committee that it had asked for bilateral consultations with Korea regarding polyacetal resins and with the EC over audiocassettes and tapes.

Other topics discussed during 1991 included—

- A review of EC duties levied on audiocassettes, tapes, and electronic typewriters from Japan; and

- U.S. antidumping actions concerning antifriction bearings from Sweden; portable electric typewriters from Japan and Singapore; circular welded steel pipe and tube from Mexico; flat-panel displays from Japan; and magnesium, nepheline syenite, and brass sheet and strip from Canada.

Customs Valuation Code

The Customs Valuation Code establishes a single set of rules to determine the customs value of imported goods. These rules, which are intended to provide a fair, uniform, and neutral system of valuation,[72] are used to help customs officers in participating countries determine the value of imports, as a basis in assessing ad valorem duties. The code has given greater precision to the provisions on customs valuation already found in the GATT and has led to widespread harmonization of valuation systems. For traders it has made the cost of duties more predictable.[73]

The Customs Valuation Code took effect on January 1, 1981, with 16 original signatories. By late 1991 it had 28 signatories, plus Poland which has accepted the code pending ratification. Poland has been implementing the code's provisions since January 1, 1990, as part of basic legislation aimed at transforming the Polish economy. Thirty-four countries plus three international organizations[74] also take part as observers to the code.

Committee Activities

The Committee on Customs Valuation met twice during 1991 to discuss matters related to the code's implementation and administration. To promote transparency, signatories must inform the Committee of changes in customs laws and regulations and in their administration. During 1991 the Committee examined the implementation and administration of the code by Australia, Argentina, Cyprus, the EC, India, Malawi, and Zimbabwe and concluded an examination of amendments to Korean legislation. The Committee also completed its 11th annual review of the implementation and operation of the code.

Technical Committee

At its only meeting in 1991, the Technical Committee of the Customs Valuation Code heard a report from the GATT Secretariat on the latest developments in the Uruguay Round, including negotiations concerning valuation. Several observers indicated that adoption of the measures agreed to in October 1990 could remove the last obstacle to their joining the code. These measures include a decision to allow customs officials to require additional proof from importers concerning the declared value of goods and another that sets out a 5-year transition period in which developing countries can retain valuation systems based on officially fixed prices (not otherwise permitted under the code).[75] The new draft text of the Uruguay Round Final Act, announced in December 1991, retained these customs valuation measures.[76] Other topics discussed in the Technical Committee included the publication of a customs valuation control handbook, technical assistance and training seminars, confirmation of commissions, and the definition of royalties and license fees.

Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures is aimed at simplifying the procedures that importers must follow to obtain licenses. The agreement enterered into effect January 1, 1980. The agreement's membership remained constant throughout 1991, currently covering 26 countries plus Argentina, whose signature is pending ratification. Thirty other governments and two international organizations—the International Monetary Fund and the United Nations Conference on Trade and Development—have observer status.

The Committee held two meetings in 1991, in March and in October. At the March meeting the Committee received further replies to a GATT questionnaire on import licensing from signatories. At the same meeting the Committee welcomed Bolivia as a new observer and agreed to grant observer status to the Soviet Union.[77] Romania also briefed the Committee on the details of a liberalized import- and export-licensing system that the country planned to adopt.

At the October meeting the Committee took note of revised, corrected, or updated replies to the questionnaire from certain signatories and of information on the implementation and administration of some signatories' import-licensing systems. The Committee acknowledged as well that Romania had instituted its new licensing system. In addition, the Committee undertook its sixth biennial review of the implementation and operation of the agreement.

At both 1991 meetings the Committee received publications from some signatories on their import-licensing procedures. Throughout the year, the Committee continued its discussion on the relationship of its own work to the import-licensing work done in the Uruguay Round. Talks on amending the original agreement were held in the Round throughout 1991 under the auspices of the Negotiating Group on MTN Agreements and Arrangements.[78]

Standards Code

The Standards Code, formally known as the Agreement on Technical Barriers to Trade (TBT), entered into force on January 1, 1980. The aim of the code is to ensure that procedures and systems relating to product standards, technical regulations,[79] testing, and certification of products do not create unnecessary barriers to trade.[80] The code currently has 38 signatories plus Argentina and Rwanda, whose signatures are pending national ratification. There were no new signatories in 1991.

The group negotiating standards in the Uruguay Round tentatively agreed to a revised Standards Code in December 1991. The revised code is broader in scope than the current one and allows for coverage of regional standards bodies, strengthened rules on conformity assessment, coverage of processes and production methods, and improved dispute-settlement provisions.[81] (For further information on the negotiation of the new Agreement on Technical Barriers to Trade, see chapter 1, "Trade and the Environment" section.)

Committee Activities

The Committee on Technical Barriers to Trade (TBT), which administers the code, met twice during 1991 to discuss proposed improvements and problems in implementing the code, to exchange information, and to handle administrative matters. Although it was primarily concerned with the implementation of existing provisions and administration of the code, during 1991 the TBT Committee continued to focus on individual signatories' proposals to improve, clarify, and expand the code as part of the Uruguay Round.[82] In October the TBT Committee held its 12th annual review of the operation and implementation of the code.

Code of Good Practice

A significant topic of discussion in 1991 was the addition to the Standards Code of a Code of Good Practice for the preparation, adoption, and application of standards by central governments, State and local governments, nongovernmental bodies, and regional standards organizations.[83] As part of the Uruguay Round, the group negotiating standards further developed the draft Code of Good Practice, which was tentatively agreed to in December 1991. This Code of Good Practice would require advance notification of new or proposed standards that could affect international trade, and it would also require signatories to provide interested parties with an opportunity to comment on the draft standards. Central governments would also be required to ensure that State and local government bodies that develop standards abide by the Code of Good Practice.[84] However, the Central Secretariat of the International Standards Organization (ISO), as a technical body advising the Standards Code Committee, voiced private-sector opposition to the Uruguay Round Code of Good Practice and suggested the development of an alternative, voluntary code based on international consensus—a position supported by the United States.[85] In November the Committee decided that upon final completion of the ISO/IEC Code,[86] it would evaluate the ISO code's implications for the operation of the 1991 Agreement on Technical Barriers to Trade.[87]

Other Committee discussions in 1991 centered on trade and the environment and on notification and comment periods for proposed standards. Bilateral consultations were held under the auspices of the Committee.

International Dairy Arrangement

The principal objectives of the International Dairy Arrangement (IDA) are to expand and liberalize world trade in dairy products, to avoid surpluses and shortages of dairy products in international markets, and to maintain prices at equitable levels.[88] These objectives are pursued through the activities of the International Dairy Products Council, which oversees the arrangement and meets twice a year to evaluate the world dairy products market. The arrangement came into operation on January 1, 1980, and has been extended until December 31, 1994.[89] It currently has 15 signatories (including the 12 EC member states, which count as one signatory) plus Egypt, whose signature awaits ratification. The United States is not currently a participant in the arrangement.[90]

In addition to the International Dairy Products Council, the arrangement also established three Committees to supervise the three protocols annexed to it.[91] The three protocols set out minimum export prices for dairy products,[92] with their respective Committees overseeing compliance by participating countries.[93] During 1990 the Protocol Committees, concerned about the unsatisfactory situation in the world dairy market, called upon participants to observe the minimum export prices fully. An appeal was also made to nonparticipants not to sell dairy products at prices below prevailing market prices and not below the agreed minimum export prices.[94]

The Council held two meetings in 1991 to evaluate[95] conditions in the international dairy products market. In a report issued by the GATT Secretariat[96] it was noted that events in the former Soviet Union,[97] which accounts for roughly 25 percent of world butter consumption, were having a major effect on the world butter market. A growing consumer preference for low-calorie products also added to the downturn in butter prices and the 50-percent rise in world butter stocks in 1990-91. World butter stocks are estimated to have increased to 1.08 million tons in 1991, with the EC and the United States being the principal holders of stocks.[98]

The Secretariat's report also indicated that prices for milk powders in 1990 had suffered due to depressed market prices for butter. In 1991, however, powder prices firmed following a weakening of the U.S. dollar and further restraints in milk deliveries, notably in the EC. The Secretariat reported that world cheese exports grew by 2 percent in 1990 and were expected to increase by another 2 percent in 1991.[99]

Arrangement Regarding Bovine Meat

The Arrangement Regarding Bovine Meat promotes international cooperation toward expansion, liberalization, and stabilization of trade in meat and livestock.[100] The International Meat Council (IMC) supervises the arrangement and evaluates the world market situation for meat products. The Meat Market Analysis Group (MMAG), a subsidiary body set up by the IMC in June 1981, assists the Council in the analysis and evaluation of reports submitted to it on trends in the world meat market. This group of experts meets twice a year, before sessions of the IMC.

In 1991 the arrangement had 24 signatories plus Belize and Paraguay, which have signed pending ratification.[101] No new members joined during 1991. Participants in the arrangement account for about 90 percent of the world's exports of fresh, chilled, and frozen beef and veal (excluding intra-EC trade) and more than 60 percent of both world consumption and production.[102] Members encompass all major beef exporting and importing countries, with the exception of the former Soviet Union. The arrangement provides for the collection and distribution of data on meat production and trade, holds consultations on market conditions, and provides a forum for discussion of issues raised by participating countries.

The IMC held meetings in June and December of 1991 to discuss the operation of the arrangement, the situation and outlook in the international meat market, and policy questions. In its regular sessions the IMC noted that no substantive discussion regarding the functioning of the arrangement had taken place since the beginning of the Uruguay Round negotiations. In the area of policy questions, discussion centered on stabilization mechanisms introduced by the EC in both the sheep meat and beef sectors. Policy changes in the United States, Poland, Bulgaria, Brazil, South Africa, and Japan were also discussed.

With regard to market conditions the GATT Secretariat's report for the IMC[103] noted that the international beef market faced low prices in 1991, reflecting a continued excess of global production. Large supplies of competing meats added to downward pressure on beef prices, and a major drop in prices was averted mainly because import demand sharply increased in the former Soviet Union.[104] Although global beef imports increased by an estimated 3.5 percent in 1991, purchases by the United States and Japan declined. Following a surge in beef imports earlier in the year, the United States signed voluntary export-restraint agreements with Australia and New Zealand in November 1991. In terms of market outlook the IMC predicted that poor global economic prospects would dampen demand for beef in industrialized countries in 1992. Competition from other meats was expected to persist, but beef import demand was expected to strengthen in the Middle East, North Africa, and Asia. Overall the IMC estimated that the international beef trade would show a slight decrease in 1992.[105]

Government Procurement Code

The Government Procurement Code entered its 11th year of operation in 1991. The code seeks to increase transparency in the laws, regulations, procedures, and practices relating to government procurement and to ensure that they do not serve to protect domestic products or suppliers from international competition.[106] It requires signatories to allow suppliers from other signatories to compete for government contracts on conditions no less favorable than those accorded to domestic suppliers. The code also establishes common procedures aimed at improving transparency by providing information on proposed government purchases, on the opening and awarding of bids by signatories agencies, and by settling disputes. As of late 1991 the code had 12 signatories.

The Committee on Government Procurement, which administers the code, met in session six times in 1991 and four times in its Working Group on Negotiations. Their discussions focused on attempts to overcome the impasse over article IX:6(b),[107] reached in December 1990 in conjunction with the Uruguay Round Ministerial meeting in Brussels, Belgium. The key issues under discussion included (1) expansion of the code to cover new areas of procurement, particularly utilities and entities purchasing telecommunications and heavy electrical equipment; (2) renegotiation of the code to cover services contracts; and (3) extension of the code to subcentral government entities.[108]

Differing U.S. and EC approaches to utilities and subcentral government procurement coverage have been an obstacle in renegotiating the code.[109] During 1991 EC negotiators expressed a keen interest in bringing the procurement activities of subcentral entities, including those at the State level, under the code.[110] The EC offered to cover 100 percent of its central and subcentral procurement above the current code threshold, challenging other signatories to respond.[111]

The United States answered that it would offer to cover central government procurement not currently covered by the code. In addition, the United States was willing to include procurement contracts that had been volunteered by its State Governments, which would represent a significant portion of subcentral government procurement. U.S. negotiators also made it clear, however, that such coverage of State procurement would depend on the inclusion of EC utilities under the code[112]—particularly entities that purchase telecommunications and heavy electrical equipment.[113]

Although the United States and the EC were unable to bridge the gap between their respective positions before the end of 1991, the negotiations of the Committee culminated in a draft agreement, issued on December 20, 1991, by the chairman on his own responsibility.[114] Significantly, the chairman's text included expanded coverage in all areas of greatest importance to the United States, in particular telecommunications and heavy electrical equipment. The draft agreement also included provisions for coverage of services contracts, as well as new disciplines limiting the use of offset practices and requiring all signatories to establish a local bid-challenge system for improving enforcement of the code.[115] The chairman's text was only a proposal, however, and negotiations were to continue in 1992.

During 1991 the Committee concluded its 1988 statistical review. Discussion continued regarding the establishment of a uniform classification system for statistical reporting. The Committee decided to continue its appraisal of different statistical classification systems when it became more clear to what extent services would be covered as a result of the negotiations.

In 1991 the chairman announced that the Republic of Korea wished to accede to the Agreement on Government Procurement and to take part in the code's renegotiations. Korea's application to join the agreement is currently under consideration by the Committee. In other developments two new dispute-settlement cases were initiated during 1991. The United States initiated a complaint against Norway for discriminating against a U.S. supplier of electronic toll-collection equipment that attempted to bid on a government-procurement contract for the city of Trondheim. (For additional discussion of this case, see chapter 5, "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section.) The EC also initiated a case against the United States regarding a NASA procurement, involving sonar mapping equipment, which the EC considered to be inconsistent with the provisions of the code. In both cases panels have been established and are being heard under the terms of article VII of the code.[116]

Agreement on Trade in Civil Aircraft

The Agreement on Trade in Civil Aircraft provides for duty-free treatment of identified civil aircraft, civil aircraft engines, and civil aircraft parts. The agreement also seeks to eliminate nontariff measures such as official export credits and certain government procurement policies. The number of signatories throughout 1991 remained at 21 plus Greece, which has signed the agreement pending national ratification.

The Committee on Trade in Civil Aircraft held two regular meetings and one special meeting in 1991. At each meeting the agenda was dominated by a U.S.-EC dispute regarding the subsidization of the EC's Airbus Industrie—particularly the exchange-rate guarantees that the German Government provides to the parent company of Deutsche Airbus, the German Airbus partner, for losses due to exchange-rate fluctuations. (For additional discussion of this issue, see chapter 4, "European Community" section.) One ongoing area of discussion relates to which GATT Committee—the one concerning civil aircraft or the one on subsidies and countervailing measures—should have jurisdiction over the dispute. Debate within the Aircraft Committee over the appropriate Committee began in 1990, when the United States referred the matter to the Subsidies Committee. The dispute also led to discussions on revising the agreement itself.

The Committee continued ongoing bilateral consultations stemming from the Airbus dispute on the interpretation of article 4 (Government-Directed Procurement, Mandatory Subcontracts, and Inducements) and article 6 (Government Support, Export Credits, and Aircraft Marketing) under the Civil Aircraft Code, and including article 8 (Surveillance, Review, Consultation, and Dispute Settlement). The Committee discussed at great length the German Government's exchange-rate scheme and held informal consultations on the EC request to renegotiate the agreement.

The EC delegation called a special meeting in April 1991, objecting to the United States' referral of the dispute over the German Government's exchange-rate subsidies to the Subsidies Committee instead of to the Committee on Trade in Civil Aircraft. At the time of the meeting a dispute-settlement panel under the Subsidies Code was examining the exchange-rate scheme, and the United States had recently requested an additional Subsidies Code panel to examine the Airbus program in general. The EC delegation declared that it reserved the right to ignore the panel's ruling if the EC deemed it unsatisfactory. The EC delegation also noted that the Aircraft Agreement was in need of a comprehensive revision.

The U.S. delegation defended its decision to pursue the exchange-rate dispute under the Subsidies Code. It asserted that the Civil Aircraft Code did not prohibit it from referring the matter to the Subsidies Code and that the primary issue was subsidies. The United States stressed that the Aircraft Agreement did not exempt the EC from honoring its obligations under the Subsidies Code.

Regular discussions during the year devoted to renegotiating the agreement concluded that there was a common understanding that articles 4, 6, and 8 should be addressed, although there was no consensus on the formal launching of a procedure for renegotiating the agreement. The EC delegation noted that it wished such negotiations to begin as soon as possible. In a separate matter the U.S. delegation voiced concern over the Canadian Government's plans for the sole-source procurement of flight simulators for Citation aircraft. The U.S. delegation contended that such a purchase could conflict with article 4 of the agreement.

Table 1
Contracting Parties to the GATT: Status as of Dec. 31, 1991

Contracting Parties to the GATT (103)

Antigua and Barbuda	Denmark	Luxembourg	South Africa
Argentina	Dominican Republic	Macao[1]	Spain
Australia	Egypt	Madagascar	Sri Lanka
Austria	El Salvador[1]	Malawi	Suriname
Bangladesh	Finland	Malaysia	Sweden
Barbados	France	Maldives	Switzerland
Belgium	Gabon	Malta	Tanzania
Belize	Gambia	Mauritania	Thailand
Benin	Germany	Mauritius	Togo
Bolivia	Ghana	Mexico	Trinidad and Tobago
Botswana	Greece	Morocco	Tunisia
Brazil	Guatemala[1]	Myanmar	Turkey
Burkina Faso	Guyana	Netherlands	Uganda
Burundi	Haiti	New Zealand	United Kingdom
Cameroon	Hong Kong	Nicaragua	United States of America
Canada	Hungary	Niger	Uruguay
Central African Republic	Iceland	Nigeria	Venezuela
Chad	India	Norway	Yugoslavia
Chile	Indonesia	Pakistan	Zaire
Colombia	Ireland	Peru	Zambia
Congo	Israel	Philippines	Zimbabwe
Costa Rica	Italy	Poland	
Cote d'Ivoire	Jamaica	Portugal	
Cuba	Japan	Romania	
Cyprus	Kenya	Rwanda	
Czech & Slov. Fed. Rep.	Korea	Senegal	
	Kuwait	Sierra Leone	
	Lesotho	Singapore	

[1] New member in 1991.

Countries to whose territories the GATT has been applied and that now, as independent states, maintain a de facto application of the GATT pending final decisions as to their future commercial policy (29)

Algeria	Fiji	Saint Christopher and Nevis	Solomon Islands
Angola	Grenada	Saint Lucia	Swaziland
Bahamas	Guinea-Bissau	Saint Vincent and the Grenadines	Tonga
Bahrain	Kiribati	Sao Tome and Principe	Tuvalu
Brunei Darussalam	Mali	Seychelles	United Arab Emirates
Cambodia	Mozambique		Yemen
Cape Verde	Namibia		
Dominica	Papua New Guinea		
Equatorial Guinea	Qatar		

Source: GATT, *International Trade 90-91*, Geneva, 1992.

Table 2
Signatories to the Tokyo Round Agreements: Status as of Dec. 31, 1991

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P))

	Standards	Gov't procurement	Subsidies	Bovine meats	Dairy products	Customs valuation	Import licensing	Civil aircraft	Antidumping
Contracting Parties:									
Argentina	S			A	A	A*	S		S
Australia			A*	A	A	A	A		A
Austria	A	A	A	A		A	A	A	A
Belgium	A							A	
Belize				P					
Botswana						A*			
Brazil	A		A	A		A*			A
Canada	A	A	A	A		A	A*	A	A
Chile	A		A				A		
Colombia			A*	A					
Cyprus						A			
Czech & Slov. Fed.Rep.	A*					A	A		A
Denmark	A*							A*	
Egypt	A		A		S		A	A	A
EC[1]	A	A	A	A	A	A	A	A	A
Finland	A	A	A	A	A	A	A		A
France	A							A	
Germany	A*							A*	
Greece	A							S	
Guatemala				A*					
Hong Kong[2]	A	A	A			A	A		A
Hungary	A*			A	A	A	A		A
India	A		A			A*	A		A
Indonesia			A*						
Ireland	A							A	
Israel	A	A	A*						
Italy	A							A	
Japan	A	A	A	A	A	A	A	A	A
Korea	A		A			A*			A
Lesotho						A*			
Luxembourg	A							A	
Malawi						A*			
Mexico	A					A*	A		A
Netherlands	A							A	
New Zealand	A		A	A	A	A*	A		A
Nigeria				A			A		
Norway	A	A	A	A	A	A	A	A	A
Pakistan	A		A				A		A
Philippines	A		A*				A		
Poland			S	A	A	S	A		A
Portugal	A							A	
Romania	A			A	A	A	A	A	A
Rwanda	S								
Singapore	A	A					A		A
South Africa				A	A	A	A		
Spain	A							A	A
Sweden	A	A	A	A	A	A	A	A	A
Switzerland	A	A	A	A	A	A	A	A	A
Tunisia	A			A					
Turkey			A			A*			
United Kingdom	A							A	
United States	A	A	A	A		A	A	A	A
Uruguay			A	A	A				
Yugoslavia	A		S	A		A	A		A
Zimbabwe						A			
Noncontracting Parties:									
Bulgaria				A	A				
Paraguay				P					

See footnotes at end of table.

Table 2–Continued
Signatories to the Tokyo Round Agreements: Status as of Dec. 31, 1991

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P); new member 1991 (+))

	Stand-ards	*Gov't procure-ment*	*Subsi-dies*	*Bovine meats*	*Dairy prod-ucts*	*Customs valu-ation*	*Import licen-sing*	*Civil air-craft*	*Anti-dump-ing*
Total signatories	38	12	24	24	15	28	26	21	25

* Reservation, condition, declaration, or any combination.

[1] The EC is a signatory to all the agreements. Because the Standards Agreement and the Civil Aircraft Agreement cover matter that go beyond the authority of the EC, each of the EC member states is a signatory to these agreements.

[2] Hong Kong, which had been applying several of the codes under the auspices of the United Kingdom, changed its status under the codes in 1986, and is now a signatory in its individual capacity.

Source: GATT, *GATT Activities 1990*, Geneva, July 1991, Annex III, pp. 142-144.

ENDNOTES

[1] When acting in concert as a whole to adopt decisions, the convention is to capitalize the words contracting parties, as in "Ministers, meeting on the occasion of the Special Session of the CONTRACTING PARTIES at Punta del Este, have decided to launch Multilateral Trade Negotiations (The Uruguay Round)." The contracting parties seek to adopt decisions by consensus, that is, unanimously.

[2] GATT, "Forty-Seventh Session of the Contracting Parties," press release No. 1524, Dec. 4, 1991, pp. 1-6.

[3] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 2.

[4] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 33.

[5] Article XXVIII (Modification of Schedules) and article XXVIII bis (Tariff Negotiations) provide the mechanism by which a contracting party may modify or withdraw tariff concessions. A GATT member wishing to change previously agreed concessions, i.e. concessions covered under article II (Schedules of Concessions), must enter into negotiations, as stated in article XXVIII, with members "determined by the CONTRACTING PARTIES to have a principal supplying interest" as well as with "any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest" in such a concession. GATT, "Text of the General Agreement," *Basic Instruments and Selected Documents*, vol. IV, Geneva, Mar. 1969, pp. 46-48.

[6] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 30.

[7] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 4.

[8] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 32.

[9] Ibid.

[10] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 6.

[11] GATT, "MFA Extended for 17 Months," press release No. 1516, Aug. 2, 1991, pp. 1-3. The MFA succeeded the Long-Term Arrangement on World Trade in Cotton Textiles, in place since 1962.

[12] Argentina, Austria, Bangladesh, Brazil, Canada, China, Colombia, Costa Rica, the Czech and Slovak Federal Republic, Dominican Republic, the EC, Egypt, El Salvador, Fiji, Finland, Guatemala, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macao, Malaysia, Mexico, Norway, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, United States, Uruguay, and Yugoslavia.

[13] Article XIX is also known as the "escape" clause and its actions as "safeguard" actions. Safeguard action is temporary under article XIX wording in the general agreement, which allows a concession to be suspended, withdrawn, or modified only "to the extent and for such time as may be necessary to prevent or remedy" the injury.

[14] GATT, "Unilateral Trade Liberalization Undertaken by 45 Countries, Reports the Director-General of GATT," press release No. 1509, Apr. 18, 1991, p. 10.

[15] Ibid.

[16] GATT, *GATT Focus*, No. 85, Oct. 1991, pp. 2, 6.

[17] GATT, *GATT Focus*, No. 78, Jan.-Feb. 1991, p. 2. See also USITC, *Operation of the Trade Agreements Program (OTAP), 42nd Report, 1990*, USITC publication 2403, July 1991, p. 47.

[18] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 5. The panel report was subsequently adopted Feb. 18, 1992.

[19] GATT, *GATT Focus*, No. 78, Jan.-Feb. 1991, p. 4.

[20] Ibid.

[21] On July 31, 1991, the EC Commission adopted a proposal for an EC Council Regulation establishing a system of support for producers of soya, colza, and sunflower, applicable for 1992/93. The proposal contains most of the elements of the new oilseed regimen set out in the EC Commission's communication on the development and future of the Common Agricultural Policy (CAP) (COM(91)258). See Commission of the European Communities, "Commission Adopts Proposal on Support for Producers of Oilseeds," *Information Memo P-62*, July 31, 1991, 3 pp.

[22] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 5.

[23] European Community regulation No. 3766/81 of Dec. 12, 1991, establishing a support system for producers of soya beans, rapeseed and colza seed, and sunflower seed. See GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 8.

[24] USTR, "U.S. Announces Possible Products for Retaliation in Oilseeds Dispute With EC," press release, June 9, 1992; also 57 F.R. 25087.

[25] Directive 72/462/EEC sets meat-handling standards for imported meats, including slaughterhouse standards.

[26] GATT, *GATT Focus*, No. 83, Aug. 1991, p. 9.

[27] Ibid.

[28] The ban applies to tuna imports directly from Mexico, Vanuatu, and Venezuela, as well as to indirect imports through the intermediary countries of Costa Rica, France, Italy, Japan, and Panama. See GATT, *GATT Focus*, No. 86, Nov.-Dec. 1991, p. 6.

[29] GATT, *GATT Focus*, No. 78, Jan.-Feb. 1991, p. 2.

[30] GATT, "Expanding Trade Can Help Solve Environmental Problems, Says Report," press release No. 1529, Feb. 3, 1992, p. 15.

[31] Although not adopted as of mid-July 1992, the United States and Mexico requested that the report be derestricted. The report can be found in American Society of International Law, *International Legal Materials*, vol. XXX, No. 6, November 1991, pp. 1598-1623.

[32] GATT, *GATT Focus*, No. 85, Oct. 1991, p. 4.

[33] GATT, "Expanding Trade Can Help Solve Environmental Problems," p. 14.

[34] Ibid.

[35] GATT, *GATT Focus*, No. 85, Oct. 1991, p. 4.

[36] GATT, *GATT Focus*, No. 80, Apr. 1991, p. 10.

[37] Fasteners from India, wire rod from Trinidad and Tobago, and lime and certain textile products from Mexico.

[38] GATT, *GATT Focus*, No. 81, May-June 1991, p. 13.

[39] Federal Government measures include the U.S. Omnibus Budget Reconciliation Act of 1990, sec. 11201, which among other things increased the excise tax on beer but provided for reduced rates for certain smaller U.S. producers. State Government measures include discriminatory taxes on imported beer and wine and lower tax rates on locally produced beverages.

[40] GATT, *GATT Focus*, No. 82, July 1991, p. 3; and GATT, *GATT Focus*, No. 81, May-June 1991, p. 13.

[41] For additional background, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 47.

[42] GATT, *GATT Focus*, No. 80, Apr. 1991, p. 11.

[43] GATT, *GATT Focus*, No. 81, May-June 1991, pp. 12-13.

[44] For additional background, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, p. 33.

[45] GATT, *GATT Focus*, No. 80, Apr. 1991, p. 10.

[46] GATT, *GATT Focus*, No, 86, Nov.-Dec. 1991, p. 5.

[47] GATT, "Text of the General Agreement," *Basic Instruments and Selected Documents*, vol. IV, Geneva, Mar. 1969, pp. 42-43.

[48] The chairman of the working party noted that "over 50 working parties on individual customs unions or free-trade areas have been unable to reach unanimous conclusions on the compatibility of these agreement[s] with the GATT—on the other hand, no such agreement has been explicitly disapproved." See GATT, *GATT Focus*, No. 86, Nov.-Dec. 1991, p. 5.

[49] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 33. The United States converted its tariff schedules to a harmonized system basis effective Jan. 1, 1989.

[50] GATT, "Macao Becomes GATT's 101st Member," press release No. 1501, Jan. 14, 1991.

[51] GATT, "Guatemala Confirmed as GATT's 103rd Member," press release No. 1522, Oct. 10, 1991, pp. 1-4.

[52] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 31.

[53] President George Bush, letter to Senator Max Baucus, chairman, House Subcommittee on International Trade, July 19, 1991.

[54] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 30.

[55] For additional background, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, p. 12.

[56] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 30.

[57] See GATT, *GATT Focus*, No. 81, May-June 1991, pp. 2-11, for TPRM country reviews of the EC, Hungary, and Indonesia; GATT, *GATT Focus*, No. 83, Aug. 1991, pp. 2-8, for reviews of Chile and Thailand; and GATT, *GATT Focus*, No. 84, Sept. 1991, pp. 2-7, for reviews of Nigeria, Norway, and Switzerland.

[58] The six codes are formally entitled (with their informal name(s) in parentheses) the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Antidumping Code); Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Code on Subsidies and Countervailing Duties or Subsidies Code); Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and Protocol (Customs Valuation Code); Agreement on Import Licensing Procedures (Import Licensing Code); Agreement on Technical Barriers to Trade (Standards Code); and the Agreement on Government Procurement (Government Procurement Code). In addition, three additional agreements were developed during the Tokyo Round that are not customarily referred to as "codes": the Arrangement Regarding Bovine Meat; the International Dairy Arrangement; and the Agreement on Trade in Civil Aircraft.

[59] The Tokyo Round codes entered into force Jan. 1, 1980, with the exception of the Government Procurement Code and Customs Valuation Code, which became effective 1 year later, on Jan. 1, 1981. However, the United States and the EC implemented the Customs Valuation Code earlier, on July 1, 1980.

[60] The International Meat and Dairy Arrangements are governed by the International Meat Council and the Dairy Products Council, respectively.

[61] Countervailing duties are measures imposed by countries on imports to offset a domestic or export subsidy that unfairly benefits an export product. If subsidized exports from one signatory cause material injury to the domestic industry of another signatory, the injured party may either impose a countervailing duty to offset the subsidy or request that the exporting country eliminate or limit the effect of the subsidy, although the code signatory must show material injury to its domestic industry due to the imports. The code also provides a procedure for signatories to redress harm in cases where subsidized exports from one signatory displace exports from another in third-country markets.

[62] Specified under Subsidies Code art. 2:16.

[63] Austria, Brazil, Colombia, Egypt, Finland, Hong Kong, India, Indonesia, Israel, Japan, Korea, Norway, Sweden, Switzerland, Turkey, and Yugoslavia.

[64] Australia, Canada, Chile, New Zealand, and the United States.

[65] GATT, "Text of the General Agreement," pp. 26-27.

[66] For additional information, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 52-53.

[67] The cases pending before the committee concern (1) EC subsidies on wheat flour exports (1983), (2) EC subsidies on exports of pasta products (1983), (3) U.S. definition of industry concerning wine and grape products (1986), (4) Canadian countervailing duties on manufacturing beef imports from the EC, and (5) U.S. countervailing duties on nonrubber footwear from Brazil (1989). GATT, *GATT Activities 1990*, Geneva, July 1991, p. 116.

[68] GATT, *GATT Focus*, No. 87, Jan.-Feb. 1992, p. 8.

[69] The Tokyo Round Agreement on Anti-Dumping Practices, or Antidumping Code, was negotiated during the 1973-79 Tokyo Round to replace the one negotiated during the 1963-67 Kennedy Round of Multilateral Trade Negotiations.

[70] Austria, the Czech and Slovak Federal Republic, Egypt, Hong Kong, Hungary, India, Japan, Norway, Pakistan, Romania, Singapore, Sweden, Switzerland, and Yugoslavia.

[71] The committee established a panel in January 1989 to settle a dispute brought by Sweden against the United States concerning antidumping duties levied on imports of seamless stainless steel hollow products from Sweden. The panel found in favor of Sweden, but the Committee has been unable since then to adopt this report over the objection of the United States. For its part, the United States has said it has no substantial objection with the report but that its concern is over the specific panel remedy. (The usual procedure is for governments to determine how to implement panel reports.) GATT, *GATT Focus*, No. 77, Dec. 1990, p. 6.

[72] The code establishes a set of rules for valuation of imports that revise and expand existing customs valuation provisions under the general agreement. The code details five valuation methods to be used in sequence by customs officials in all participating countries. GATT, "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and Protocol," *Basic Instruments and Selected Documents*, supp. 26, Geneva, Mar. 1980, pp. 116-153.

[73] GATT, *GATT Activities 1990*, Geneva, July 1991, p. 121.

[74] The Customs Cooperation Council, International Monetary Fund, and the United Nations Conference on Trade and Development.

[75] GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990, p. 4.

[76] GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," MTN.TNC/W/FA, Dec. 20, 1991, section G, pp. 1-27.

[77] Subsequently, in December 1991, the Soviet Union broke up into 12 independent republics.

[78] Encompassed under the rulemaking group formed at the resumption of the Uruguay Round negotiations in February 1991.

[79] Compliance with a technical regulation is mandatory, and compliance with a product standard is voluntary.

[80] Signatory governments are required to ensure that technical regulations and standards are not prepared, adopted, or applied in such a way as to unnecessarily obstruct international trade. Whenever possible, standards are to be stated in terms of performance characteristics, rather than specific designs. The agreement also seeks to open further national standards-setting procedures to foreigners by allowing interested parties time to comment on proposed standards, technical regulations, and certification systems that may affect trade.

[81] Information provided by U.S. Department of Commerce, International Trade Administration, Office of Multilateral Affairs, Office of GATT Affairs.

[82] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 33.

[83] Initial U.S. efforts to gain access to the standards development process in EC standards organizations led to negotiations and later formulation of a code of good practice to address this concern. A draft code of good practice was tentatively agreed to in October 1990. USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 58.

[84] As it stands the revised Code of Good Practice rejects the "best efforts" approach supported by the United States with regard to standards organizations below the central government level. For additional background, see USITC, *The Effects of Greater Economic Integration Within the European Community on the United States: Fourth Followup Report* (investigation 332-267), USITC publication 2501, Apr. 1992, p. III-8.

[85] U.S. opposition to the current Code of Good Practice negotiated in the Uruguay Round is fueled by the concern of private-sector standards developers over what they see as the prescriptive nature of the code and the regulatory role of government over their activities that it could imply.

[86] The technical advisory group charged with electrotechnical matters is the International Electrotechnical Commission rather than the ISO.

[87] Information provided by U.S. Department of Commerce, International Trade Administration, Office of Multilateral Affairs, Office of GATT Affairs.

[88] GATT, "Cheese Prices Firm Up but Butter Trade Hit by Softening Demand and High Stocks, Says GATT Dairy Report," press release No. 1526, Dec. 19, 1991, p. 4.

[89] Ibid., p. 3.

[90] The United States withdrew from the IDA in 1985. For a discussion of the controversy over reduced-price sales of surplus butter by the EC to the Soviet Union that prompted the U.S. withdrawal, see USITC, *OTAP, 1984*, USITC publication 1725, July 1985, p. 72.

[91] The Committee of the Protocol Regarding Certain Milk Powders, the Committee of the Protocol Regarding Milk Fat, and the Committee of the Protocol Regarding Certain Cheeses.

[92] Minimum export prices have been established for skimmed milk powder, whole milk powder,

buttermilk powder, anhydrous milk fat, butter, and certain cheeses. See GATT, "Cheese Prices Firm Up," p. 4.

[93] Minimum export prices under the IDA were last set in September 1989. For a further discussion of these prices, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 58.

[94] GATT, *GATT Activities 1990*, Geneva, July 1991, p. 125.

[95] The Council based its evaluation on material from the Committees on Protocols; on information from participating members—typically concerning dairy production, consumption, and trade as well as national dairy, food aid, and trade policies; and on documentation from the Secretariat. For more information, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 64.

[96] GATT, *The World Market for Dairy Products 1991*, Dec. 16, 1991.

[97] In December 1990 the Committee of the Protocol Regarding Milk Fat granted the Soviet Union a derogation from minimum export prices. With food relief requirements in the former Soviet Union expected to increase, a number of signatories to the IDA have sought assurances that any decision to provide food aid should cause only minimal disruption to the commercial butter market.

[98] GATT, "Cheese Prices Firm Up," p. 3.

[99] Ibid.

[100] GATT, "Arrangement Regarding Bovine Meat," *Basic Instruments and Selected Documents*, supp. 26, Geneva, Mar. 1980, pp. 84-90.

[101] The EC, comprising 12 member states, has signed as a single signatory.

[102] GATT, *GATT Activities 1990*, Geneva, July 1991, p. 123.

[103] The GATT Secretariat publishes for the IMC an annual report on the trends in production, consumption, and trade in bovine meat. GATT, *International Markets for Meat 1991/92*, Geneva, Feb. 14, 1992.

[104] GATT, "Beef Oversupply to Persist Failing Structural Changes in the Meat Sector Says GATT Report," press release No. 1532, Feb. 14, 1992, p. 1.

[105] Ibid.

[106] GATT, *Agreement on Government Procurement - Revised Text*, Geneva, 1988.

[107] This article requires signatories to broaden and improve the agreement. Renegotiations were started in November 1983, after the code came into effect on Jan. 1, 1981. The Committee completed the first phase of renegotiations on Nov. 21, 1986, when it adopted a series of amendments to improve the functioning of the code developed by the Working Group on Negotiations. These amendments were (1) to continue to work toward covering services contracts under the code, and (2) to increase the number of entities and procurement covered under the code. The working group's mandate was expanded in 1987 to encompass new issues not previously covered by the code. Thus, the current round of renegotiations, under way in tandem with the Uruguay Round of multilateral trade negotiations, has three principal aims: (1) to improve the code's operation; (2) to explore possible extension of the code to services and leasing contracts; (3) to broaden the code by covering additional entities and/or lowering the minimum contract amount to which the agreement applies. USITC, *OTAP, 1987*, USITC publication 2095, July 1988, pp. 2-21 to 2-22.

[108] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 34.

[109] USITC, *OTAP, 1990*, USITC publication 2403, p. 60.

[110] Louis J. Murphy, Director, Office of Multilateral Affairs, U.S. Department of Commerce, "The Uruguay Round Trade Negotiations and the States: A Speech to the National Conference of State Legislatures," Dec. 12, 1991, p. 20.

[111] USTR, *The Agreement on Government Procurement—Participation of State and Local Governments*, brochure (Sept. 1991), p. 13.

[112] Murphy, "The Uruguay Round Trade Negotiations and the States," p. 20.

[113] The four utility areas of energy, telecommunications, transport, and water were sectors originally left out of the GATT Procurement Code negotiations because the EC Commission lacked jurisdiction over member states in this area at the time. Recent EC procurement directives now cover all public contracts (including the previously excluded sectors), thereby permitting EC negotiators to bring utilities under the coverage of the GATT Government Procurement Code.

[114] GATT, Committee on Government Procurement, *Draft Agreement on Government Procurement - Chairman's Paper on his Own Responsibility Without Prejudice to Negotiator's Positions*, GPR/64, Geneva, Dec. 20, 1991.

[115] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 34.

[116] Ibid., p. 35.

CHAPTER 3
Trade Activities Outside the GATT

Although the General Agreement on Tariffs and Trade (GATT) provides the multilateral framework dedicated to international trade, several international organizations also address world trade matters as part of their focus on other international economic matters. The Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) both provide a forum for consultation and policy coordination on a host of economic issues of primary interest to different country groupings. The OECD addresses economic issues of interest to the 24 industrialized countries that make up its membership; UNCTAD focuses on economic matters relevant to developing countries worldwide. Both cover a wider range of subjects than does the GATT and do not aim for the degree of international obligation specified under the GATT framework. Nonetheless, work done in the OECD and UNCTAD often complements that done in the GATT, as well as serving on occasion as the starting point for issues to be considered in the GATT at a later stage. Other bodies, such as the Customs Cooperation Council (CCC) and the international commodity organizations, cover a narrower range than the GATT, and so provide a basis for coordinating and regulating specific aspects of international trade.

The following sections detail U.S. participation in these different bodies during 1991. In addition, 1991 activities in the Enterprise for the Americas Initiative (EAI), steel import program, and U.S. Bilateral Investment Treaty (BIT) program are covered, along with the U.S.-Israel Free-Trade Agreement, the Long-Term Grain Agreement originally signed between the United States and the Soviet Union, and U.S. participation in the Multifiber Arrangement (MFA) and international trade in textiles.

Organization for Economic Cooperation and Development

Founded in 1960, the Organization for Economic Cooperation and Development is the principal forum for the world's industrialized countries to consult and coordinate on a broad range of economic issues. Its three basic aims are (1) to promote the financial stability and economic growth of its members, (2) to promote sound economic development in nonmember countries, and (3) to contribute to the expansion of world trade on a multilateral, nondiscriminatory basis.[1] The OECD's 24 member countries are listed below:

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

Yugoslavia and the Commission of the European Communities, under special status, have also taken part in OECD activities.

The OECD Council is the most authoritative arm of the organization. Meeting annually at the Ministerial level, the Council brings together Ministers of economics, finance, and trade—as well as other leaders—from each member country.[2] At this meeting the Council discusses major economic and social issues facing member countries and, in accordance with decisions reached at the Ministerial meeting, the Council takes action by directing the OECD work program on these issues. The Ministerial communique that follows the annual meeting typically addresses these issues.

The OECD Council is assisted by the OECD Executive Committee, which oversees the work program and prepares Council meetings. The organization also comprises more than 20 other committees, as well as working parties and expert groups, that cover topics ranging from economic policy and the environment to capital movement and computers.[3] These committees, and the OECD Council itself, are supported by the Office of the OECD Secretary-General.[4]

In 1991 the OECD concentrated on the multilateral trading system, national economic policies, reform of member-state agricultural policies, relations with developing countries, and the environment. The OECD also continued to examine its new role in promoting economic reforms in the countries of Central and Eastern Europe.

Ministerial Communique

The annual Ministerial meeting of the OECD Council was held in Paris, France, from June 4 to 5,

1991. In the face of slowed economic growth in the industrial countries, the Ministers affirmed their commitment to macroeconomic policies that support noninflationary growth but stressed as well the importance of policies that actively promote structural change. These policies cover, as pointed out in the Ministers' communique, "the full span of economic and social domains."

The Ministers accorded their highest priority on the global economic agenda to an early conclusion of the Uruguay Round of the GATT.[5] The Ministers reaffirmed their governments' "standstill" commitments, agreed as part of the Round, to eschew trade actions that would be contrary to their obligations under the GATT. The Ministers stressed that negotiations under way should not provide a pretext for delays in trade-oriented structural adjustment. They also rejected policies of managed trade, unilateralism, bilateralism, and sectoralism, although they did acknowledge that regional integration can further stimulate the liberalization process, provided that it remains in conformity with the goal of strengthening the multilateral trading system. Accordingly, the Ministers asked the OECD to continue to monitor developments in regional integration. The OECD Ministers also touched upon the need for a more global perspective on trade-policy aspects of issues traditionally considered to be largely domestic concerns, such as agricultural policy.

The Ministers highlighted as well several issues in the area of competition policy. They asked the OECD to continue work on the interaction of competition policies with trade and industrial policies. Industrial subsidies, the Ministers reiterated, generally hinder rather than improve structural adjustment, leading to trade distortions and increased fiscal pressures. The Ministers invited the OECD to systematically observe the use of industrial subsidies whose monitoring, they noted, could lead to the eventual definition of commonly accepted OECD guidelines on the use of such subsidies. The Ministers also welcomed progress made toward a future agreement reducing the trade and aid distortions that result from subsidized export credits and tied-aid credits.

Agricultural Policy Reform

As noted in the Ministers' communique, agricultural policy reform is a central concern of the OECD. The OECD Ministers reaffirmed their commitment to achieving substantial progressive reductions in agricultural support and protection. They noted that participants in the Uruguay Round had agreed to conduct negotiations to achieve specific binding commitments that entail reductions in domestic support, market access barriers, and export subsidies.

However, the Ministers acknowledged that there had been limited progress in agricultural reform to date. Since 1987, when the Ministerial Council decided to address the issue of agriculture,[6] the OECD has monitored member-state agricultural policies. As part of this effort it has issued an annual report that uses quantitative indicators to gauge the level of official involvement in the agricultural sector.[7] In May 1991 the OECD issued its fourth such report, which showed that two major indicators of agricultural subsidy levels in industrialized countries—producer subsidy equivalents (PSEs) and consumer subsidy equivalents (CSEs)—had increased from 1989 to 1990.[8] Net PSEs for the OECD as a whole climbed from 41 percent to 44 percent; CSEs rose from 33 to 36 percent. The net percentage PSE for the United States increased by 1 percent, to 30 in 1990; the net percentage PSE for the European Community (EC) increased from 41 to 48 percent.[9]

Despite stated commitments and heavy rhetoric from all sides, agricultural support policies remain extremely resistant to modification in most countries.[10] The implications for the success of the Uruguay Round were not overlooked in the OECD report. "Given the existence of viable alternatives to current policies," the report stated, "it should be possible to overcome some of the major obstacles to reform. The agricultural sector must, at last, grasp the opportunity afforded both by the Uruguay Round and the efforts to develop better policy instruments."[11]

Trade and the Environment

In their communique, the Ministers endorsed a report, prepared jointly by the OECD Trade and Environment Committees, that identifies major connections between the policy areas of trade and environment. The Ministers called for additional progress in this area to be reported at the 1992 Ministerial meeting and observed that such work could contribute to the United Nations Conference on Environment and Development (UNCED) in June 1992 in Rio de Janeiro, Brazil. (For additional discussion of this topic, see chapter 1, "Trade and the Environment" section.)

Celebrating its 100th session in 1991, the OECD Trade Committee advised Ministers that the linkage between trade and the environment was an issue that may well become highly visible in the future. Initially, the Trade Committee and the Environment Committee each addressed the issue separately; it was addressed in 1991 by a joint trade and environment experts group to examine further issues intersecting both areas. The OECD countries account for only 16 percent of world population and 24 percent of world land area, yet produce nearly three-quarters of world GNP and trade and account for fully one-half of world energy use, 45 percent of world carbon dioxide emissions, and 60 percent of the world's industrial waste.[12]

The OECD Environment Committee met in January 1991 for the first time at the Ministerial level. The environment Ministers drew attention to the progress made toward integrating economics and environmental decision making. The three main issues discussed were (1) the state of the environment, (2) reconciling the objectives of economic growth and environmental protection, and (3) an environmental strategy for the 1990s.[13] The environment Ministers affirmed in their communique that the key to sustainable economic development — and thus to ensuring sound environmental management — was "the full integration of economic and environmental policies."[14] "Environmental considerations," the Ministers maintained, "must be brought to bear systematically on economic policy making."[15] The Ministers called for governments to improve their policy integration and to eliminate economic policies (subsidies, taxes, or other market interventions) that adversely affect environmental objectives. The Ministers also identified energy, agriculture, transport, and coastal zone management as four sectors in which the integration of economic and environmental policies could be improved and in which application of the OECD "polluter pays" principle was endorsed.[16]

In December 1991, Ministers of environment and development met jointly to focus on new cooperative approaches to achieve sustainable development. A major focus of the meeting was an effort to forge common OECD positions on issues relevant to the 1992 UNCED.

Central and Eastern Europe

Political and economic reforms in Central and Eastern Europe continued to receive substantial attention in 1991, both at the Ministerial meeting in June and at other OECD meetings during the year. Integrating these countries more fully into an open world trading and economic system is a principal aim of the OECD. In acknowledgement of these countries' move away from authoritarian regimes and centrally planned economies, the Ministers announced in their communique their intention to expand economic relations with nonmember countries. They enumerated the many governments and multilateral organizations involved in channeling international assistance to these countries to support their reforms and foster market disciplines.[17]

The Ministers also sought to agree that the OECD Export Credits Arrangement[18] would help Central and Eastern Europe with grant aid (such as food aid, humanitarian aid, or outright donations) but would not use tied-aid credits. However, a final agreement on this point was not reached in time for the Ministerial meeting, and the Ministers expressed their commitment to overcoming remaining obstacles before the end of 1991.

The Ministers offered Central and Eastern European countries the technical expertise of the OECD on formulation of government policies. In particular, the Ministers underscored the role that the Center for Co-operation with European Economies in Transition (CCEET)[19] could play in forming a comprehensive and coherent assistance program for these governments. They went on to emphasize the special services and assistance available from the OECD to countries under the CCEET's Partners in Transition (PIT) program, which was specially designed for countries that are demonstrably committed to a rapid transition to pluralist democracy and a market economy. The PIT programs are intended to aid these countries in the formulation and development of sound market-oriented economic policies. The Trade Committee hosted a special workshop on problems encountered during the transition to a market economy, directed principally at Central and Eastern European economies. On June 4 the OECD signed memorandums of understanding establishing PIT programs with the Czech and Slovak Federal Republic, Hungary, and Poland.

Development Assistance Committee

In December 1991 the annual high-level meeting of the Development Assistance Committee (DAC) was held with the heads of national aid agencies and major multilateral institutions. In September 1991 the DAC annual report was issued, showing the levels of official development assistance (ODA) for member states and for the OECD as a whole.

The official United Nations target for ODA is 0.70 percent of gross national product (GNP). Although these assistance levels for the OECD increased by 4.5 percent in real terms in 1991, ODA remained at only half (0.35 percent of GNP) the targeted level. According to the OECD highlights of the report, ODA levels "have been amazingly constant...for decades."[20]

On an individual level, the figures[21] were as shown:

Norway ...	1.17	Belgium .	0.45	Switzerland	0.31
Netherlands	0.94	Canada .	0.44	United Kingdom	0.27
Denmark ..	0.93	Germany	0.42	Austria	0.25
Sweden ...	0.90	Australia	0.34	New Zealand ...	0.22
Finland	0.64	Italy	0.32	United States ...	0.21
France	0.55	Japan ...	0.31	Ireland	0.16[22]

The report acknowledged the increased global competition for the limited resources available for development assistance and suggested that "the capacity and resolve" of donor countries would be severely tested over the next few years.

OECD Investment Instruments

Investment has long been a central point of discussion in the OECD.[23] Much of the present cooperation among members on this issue is based on the 1976 Declaration on International Investment and Multinational Enterprises and its procedural decisions.[24] The declaration contains four interrelated instruments: (1) the National Treatment Instrument, (2) Guidelines for Multinational Enterprises, (3) International Investment Incentives and Disincentives, and (4) Conflicting Requirements.[25]

Following one of the periodic reviews of the OECD declaration and decisions, completed in 1991, a number of improvements were made. First, members agreed to more stringent obligations regarding notification and examination, on a country-by-country basis, of exceptions taken to the principle of national treatment. Second, a new chapter on the environment was added to the guidelines on multinational enterprises, in recognition of the role that multinational firms can play in better protecting the environment. Third, members amended the declaration to include a 1984 agreement on general considerations and practical approaches that could avoid or minimize the imposition of conflicting requirements on multinational firms by member-country governments. The greater willingness of member states to hold bilateral consultations under the 1984 amendment would effectively promote greater transparency of national legislation affecting multinational firms. Formal or informal arrangements among member states would be easier to initiate as a result of this 1984 decision, particularly in situations in which no bilateral investment arrangements exist between two member states. Ministers agreed at the 1991 OECD Ministerial meeting to continue efforts to reinforce and broaden disciplines in the area of foreign direct investment.

Export Credits Arrangement

Following a 1990 mandate from the OECD Council, participants in the Arrangement on Guidelines for Officially Supported Export Credits tried to strengthen the arrangement in time for the 1991 OECD Ministerial meeting. The arrangement is designed to regulate government-sponsored subsidies on export credits.[26] Although the chairman of the Export Credit Bodies advanced a proposal at the OECD Ministerial meeting, it was accepted by neither the Ministers at the OECD Council in June 1991 nor the heads of state meeting later at the London economic summit of the seven major industrial governments (G-7) in July 1991. As a result the OECD Ministerial communique, issued on June 5, 1991, called only for a strengthening of disciplines under the arrangement. Ministers committed themselves to overcoming the remaining obstacles to strengthening the arrangement no later than the end of 1991.

In October 1991, participants in the Export Credit Committee reached a provisional agreement that would further measures to reduce subsidies in the financing of exports and in tied-aid credits. These measures aim to ensure that trade flows are based on market forces, as well as at seeing that development aid is directed to countries most in need of such assistance. By December 1991, all participants confirmed this agreement, known as the "Helsinki package." This package was expected to enter into force by February 1992. However, as of January 1992, participants were unable to agree whether credit lines recently awarded by several member countries were covered under the new accord.[27]

Customs Cooperation Council

Founded by international convention in 1950, the Customs Cooperation Council (CCC) promotes uniformity in and simplification of customs procedures among nations. Initially, the CCC was charged with administering the Brussels Tariff Nomenclature (BTN), a system for categorizing goods in trade. Later, the CCC significantly revised the BTN and changed its name to the CCC Nomenclature (CCCN).

Beginning in 1973 the CCC undertook to prepare a new product nomenclature based on the CCCN and known as the Harmonized Commodity Description and Coding System (HS). Since 1988, the HS has been adopted by 63 countries plus the EC[28] as the basis for national tariffs. Among other tasks, the CCC has continued to help standardize customs valuation practices, to ensure that developing countries receive technical assistance in customs and tariff matters, to seek common rules on the origin of goods in trade, and to coordinate with other international organizations responsible for customs matters and trade statistics.

Under 19 U.S.C. sections 1209 to 1210, the U.S. Customs Service is the agency designated to supply the U.S. delegation to the CCC. Overall policy with regard to the HS is coordinated by the Office of the United States Trade Representative (USTR). In addition, staff of the U.S. International Trade Commission participate as U.S. representatives on several bodies of the CCC.[29]

HS Administration

In 1983, after 12 years of multilateral work, the CCC opened for signature a convention on the implementation of the HS as a uniform nomenclature for tariff, statistical, and freight documentation purposes. The United States, which had not adopted the BTN or the CCCN, did approve the HS convention and subsequently adopted a new HS-based tariff schedule. Enacted in the Omnibus Trade and Competitiveness Act of 1988[30] and implemented by Presidential Proclamation 5911 of November 19, 1988,[31] the Harmonized Tariff Schedule of the United States became effective January 1, 1989.[32]

In 1991 U.S. Government officials continued to play an active part in the work of the CCC, its HS Committee, the Scientific Committee (charged with studying matters requiring particular expertise and making recommendations relating thereto), and most recently the Review Subcommittee. The latter group is engaged in a multiyear reexamination of the HS and the accompanying Explanatory Notes and Classification Opinions, so that these can be updated to reflect changes in technology, production, and patterns of trade.[33] The Review Subcommittee has already submitted recommendations concerning many chapters of the HS and its related documents; the recommendations are reviewed and approved first by the HS Committee and then by the CCC itself.[34] This work will continue until all 97 international-level chapters of the nomenclature and their related notes and opinions have been considered.

The HS and Scientific Committees, the Nomenclature and Classification Directorate (a body of experts within the CCC providing advice and training), and the CCC continued to address questions regarding the classification and description of particular goods in trade. Among the many products considered in 1991 were safety lights, tissue stock, rubber boot bottoms, track suits and ski ensembles, bulk containers, and various chemicals. The work of these groups has also focused on the use of the HS as a descriptive system for other purposes. In that regard new subheadings for ozone-depleting chemicals and for illegal drugs are being reviewed as potential additions to the HS, so that the movement of these goods can be monitored more easily.[35]

Other Activities

Review of the draft Customs Valuation Control Handbook, which is being disseminated to interested governments to help them achieve consistent practices, was completed by the Valuation Directorate in 1991. The Technical Committee on Customs Valuation was also active, examining such issues as the meaning and scope of the term "right to reproduce the imported goods" and that right's relationship to pricing of goods and to the interpretation of conditions in sales agreements (such as the valuation of royalty and franchising fees).[36]

The HS Committee and the Council have for some time been involved in a review of member countries' preentry classification information programs. Both bodies encourage the member countries to adopt a resolution or recommendation on the establishment of such programs, which involve preentry binding rulings on classifications of particular goods. The Council also collects and disseminates classification opinions among the member states, to assist in the consistent application of the HS and to provide advice about new products in trade.[37]

Other projects on which considerable progress has been made include a customs lab guide to assist in the classification of chemicals and pharmaceutical products. In addition, the CCC and its subordinate bodies are working with the United Nations Statistical Office, the Secretariat of the GATT, EUROSTAT (the statistical entity of the EC), and other groups in coordinating the collection and dissemination of world trade and production data. The CCC is also focusing on establishing an electronic commodity data base using the HS nomenclature structure and is attempting to achieve the use of uniform statistical units (such as value or kilograms) in national tariffs.[38] The use of common measurements for particular tariff categories would promote the comparability of trade data and would thereby facilitate analysis and decision making.

United Nations Conference on Trade and Development

The United Nations Conference on Trade and Development (UNCTAD) was created as an organ of the United Nations General Assembly in 1974 to promote international trade as a means of accelerating the economic advancement of developing countries. Since its inception UNCTAD's role has been limited largely to the exchange of views on trade and aid programs among countries that are at different stages of economic development or that have different economic systems.[39] UNCTAD also has been the forum for negotiation of multilateral agreements on trade in various commodities such as coffee, sugar, and cocoa.

UNCTAD convenes once every 4 years. UNCTAD VII was held in July-August 1987. UNCTAD VIII was originally scheduled for September-October 1991, but was delayed when Uruguay withdrew its offer to host the conference in Punta del Este.[40] Between conferences, the Trade and Development Board (TDB) holds two or more regular sessions per year and an occasional special session. In addition, various committees conduct research and pursue consensus on specific issues related to international trade and development.

The UNCTAD organizational structure was modified during 1991. In the past, members were divided into developed countries, developing countries (the Group of 77), the People's Republic of China, and the former Communist countries of Eastern Europe and the Soviet Union. Each group was represented at conferences by a spokesperson who voiced the consensus opinion of the group. Under the new system, each country is free to express its views directly on all issues under consideration at conferences.[41]

Generalized System of Preferences

The Generalized System of Preferences (GSP) is a framework under which developed countries provide preferential tariff treatment to certain goods exported by developing countries. The GSP program was discussed initially at the first UNCTAD. The authority for GATT members to establish such a system of preferences was granted in 1971 through a waiver of article I of the GATT, which requires nondiscriminatory application of MFN tariffs.[42] The UNCTAD Special Committee on Preferences is responsible for overseeing the GSP.

The Committee on Preferences held its 18th session in May 1991. The Committee unanimously reaffirmed the importance of the system's objectives and recognized that UNCTAD VIII would provide an opportunity for further consideration of the GSP as an instrument of development. Several countries that grant GSP treatment, including Japan, Finland, Switzerland, Austria, Norway, Sweden, and Poland, had decided before the meeting to extend their schemes for additional periods.[43] The United States, however, indicated that renewal of its GSP scheme would reflect an assessment of the outcome of the Uruguay Round, and thus renewal would probably not be considered until 1992.[44] (For additional discussion of the U.S. GSP program, see chapter 5.)

The Committee estimated that developing-country products exported under the GSP schemes of OECD countries increased from $32 billion to more than $60 billion between 1982 and 1990.[45] Despite this impressive growth, however, much of the 18th session focused on the shortcomings of the GSP system and individual country schemes. The most significant problems cited by the Committee were (1) the prevalence of nontariff barriers, (2) a basic mismatch between what developing countries could export and the products covered under the major GSP schemes, and (3) limitations and restrictions and differentiated granting of preferential treatment to beneficiaries.[46]

Further discussion centered on the lack of consistency among various GSP schemes with regard to product coverage. Developing countries pointed out that restrictions on preferential treatment are imposed on a yearly basis in most schemes, making the preferences unpredictable and too complicated to use. The U.S. GSP scheme, for example, uses the "competitive-need" criterion, which provides for the withdrawal of preferential treatment when imports of a particular product from a particular beneficiary exceed 50 percent of total U.S. imports of that product or a certain dollar value.[47]

Another issue addressed was simplification and improvement of the various rules of origin under the GSP. Some developing countries complained that rules of origin are often too strict, limiting market access for a number of important developing-country exports.[48] The Committee urged developed nations to consider incorporating a new provision into their GSP schemes whereby the value of imported inputs from countries granting GSP treatment further processed in the beneficiary country would be counted under the GSP rules of origin, making it easier for the rules-of-origin requirements to be met.[49]

The main changes in GSP schemes worldwide described by the Committee in the period since its 17th session in March 1990 included the extension of beneficiary status, on a temporary basis and within the context of the fight against drugs, by the EC to Colombia, Bolivia, Peru, and Ecuador.[50] Namibia became a beneficiary of the schemes of Austria, Finland, Norway, Sweden, Switzerland, the United States, and the EC. Mongolia became a beneficiary of the schemes of the EC, Austria, and Switzerland. During 1990-91 the EC and Austria also extended preferential treatment, on a temporary and exceptional basis, to Poland, Hungary, the Czech and Slovak Federal Republic, Bulgaria, and Romania.[51] The United States in 1991 also explored the possibility of granting preferential treatment to these countries, extending GSP treatment to the Czech and Slovak Federal Republic on April 25, 1991, and to Bulgaria on December 4, 1991.

Trade Finance

Following up a resolution adopted during the fifth session of the UNCTAD Committee on Economic Cooperation among Developing Countries, the UNCTAD Secretariat, along with relevant international organizations, issued several reports during 1991 on the issue of trade finance. UNCTAD's concern was that the current efforts of developing countries to liberalize and expand their mutual trade could be limited by the inadequacy of their trade-financing systems, both in terms of overall capacity and degree of specialization.

A report issued by the Secretariat in July 1991 took the view that trade financing is unavailable to most exporters in developing countries because of external and internal factors that include imperfect market conditions, lack of capital, and foreign-exchange constraints imposed by national monetary authorities.[52] The Secretariat's report further argued that trade-finance operations in many developing countries lack specialization in trade-finance services and are often subsidiary to other functions, such as banking.[53] UNCTAD estimated that the financing need for developing-country exports currently ranges from $6.3 billion to $14.9 billion annually.

UNCTAD, working with a U.S. consulting firm, also issued a study in May 1991 that considered whether an interregional trade-financing facility (ITFF), for financing trade among developing countries in nontraditional exports,[54] could be established on a commercially viable[55] basis.[56] The study demonstrated that even under 10 different scenarios that tested sensitivity to changes in the base model, an ITFF could remain commercially viable. The report also argued that, using UNCTAD estimates of projected need for nontraditional export financing, an ITFF for such exports might increase South-South trade (that is, trade among developing countries and the need to finance it) by approximately 6 percent annually.[57] The report indicated that under the most realistic scenarios conceived the ITFF should be able to provide between $1.4 billion and $7.9 billion annually in trade finance within 5 years.[58]

The TDB, at its 38th session held in Geneva from September 23 to October 4, 1991, adopted resolution 394, which called upon the UNCTAD Secretariat to undertake consultations with all interested governments on the feasibility of establishing an ITFF among developing countries.[59] The United States and other industrialized countries are expected to respond to the Secretariat's proposals by the end of 1992.[60]

Restrictive Business Practices

Resolution 35/63, adopted at UNCTAD's fifth conference on December 5, 1980,[61] calls upon the organization to act in an advisory and training role to assist developing countries in detecting and effectively controlling restrictive business practices (RBPs). UNCTAD has concentrated on two categories of RBPs: (1) "horizontal RBPs," or cartel arrangements, that dominate the domestic market, imports, exports, or world markets, and (2) "vertical RBPs," or practices such as actual or threatened refusals to deal, resale price maintenance, tied selling, exclusive dealing, and predatory pricing.[62]

An Intergovernmental Group of Experts (IGE) meets annually to review cases of RBPs encountered by developing countries and to discuss legislation introduced by various countries to control RBPs. At the 10th annual meeting of the IGE, held in Geneva on October 21 to 25, 1991, the UNCTAD Secretariat reported that it had substantially expanded its technical assistance activities in the area of RBPs during 1991.[63] According to the Secretariat developing countries, as well as countries in transition from centrally planned to market economies, have recently shown considerable interest in competition policies and RBP control. A major reason for this increased level of interest relates to the economic reforms adopted in a growing number of countries that involve a divestment of state monopolies, privatization, and the dismantling of subsidies and price controls.[64]

Another area of concern covered by the IGE in its 10th meeting was the recent increase in mergers, acquisitions, and joint ventures and their effects on international markets and developing economies. In a report issued by the UNCTAD Secretariat, the IGE noted that there was a massive increase in mergers in developed countries during the 1980s and that the level of activity is likely to continue in the 1990s.[65] On the other hand, there has been relatively little merger activity in developing countries, but the growth rate has been significant in such regions as Latin America. The IGE pointed out that the increased level of merger and acquisition activity, although not without benefits for developing countries, may also give rise to monopolies, cartels, and other conditions of imperfect competition. The group recommended that developing countries exert "greater vigilance to ensure that horizontal arrangements do not eliminate competitors, that vertical arrangements do not foreclose production inputs or distribution channels, or that conglomerate mergers do not lead to the control of small economies resting in a few hands."[66] The group also recommended full implementation of the Set of Principles and Rules on Restrictive Business Practices,[67] improved transparency and information sharing among governments on arrangements affecting competition, and further study of the interrelationships between competition and trade policy.[68]

Shipping

In its 14th session in June 1990, the UNCTAD Committee on Shipping adopted resolution 67 (XIV), which requested the Secretary General of UNCTAD to convene a group of experts during 1991 to discuss developments in multimodal transport and to take stock of the principal problems experienced by users and providers of multimodal transport in operations with developing countries. To facilitate the work of the group of experts, the Committee on Shipping also requested the UNCTAD Secretariat to provide the group with a series of studies on different aspects of multimodal transport before their meeting in March 1992.[69]

Many of the UNCTAD Secretariat's efforts have focused on present inefficiencies in the transport and shipping sectors of developing nations and the effects of those inefficiencies on international trade. A report issued by the Secretariat in November 1991 dealt with the practical problems faced by government and commercial parties in transporting goods to and from developing countries. The report indicated that inefficient road, air, railway, and shipping services can act as significant impediments to regional and international trade.[70] The report also noted that the shipping industry in most developing countries is under strong government direction and control, and that this control can severely constrain the ability of shipping companies in these countries to apply coherent business policies.[71] Further, the Secretariat's report pointed out that the governments of many developing countries appear to look on shipping as an ancillary service for promoting foreign trade rather than as a commercial business enterprise in a highly competitive environment.[72]

Another report published by the UNCTAD Secretariat in November 1991 described the importance of electronic data interchange (EDI) and electronic data processing (EDP) technology as a means of administering transport information and facilitating international trade.[73] The report indicated that the adoption of such technology will become increasingly vital to the shipping industries of developing countries as more advanced shipping nations develop a global EDI system.[74]

Negotiation and Operation of International Commodity Arrangements

Within the United Nations system UNCTAD is the primary organization responsible for international commodity policy and commodity trade. In this role UNCTAD has promoted the negotiation of international commodity agreements among producing and consuming countries to stabilize market conditions for a wide range of primary products of vital economic importance to developing countries. UNCTAD's Committee on Commodities annually monitors the operation of international commodity agreements.

At the end of 1991 the United States was a member of six international commodity agreements, which cover coffee, natural rubber, jute, sugar, tropical timber, and wheat. The United States was not a participant in a seventh agreement, which covers cocoa. The United States may enter into such agreements through executive agreements, treaties requiring ratification by a two-thirds majority of the

Senate, or through specific enacted legislation. A treaty is the customary route. In general, the United States has expressed concern regarding the potential for long-term market distortions under international price-stabilization mechanisms. The United States contends that world markets should be allowed to operate freely and without government interference. U.S. efforts are focused on promoting research and development funding rather than on market intervention.[75] However, the United States has shown that it is willing to consider participation in a commodity agreement if there is a demonstrated need in an economically sound market and a balance between producer and consumer interests.[76]

Three of the agreements (cocoa, coffee, and natural rubber) contain specific mechanisms designed to reduce fluctuations in prices, to improve long-run producer earnings, and to deliver a steady, adequate, and reasonably priced supply of the commodity to the consumer. The cocoa and natural rubber agreements provide for market intervention through the buying and selling of buffer stocks to moderate price swings. The coffee agreement, on the other hand, uses export quotas to stabilize prices. For a price-stabilization arrangement to be viable, the proposed price range must be compatible with the anticipated long-term market trend. In addition, the price-affecting mechanism must be sufficiently flexible to allow prices to move up or down in response to changes in international supply and demand. The agreements covering jute, sugar, tropical timber, and wheat are not specifically designed to stabilize prices. Instead these agreements seek to promote research on and market development of their respective commodities.

Cocoa

The current International Cocoa Agreement (ICCA)[77] was concluded in July 1986 and officially went into effect in January 1987.[78] Unlike the previous 1980 agreement, the 1986 ICCA included as a member the world's largest producer of cocoa: Cote d'Ivoire. The agreement was scheduled to be in effect through 1990. However, because the signatory countries were unable to negotiate a new agreement by the end of that year, the 1986 ICCA was extended for an additional 3 years.[79] Many unresolved problems pose obstacles to the successful conclusion of a new ICCA—among them the fact that producers favor an export-quota system to regulate supply, whereas consumers have proposed a withholding scheme in the producing countries to complement present buffer stock remaining from the 1986 ICCA.

The United States has not been a member of any of the ICCAs for a variety of reasons. Most notably the U.S. Government believes that buffer-stock agreements—arrangements whereby reserve stocks of a given commodity are bought and sold to stabilize price levels—generally do not work, that the cocoa agreements have been inadequately funded, and that unrealistic price ranges are specified in the agreements.[80] The 1986 ICCA's 250,000-metric-ton (mt) buffer stock includes 100,000 mt of cocoa carried over from the 1980 ICCA. The buffer stock is financed by a 1.4-cent-per-pound levy on member exports and on member imports from nonmembers. The ICCA provides for semiautomatic adjustment mechanisms and price reviews. Prices in the current ICCA are denominated in special drawing rights (SDRs) to moderate currency fluctuations.[81] Table 3 lists the price ranges[82] of the ICCA for buffer-stock operations in 1991.

Cocoa prices under the agreement are determined by reference to a daily price and by an indicator price expressed in SDRs per mt. Prices are reviewed annually and are adjusted automatically by 115 SDRs per mt, up or down, if they are not within the mandatory intervention levels and if the buffer-stock manager has bought or sold 75,000 mt of cocoa within a 6-month period.[83]

The ICCA also includes a provision for a withholding scheme in case the buffer stock is unable to maintain prices within the designated range.[84] The release of cocoa from the withholding scheme would begin when the indicator price has been at or above the median price for 10 consecutive market days. Buffer-stock sales cannot resume until all cocoa has been released from the withholding scheme.

Coffee

The current International Coffee Agreement (ICA) entered into force provisionally in October 1983 and definitively on September 11, 1985. The United States participates in the ICA along with 74 other nations,

Table 3
ICCA reference, intervention, and trigger prices for buffer-stock operations, 1991

	SDR/mt	*Approx. dollar/lb.*
Upper trigger action (must sell) price	2,155	$1.33
Upper intervention (may sell) price	2,100	1.29
Median price	1,820	1.12
Lower intervention (may buy) price	1,540	.95
Lower trigger action (must buy) price	1,485	.92

Source: International Cocoa Organization.

including 50 producing countries that account for more than 99 percent of all coffee traded on the world market. The present agreement, which will expire on September 30, 1993, is the second 2-year extension of the original 6-year agreement, which came into force on September 30, 1983. The International Coffee Organization (ICO) administers the ICA under rules and regulations established by the International Coffee Council (ICC).

On July 3, 1989, the ICC suspended export quotas, and it has elected to maintain the suspension until the expiration of the current agreement in September 1993 or until a new ICA can be negotiated. Following the suspension and the resulting increase in supply, coffee prices declined significantly. The 1991 yearend ICO composite indicator price fell by 7 percent from the 1990 composite price to 67 cents per pound, nearing a 16-year low (table 4). Officials at the U.S. Department of Agriculture (USDA) report that disagreements among ICA members over market shares, discount sales to nonmembers, and the problem of availability of the types and qualities of coffee desired by consuming countries continue to undermine negotiations aimed at restoring the ICA's export quota system.

The September 1991 meeting of the International Coffee Council ended without establishing a basis for a new ICA, but members did agree to set up a working group to review all proposals for a new ICA.[85] The major topic of disagreement continues to be which market regulatory system to adopt in a new ICA.[86] There is widespread agreement, however, that the market must be regulated and that all importing and exporting countries should participate in such regulation. Most producing and consuming countries want a return to export quotas, the latter being the focal point of the most recent pact. Even Brazil, which had stood in opposition to export quotas, has stated that it is prepared to accept export quotas provided "the allocation. . .reflects the real capacity of exporting countries to supply the market."[87]

Sugar

The 1987 International Sugar Agreement (ISA) entered into force on January 1, 1988, following the expiration of its predecessor, the 1984 ISA. The International Sugar Organization (ISO), located in London, administers the agreement. Concluded on September 11, 1987, the current ISA operated for its slated 3 years and was scheduled to expire on December 31, 1990. The ISO Council, however, voted in November 1990 to extend the 1987 agreement for another year, hoping that within this time the Uruguay Round of the GATT would be concluded. The 1987 ISA allows for two such extensions, which require a two-thirds vote by the exporting members and a two-thirds vote by the importing members. When itbecame clear that the Uruguay Round would not be concluded before the end of 1991, the Council voted to extend the 1987 agreement a second time,[88] allowing it to run through December 31, 1992.[89]

Like its predecessor, the 1987 ISA is merely an administrative agreement and does not contain economic provisions to control prices.[90] The only change the 1987 ISA makes with regard to the previous agreement is the method of financing the ISO. Rather than an even split between importers and exporters, importers are liable for only 42.5 percent of the costs, and exporters are accountable for the remaining 57.5 percent. This change was made to distribute more equally the burden of payment between the two groups, as more exporters than importers are signatories to the ISA.

As of November 1991 the ISO listed 45 signatories. (The 12 EC countries constitute 1 member.) Since then, however, the United States, Pakistan, and Canada have withdrawn from the ISO, and the exact status of the republics that formerly made up the Soviet Union is uncertain. Following the initial breakup of the Soviet Union, however, the republic of

Table 4
Green coffee: International Coffee Organization monthly average composite indicator prices, on the basis of the 1979 agreement, 1987-91

(Dollars per pound)

Month	*1987*	*1988*	*1989*	*1990*	*1991*
January	$1.18	$1.15	$1.27	$0.63	$0.69
February	1.16	1.21	1.18	.67	.71
March	1.01	1.18	1.17	.75	.73
April	1.04	1.16	1.18	.75	.72
May	1.11	1.16	1.16	.73	.68
June	1.02	1.19	1.05	.70	.66
July	.96	1.14	.77	.68	.64
August	.98	1.07	.69	.74	.63
September	1.05	1.14	.69	.76	.67
October	1.11	1.14	.61	.74	.63
November	1.16	1.14	.62	.70	.64
December	1.15	1.24	.62	.73	.63
Average	1.08	1.16	.92	.72	.67

Source: Compiled from ICO data reported by the U.S. Department of Agriculture and the U.S. Department of Commerce.

Russia assumed its seat on the ISO Council and paid the required membership dues.[91] At year's end Russia was the only former Soviet republic participating in the agreement.

Voting rights are assessed in proportion to each member's contribution to the administrative budget. In November 1988 the voting rights and the Council seat of the United States were suspended for failure to pay the 1988 budget assessment in full. The United States has since been in arrears in its payments to the ISO. According to the U.S. Department of State, the amount owed by the United States as of August 1990 was approximately $215,000. The United States regained its voting rights and seat on the Council in December 1991, however, and also (before leaving the ISO in March 1992) paid its dues for the current year. The full amount still owed by the United States is scheduled to be repaid by the end of 1992.

The use of target prices for sugar was discontinued after 1984. Actual prices have remained below the 1982-84 target range. Table 5 presents world market prices for sugar from January 1987 to November 1991.

Natural Rubber

The current International Natural Rubber Agreement (INRA), also known as INRA II, was negotiated in March 1987 at the 4th United Nations Conference on Natural Rubber and became provisionally effective on December 29, 1988.[92] This second international rubber agreement replaced the highly successful INRA I (1979),[93] which came to a formal close after the 18th session of the International Natural Rubber Council in March 1989. INRA II has a term of 5 years, with provisions for a possible 2-year extension.

The International Natural Rubber Organization (INRO), established under INRA I and continuing under INRA II, supervises the operations and administers the provisions of the agreement. Membership in this organization is composed of exporting and importing members; each group has half of the voting power and financing responsibilities. By the end of 1991 the membership included 6 exporting countries, 20 importing countries, and the EC. The accession in late 1991 of Cote d'Ivoire, the second African country to join the exporters' group, broadened the geographic representation of the organization's membership.[94]

The objectives of INRA are to stabilize natural rubber prices without distorting long-term market trends and to expand the supply of natural rubber at reasonable prices. The agreement seeks to alleviate the instability of prices through the use of the buffer stock—the sole instrument of market intervention. Members are committed to financing the total cost of the normal buffer stock of 400,000 mt, and the contingency buffer stock of 150,000 mt. Market intervention by the buffer-stock manager (BSM) is guided by the daily market indicator price (DMIP) and the INRA reference, intervention, and trigger action prices.[95] Table 6 lists the price ranges[96] of INRA for buffer-stock operations.

Natural rubber prices were relatively steady during the first half of 1991 and did not require intervention by the BSM. The DMIP remained within two cents of the BSM's "may buy" price of M/S$1.76 (US$0.78) during March, April, and May.[97] In the second half of 1991, however, the BSM decided to intervene in the market and purchased natural rubber.[98] Prices remained weak for the remainder of 1991, and the INRO Council considered a downward revision of the reference price during its 24th session in October 1991.

Table 5
Raw and refined sugar: World market prices, Contract No. 11, F.O.B. Caribbean Ports, and Contract No. 5, F.O.B. Europe, U.S. cents/lb., 1987-91

Year, quarter, and month	*World raw sugar*	*World refined sugar*	*Spread between world raw and refined sugar price*
1987	6.71	8.75	2.04
1988	10.17	12.01	1.84
1989	12.79	17.15	4.36
1990	12.55	17.32	4.77
1990			
I	14.80	19.53	4.73
II	14.28	19.67	5.39
III	11.28	16.12	4.84
IV	9.83	13.95	4.12
1991			
I	8.89	13.55	4.66
II	8.60	13.25	4.65
III	9.70	14.07	4.37
Oct	9.10	13.03	3.93
Nov	8.79	12.71	3.92

Source: Coffee, Sugar, & Cocoa Exchange, Inc., London Commodity Exchange, U.S. Department of Agriculture.

Council members determined that the prior 6-month average reference price of M/S$1.77 was above the lower intervention price of M/S$1.76,[99] and therefore no revision took place.[100] Also during the 24th session the Council addressed the possible renegotiation of INRA.[101] The two main sources of natural rubber statistics reported different production and consumption figures for natural rubber in 1991. However, they both showed similar trends: increases in production and slight decreases in consumption. One source reported that worldwide consumption of natural rubber amounted to 5.20 million mt in 1991, down by nearly 1.0 percent from 5.25 million mt in 1990. Production of natural rubber reached 5.21 million mt in 1991, 1.2 percent higher than the 5.15 million mt in 1990.[102] A second source reported consumption at 5.16 million mt in 1991, compared with 5.22 million mt in 1990. Production was estimated to have increased by 1.0 percent, from 5.21 million mt in 1990 to 5.26 million mt in 1991.[103]

Jute

The present International Jute Agreement (IJA) is a continuation and extension of the original IJA,[104] which was initiated in 1982 under the auspices of UNCTAD. The current IJA entered into effect provisionally in January 1991 and came fully into force on April 12, 1991, after the required number of signatories was obtained.[105] The number of signatories to the present IJA (3 exporting members and 21 importing members, including the United States) represents a decline in membership from the original agreement. The present IJA is scheduled to expire on January 9, 1996, although it can be extended for two periods of up to 2 years each.[106]

Traditionally, the main objectives of the IJA have been to improve the competitiveness and quality of jute and jute products, to ensure adequate supplies, and to maintain and develop the demand for jute. The present IJA more specifically emphasizes achievement in the following areas:

1. Promoting expansion and diversification of international trade in jute and jute products by developing new end uses for jute and jute products and by encouraging increased consumption of jute and jute products;

2. Providing a more effective framework for cooperation and consultation among members;

3. Providing increased awareness of jute's environmental benefits;

4. Improving the availability of information concerning the international jute market;

5. Improving the quality and increasing the production yield of jute fiber; and

6. Improving the quality and reducing the production cost of jute products.

The new IJA continues to operate without any economic provisions such as buffer stocks, price stabilization measures, or export quotas.

The International Jute Organization (IJO), which administers the IJA with the assistance of the International Jute Council (IJC), is headquartered in Dhaka, Bangladesh. The IJC's main responsibilities are to organize and conduct semiannual sessions and to oversee the meetings of the Committee on Projects. The IJO concentrates on assembling information, undertaking research and development projects, and conducting studies pertaining to problems in the world jute market.

Wheat

The International Wheat Agreement (IWA), unlike many other international commodity agreements, has no provisions for buffer stocks, intervention ranges, or export quotas. The activities of the IWA are allocated to two conventions: a Wheat Trade Convention, with 48 member countries, and a Food Aid Convention, with 23 member countries. As part of its

Table 6
INRA reference, intervention, and trigger prices for buffer-stock operations, 1991

	Malaysian/Singapore dollars per kilogram	*Approx. US$/kg**
Upper trigger action (must sell) price	2.49	1.11
Upper intervention (may sell) price	2.38	1.06
Median price	2.07	.92
Lower intervention (may buy) price	1.76	.78
Lower trigger action (must buy) price	1.66	.74

*The exchange rate used is the mathematical average of the Malaysian currency exchange rate and the Singapore currency exchange rate. For 1991, the rate used was calculated from data provided by the International Monetary Fund, *International Financial Statistics*, April 1992, pp. 351 and 471.

Source: The Economist Intelligence Unit, *Rubber Trends*, March 1992, p. 17.

responsibilities, the IWA provides technical studies, collects market information, and coordinates food-aid pledges by exporters and importers to needy developing nations. The various functions of the IWA have been administered by the International Wheat Council (IWC), the only commodity organization in which the United States has had membership as an exporting nation. Brazil, a large importer of grain, backed out of the IWC in 1991 citing chronic budgetary constraints. As of December 1991 there were 48 signatories to the IWA.

The original agreement for the IWA, negotiated in 1971, was extended eight times. A new IWA was negotiated in 1986. Although it continues the functions and organizational structures of previous agreements, the latest IWA expanded the scope of research and reporting to include other grains. It also includes increased pledges under the Food Aid Convention. The new agreement still does not empower the IWA to intervene in the world market to regulate supplies and prices, an activity the United States opposes. In fact the new IWA downplays the language in the original IWA dealing with eventual price intervention.

Both the Wheat Trade Convention and the Food Aid Convention of the IWA were to expire June 30, 1991. The Food Aid Committee, during its 61st session on December 13, 1990, agreed to extend the Wheat Trade Convention and the Food Aid Convention to June 30, 1993.[107]

In marketing year July 1990 through June 1991 world consumption of wheat and wheat flour rose to 572.1 million mt, up from 534.4 million mt in marketing year 1989/90. Total world production increased by just over 10 percent, from 537.9 million mt in 1989/90 to 593.3 million mt in 1990/91. Significantly, wheat production by major importers (the EC, the former Soviet Union, Eastern Europe, Japan, and China) rose by nearly 9 percent, from 305.8 million mt in 1989/90 to 332.0 million mt in 1990/91. For the 2nd year in a row, consumption did not exceed production and world stocks of wheat and wheat flour consequently did not decrease significantly.[108] The USDA forecast for 1991/92, however, indicated a reversal of the recent increase in world production and stocks, primarily because of production drops in the United States and the former Soviet Union.[109] The USDA also estimated that world wheat stocks would decrease by roughly 7 percent by the end of marketing year 1991/92, despite large increases in Canada and the EC. Prospects of reduced stocks and expectations of strong import demand have reportedly been fueling a rise in prices since July 1991.[110]

From 1989/90 to 1990/91, world trade in wheat declined by approximately 3 percent, from 96.1 million mt to 93.5 million mt. Factors contributing to this decline included increased production by world wheat importers, increased world wheat stocks, and a world wheat market made highly competitive by excess production. Overall the U.S. share of the world wheat market declined from 34.9 percent in 1989-90 to 30.3 percent in 1990-91.

Tropical Timber

The International Tropical Timber Agreement (ITTA) came into force on April 1, 1985, following 8 years of negotiations carried out under the aegis of UNCTAD. Since it entered into force the agreement has been signed by 18 producer countries and 23 consumer countries, which form the International Tropical Timber Organization (ITTO). These countries account for more than 95 percent of world trade in tropical timber.[111]

The objectives of the ITTA reflect a recognition by member governments that tropical timber is an unusual commodity because (1) it is harvested mostly from virgin forests, (2) it is a product of highly fragile ecosystems, and (3) it is renewable only over a long timespan. Broadleaved hardwood forests need a minimum of 30 to 50 years to produce logs that can be harvested. This long growout period makes the management of tropical timber very different from that of other agricultural resources. Another unique feature of the commodity is that tropical forests not only yield valuable timber for export, but also play an important role in the protection of the planetary environment. Tropical forests also provide a life-support system for the people who live in or near these forests. For these reasons the ITTA seeks to ensure that commercial harvesting of tropical timber is kept in balance with conservation and environmental needs. It is the only international commodity agreement to include such objectives.

The ITTA was the third commodity agreement to be negotiated under the framework of UNCTAD's Integrated Program for Commodities. Its objectives are (1) to provide an effective framework for cooperation and consultation between tropical timber producing and consuming countries with a view to the promotion, expansion, and diversification of international trade in tropical timber and (2) to improve structural conditions in the tropical timber market. To these ends the ITTA promotes research and development aimed at improving forest management, wood use, and market intelligence, and at encouraging further processing of tropical timber in producing countries. The ITTA also works to improve the marketing and distribution of tropical timber exports, and to encourage national policies aimed at sustainable use and conservation of tropical forests. Projects in these areas are financed by an internal UNCTAD account (the Second Account of the Common Fund for Commodities), by regional and international financial institutions, and by voluntary contributions.

The ITTO held its 10th Council session in Quito, Ecuador, in early June 1991. The focus of this session was to ensure that international trade does not completely dominate the tropical timber industries of member countries. (For additional discussion of this topic, see chapter 1, "Trade and the Environment" section.) A number of signatories expressed concern that there should be enough tropical timber resources in the long term to meet the needs of the producing countries themselves and still provide a surplus for export.[112]

The 11th Council session of the ITTO was held in Yokohama, Japan, from November 28 to December 4, 1991. The meeting's main achievement was the adoption of a definition and set of criteria for sustainable management of tropical timber. Criteria adopted for sustainability include—

1. The forest resource base,
2. The continuity of flow of forest products,
3. The level of environmental control,
4. Socioeconomic effects,
5. Institutional frameworks,
6. Resource security,
7. The continuity of timber production,
8. The conservation of flora and fauna,
9. An acceptable level of environmental impact, and
10. Planning and adjustment to experience.

Examples of indicators were outlined under each criterion. The ITTO emphasized that the lists were not all-inclusive and must be adapted to the specific nation or management unit. The Council also reiterated the target date of the year 2000 for sustainable yield management for tropical forests.

Other Trade Agreements

Enterprise for the Americas Initiative[113]

President Bush formally announced the Enterprise for the Americas Initiative (EAI) on June 27, 1990, following a review of U.S. economic policies regarding Latin America. The purpose of the EAI is to recognize and to encourage ongoing economic reforms in Latin America. The three key components of the EAI are (1) expanded trade among countries in the hemisphere, with the long-term objective of a Western Hemisphere free-trade zone, (2) investment promotion and support for economic reforms that encourage private investment, and (3) debt relief for Latin American and Caribbean countries.

In announcing the EAI, President Bush stated that the United States was prepared to sign "framework agreements" with any interested eligible country or group of countries in Latin America that wish to work toward freer trade in the hemisphere. The EAI framework agreements are modeled on the U.S.-Mexico Framework on Principles and Procedures for Consultation Regarding Trade and Investment Relations agreement signed in 1987.[114] The EAI agreements contain a statement of agreed principles recognizing (1) the benefits of open trade and investment, (2) the importance of trade in services, (3) the need for adequate intellectual property rights protection, (4) the importance of observing and promoting internationally recognized worker rights, and (5) the desirability of resolving trade and investment problems expeditiously. The agreements also establish intergovernmental councils to discuss trade and investment issues on a regular basis and, when appropriate, to negotiate the removal of trade and investment barriers.

In all, the United States has signed EAI framework agreements covering 30 Latin American countries (excluding the agreement signed with Mexico). The United States signed EAI framework agreements with 24 Latin American and Caribbean countries in 1991. Bilateral agreements were signed with the Dominican Republic, El Salvador, Guatemala, Nicaragua, Panama, Peru, and Venezuela. The United States also signed two multilateral EAI framework agreements: one with the Southern Common Market (MERCOSUR) countries of Argentina, Brazil, Uruguay, and Paraguay, and the other with the 13 English-speaking Caribbean Community (CARICOM) countries of Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Agreements with Bolivia, Chile, Colombia, Costa Rica, Ecuador, and Honduras were signed in 1990. The only independent Latin American countries the United States has not signed framework agreements with as of this writing are Cuba, Haiti, and Suriname.

Steel Import Program

Background of the Voluntary Restraint Agreement Program

In 1984, following an investigation under section 201 of the Trade Act of 1974, the U.S. International Trade Commission found that increased imports of certain steel products were a substantial cause of serious injury, or threat of serious injury, to the domestic steel industry. On September 18 of that year, however, the President determined that import relief for the steel industry was not in the national economic interest.[115] Instead of granting relief through quotas or higher import duties, the President outlined a program of VRAs specially designed to help the domestic steel industry to compete with imports.[116] The President directed USTR to negotiate "'surge control' arrangements or understandings" (VRAs) with countries whose steel exports to the United States had increased significantly due to an "unfair surge in imports."[117]

These VRAs were to be negotiated for the period October 1, 1984, to September 30, 1989. Under them, imports of finished steel products would be limited to 18.0 million tons, or 18.5 percent of the domestic market. (That share excluded semifinished steel imports, which were subsequently limited to about 1.7 million tons annually.)[118]

As of 1986, USTR had negotiated VRAs with 19 countries and with the EC, excluding Spain and Portugal. (These two countries negotiated separate agreements because they were not yet members of the EC.)[119] The agreements contained market-share arrangements, quotas, or a combination thereof. Arrangements differed among countries, with considerable variations in the number of products subject to limitation. Each arrangement, however, involved an agreement by the foreign country to limit exports of certain steel products to the United States. To bring these agreements into effect, U.S. producers withdrew their pending unfair trade petitions and the U.S. Government suspended antidumping and countervailing duties that were in effect on steel products.[120]

Extension of the VRAs

On July 25, 1989, the President announced a Steel Trade Liberalization Program, under which the VRAs were extended for 2 1/2 years, until March 31, 1992.[121] Under this program, the President also directed USTR to negotiate Bilateral Consensus Agreements (BCAs) with all major steel-trading countries to open their markets and eliminate government subsidies. BCAs include commitments by countries to prohibit subsidies for steel production and keep markets open for steel through the elimination of nontariff measures. They also contain a binding-arbitration mechanism to provide quick and effective remedies if countries violate the agreements.[122]

VRAs were to be concluded at a base restraint level (the initial export restraint level) of 18.4 percent of the domestic market (the same as the 1988 VRAs import penetration level). However, to provide incentives for countries to eliminate trade-distorting practices and to respond to steel consumers' concerns about an adequate supply of raw materials, the President authorized additional import penetration, up to 1 percent annually, for countries entering into BCAs.[123]

On December 12, 1989, USTR announced that negotiations covering a 2 1/2 year extension of the VRAs had been completed with the EC and the 16 other countries[124] that previously had VRAs.[125] As a result of these negotiations, the restraint levels for steel mill products (including semifinished steel) increased to a 19.1-percent share of domestic consumption in the first period of the new VRA program (table 7). Additional increases in restraint levels were authorized for subsequent years for countries that entered into BCAs with the United States. The parties with which the United States has negotiated BCAs are Australia, Austria, Brazil, the EC, Finland, Japan, the Republic of Korea, Mexico, Trinidad and Tobago, and Yugoslavia. These parties accounted for more than 97 percent of U.S. steel imports from countries included in the VRA program in 1991.[126] Product coverage under the extended VRAs remained essentially unchanged, although the agreements were modified to include specialty steel products that were previously subject to relief under section 203 of the Trade Act of 1974.[127]

From 1986 to 1991, when the VRAs were in effect, conditions in the domestic steel industry improved. Imports decreased by 24.0 percent, and exports increased by 578 percent (from 980 thousand short tons to 6,617 thousand short tons in 1991). Domestic demand increased, and as a result domestic producers' shipments rose by 12.8 percent (from 70.3 million short tons to 78.9 million short tons. Imports as a percentage of apparent consumption declined to 18.3 percent in 1991, from 23.6 percent in 1986. From 1986 to 1991, imports from VRA countries as a percentage of apparent consumption fell to 13.6 percent from 17.7 percent, whereas imports from non-VRA countries as a percentage of total apparent consumption decreased to 4.7 percent from 5.9 percent. In 1991 Canada was the largest non-VRA supplier, followed by Sweden, Argentina, Taiwan, Turkey, New Zealand, India, Colombia, Norway, and Singapore.[128] Table 7 shows countries subject to VRAs and their respective limits, under initial and extended restraint arrangements.

Arrangement Regarding International Trade in Textiles

The Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), has controlled much of world trade in textiles and apparel since 1974.[129] Created under the aegis of the GATT, the MFA is intended to promote orderly world trade in these products and to prevent market disruption. To this end the MFA allows signatories to negotiate bilateral agreements that establish quantitative limits, or quotas, on imports of most types of textiles and apparel. In the absence of a mutually agreeable limit, a country may impose unilateral quotas for up to 2 years. Under most agreements or unilaterally imposed restraints, the quotas are increased annually by 1 percent for wool products and by 6 percent for all other covered products. Considerably lower growth rates may be applied to products from major suppliers. Developed countries generally have established quotas under the MFA on shipments from developing countries and from newly industrialized

Table 7
Countries subject to VRAs and their respective limits, under initial and extended restraint arrangements, 1984-92

Country	*VRA/ 1984-89*	*First period Oct.89-Dec.90*	*Second period 1991*	*Third period Jan-March 1992*
	Market share in percent			
Australia	0.26	0.39	0.49	0.59
Austria	0.24	0.25	0.25	0.25
Brazil	1.35	1.80	2.10	2.10
Czech and Slovak Federal Republic	0.04	0.04	0.04	0.04
EC	6.94	7.00	7.00	7.00
Finland	0.24	0.25	0.25	0.25
East Germany[1]	0.11	0.10	0.10	0.10
Hungary	0.03	0.05	0.05	0.05
Japan	6.19	5.00	5.30	5.30
Korea	1.92	2.45	2.62	2.62
Mexico	0.49	0.95	1.10	1.10
PRC	0.08	0.08	0.09	0.09
Poland	0.09	0.13	0.13	0.13
Romania	0.11	0.11	0.11	0.11
Trinidad and Tobago	0.04	0.12	0.13	0.15
Venezuela	0.21	0.33	0.33	0.33
Yugoslavia	0.02	0.05	0.05	0.05
Total	18.36	19.10	20.14	20.26

[1] The administration of East Germany's VRA was transferred to the EC after unification. The export ceiling remains unchanged for steel works located in what used to be East Germany.

Note.—Percentages are approximate because some VRAs were negotiated for two 15-month periods, and others were negotiated for other combinations totaling 30 months. Market shares are based on 1989 apparent consumption.

Source: *USTR press release*, Dec. 12, 1989, and *USITC Quarterly Report on the Status of the Steel Industry, USITC Publication No. 2486.*

economies. The quotas are a departure from the GATT, as they are applied on a country-specific basis in contradiction to the nondiscrimination principle, which prescribes that all GATT member countries be treated equally with regard to quotas or other trade restrictions.

On August 1, 1991, the MFA was extended without change for the fourth time in its 18-year history, to December 31, 1992. The expiration of this rollover is intended to coincide with the anticipated implementation of an agreement on textiles in the Uruguay Round. Negotiators reached a tentative agreement in November 1990 to phase out the MFA and integrate textile trade into normal GATT rules. The most recent draft calls for phasing out the MFA over 10 years, beginning on January 1, 1993. (For additional discussion of this issue, see chapter 1, "Uruguay Round Negotiations in 1991" section.) In 1991 the United States had bilateral agreements or quotas in place with some 40 countries,[130] as shown in table 8. Most of the agreements scheduled to expire in 1991 were renegotiated or extended, including those with three major suppliers (China, Hong Kong, and Korea) and with several secondary sources (Bangladesh, Egypt, India, Macao, Malaysia, Mexico, and the Philippines). A new agreement was concluded with Thailand to replace ones that had expired in 1988. In the intervening period some imports from Thailand had been subject to unilateral U.S. restraints. The agreements with Japan, Peru, and Trinidad and Tobago were permitted to expire without renewal. The United States renegotiated its agreements with the Czech and Slovak Federal Republic, Hungary, and Poland to provide increased market access under the Bush administration's Trade Enhancement Initiative for Central and Eastern Europe. The growth in U.S. imports of MFA products[131] has slowed considerably in recent years. After averaging 11 percent annually (in terms of quantity) in the 1980s, import growth was less than 1 percent in 1990 and 5 percent in 1991, when the volume of imports reached a record 12.8 billion square meter equivalents (SMEs), valued at almost $29 billion. Imports of apparel, which account for about 80 percent of the total quantity, increased by 4 percent in 1991, to 7.7 billion SMEs, valued at $23 billion, and imports of textiles increased by 7 percent, to 5.0 billion SMEs, valued at $5 billion. U.S. producers' shipments of apparel increased by an estimated 7 percent, to $69 billion in 1991.[132] U.S. producers' shipments of textile products rose by just under 1 percent, to $64 billion.

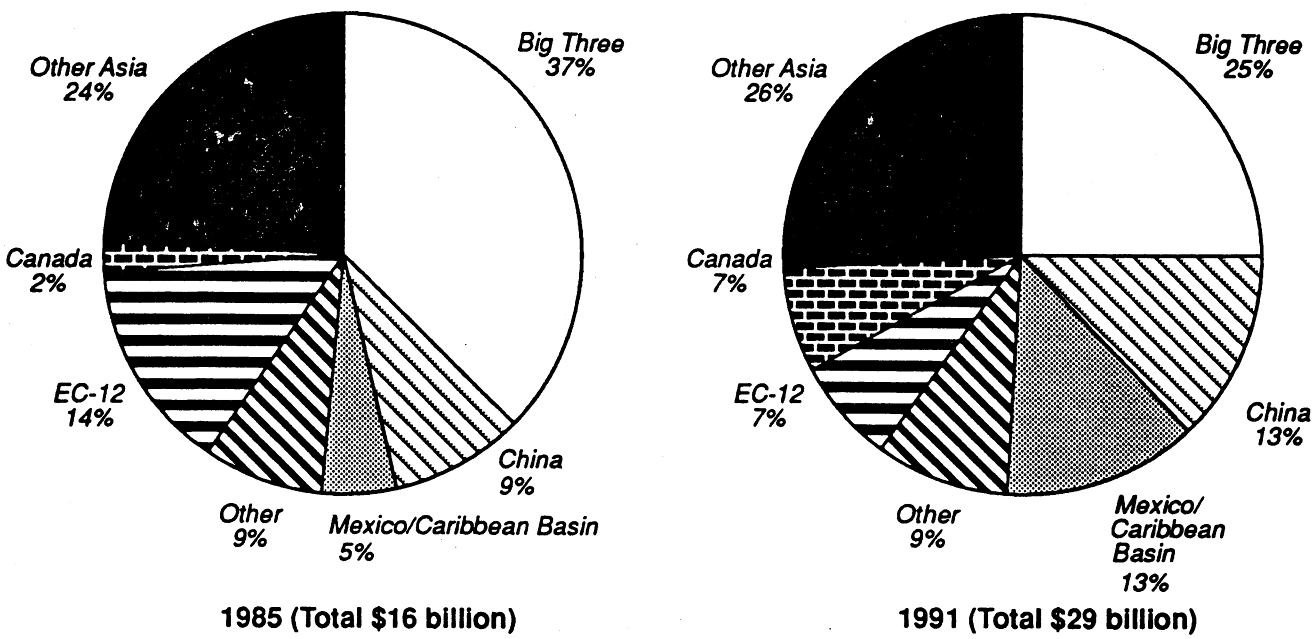
Table 8
Countries with U.S. textile and apparel agreements or quotas: U.S. general imports of textiles and apparel subject to the MFA, in 1991, and expiration dates of agreements or quotas in place during 1991, as of July 13, 1992

Country	*Value of imports*	*Expiration date*
	(1,000 dollars)	
Argentina*[1]	9,371	03/31/92
Bangladesh*	1,450,225	01/31/95
Brazil*	218,011	03/31/93
Burma	11,677	09/30/92
China*	3,750,745	12/31/93
Commonweath of Independent States[2]	10,150	12/31/92
Costa Rica*	445,813	05/31/92
Czech and Slovak Federal Republic*	25,708	05/31/93
Dominican Republic*	957,888	05/31/92
Egypt*	126,156	12/31/93
El Salvador*	106,861	12/31/92
Fiji	27,971	12/31/92
Guam[3]	([4])	07/31/92
Guatemala*	349,586	12/31/92
Haiti	152,421	12/31/93
Hong Kong*	3,941,897	12/31/95
Hungary*	51,862	12/31/93
India*	833,067	12/31/93
Indonesia*	649,024	06/30/94
Jamaica*	254,577	12/31/92
Korea*	2,448,444	12/31/93
Macao*	390,062	12/31/93
Malaysia*	580,123	12/31/92
Mauritius	98,906	09/30/93
Mexico*	879,395	12/31/92
Nepal	45,209	12/31/93
Nigeria	3,005	12/31/92
Northern Mariana Islands[3]	([4])	10/31/91
Pakistan*	465,045	12/31/92
Panama	63,029	03/31/93
Peru*[1]	89,116	12/31/91
Philippines*	1,059,532	12/31/93
Poland*	59,251	12/31/93
Romania	18,182	12/31/93
Singapore*	609,751	12/31/95
Sri Lanka*	505,098	06/30/94
Taiwan	3,196,680	12/31/95
Thailand*	695,590	12/31/93
Trinidad and Tobago[1]	1,232	12/31/91
Turkey*	301,031	12/31/93
United Arab Emirates	83,470	12/31/93
Uruguay*	45,135	06/30/92
Yugoslavia*	66,670	12/31/92

*Signatory to the MFA Protocol that went into effect on 08/01/91.
[1] The agreement with this country was allowed to expire without being renewed.
[2] The former Soviet Union. The Committee for the Implementation of Textile Agreements issued a directive on July 24, 1992 directing that the quota applicable to exports from the former Soviet Union would be applied cumulatively to exports from the 12 successor states for the period January 1, 1992 through December 31, 1992.
[3] The agreements with Guam, a U.S. territory, and the Northern Mariana Islands, a U.S. commonwealth, are "quota exceptions" for sweaters classified as products of foreign countries, but assembled in these insular areas. In general, quota-free entry is allowed for a specified number of sweaters provided that at least 40 percent of the assembly workers were citizens or nationals of certain areas or the United States. Imports in excess of the specified amounts are charged to quotas established for the country of origin, usually the country where the sweater parts were knitted.
[4] Not applicable.

Source: Trade data compiled from official statistics of the U.S. Department of Commerce. Other information from the Office of the United States Trade Representative, Office of the Chief Textile Negotiator; U.S. Department of State, Bureau of Economic and Business Affairs, Textiles Division; and U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel.

Figure 3
U.S. imports of textiles and apparel by major suppliers, 1985 and 1991



Other Asia consists of the following countries: ASEAN countries (Thailand, Malaysia, Singapore, Brunei, and the Phillippines), Bangladesh, India, Japan, Pakistan, Sri Lanka, Macao, United Arab Emirates, Oman, Bahrain, Qatar, Maldives, and Nepal.

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

The major suppliers showed little growth in their exports to the U.S. market in 1991. Shipments from Hong Kong, Korea, and Taiwan, which are limited to roughly 1 percent annual quota growth, actually fell by somewhat less than 1 percent in 1991, to 3.2 billion SMEs. The value of imports from these three rose by 1 percent, to $9.6 billion. The "Big Three" faced rising production costs that forced them to trade up to higher valued-added goods and to shift production of basic goods to lower cost countries. As a result of these changes and generally tight U.S. quotas, the Big Three's relative importance as suppliers has declined in recent years, as illustrated in figure 3. Their share of total U.S. imports of MFA products in terms of quantity decreased to 25 percent in 1991 from 37 percent in 1985. The largest increase in import shares was for Canada and China. Imports from China, the United States' largest single supplier in 1991, with 13 percent of total MFA import volume, comprise the types of products (chiefly apparel) that directly compete with imports from the Big Three. These imports are limited under a bilateral agreement to about 3 percent annual quota growth and rose by only 1 percent in 1991, to 1.7 billion SMEs. Canada's share of U.S. imports rose to 7 percent of the 1991 total, or 0.9 billion SMEs, from 0.8 billion SMEs in 1990. Canadian shipments to the United States, which are mostly manmade-fiber textile products, are not subject to U.S. quotas under the MFA and benefit from preferential tariff treatment under the U.S.-Canada Free-Trade Agreement.

Significant growth in U.S. imports of MFA products was generated by smaller low-cost suppliers, especially the Caribbean Basin Initiative (CBI) nations and Mexico. In 1991, imports from Mexico and the CBI countries combined grew by 24 percent, to 1.6 billion SMEs, or 13 percent of total import volume. A large share of these imports is apparel assembled in those areas from parts cut in the United States.

Bilateral Investment Treaty Program

The U.S. Bilateral Investment Treaty (BIT) program was launched in 1981 to help promote U.S. direct investment abroad.[133] BITs with interested partners—usually low- and middle-income developing countries—guarantee U.S. investors abroad certain rights and protections. The program is based on the idea that when some of the risks and restrictions associated with overseas investment are eliminated, U.S. international investment flows should increase.

The U.S. Government negotiates BITs using a prototype treaty that has the following objectives:

1. To ensure that investors are accorded national treatment and are free to operate their businesses without undue constraints;

2. To see that capital and profit repatriation are unrestricted;

3. To see that expropriation protection is based on the "fair market value" of the investment; and

4. To provide for binding third-party arbitration to resolve disputes.

These objectives are based on a version of the original BIT prototype, which was last updated in February 1991.[134]

As of yearend 1991 the United States had signed BITs with 16 countries, covering approximately $13.9 billion[135] in U.S. foreign direct investment (FDI), or about 3 percent of the total FDI stock, which stood at $421.5 billion[136] at the end of 1990.[137] Of the 16 BITs signed, 8 were in force as of January 1992.[138] Another 11 BITs were under negotiation,[139] and at least 18 other countries have indicated an interest in the program. During 1991 the United States signed a BIT with Sri Lanka in September, with the Czech and Slovak Federal Republic in October, and with Argentina in November. All three treaties are expected to be submitted to the Senate in 1992.[140]

U.S.-Canada Free-Trade Agreement

(See chapter 5, "Canada" section.)

U.S.-Israel Free-Trade Area Agreement

The U.S.-Israel Free-Trade Area (FTA) Agreement, established on September 1, 1985, was the first FTA entered into by the United States.[141] Under the agreement tariffs on all goods in trade originating in the two countries will be eliminated by January 1, 1995. The FTA covers not only manufactured goods and agricultural products, but also areas that are not currently covered by the GATT, such as trade in services, intellectual property rights, and trade-related investment performance requirements.

When it was signed, the FTA immediately eliminated duties on products that both the United States and Israel considered the least import-sensitive.[142] More sensitive products were placed on one of three lists (the A, B, and C lists) for gradual, phased liberalization. Each list follows a different liberalization schedule based on the products' import sensitivity. Duty reductions for products on the A and B lists began on September 1, 1985. By January 1, 1989, duties on the less sensitive A-list products were completely eliminated. Duties on the more sensitive B-list products were lowered to 10 percent of most-favored-nation rates on January 1, 1992,[143] and are scheduled to be completely phased out by January 1, 1995. Duties on C-list goods,[144] the most import-sensitive products, were frozen until January 1, 1990. After that date a schedule for liberalization was to be determined by the Governments of Israel and the United States. As of yearend 1991, however, no progress had been made in reducing tariffs on either of the two countries' C lists, although the issue remains under discussion.[145] According to the FTA, duties on all goods traded between the United States and Israel must be eliminated by January 1, 1995.

Duty-free trade of goods covered under the U.S.-Israel FTA continued to grow in 1991. Total U.S. imports from Israel amounted to $3.5 billion in 1991. Products entering the United States duty free under the FTA accounted for $947.4 million, or 27 percent of the total. Although the value of U.S. imports from Israel under the FTA increased by 11 percent over 1990, the share of total imports occupied by products imported duty free under the FTA actually dropped by 1.3 percentage points from 1990. Table 9 lists the top 20 items imported from Israel under the FTA during 1990-91.[146]

Trade Dispute on Machine Tools

The year 1991 saw the resolution of the first major trade dispute under the U.S.-Israel FTA. On May 8, 1990, Israel informed the United States that it was activating the FTA's dispute-resolution mechanism in response to a U.S. decision to count substantially complete Taiwan machine tools, which are then further processed in Israel, against the numerical limits of the existing voluntary restraint agreement (VRA) on machine tools from Taiwan.[147] The U.S. Customs Service separately ruled that these imports qualified for duty-free treatment under the FTA, but the Customs ruling was not considered an issue in the dispute.

On June 14, 1991, a three-member arbitration panel, formed under the dispute-resolution procedures of the FTA, handed down a ruling that the original U.S. decision was at first view contrary to article 4 of the FTA. The panel noted, however, that this contrary measure could be remedied if permitted as an exception to the FTA or the GATT, or if it constituted an exception "implicit in article 4" of the FTA.[148] Subsequently Israel indicated that it would restrain its exports of machining centers[149] qualifying for duty-free treatment under the FTA through December 1991, when the VRA with Taiwan was scheduled to expire. The two countries agreed to renegotiate article 4 of the FTA, which prohibits the imposition of new trade barriers.

Table 9
Leading U.S. imports for consumption, under special duty provisions of the U.S.-Israel FTA, customs value, 1990-91

HS Item No.	Description	Time Period 1990	1991
		—(Thousands of dollars)—	
7113.19	Articles of jewelry and parts thereof, of precious metal, (excluding silver)	25,555	114,592
8517.90	Parts of telephonic or telegraphic apparatus	28,657	42,552
6110.20	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of cotton	16,074	33,397
6104.62	Women's or girl's trousers, bib and brace overalls, breeches and shorts, of cotton	16,882	25,909
9015.80	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances	21,282	18,126
2921.43	Toluidines (aminotoluenes) and their derivatives	8,421	17,449
8533.21	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity not exceeding 20 W	14,713	16,157
6109.10	T-shirts, singlets, tank tops etc, knit etc, cotton	14,907	14,947
6112.41	Women's or girl's swimwear synthetic fibers, knit	12,441	13,823
8525.20	Transmission apparatus incorporating reception apparatus	22,842	13,560
9018.90	Instruments and appliances used in medical, surgical, dental and veterinary sciences n.e.s.	18,285	13,242
9031.40	Other optical instruments and appliances	24,344	12,928
2930.90	Organo-sulfur compounds n.e.s.	4,055	12,152
2008.30	Citrus fruit (including mixtures), prep etc, n.e.s.	8,833	12,078
5603.00	Nonwovens, whether or not impregnated, coated etc	7,467	12,041
2710.00	Oil (not crude) from petrol & bituminous mineral, etc	19,162	10,962
3908.10	Polyamide-6,-11,-12,-6,6,-6,9,-6,10 or -6,12	7,397	10,076
2924.21	Ureines and their derivatives; salts thereof	11,001	9,797
3004.90	Medicaments nesi, measured doses, retail packaged n.e.s.	1,618	9,058
3917.32	Tubes etc, not reinforced etc, without fittings	8,557	8,414
	Total of items shown	292,493	421,258
	Total other	560,160	526,145
	Total all commodities	852,653	947,403

Source: Compiled from official statistics of the U.S. Department of Commerce. Top 20 commodities sorted by imports for consumption, customs value in 1991.

Occupied Territories and the FTA

After receiving considerable criticism in the Israeli press, the U.S. consulate in Jerusalem announced in July 1991 that it had no immediate plans to carry out a survey of Israeli industry in the West Bank and East Jerusalem. Because the United States does not currently recognize Israeli sovereignty over these territories, such a survey might have rendered the Israeli industries there ineligible for special treatment under the FTA.[150] The survey might also have allowed the filing of unfair competition suits against these industries by corresponding U.S. industries.[151] Although the survey has been listed on the consulate's annual working plan for several years, it never has been implemented.[152]

Negotiations on the FTA

The U.S.-Israel Free Trade Area Joint Committee convened its 6th annual session in Washington on July 23 and 24, 1991, to review progress on implementation of the FTA. In addition to the machine-tool trade dispute, several other major FTA-related issues were discussed. The U.S. delegation expressed particular concern over Israel's use of import quotas and variable levies on many U.S. agricultural products. The U.S. side stated that variable levies, in particular, reduce the benefits of negotiated tariff reductions.[153] Further negotiations on agricultural products were held March 23 to 26, 1992, as part of regular bilateral consultations concerning the agreement.[154] In the area of government procurement the United States expressed its concern over Israel's offset[155] provisions in government contracts, noting that some U.S. businesses had complained that offsets as high as 40 percent are sometimes required. The Israeli delegation responded that overall offset provisions have been reduced to 20 percent in accordance with the FTA, and indicated that they will be relaxed further as privatization proceeds in the Israeli economy. The U.S. delegation also urged the Israeli Government to make an offer on Government agency or "entity" coverage (including the coverage of utilities such as energy, water, telecommunications, and transport) in the GATT Procurement Code negotiations.

Another U.S. concern was the discriminatory use of purchase taxes. The United States asserted that Israeli purchase taxes are often used to create duty equivalents against U.S. exports and that Israel should grant equal treatment to similar products.[156] The Israeli delegation responded that purchase taxes are a fiscal issue, not a trade issue, and that the purchase tax is equally applicable to domestic and imported products. The U.S. delegation also raised the issues of the TAMA and the Harama system. TAMA is a Hebrew acronym that refers to a selective import tax that affects about 15 percent of U.S. exports to Israel. Harama is the Israeli method of evaluating goods for customs purposes. It has allegedly had the effect of increasing import duties, thereby making imports more expensive in the Israeli market. In 1988 Israel agreed to phase out the use of the TAMA over a 5-year period beginning January 1, 1991.[157] In the 1991 Joint Committee meeting a representative of the Israeli Customs Authority stated that Israel would consider elimination of the Harama after a year had passed under the reformed TAMA system.[158] The United States believes that use of the Harama system decreases the value of duty reductions under the FTA, and it will continue to encourage Israel to bring its customs practices into conformity with the GATT.[159]

U.S.-Soviet Union Long-Term Grain Agreement

Since the mid-1970s, U.S. grain trade with the former Soviet Union (now the Commonwealth of Independent States, or CIS) has been conducted under the auspices of long-term bilateral accords.[160] The current long-term grain agreement (LTGA) entered into force on January 1, 1991, with a term of 5 years.[161]

With the breakup of the Soviet Union, the LTGA is now officially "under review," while the U.S. Department of Agriculture (USDA) determines how to apply the terms of the accord to the independent successor states to the former Soviet Union. Because the agreement is basically an accounting mechanism, the review is not preventing any grain sales.[162]

The 1991 grain harvest in the former Soviet Union was the worst since 1984, down by 26 percent from 1990.[163] Most of the former Soviet republics produced and procured less grain. Kazakhstan's production was particularly low, down by 58 percent from the previous year.[164] Russia produced only 89 million tons of grain instead of the anticipated 100 million tons, and Ukraine's production was down by almost 10 million tons from the previous year. Reasons for the low harvest included unfavorable weather, a lack of inputs (machines, fertilizer, fuel, and pesticides), and a reduced planting area.

Total procurement for the former Soviet Union in 1991 was 39.8 million tons, down by 38 percent from 64.3 million tons in 1990.[165] State procurement was low due to a number of factors, including the unattractiveness of the ruble, which made farms less willing to sell; low prices relative to those offered by commodity exchanges; and the need to keep grain on the farms for livestock feed and barter. Additionally, a strong central authority and the mechanisms used in the past to coerce state and collective farms to sell their grain ceased to exist.[166]

The new LTGA required the former Soviet Union to purchase annually a minimum of 4 million mt of wheat, 4 million mt of feed grains, and 2 million mt of feed grains, wheat, or soybeans/soybean meal. Throughout 1991, sales of wheat and corn totaled 14.2 million mt.

Grain sales under the Commodity Credit Corporation (CCC) guarantee program of USDA were expanded during 1991.[167] The former Soviet Union initially received $1 billion in credits for the purchase of U.S. farm products, but in April President Gorbachev requested additional CCC guarantees to meet the country's needs. President Bush responded by extending an additional $1.5 billion in agricultural credits, the payments of which were to be staggered through February 1992. Some of these credits were released early, however, in light of the difficult winter faced by the former Soviet republics.[168] The importation of U.S. grains will continue to be important for what is now the CIS, especially while the former republics attempt land reforms and face difficulties in transporting and distributing crops.

ENDNOTES

[1] Organization for Economic Cooperation and Development (OECD), OECD Convention, art. 1.

[2] OECD, *OCDE OECD*, Sept. 1985, p. 5. The Commission of the European Communities is also represented at meetings of the Council.

[3] These committees include the Economic Policy Committees, composed of the Economic Policy Committee, the Economic and Development Review Committee, and the Consortium for Turkey; Committee for Energy Policy, Development Assistance Committee, Technical Co-operation Committee, Trade Committee, Financial and Fiscal Affairs Committees, composed of the Committee on International Investment and Multinational Enterprises, Committee on Capital Movements and Invisible Transactions, Payments Committee, Insurance Committee, Committee on Financial Markets, Committee on Fiscal Affairs, and Committee of Experts on Restrictive Business Practices; Manpower and Social Affairs Committee and Education Committee; Environment Committee and Ad Hoc Group on Urban Problems; Committee for Information, Computer and Communications Policy; Committee for Scientific and Technological Policy; Industry Committee; Steel Committee; Committee for Agriculture; and Fisheries Committee.

[4] These directorates cover the subjects followed by the committees, often grouping together related topics such as financial, fiscal, and enterprise affairs; manpower, social affairs, and education; agriculture and fisheries; science, technology, and industry; and directorates for subjects such as administration, data processing, and public information.

[5] At the 1990 Ministerial meeting, the successful completion of the Uruguay Round was also deemed the most important issue on the international economic agenda. OECD, press release, Press/A (90)32, Paris, May 31, 1990.

[6] "Agricultural Policy and the Urgency of Reform," *OECD Observer*, Feb./Mar. 1991, pp. 30-35.

[7] The methodology used for quantifying such government involvement has been adapted for use in the Uruguay Round.

[8] Figures in the report for 1989 are estimates; those for 1990 are provisional.

[9] The 1990 level of the PSE and the percentage change from 1989 for the other OECD countries covered in this (*OTAP*) report are Canada--41 percent, up 4 percentage points; Japan--68 percent, down 3 points. Japan was the only OECD country to show a decrease in the amount of the PSE from 1989 to 1990. OECD, "*Agricultural Policies, Markets and Trade: Monitoring and Outlook 1991*," SG/Press (91)28, May 29, 1991, p. 3.

[10] Gérard Viatte and Carmel Cahill, "The Resistance to Agricultural Reform," *OECD Observer*, Aug./Sept. 1991, pp. 4-8.

[11] OECD, "*Agricultural Policies, Markets and Trade: Monitoring and Outlook 1991*," p. 2.

[12] Christian Avérous, "An Uneven Track Record on the Environment," *OECD Observer*, Feb./Mar. 1991, p. 9.

[13] OECD, "OECD Environment Ministers to Meet," press release, SG/Press (91)3, Jan. 15, 1991.

[14] OECD, "An Environmental Strategy in the 1990s," press release, SG/Press (91)9, Jan. 31, 1991, p. 5.

[15] Ibid.

[16] Ibid., p. 6.

[17] This help includes the OECD, the European Bank for Reconstruction and Development (EBRD), the International Monetary Fund (IMF), the World Bank, the G-24 process chaired by the Commission of the European Communities, the Conference on Security and Co-operation in Europe (CSCE), the Economic Council for Europe (ECE), and the International Labor Organization (ILO).

[18] Formally known as the Arrangement on Guidelines for Officially Supported Export Credits.

[19] The Center for Cooperation with European Economies in Transition (the Center) was created in March 1990. The Center, which works under the Secretary-General of the OECD, was established to design and implement a program of activities to assist the process of economic reform in Central and Eastern European countries. See "The OECD Center for Cooperation With European Economies in Transition," *OECD Observer*, Apr./May 1991, p. 169; and OECD, "Invitation by the OECD to the Baltic States to Participate in the Activities of the Center for Co-operation With European Economies in Transition," SG/Press (91)52, Sept. 19, 1991.

[20] OECD, *Development Co-operation--Highlights*, Paris, brochure (1991).

[21] Net ODA as a percent of GNP in 1990.

[22] OECD, "Financial Resources for Developing Countries: 1990 and Recent Trends," press release, SG/Press (91)55, Sept. 26, 1991, p. 4.

[23] In 1961 the OECD Council announced a binding decision that established the OECD Codes on balance-of-payments flows: the Code of Liberalization of Capital Movements and the Code of Liberalization of Current Invisible Operations. These codes provide the framework within which member governments work to reduce restrictions on capital flows and invisibles payments. The OECD Committee on Capital Movements (CMIT) monitors member capital restrictions and recommends their liberalization or removal.

[24] OECD, *The OECD Declaration and Decisions on International Investment and Multinational Enterprises--Basic Texts*, Paris, 1992. The OECD Committee on International Investment and Multinational Enterprises (CIME) monitors the Declaration's guidelines.

[25] The national treatment instrument records members' commitments to accord foreign enterprises operating within their territories treatment that is no less favorable than that accorded to domestic

enterprises in like situations. The guidelines for multinational enterprises are a voluntary code of conduct directed to multinational enterprises themselves concerning their investment behavior abroad. The instrument on international investment incentives and disincentives provides an opportunity for members to improve cooperation over measures in the field of international direct investment. The instrument on conflicting requirements calls for members to minimize or avoid conflicting rules of governments in different countries on multinational firms.

[26] The minimum interest rates authorized under the OECD arrangement are typically reviewed every 6 months (in January and July) to reflect changes in the market rates of interest among member countries, although there have been instances when, by consensus, the semiannual review did not take place.

[27] For example, Spain has recently notified the committee of several large credit lines to Mexico and Venezuela, and some signatories believe these credits should be covered under the package.

[28] Additional countries have issued HS-based tariff and statistical schedules; however, as of October 31, 1991, the number of signatory countries totaled 63. The EC is considered a single customs territory, rather than a single or separate countries. CCC Doc. 37.100 E of Oct. 31, 1991 (HSC/8/Oct. 91).

[29] As was set forth in USTR's notice of November 1988, appearing at 53 F.R. 45646 (Nov. 10, 1988).

[30] Pub. L. 100-416.

[31] 53 F.R. 47413.

[32] The HTS can also be used to report data concerning nearly all exports with the remainder (products of particular national interest) reported in the United States under the HS-based Schedule B of the U.S. Bureau of Census.

[33] See various notices issued by the Commission on July 19, 1989 (54 F.R. 30284); Jan. 18, 1990 (55 F.R. 1736); Jan. 6, 1991 (56 F.R. 873); and Oct. 16, 1991 (56 F.R. 54888).

[34] See, for example, the report of the HS Review Subcommittee set forth in annex E to CCC Doc. 36.600E (HSC/7/Apr. 91), which references numerous working documents pertaining to the ongoing review project. See also annexes K and L of the same document, in which the HS Committee proposed to the CCC various nomenclature and explanatory note amendments arising from the work of the Review Subcommittee. See annex D to Doc. 37.100E (HSC/8/Oct. 91) for a similar report and the two annexes IJ and K for other proposed amendments to the HS nomenclature and explanatory notes.

[35] See doc. 36.600E, referencing many related working documents on these issues, and its annexes B/2 and F; also doc. 37.100E and annexes C/2, E, and F, all referencing supporting documents.

[36] Docs. 36.611, 36.961-36.968, 36.978, 36.981-36.991, 37.001-37.005.

[37] Doc. 36.600E (referencing docs. 36.445, 36.483, and 36.491) and annexes D and M; Doc. 37.100E (and working docs. 36.874, 36.822, 36.876, 37.007, and 37.061); 36.960E RSC/5/Sept. 91).

[38] Doc. 36.600E, annex C (and working docs. 36.452, 36.392, 36.537, and 36.664).

[39] Membership in UNCTAD is open to all countries that are members of the United Nations or any of the agencies related to the organization.

[40] U.S. Department of State Telegram, "Site for UNCTAD VIII," Feb. 1, 1991, Geneva, message reference No. 01194. The conference was held instead in February 1992 in Cartagena de Indias, Colombia.

[41] U.S. Department of State Telegram, "UNCTAD VIII--Wrap Up," Feb. 27, 1992, Bogota, message reference No. 03005.

[42] GATT, "Trade Negotiations Among Developing Countries," decision of Nov. 26, 1981 (L/3636).

[43] UNCTAD, "The Generalized System of Preferences Comes of Age," *UNCTAD Bulletin*, May-June 1991, p. 3.

[44] UNCTAD, "Report of the Special Committee on Preferences on Its Eighteenth Session," TD/B/C.5/140, May 10-17, 1991, p. 27.

[45] UNCTAD, "The Generalized System of Preferences Comes of Age," p. 3.

[46] UNCTAD, "Report of the Special Committee on Preferences," p. 7.

[47] Ibid., p. 8.

[48] Ibid., p. 31.

[49] UNCTAD, "The Generalized System of Preferences Comes of Age," p. 4.

[50] UNCTAD, "Report of the Special Committee on Preferences," p. 18.

[51] Ibid., p. 10.

[52] UNCTAD Secretariat, *Evaluation of Performances and Issues of Trade Financing in Developing Countries: The Case for and the Viability of an Interregional Facility*, TD/B/1300, July 26, 1991, p. 4.

[53] Ibid., p. 5.

[54] For purposes of this analysis, nontraditional exports consist of products classified as capital plant and equipment plus some manufactures.

[55] "Commercially viable" in this context was defined as the ability of the ITFF to fund itself at affordable premiums in global capital markets.

[56] Multinational Strategies Inc., *Feasibility Study for an International Trade Finance Facility Supporting Non-Traditional Developing Country Exports*, May 1991.

[57] Ibid., p. 2.

[58] Ibid., p. 7.

[59] U.S. Department of State Telegram, "UNCTAD Requests USG Views on New Export Financing Facility," Jan. 30, 1992, Geneva, message reference No. 00779.

[60] U.S. Department of State, Bureau of International Organization Affairs, telephone conversation with USITC staff, May 21, 1992.

[61] Adopted as "The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices," TD/RBP/CONF/10/Rev.1, Dec. 5, 1980. This document is UNCTAD's code of conduct on restrictive business practices.

[62] For additional background, see USITC, *Operation of the Trade Agreements Program (OTAP), 41st Report, 1990*, USITC publication 2403, p. 69.

[63] UNCTAD Secretariat "Activities Relating to Specific Provisions of the Set: Technical Assistance, Advisory and Training Programmes on Restrictive Business Practices," TD/B/RBP/83, Aug. 6, 1991, p. 1.

[64] Ibid.

[65] UNCTAD Secretariat, "Concentration of Market Power, Through Mergers, Take-Overs, Joint Ventures and Other Acquisitions of Control, and Its Effects on International Markets, in Particular the Markets of Developing Countries," TD/B/RBP/80, Aug. 22, 1991, p. 1.

[66] Ibid.

[67] Adopted as "The Set of Multilaterally Agreed Equitable Principles," this document is UNCTAD's code of conduct on restrictive business practices.

[68] Ibid., p. 5.

[69] UNCTAD, "UNCTAD Shipping Committee to Study Multimodal Transport," *UNCTAD Bulletin*, Sept.-Oct. 1990, p. 14.

[70] UNCTAD Secretariat, *Practical Problems Faced by Governments and Commercial Parties Involved in Multimodal Transport Operations to and From Developing Countries*, TD/B/C.4/AC.11/4, Nov. 21, 1991.

[71] Ibid., p. 7.

[72] Ibid.

[73] UNCTAD Secretariat, "The Effects of EDP and EDI on Transport Organizations and Users," TD/B/C.4/AC.11/5, Nov. 21, 1991.

[74] Ibid., p. 3.

[75] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 38.

[76] For a discussion, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 72.

[77] The two C's in the initials for the International Cocoa Agreement (ICCA) and International Cocoa Organization (ICCO) are used to distinguish it from the International Coffee Agreement (ICA) and International Coffee Organization (ICO).

[78] Ratification by countries accounting for 80 percent of world exports and 65 percent of world imports is needed for the agreement to enter into force.

[79] The current ICCA was extended to September 30, 1993, and has been operating on an administrative basis only since 1988. At the February 1992 meeting of the ICCO in London, it was decided to ask the UNCTAD Secretariat to convene negotiating conferences in Geneva in an effort to conclude a new ICCA with economic clauses. The Secretariat will submit the 1986 ICCA, as extended, to UNCTAD as the basis for the negotiations. The Preparatory Working Group of the ICCO will meet prior to the negotiating conference (March 30 to April 16, 1992) to develop an outline of the economic measures to be included in the new agreement.

[80] U.S. Department of State, "International Commodity Agreements," *Gist*, Aug. 1985.

[81] For 1991, according to International Monetary Fund calculations, the average SDR exchange rate was 1.37 SDR per U.S. dollar.

[82] Based on USITC calculations.

[83] The daily price is the average daily quote for cocoa beans of the nearest three active future trading months on the London Cocoa Terminal Market and on the New York Coffee, Sugar, and Cocoa Exchange at the time of the London daily close. The indicator price is the average of the daily prices over 10 consecutive market days.

[84] Under the supervision of the buffer stock manager, the scheme provides for the withholding of a maximum of 120,000 metric tons of cocoa from the market by producers when the indicator price is at or below the lower intervention price for 5 or more consecutive days, or when either 80 percent of the maximum capacity of the buffer stock has been filled, or when the net financial resources of the buffer stock are only sufficient to purchase 30,000 metric tons of cocoa.

[85] A meeting of the working group of the ICO was held in London on February 5 to 7, 1992, to discuss a new ICA, but talks concluded without making much headway. The working group met in April and June 1992, and reported making some progress on the basic issues that must be worked out before any agreement can be written.

[86] U.S. Department of Agriculture, telephone conversation with USITC staff, Mar. 1992.

[87] National Coffee Association of U.S.A., Inc., *Newsletter*, Apr. 6, 1992.

[88] U.S. Department of State, Bureau of International Organization Affairs, telephone conversation with USITC staff.

[89] A new accord maintaining the existence of the ISA was negotiated in Geneva on March 24, 1992. The United States withdrew from the ISO and the ISA shortly thereafter, citing disagreement with other major members over the contribution formula. U.S. Department of State telegram, "Background on U.S. Withdrawal from International Sugar Agreement," June 3, 1992, message reference No. 177095.

[90] The 1977 ISA, predecessor to the 1984 ISA, contained a market stabilization mechanism that functioned through a system of buffer stocks and export quotas that were manipulated to dampen fluctuations in the free market price of sugar. The 1977 ISA was generally ineffective in controlling the free market sugar price. This ineffectiveness was in large part the result of the sugar market's unique characteristics. For more detail, see USITC, *OTAP, 1990*, USITC publication 2403, p. 77.

[91] U.S. Department of State, telephone conversation with USITC staff.

[92] INRA 1987 was negotiated in March 1987 at the Fourth U.N. Conference on Natural Rubber convened by UNCTAD. The agreement was signed on behalf of the United States on August 28, 1987, but was not ratified by the U.S. Government until November 1988. For a detailed discussion of the INRA's origin and its operation, see *OTAP, 1981*, USITC publication 1308, 1982, pp. 91-94; and *OTAP 1986*, USITC publication 1995, 1987, pp. 3-14 and 3-15. For further information on U.S. participation in INRA 1987, see U.S. Department of State Airgram, Dec. 5, 1988, message reference No. A 301.

[93] Official press communiqué issued at end of the Twenty-Third International Natural Rubber Council Session, May 21-22, 1991, CL/23/Communiqué, agenda item 6.

[94] Nigeria was the first African nation to join the exporters group of the agreement. The other members of the exporting group are Malaysia, Thailand, Singapore, and Sri Lanka. Official press communique, issued at end of the Tenth Special International Natural Rubber Council Session, Jan. 21-22, 1992, CL/S10/Communiqué, agenda item 3.

[95] The DMIP is a composite, weighted average of daily official current-month prices (converted to Malaysian/Singapore currency) in the Kuala Lumpur, London, New York, and Singapore markets. The INRA reference price is a mid-range price level that reflects recent market prices. The INRA intervention price is calculated at plus and minus 15 percent of the reference price; the trigger action price is calculated at plus and minus 20 percent of the reference price. For more information, see *International Natural Rubber Agreement*, 1987, treaty document 100-9, 100th Cong., 1st sess., Oct. 20, 1987, arts. 29-32..

[96] Based on USITC calculations.

[97] *Rubber Trends*, The Economist Intelligence Unit, London, June 1991, p. 15. The composite currency used to denominate transactions of the INRO is a mathematical average of the Malaysian ringgit and the Singapore dollar exchange rates.

[98] *Rubber Trends*, The Economist Intelligence Unit, London, Sept. 1991, pp. 14-15.

[99] *Rubber Trends*, The Economist Intelligence Unit, London, Dec. 1991, p. 17.

[100] According to article 31, paragraph 2 of INRA, the executive director will call a special session of the Council when there is a net change of 100,000 mt to the buffer stock in order to assess the situation. On January 21-22, 1992, a special Council session convened following a cumulative addition of 100,000 mt of rubber to the buffer stock. An importing member proposed a reduction in the reference price by 3 percent, but this proposal was opposed by producing members and the majority of importing members. No revision to the reference price was made, and members reaffirmed their commitment to INRA and the buffer-stock operations. For further information, see U.S. Department of State Telegram, Jan. 24, 1992, Kuala Lumpur, message reference No. 00535.

[101] Renegotiation discussions are scheduled for the next regular Council meeting in May 1992. U.S. Department of State Telegram, Dec. 27, 1991, Kuala Lumpur, message reference No. 10215.

[102] *Rubber Trends*, The Economist Intelligence Unit, London, Dec. 1991, p. 16.

[103] "Rubber Consumption Dips by 3%," *European Chemical News*, Dec. 16, 1991, p. 11.

[104] The original IJA, the second commodity agreement to be negotiated under the framework of UNCTAD's Integrated Program for Commodities, entered into force in January 1984 for a 5-year term. This agreement expired in 1989 but was later extended for another 2 years until January 1991.

[105] UNCTAD, "Report of the Chairman of the Meeting," TD/JUTE.2/7, Apr. 17, 1991.

106 Ibid.

[107] From the memorandum issued by the executive director, International Wheat Council, dated Dec. 17, 1990, addressed to the members of the Council, as supplied to the U.S. International Trade Commission by the U.S. Department of State.

[108] World stocks of wheat and wheat flour had declined by nearly 34 percent, from 176.4 million mt in 1986/87 to a low of 118.3 million mt in 1988/89.

[109] USDA, Economic Research Service (ERS), *Wheat, Situation and Outlook Report*, WS-295, Nov. 1991.

[110] USDA, ERS, "Increased Soviet and Chinese Imports Boost World Trade," *Wheat, Situation and Outlook Report*, WS-295, Nov. 1991, p. 7.

[111] For the purposes of the ITTA, "tropical timber" is defined as nonconiferous tropical wood that grows or is produced for industrial uses in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawn wood, veneer, and plywood.

[112] International Hardwood Products Association, *Newsletter*, Oct. 1991.

[113] For more background on the EAI, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 39, and President, "Remarks Announcing the Enterprise for the Americas Initiative," June 27, 1990, *Weekly Compilation of Presidential Documents*, 1990, pp. 1009-1013.

[114] See USITC, *OTAP, 1988*, USITC publication 2208, 1989, p. 118, and USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations* (investigation No. 332-282), USITC publication 2275, Apr. 1990, p. 2-3.

[115] Memorandum of Sept. 18, 1984 from the President to the USTR, 49 F.R. 36813. For additional details on the steel import program, see USITC *OTAP, 1984*, USITC publication 1735, July 1985, p. 16.

[116] On July 19, 1983, the President had announced his decision to grant import relief to the specialty steel industry for a period of 4 years (53 F.R. 52897). The relief program was scheduled to expire on July 19, 1987. Under the relief program, quotas were placed on imports of stainless steel bars, stainless steel wire rod, and certain alloy tool

steel products; and increased duties were imposed on stainless steel plates and stainless steel sheets and strip. On July 16, 1987, the President extended the import relief program in the form then in effect for a period from July 20, 1987, through September 30, 1989. Since the import relief program was not extended after its expiration on September 30, 1989, product coverage of the VRAs was extended to include specialty steel products that were previously subject to import relief. Countries which signed the VRAs agreed to limit their exports of stainless steel plates, sheets and strips to their market share level. These countries were exempted from having to pay additional duties with the exception of Finland, whose VRA did not include stainless steel flat-rolled products. Quotas were unaffected by the VRAs for all countries except the EC 10, which negotiated limits on rods, bars, and alloy tool steel as part of its VRA, and Austria, which included alloy tool steel in its VRA.

117 Memorandum of Sept. 18, 1984, from the President to the USTR, 49 F.R. 36813.

118 Ibid.

119 USITC, *OTAP, 1990*, USITC publication 2402, July 1991, p. 181.

120 USITC, *Quarterly Report on the Status of the Steel Industry*, USITC publication 2486, p. xv.

121 Ibid.

122 Ibid.

123 *Quarterly Report on the Status of the Steel Industry*, USITC publication 2486, p. xv.

124 Initially, 19 countries negotiated VRAs with USTR. However, Spain, Portugal and South Africa were dropped from this total. Spain and Portugal, which previously negotiated separate agreements, were included in the EC after joining the Communities. South Africa was dropped from the VRAs due to the embargo under the Comprehensive Anti-Apartheid Act of 1986. Thus the total number of countries was reduced to 16.

125 USITC, *Quarterly Report on the Status of the Steel Industry*, USITC publication 2486, p. xv.

126 Ibid.

127 The BCAs were to be multilateralized within the GATT through incorporation in the Uruguay Round. As envisioned, negotiations were to be completed by Dec. 1990 on the new accord, called the Multilateral Steel Agreement (MSA). On Mar. 31, 1992, negotiations on the MSA were suspended without agreement, although considerable progress had been made. Negotiators reportedly agreed to meet bilaterally and multilaterally, but no specific time schedule was set.

128 USITC, *Quarterly Reports on the Status of the Steel Industry*, USITC publication 2486, p. xv.

129 The MFA replaced GATT programs developed in the 1960s to control trade in cotton goods.

130 Most of these agreements were negotiated under the aegis of the MFA; those with nonsignatories to the MFA were negotiated under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854).

131 MFA products are those textile products of cotton, wool, manmade fibers, other vegetable fibers (mostly flax and ramie), and silk blends that may be controlled by quotas established through bilateral agreements or unilaterally imposed under the MFA.

132 Data on U.S. shipments compiled from data of the U.S. Bureau of the Census.

133 For a more detailed discussion of the BIT program, see USITC, *OTAP, 1983*, USITC publication 1535, 1984, pp. 36-43.

134 U.S. Department of Commerce, Office of Multilateral Affairs, telephone conversation with USITC staff, Mar. 25, 1992.

135 U.S. Department of Commerce, Office of Multilateral Affairs, fax message, Apr. 1, 1992.

136 U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current U.S. Business*, Aug. 1991.

137 An additional $235.8 billion, or 56 percent of U.S. foreign direct investment in 1990, was protected by 48 bilateral treaties of friendship, commerce, and navigation.

138 As of January 1992 the United States had BITs in force with Bangladesh, Cameroon, Grenada, Morocco, Panama, Senegal, Turkey, and Zaire. The United States has also ratified a BIT with Egypt and is awaiting Egyptian ratification. A BIT with Poland has been ratified by both countries and awaits an exchange of instruments to bring it into force. Three other BITs (Congo, Haiti, and Tunisia) have been submitted to the U.S. Senate Foreign Relations Committee.

139 As of January 1992 the United States was in an advanced state of negotiations for BITs with Bolivia, Bulgaria, Hungary, Jamaica, Nigeria, Uruguay, Yugoslavia, Costa Rica, Hong Kong, and Pakistan. Negotiations with the Soviet Union were held up pending a decision on how to proceed with successor governments.

140 U.S. Department of Commerce, International Trade Administration, Office of Multilateral Affairs, fax message, Apr. 1, 1992. As of July 1, 1992, the United States had concluded an additional three BITs with Kazakhstan on May 17, Romania on May 28, and Russia on June 17, 1992. The number of BITs actually in force was raised to 9 when the BIT with Egypt came into force on June 27, 1992. Of the three BITs with Sri Lanka, Argentina, and the Czech and Slovak Federal Republic in 1991, only the treaty with Argentina had not been submitted to the Senate by July 1, 1992. U.S. Department of Commerce, International Trade Administration, Office of Multilateral Affairs, informal communication with USITC staff, Aug. 17, 1992.

141 For a more detailed discussion of the U.S.-Israel Free-Trade Area Agreement, see USITC, *OTAP, 1984*, USITC publication 1725, July 1985, pp. 26-33.

142 For a more detailed analysis of the results of the FTA during its 1st full year of operation, see USITC, *OTAP, 38th Report, 1986*, USITC publication 1995, July 1987, pp. 3-18 to 3-19.

[143] U.S. Department of State Telegram, "1992 Trade Act Report: Israel," Nov. 6, 1991, Tel Aviv, message reference No. 14501.

[144] Israel's C-list of sensitive import items constitutes approximately 1,500 products, or about 12 percent of 1991 U.S. exports to Israel in value terms. The U.S. C-list is relatively small and is composed mainly of agricultural products and bromine compounds.

[145] U.S. Department of State Telegram, "1992 Trade Act Report: Israel," Nov. 6, 1991, Tel Aviv, message reference No. 14501.

[146] Leading items exported to and imported from Israel are contained in tables A-3 and A-4.

[147] For information on the U.S. VRA agreement with Taiwan on imports of machine tools, see USITC, *OTAP, 1986*, USITC publication 1995, July 1987, p. 4-41.

[148] U.S. Department of Commerce, International Trade Administration, telephone conversation with USITC staff, Apr. 27, 1992.

[149] A type of machine tool.

[150] Bureau of National Affairs, Inc., "Israeli Industry in West Bank, East Jerusalem Will Not Now Be Studied by U.S. Consulate," *International Trade Reporter*, July 10, 1991, p. 1047.

[151] "Israeli Industry Will Not Now Be Studied," p. 1047.

[152] This issue was passed over during the negotiation of the FTA in 1985 because the two countries could not reach an unequivocal solution.

[153] United States-Israel Joint Committee, *Protocol on the U.S.-Israel Free Trade Area Joint Committee Meeting in Washington on July 23-34, 1991*, July 25, 1991 (2nd draft), p. 2.

[154] USDA, Foreign Agricultural Service, telephone conversation with USITC staff, Mar. 20, 1992.

[155] Offset is a common form of countertrade among industrialized countries and refers to compensatory transactions. For example, the sale of equipment may be contingent upon the coproduction or subcontracting of some of the components in the buyer's country.

[156] The U.S. delegation pointed to the example of an Israeli purchase tax on large-volume refrigerators, which are produced in the United States but not in Israel. The Israelis asserted that the tax was part of a larger program to discourage domestic purchases of luxury goods.

[157] United States-Israel Joint Committee, *Protocol on the U.S.-Israel Free-Trade Area Joint Committee Meeting, October 17 to November 4, 1988*, Nov. 5, 1988. Although the two sides agreed on a schedule to phase out the TAMA in the 1988 consultations, the Israeli Knesset did not transpose the agreement into law until Sept. 1990.

[158] During U.S.-Israel FTA consultations held on March 23 to 24, 1992, the Israeli delegation stated that Israel plans to accede to the GATT Customs Valuation Code in 5 years, coincident with its planned reduction of MFN tariff rates. Accession to the code will likely require elimination of the Harama system of customs valuation. U.S. Department of State Telegram, "U.S. Israel Free Trade Area Consultations," Apr. 21, 1992, Tel Aviv, message reference No. 05708.

[159] U.S. Department of State Telegram, Jan. 18, 1992, Tel Aviv, message reference No. 017248.

[160] The Soviet Union ceased to exist as a nation on December 25, 1991. The Baltic states of Estonia, Latvia, and Lithuania were declared independent in September 1991. Of the 12 remaining states, 11 formed the Commonwealth of Independent States. Georgia did not join.

[161] This agreement, which commits the former Soviet Union to purchasing at least 10 million mt of U.S. grains annually for the next 5 years, replaced the long–term grain pact that expired on December 31, 1990. For additional information, see the USITC, *Trade Between the United States and Nonmarket Economy Countries During April–June 1990, 63rd Quarterly Report*, USITC publication No. 2329, Nov. 1990, pp. 11–12.

[162] USDA official, telephone conversation with USITC staff, Feb. 18, 1992.

[163] USDA, "1991 Agricultural Performance in the Former USSR," *Economies in Transition Agriculture Report*, Jan./Feb. 1992, p. 2.

[164] Ibid.

[165] Ibid.

[166] Ibid.

[167] These credits allow the Soviet Union to purchase U.S. agricultural products using loans from U.S. banks. The CCC of the USDA backs these loans with a promise to pay back 98.0 percent of the principal and 4.5 percent of the interest if the client defaults. (Some of the credits extended during fiscal 1991 were backed 100 percent as a result of some hesitancy on the part of U.S. banks to extend loans to the former Soviet Union.)

[168] For additional information, see USITC, *Trade Between the United States and Nonmarket Economy Countries During January-June 1991, 67th Quarterly Report*, USITC publication 2451, Oct. 1991, pp. 9-10. During U.S. Secretary of State Baker's February trip to the CIS, Russian President Boris Yeltsin reportedly asked for $600 million more in additional credits, since the current credit guarantees will be depleted by April. Secretary Baker noted that the CIS would have to maintain payments of principal and interest on past credits in order for any additional credits to be authorized. The United States has supplied a total of $3.75 billion in grain credit guarantees to the former Soviet Union during the past 2 years.

CHAPTER 4
Developments With Major U.S. Trading Partners

This chapter reviews trade relations with seven major U.S. trading partners in 1991. U.S. trade with the European Community (EC), Canada, Japan, Mexico, the Republic of Korea, Taiwan, and Brazil is covered and major bilateral trade issues discussed.

The 12-member EC, which collectively is the United States' most important export destination, again proved to be a trouble spot in U.S. trade policy. Longstanding disputes on issues ranging from agriculture to aircraft were subjects of much debate, affecting both bilateral and multilateral trade discussions. The EC's efforts at resolution reflected in part a preoccupation with internal matters, including its drive to further integrate the Western European nations politically and economically, and in part a preoccupation with developments in Eastern Europe and in the former Soviet Union.

Canada, the largest single-country market for U.S. goods, also had domestic constraints—notably Quebec's quest for secession. The liberalization associated with the U.S.-Canada Free-Trade Agreement (CFTA) continued to elicit protest from Canadian workers, even as the country moved to join the United States and Mexico in the negotiation of a North American Free-Trade Agreement (NAFTA). Meanwhile, disputes over softwood lumber, beer, and pork were matters of contention on both sides of the border.

U.S.-Japanese relations were dominated by discussions on automobiles and auto parts, which account for three-fourths of the persistent U.S. bilateral trade deficit. U.S. complaints about access to Japan's market for computers, construction services, and semiconductors, in contrast, were resolved in a fairly straightforward manner.

Mexico continued to move its economy in a market-driven direction, privatizing its huge Government-owned sector and strengthening intellectual property rights protection. Korea, on the other hand, continued its drive to discourage consumption of luxury goods. The anti-import campaign gained official support in the face of a deteriorating trade balance and an upward wage spiral. Taiwan continued to press its bid for GATT membership and agreed, under threat of U.S. retaliation, to liberalize its market for distilled beverages. Brazil continued its recent liberalization of imports, repealing another part of its Law of Similars, changing its onerous import-licensing regime, and further reducing tariffs. Nevertheless, the country's overall economic program was undermined by its inability to reduce its inflation rate.

The European Community

Merchandise Trade With the United States

In 1991 trade between the United States and the 12-nation European Community totaled $182.7 billion, or 20.7 percent of total U.S. trade. U.S. exports to the EC reached $97.6 billion, up by 4.7 percent from $93.1 billion in 1990. In contrast, U.S. imports from the EC declined by 6.3 percent, to $85.1 billion. Exports to the EC amounted to 24 percent of total U.S. exports, and imports from the EC accounted for 18 percent of total U.S. imports, making the EC the United States' most significant export destination and its third-largest source of imports.

Export growth boosted the 1991 U.S. trade surplus with the EC to a record high of $12.5 billion. Since 1987, when the U.S. trade deficit with the EC stood at $22.9 billion, U.S. exports have risen by more than two-thirds, but imports have grown by only 6.2 percent. Strong U.S. export performance was due to the depreciation of the dollar, healthy economic growth (and hence increased demand for imports) in the EC during the second half of the 1980s, more favorable business operating conditions for U.S. investors stemming from the EC's single-market program, and improved manufacturing competitiveness of U.S firms.

During 1991 the United States improved its merchandise trade balance with all member states except Ireland and Portugal, where surpluses declined. In 1991 the United States reduced its deficit with Germany[1] to $5.6 billion; with Italy to $3.4 billion; and with Denmark to $120 million. Surpluses increased with the United Kingdom to $2.8 billion; with France to $1.3 billion; with the Netherlands to $7.9 billion; with Belgium to $5.9 billion; with Spain to $2.5 billion; and with Greece to $628 million. The

U.S. trade balance with Luxembourg moved from a deficit to a surplus of $26 million in 1991. Surpluses declined with Portugal to $60 million, and with Ireland to $598 million. The United Kingdom ranked as the EC's top destination for U.S. exports ($20.9 billion), followed by Germany ($20.0 billion) and France ($14.6 billion). Germany was the largest source of U.S. imports ($25.6 billion), followed by the United Kingdom ($18.1 billion) and France ($13.2 billion).

Figure 4 shows that manufactures dominated U.S.-EC bilateral trade, accounting for about 79.4 percent of U.S. exports to the EC and about 84.8 percent of U.S. imports from the EC. The United States exported 5.1 percent more fuel/raw materials and 1.1 percent more food to the EC than it imported from the EC, but exported 0.8 percent less than it imported in all other categories of goods. The composition of this bilateral trade has not changed dramatically in the past 5 years.[2]

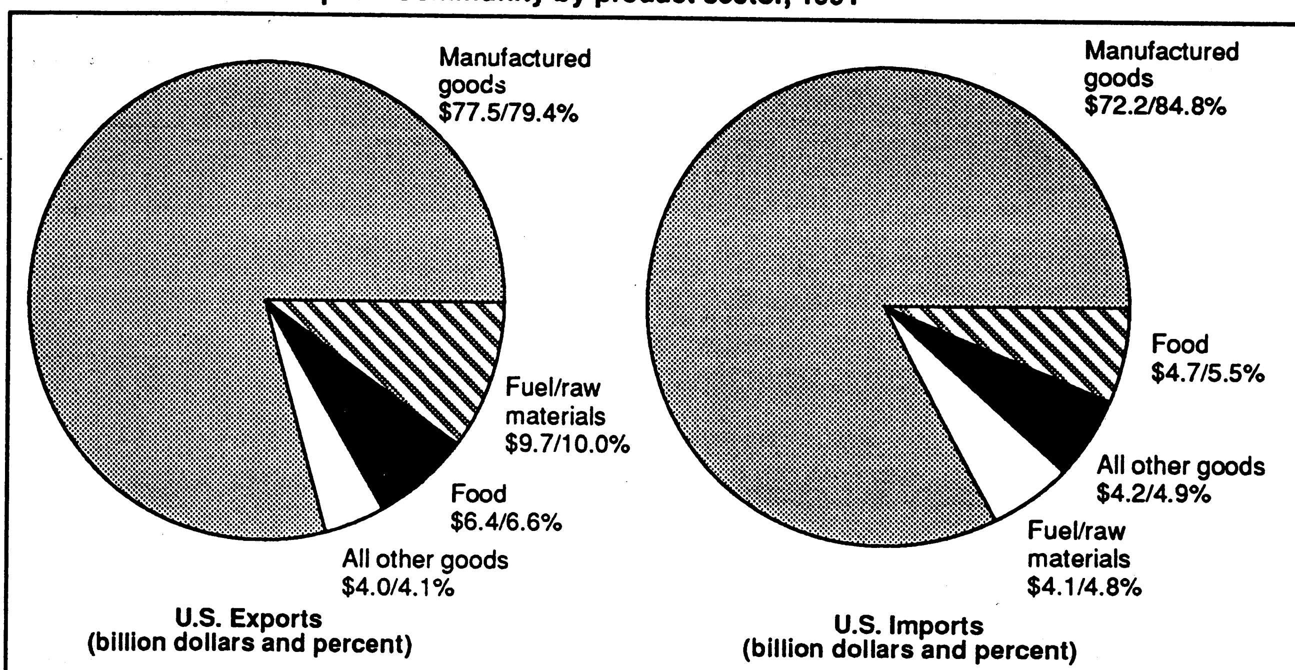
Table 10 depicts U.S.-EC trade grouped according to Standard International Trade Classification (SITC) section numbers. Exports in nearly every section grew in recent years. The exceptions were section 2 (crude materials, inedible, except fuels), which has been declining since 1989, and section 1 (beverages and tobacco), which declined in 1991.

In contrast to 1990, 1991 imports decreased in most sections. The sections in which imports continued to increase were section 0 (food and live animals), section 4 (animal and vegetable oils, fats, and waxes), and section 5 (chemicals and related products, not elsewhere specified).

The top 20 U.S. exports to the EC are shown in table A-5. Aircraft remained the leading U.S. export: 1991 sales rose by about 20 percent over the previous year and exceeded $8.6 billion. Parts and accessories of automatic data-processing machines was the second-largest category of exports, at $4.3 billion. Parts of airplanes or helicopters, declining slightly from 1990 levels, remained third, with more than $3.1 billion in sales. Related merchandise included in the top 20 included digital processing units, storage units, automatic data-processing machines, and digital automatic data-processing machines, as well as turbojets and turbojet parts. Turbojet exports grew by 219 percent since 1990.

The top 20 U.S. imports from the EC are shown in table A-6. Motor vehicles, aircraft, and related parts continued to dominate these imports. Although cars with a cylinder capacity not over 3,000 cc remained the largest import category, with sales exceeding $3.4 billion, the value of such imports dropped by nearly 35 percent since 1990. Similarly, imports of cars with a cylinder capacity exceeding 3,000 cc, the third-largest category of imports, declined by 18 percent, to $2.1 billion. Also in the top 20 were motor vehicle parts, tractors, engines, turbojets, parts of turbojets, parts of airplanes and helicopters, airplanes, and certain other aircraft.

Figure 4
U.S. trade with the European Community by product sector, 1991



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

Note.—Because of rounding, figures may not add up to 100 percent.

Table 10
U.S. merchandise trade with the European Community by SITC Nos. (Revision 3), 1989-91

(Thousands of dollars)

SITC section no.	Description	1989	1990	1991
			U.S. exports	
0	Food and live animals	3,423,876	3,721,335	3,980,441
1	Beverages and tobacco	1,764,092	2,663,483	2,227,635
2	Crude materials, inedible, except fuels	6,588,444	6,307,491	5,795,031
3	Mineral fuels, lubricants and related materials	2,731,792	3,724,002	3,931,703
4	Animal and vegetable oils, fats and waxes	146,067	162,614	196,032
5	Chemicals and related products, n.e.s.	9,757,770	10,509,668	11,256,834
6	Manufactured goods classified chiefly by material	5,067,116	5,576,705	5,885,721
7	Machinery and transport equipment	40,192,606	44,897,866	47,882,280
8	Miscellaneous manufactured articles	10,128,748	11,489,275	12,425,687
9	Commodities & transact not class elsewhere in SITC	2,724,195	4,007,087	4,016,226
	Total all commodities	82,524,708	93,059,526	97,597,591
			U.S. imports	
0	Food and live animals	1,945,114	2,079,649	2,094,190
1	Beverages and tobacco	2,401,270	2,483,583	2,311,302
2	Crude materials, inedible, except fuels	1,084,898	1,032,586	975,435
3	Mineral fuels, lubricants and related materials	3,637,211	4,486,507	3,115,671
4	Animal and vegetable oils, fats and waxes	192,010	254,828	271,770
5	Chemicals and related products, n.e.s.	8,988,470	9,504,611	10,095,234
6	Manufactured goods classified chiefly by material	13,291,474	13,264,779	12,218,659
7	Machinery and transport equipment	35,922,770	39,326,294	36,913,844
8	Miscellaneous manufactured articles	13,046,276	13,999,036	12,950,665
9	Commodities & transact not class elsewhere in SITC	3,515,858	4,367,075	4,151,303
	Total all commodities	84,025,352	90,798,948	85,098,074

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

Major Policy Developments Affecting Trade

1992 Program

The EC's self-imposed deadline for creating an integrated internal market is December 31, 1992. By the end of 1991 the EC Council had adopted about three-fourths of the 282 directives (laws) that were needed to create this market, as outlined in the EC Commission's 1985 White Paper. The directives still pending, however, were among the most politically contentious: harmonization of tax and company laws, removal of restrictions on the movement of labor, and elimination of border controls. Furthermore, member-state implementation of EC directives remains a stumbling block to completing the Internal Market program by the deadline. As of December 1991 member states should have implemented 136 directives, but only 41 percent had been fully implemented by all 12 member states.[3] Implementation rates ranged widely: as of December 1991, Denmark had implemented 95 percent of the directives, but Italy had implemented only 3.4 percent.[4]

It has been U.S. policy to monitor the EC's 1992 program and to intervene when U.S. interests are jeopardized by any restrictive or discriminatory practices. Among the areas monitored with special interest in 1991 were telecommunications; public procurement; standards, testing, and certification; and the Broadcast Directive, which among other things established a local-content requirement for EC television programming.[5]

In the area of telecommunications the United States addressed several new issues, including directives on satellite service and data protection laws. U.S. officials expressed concern that the Data Protection Directive, which contains a provision requiring member states to prohibit data flows to countries without "adequate" data protection laws, could hinder transborder flows of information.[6] Also, in the area of public procurement the United States urged the EC to eliminate a provision in its Utilities Directive that would allow utilities to favor EC over foreign suppliers.[7]

As the result of an ongoing disagreement over the Broadcasting Directive's local-content provision, the U.S. Government placed the EC on the special 301 priority watch list.[8] The local-content provision requires EC television broadcasters to reserve the majority of their transmission time for European programming "where practicable." All member states were required to implement the directive by October 3, 1991, but implementation was uneven. Germany considered the provision to be voluntary and had not implemented it, France had introduced minimum-French-content requirements in addition to the EC requirements, and other member states had implemented the directive using various definitions of minimum European content. The United States not only opposed the local-contents provisions, but was also concerned that member states could further tighten them.[9]

In 1991 the U.S. expressed concerns in the area of standards for industrial and agricultural products. Standards play an integral role in the completion of the internal market: more than half of the 282 directives required to complete the internal market are related to standards. U.S. firms in some fields have been able to influence the development of certain EC standards. However, the United States remained concerned in 1991 that it sometimes did not receive adequate information during the standards-development process. The United States also became increasingly concerned about delays in implementing the new standards. By the end of 1991 only one standards-related directive was being implemented, and only in two-thirds of the member states. U.S. firms were also concerned about the need to submit their products to EC-based labs for approval, although talks during the year improved the prospect that the EC will accept U.S. tests for purposes of regulatory approval in some circumstances.[10]

The U.S. administration has indicated that it will continue to support the EC's transition to a single internal market, provided that the EC does not replace national barriers with new barriers at the Community level.[11] Citing increasing levels of U.S. exports to the EC, a U.S. Chamber of Commerce report noted that the Internal Market program has generally been good for U.S. firms. However, the report raised concerns about rising EC protectionism in sensitive sectors such as automobiles, consumer electronics, and semiconductors; market access for small and medium-sized firms; and the EC's use of rules of origin, local-content requirements, and antidumping legislation.[12]

The Maastricht Summit

EC heads of state and government agreed to the text of the Treaty on European Union at the Maastricht summit, held on December 9 and 10, 1991. This treaty was designed to produce a level of integration much deeper than that envisioned in the EC's 1985 White Paper and was hailed in the press as one of the most significant turning points in the EC since the Treaty of Rome (which founded the EC). The Treaty on European Union resulted from a process set out by the EC heads of state and government at their December 1990 Rome summit, where it was decided to pursue economic and monetary union (EMU) and European political union (EPU). The leaders subsequently signed the treaty on February 7, 1992, but it will not take effect until it is ratified by each member state.[13]

EMU will be achieved in three stages.[14] The EC has already entered stage one, which required members to dismantle controls on capital movements and to strengthen economic and monetary policy coordination. Stage two, which will begin in 1994, is a transition period and calls for the establishment of a European Monetary Institute to further strengthen the coordination of national monetary policies. During the final stage member states will establish a European central bank and introduce a common currency.[15] Eligibility of the member states to join the common currency will be based on their ability to meet the convergence criteria, which set standards for inflation, interest rates, budget deficits, and exchange rates.

Stage three could begin as early as 1997, if the EC Council determines that at least 7 member states have met the criteria for joining the common currency. If not, stage three will begin automatically on January 1, 1999, for member states that meet the criteria, even if they do not form a majority. Alone among EC members, the United Kingdom was given the right to choose when and if to commit to the single-currency provision. The concession was made as part of a compromise that was necessary to pass the treaty.[16]

EPU encompasses several areas. Member states agreed to a common defense policy that would be based on the Western European Union[17] and would be compatible with NATO. Member states will pursue a common foreign policy if all member states agree that the issue should be dealt with at the EC level. Member states also agreed to a common visa policy, as well as a form of EC citizenship that will allow EC citizens to vote in local elections outside their native countries. A protocol accompanying the treaty called for the creation of a "cohesion fund" to help finance certain projects for the poorer member states.[18] In addition, EC membership was opened to any democratic European state. Finally, two more concessions were granted to the United Kingdom: (1) a chapter relating to a common social policy, which would have regulated such things as working conditions and unions, was removed from the treaty and put in a separate protocol, and (2) in the final draft of the treaty a reference to a "union with a federal goal" was replaced with a reference to an "ever-closer union."[19]

The treaty specifies important institutional changes. The powers of the European Parliament were expanded to include the ability to veto legislation and to subject the entire EC Commission to a vote of confidence. Majority voting in the EC Council was extended to a broader range of issues, including certain environmental, educational, health, and consumer protection matters, which had previously required unanimous consent (or two-thirds majority) for approval. The size of the EC Commission was to be reduced from 17 commissioners to one commissioner per member state, and the EC Commission president was to be chosen through a consensus of EC member-state governments after consultation with the European Parliament.[20]

Even though reaction to the treaty was generally positive on the part of EC members, concerns were voiced. The president of the EC Commission reportedly praised the progress on EMU but criticized the foreign policy provisions, which he believed would make it impossible for the EC to respond quickly to world events.[21] Even though the Italian Foreign Minister praised the treaty, Italian economists, industrialists, and politicians expressed skepticism that Italy could reform its economy to comply with the convergence criteria.[22] German banks and industry also expressed doubts about whether it would be possible for all of the countries to meet the convergence criteria. The German Chancellor called the summit a breakthrough in that it makes a European union irreversible, although he stated that it did not go far enough. The Chancellor, as well as German banks and industry, was said to have preferred to see a strong link between EMU and EPU.[23] In the United Kingdom the opposition Labor party contended that the Prime Minister's position on EMU and the Social Chapter amounted to placing the United Kingdom in the slow lane of a two-speed Community, and that this action had eroded the United Kingdom's ability to exert maximum influence in Brussels.[24]

The European Economic Area and Other Agreements

While the EC was deepening its internal integration through more binding economic, political, and institutional ties, it was also making efforts to broaden its influence by concluding agreements with countries outside the Community. The boldest of these efforts was an agreement to form a European Economic Area (EEA), which was concluded with the European Free-Trade Association (EFTA) on October 22, 1991.[25] The agreement will become effective on January 1, 1993, coincident with the completion of the EC's internal market. It would create the world's largest common market, containing more than 380 million people and accounting for 43 percent of world trade.[26] EFTA currently accounts for 25 percent of the EC's trade; the EC accounts for 60 percent of EFTA's trade.[27] Many EFTA countries regard the EEA as a stepping stone, rather than as an alternative, to EC membership.

The purpose of the EEA is to enable the freest possible movement of goods, people, services, and capital among the 19 EC and EFTA countries. The EEA will extend the reach of the directives and policies that compose the Internal Market program to the seven EFTA nations. It also commits them to applying Community rules for steel aid, the transportation sector, competition policy, state aid, mergers, and social and consumer policy, but not for taxation or agriculture. In addition, the EEA creates a number of institutions, such as a Council, which acts as a legislative branch, and a Joint Committee, which acts as an executive branch and is responsible for ensuring the effective implementation and operation of the agreement.[28]

Disagreement among the parties delayed agreement to establish an EEA for months. One disagreement centered on Austria's and Switzerland's objections to increased alpine truck transit for environmental reasons. Another centered on Iceland's and Norway's refusal to allow free access to their fishing waters as demanded by Portugal and Spain, which were seeking compensation for the removal of the EC's fish import barriers. Similarly, the United Kingdom and Ireland desired protection for their fledgling fish-farming industries. A further stumbling block was presented by the concept of a cohesion fund, through which the wealthy EFTA states would make transfer payments to the EC's poorer member states. Once EFTA agreed to the fund in principle, the debate revolved around the amount and form of funding.[29]

After EFTA and the EC were able to compromise on the aforementioned issues and conclude the EEA agreement, a more serious challenge to the EEA came from the European Court of Justice (ECJ), the Community's "Supreme Court," in December 1991. The ECJ objected to the EEA as incompatible with the Treaty of Rome, ruling that the establishment of a parallel legal system under the EEA Agreement undermined the legal independence of the ECJ and raised the problem of inconsistent rulings from the two legal systems.[30]

During 1991 the EC also strengthened its ties with other nonmember countries. In July 1991 it entered into customs unions with San Marino and Andorra. On December 16, 1991, it concluded European Association Agreements[31] with Hungary, the Czech and Slovak Federal Republic, and Poland. The aim of these agreements is to provide for a free-trade zone within 10 years. The agreements provide for the progressive liberalization of the movement of goods, services, people, and capital. Tariffs, quotas, and other import restrictions will be phased out, and the EC will open its markets first. The laws of the associated countries—such as company law, rules of competition, consumer protection, intellectual property, and indirect taxation—will progressively approximate those of the EC. Although the agreements do not guarantee EC membership, their preamble recognizes that possibility in the future. While the agreements are being ratified by individual member parliaments and the European Parliament, the parties involved intend to proceed with some interim measures.[32]

Throughout 1991 there appeared to be some differences of opinion over the speed at which to admit new members. Some EC officials wanted new members to be considered only after the introduction of EMU and EPU. Other officials advocated strengthening internal integration and enlarging the EC simultaneously. In any case, reports suggest that no new applications will be considered before 1993.[33] By the end of 1991 five countries had applied for EC membership: Sweden, Austria, Malta, Cyprus, and Turkey.[34]

Agriculture

The EC's Common Agricultural Policy (CAP) established a common market in agricultural commodities with five major objectives: (1) to increase productivity, (2) to ensure a fair standard of living for the EC's 10 million farmers, (3) to stabilize markets, (4) to guarantee food supplies, and (5) to provide food to consumers at reasonable prices. The CAP uses a variety of mechanisms, including price supports, to meet these objectives.

The CAP has been a perennial source of tension between the EC and other agricultural exporters, particularly the United States. In 1991 the EC Commission itself acknowledged some problems of the CAP.[35] One of the most serious drawbacks, the EC Commission noted, was that the CAP's price guarantees provide incentives for farmers to overproduce. This overproduction either adds to already abundant surpluses, which are extremely expensive to store and dispose of, or, to the chagrin of other agricultural exporters, must be exported to a glutted world market, thereby depressing world prices. The EC Commission has also noted that the CAP's inherent incentives to intensive production threaten the environment and that farm incomes remain low despite the fact that CAP expenditures have risen rapidly. The CAP has been absorbing almost 60 percent[36] of the EC's budget in recent years.

CAP reform

Determined to make EC agriculture more competitive, the EC Commission formally proposed a radical CAP reform in July 1991. The reform, which was to begin in 1993 and be fully implemented by 1996, introduced such measures as compensation to all farmers for price cuts and to small and medium-sized farmers for taking land out of production, as well as proposals to divert aid from large farms, which absorb 80 percent of subsidies, to small and medium-sized farms. "Accompanying measures" called for afforestation (to convert farmland to forests) and agri-environmental programs, in addition to measures that would encourage full-time farmers to retire early.

More important, however, the reform proposal contained the deepest price-support cuts ever proposed by the EC Commission: 35 percent for cereal, 10 percent for milk, 15 percent for butter and beef, and 5 percent for skim milk powder. Corresponding price supports for pork, poultry, meat, eggs, and processed agricultural production would also be reduced. The proposal also called for supply-control measures that included a land setaside program for cereals, lower milk-production quotas, lower tobacco-production quotas, upper limits on sheep premiums (subsidies), and a new calf-disposal premium for beef.[37]

The EC Commission envisioned many benefits from reform, ranging from more equitably distributed and stable incomes for farmers to lower prices for consumers and a better environment. Further, the EC Commission asserted, this reform would eliminate the link between income support and production levels, so that farmers would have an incentive to produce less, not more.[38] Reduced output could provide a more balanced domestic market and could diminish the EC's reliance on subsidized exports to dispose of its surpluses.

All of the Ministers agreed that reform was essential and generally concurred with the philosophy and principles of the EC Commission's proposal. Nonetheless, they faulted the proposal in several basic areas. Reportedly, the British, Dutch, and Danish Ministers complained that the plan discriminated "against large efficient farmers by providing full compensation for lost revenue only to small farmers who can never be viable."[39] German officials predicted that compensatory payments would grow and that farmers would become dependent on political decisions, rather than the market, to earn a living.[40] Some Ministers criticized budget projections because, even with very optimistic cost assumptions, the budget was still estimated to increase through 1997.[41] Generally, all seemed to support the "accompanying measures."[42] Although the Ministers made some progress during their fall council meetings, by year's end they still disagreed over certain technical issues in the reform plan, particularly in the cereals and beef sectors.[43]

Debate between the United States and the EC over agricultural issues has been singled out as the main stumbling block in the Uruguay Round of negotiations for the General Agreement on Tariffs and Trade (GATT). Among other things, the United States has demanded deep cuts in subsidies and tariffication of such nontariff barriers as quotas. EC Commission officials have denied any linkage between the proposed CAP reform and the GATT talks,[44] but a European Parliament report said a link "clearly exists" and urged that care be taken so that reform measures conform to any new GATT decisions.[45]

Annual price package

Independently of CAP reform negotiations, the EC Council adopted a modified version of the EC Commission's proposed agricultural price package for the 1991/92 marketing year. The EC adjusts its price package each spring. Because projected 1991 CAP expenditures were expected to exceed the budget ceiling of ECU 33 billion set in February 1988,[46] the EC Commission recommended freezing price supports for most commodities and reducing price and other supports for the sectors that cost the most, such as cereals and beef.[47] The EC Commission ascribed the budget difficulties to overproduction and weak prices, particularly for cereals, beef, sheepmeat, milk, and tobacco.[48]

Farmers' lobbies, the European Parliament, and most farm Ministers disagreed with the EC Commission's analysis of the problem and opposed the proposed budget cuts. They attributed the overspending to expenses arising from circumstances unforeseen when the CAP ceiling was set in 1988, not to the structure of the CAP itself.[49] They blamed the integration of East Germany into the CAP, but they also cited increased imports from Eastern Europe, reduced EC exports as a result of the Gulf War, low world market prices for agricultural goods, and a weak dollar.[50] The European Parliament issued an opinion supporting increased spending that would exceed the ceiling, and this debate dominated Farm Council meetings held during the spring.

On May 24, the EC Council adopted the majority of the price supports and related measures for the 1991/92 farm price package. By that time the EC Commission had backed down on some of the cuts it had originally recommended. Also the EC Council agreed to respect the CAP budget ceiling, although the Council's changes added approximately ECU 500 million to the EC Commission's initial proposal.[51] This agreement was interpreted by some as a signal of the resolve of both the EC Council and EC Commission to reform the CAP.[52] The main provisions of the price package included the following:

> Milk production quotas were reduced by 2 percent, but offsetting measures were introduced, such as compensation and a program that would allow member states to buy milk;
>
> The beef intervention safety-net system for buying surplus meat was maintained. However, to encourage farmers to produce for the market and not the system, prices would have to fall lower before government surplus purchases would be triggered;
>
> The cereals basic co-responsibility levy (tax) was increased from 3 percent to 5 percent, and a special land setaside program was introduced to help control overproduction;
>
> Sugar support prices were not changed;
>
> Oilseeds support prices were reduced by 1.5 percent, and the bonus for double-zero rapeseed—a high-quality, predominant variety—was cut by 50 percent;
>
> Prices of peas and beans were reduced by 1.5 percent, although monthly increments in minimum support prices were to be maintained;
>
> The present wine guide and distillation support prices were maintained;
>
> Tobacco support prices and premiums would either be frozen or cut by 6 percent or 13 percent, depending on the variety;
>
> Sheepmeat prices were reduced by 2 percent, although the supplementary ewe premium granted to disadvantaged areas was increased from ECU 1.5 per ewe to ECU 4 per ewe; and
>
> The EC Commission would examine the possibility of applying the private storage aid system for pigmeat more selectively.[53]

In June the EC Council decided to freeze all cereals prices except that of durum wheat, which would be cut by 3.5 percent. The Ministers did not reduce production aid, but they did reduce by 50 percent the price bonus for rye used in breadmaking.[54] Later, prices were agreed upon for fruits and vegetables, nuts, and the textile crops.

U.S.-EC Bilateral Trade Issues

During 1991—as in previous years—most of the trade tensions between the United States and the EC involved agricultural issues. The EC's oilseeds subsidy program was the most contentious. After a long delay the EC reformed its oilseeds subsidies to comply with a 1989 GATT dispute-settlement panel ruling. The United States contended, however, that this reform did not satisfy the panel requirements. Both sides again referred the matter to a GATT dispute-settlement panel for a final resolution.

The EC's Third Country Meat Directive, which sets hygiene and inspection requirements for imported meat, sparked a dispute when the EC effectively banned imports of U.S. pork in November 1990 and U.S. beef in January 1991. By the end of 1991 some U.S. exports resumed, and both sides began to work on a permanent solution, based on establishing equivalency between U.S. and EC hygiene and inspection regulations for meat. A separate dispute that disrupted U.S. exports of horsemeat to the EC was, however, quickly resolved.

Market access for corn gluten feed, another important U.S. agricultural export to the EC, was threatened when the EC denied it duty-free entry on the grounds that the U.S. product did not meet the required technical specifications. Officials successfully resolved the matter after clarifying the definition.

Two agricultural issues were put off for resolution at a future date. A temporary agreement under which the EC compensates the United States for lost feed grain sales to Spain was extended until June 1992. Also, the EC announced it would not make a final ruling on removing a ban it had placed on BST, a U.S.-invented, milk-enhancing hormone, until the summer of 1992.

In the industrial sector the United States continued to object to the financial assistance that certain EC governments have granted to the companies in the Airbus consortium (which produces large civil aircraft). In a separate but related matter, in February 1991 the U.S. Government filed a complaint under the GATT Subsidies Code over the German Government's exchange-rate subsidies to the German Airbus partner and its suppliers.

There were a number of other areas of interest to the United States in the EC. Intellectual property rights protection remained a concern in certain EC member states, particularly as it related to copyright infringements of software and audio and visual products.[55] In 1991 the U.S.-EC High Technology Working Group, established at the December 1983 U.S.-EC Ministerial meeting, discussed biotechnology, trade-related aspects of recycling, and the need to identify and promote critical technologies. Also, U.S. and EC representatives conducted a number of meetings relating to satellite launch services. These meetings were held as a result of a directive signed by President Bush that called for negotiations with the European Space Agency (ESA) and its member states on (1) government support for commercial launch operators and (2) a common approach to non-market-economy launch providers.[56]

In 1991 the EC issued the sixth in a series of annual reports listing U.S. trade practices that pose obstacles to EC exports and investment. The list of EC complaints about U.S. trade practices in the 1991 report did not differ much from that of previous years. The EC evinced particular concern about the tendency toward extraterritoriality and unilateralism in U.S. law, particularly the use of section 301.

Oilseeds

During 1991 the United States and the EC remained engaged in a longstanding dispute over EC oilseeds[57] subsidies—which, the United States contends, not only violate GATT rules, but also cause annual U.S. trade losses of between $1.5 and $2 billion.[58] A GATT dispute-settlement panel report adopted in 1990 supported the U.S. position and recommended that the EC reform its oilseeds subsidy regime, but the United States and the EC were at odds over whether the EC's subsequent reforms actually met the GATT panel requirements. Overall, 1991 was marked by a tension between the U.S. Congress and U.S. producer associations on the one hand, which urged retaliation against the EC for its unsatisfactory progress in reform, and the Bush administration on the other, which opposed retaliation reportedly because it could jeopardize the Uruguay Round. By December the parties had come full circle: at U.S. urging the EC agreed to reconvene the same GATT dispute-settlement panel to review the latest EC oilseeds reform.

The oilseeds case that was brought before a GATT dispute-settlement panel in 1988 involved EC subsidies to producers and processors of oilseeds.[59] According to the United States[60] the EC was providing subsidies equaling nearly three times the world market price to EC processors, to compensate them for the high price of domestic oilseeds.[61] These subsidies were calculated to encourage purchases of domestic products over imports. As a result, it was alleged, imported oilseeds received less favorable treatment than domestic oilseeds.[62]

Also central to the dispute was the zero binding, or duty-free access, for oilseeds that the EC granted to the United States in 1962. The United States charged that the oilseed subsidies effectively impaired the benefits of this zero binding.[63] The dispute-panel report, adopted by the GATT Council on January 25, 1990, backed the U.S. position but recommended that the United States allow the EC reasonable time to reform its regulations to comply with the ruling before pursuing further action. The EC stated that it would implement reforms beginning in the 1991/92 marketing year. However, it linked these reforms to the successful outcome of the Uruguay Round, which at the time was expected to conclude in December 1990.[64]

According to the U.S. Government, during the Round the EC intended to renegotiate the zero binding under the guise of rebalancing.[65] Rebalancing, a key objective for the EC in its agriculture negotiations, essentially involves raising import barriers for some products while reducing them in other areas. In particular, the EC wanted to increase protection on nongrain feed substitutes such as oilseeds in exchange for lower protection on grains.[66] There has been speculation that in the EC view, rebalancing its tariff protection on oilseeds could have enabled it to comply with the panel findings without addressing the issue of impairment and nullification.[67] The EC did not, however, negotiate the rebalancing it desired. When the Uruguay Round failed to conclude as scheduled in December 1990 and EC officials in March 1991 formally rejected implementing the GATT panel findings in their 1991/92 farm price package,[68] the bilateral conflict escalated.

The Office of the United States Trade Representative (USTR) warned the EC of possible retaliation (although the rest of the administration reportedly opposed such action).[69] EC Agriculture Commissioner Ray MacSharry responded that the EC was committed to comply with the panel only within the context of the Uruguay Round and not necessarily by 1990. He stressed that any retaliation would undermine the Uruguay Round.[70] Nonetheless, at the May 29 GATT Council meeting, the EC agreed that by July 31 the EC Commission would propose a reform package and that farm Ministers would rule on it by October 31.[71]

On July 31 the EC Commission unveiled its oilseeds reform package. It mirrored the EC Commission's earlier proposal for reform of the CAP, which aimed to move away from production subsidies and toward direct income-support payments for farmers. The most important aspect of the reform entailed shifting payments from processors to producers[72] and guaranteeing producers a level of return for each hectare cultivated instead of total output. This guaranteed return would consist of the amount the producer would receive for selling oilseeds on the open market and a direct payment. The amount of the direct payment would equal the difference between a specified guaranteed income level less a specified projected market price. However, only when actual market price differed from the projected market price by more than 8 percent would the direct payment be adjusted.[73]

Calculation of the direct payment was potentially complex. Although producers were to be compensated for each hectare cultivated (with the total number of hectares eligible for compensation in 1992/93 limited to a "maximum guaranteed area"), the projected price upon which the direct payment would be based was set on a per-ton basis. An average oilseeds yield would be used to convert this aid to a per-hectare basis. In addition, the direct payment would vary according to variations in regional yields and would decline if the number of hectares cultivated EC-wide exceeded the maximum guaranteed area.[74]

The other important aspect of the reform was that total support was based on a ratio between the yields of oilseeds and cereals. The EC Commission linked the crops, maintaining that a very close relationship exists between cereals and oilseeds and that statistics are more reliable and accurate for cereals than for oilseeds. The EC Commission reportedly set this ratio so that producers would be indifferent to planting either crop. The EC Commission also hoped that linking oilseeds reform to the planned cereals subsidies reform would facilitate full CAP reform in 1992.[75]

The U.S. Government swiftly opposed the plan. Although the proposals had the potential to end discrimination against foreign suppliers, the U.S. view was that the benefits of the zero binding would continue to be impaired. Maintenance of subsidy levels that were double the EC Commission's estimate of medium-term world prices now extended to an acreage even greater than that of 1990/91, would continue to shield EC producers from variations in world market prices, and would provide them with little incentive to reduce production. According to the United States, the high subsidy levels would also make the 8-percent price band meaningless. In the opinion of USTR Carla Hills and U.S. Secretary of Agriculture Ed Madigan, "the lowering of import duties continues to be prevented from having any impact on the competitive relationship between domestic and imported oilseeds."[76] The U.S. objections were followed by criticism from the EC Council of Ministers, which rejected the EC Commission proposal. Some Ministers questioned the reasoning behind tying the aid to cereals.[77] Others argued that the 8-percent price band was too high, and one Minister pressed for a higher oilseeds-to-cereals price ratio.[78]

At the October 8 GATT Council meeting, the United States requested that the EC ratify reforms that complied with the panel report by October 31. Further, the United States said, it would formally request that the panel be reconvened at the November GATT Council if no action were taken.[79]

On October 22 the EC Council approved a compromise oilseeds reform[80] that weakened, in the U.S. view, an already inadequate proposal. This compromise empowered member states to choose between average oilseed yields or average cereals yields when determining compensation. In addition, the EC Council package enabled oilseed producers to become eligible for a lower subsidy for double-cropped[81] soybeans, which are those sown following the early summer harvest of winter crops, generally wheat.[82]

Despite strong pressure from Congress and U.S. producer associations to retaliate, the administration pressed for a multilateral solution to the dispute. It was reported that aside from jeopardizing the Uruguay Round, the administration was reluctant to pursue retaliation because (1) industry groups were thought to fear counterretaliation;[83] (2) it would be difficult to devise a retaliation list, as executive agencies were unable to agree on the actual damage caused by the EC oilseeds policy;[84] and (3) the estimate of at least $1.5 billion in damage cited in the United States' GATT complaint would cover more than agricultural products in a retaliatory effort.[85]

On October 30 the United States proposed to reconvene the panel. At the December 3 meeting of GATT contracting parties, the EC agreed to reconvene the panel, which met on December 12, 1991, and on February 3 and 20, 1992.[86]

Third Country Meat Directive

Claiming that U.S. meat plants did not comply with its Third Country Meat Directive, the EC effectively banned all imports of U.S. pork on November 1, 1990, and U.S. beef on January 1, 1991, by revoking the right of U.S. meat plants to export to the EC. The directive specifies hygiene and inspection requirements that foreign companies must meet to export their products to the EC. Foreign companies must be examined by EC inspectors for compliance with the directive and must then be placed on an official list of certified suppliers by the EC Standing Veterinary Committee.

Before the directive was fully implemented against the United States in 1988, nearly 400 U.S. pork and beef plants exported their products to the EC. Since the directive was implemented the number of listed U.S. pork and beef plants has steadily declined. By 1990 only 25 remained eligible to export to the EC.[87] Significantly, few EC plants meet the directive's requirements,[88] and they do not have to meet corresponding standards until January 1, 1993. Even then, temporary exceptions will be allowed until 1995. Permanent exceptions will be permitted for very small plants.[89]

On January 10, 1991, USTR initiated a section 301 investigation of the EC's inspection requirements for imported meats, in response to a petition filed in November 1990 by the National Pork Producers Council and the American Meat Institute.[90] The petitioners alleged that the directive violated GATT rules and discriminated against U.S. exporters; that it was used to regulate U.S. meat much more strictly than most meats produced in Europe; that it was not fully enforced for intra-EC trade; and that it was not based on, or justified by, any scientific analysis.[91] Also, the petitioners alleged that in addition to lost EC sales, U.S. producers would incur losses because they had spent millions on testing and on plant investment to comply with the directive and because the resulting surpluses would depress domestic prices.[92]

In letters to USTR urging acceptance of the section 301 petition, 41 U.S. Senators and 30 U.S. Representatives denounced the directive as a trade barrier. They accused the EC of using it to unload a growing inventory of surplus beef and complained that "efforts by U.S. businesses to comply with the Directive have for years been followed by new and ever-increasing demands, all targeted at curbing our exports."[93]

Bilateral discussions on the matter began in December 1990 but stalled in March 1991. In these discussions U.S. officials focused on establishing minimum requirements that U.S. plants must meet to be listed as qualified suppliers, and on determining how U.S. procedures could differ from the EC's procedures and yet produce equivalent results. The EC maintained that exporting countries should have identical, as opposed to equivalent, regulations.

A breakthrough occurred in May when, through an exchange of letters, U.S. and EC officials established a two-stage process by which to resolve the dispute permanently. The objective of the first stage was to relist the U.S. plants that had been certified ineligible to export to the EC. Plants that had lost their listings would have to be re-inspected jointly by U.S. and EC officials and would have to satisfy certain minimum criteria relating to the role of U.S. inspection, general hygiene, post mortem inspection, and trichina control as specified in the annex of the letter sent by EC officials.[94] Stage two outlined a process for determining whether U.S. and EC meat inspection requirements are equivalent. It was to begin after both sides agreed that stage one had been concluded satisfactorily and was to conclude by December 31, 1991. The agreement stipulated that if equivalence were established, "reviewers of both parties will accept the corresponding procedure when inspecting establishments otherwise deemed acceptable."[95] No provision was made specifying how any disagreements during the course of discussions would be resolved.

At the end of May the EC sent its inspectors to reexamine U.S. plants in order to lift the ban. In June, based on the inspectors' reports, the EC Veterinary Committee recertified only 1 plant out of 25 inspected.[96] In August EC inspectors returned to re-inspect 17 of the plants still willing to export to the EC, and by October a total of 14 plants were relisted.[97] Also in late June the EC proposed a series of six meetings intended to establish the equivalency of sanitary rules by the December deadline. U.S. officials did not want, however, to enter into discussions until more progress had been made in stage one. The equivalency discussions did not begin until November.

On June 7, USTR announced that it would formally request a dispute-settlement panel at the GATT Council meeting on July 11, 1991, despite signs that the EC was interested in reaching a bilateral solution.[98] At that meeting, however, the EC turned away the panel request, saying it wished to study the U.S. request.[99] Because both sides remained strongly committed to finding a solution and the negotiations progressed fairly well,[100] the United States did not repeat its request for a dispute-settlement panel in 1991.[101] The December 31, 1991, deadline passed without a solution.[102] (For additional discussion of this dispute, see chapter 5, "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section.)

Horsemeat

Following the lead of French officials, the EC imposed a ban on imports of fresh U.S. horsemeat in March 1991 after an outbreak of trichinosis. Most of the cases were linked to 1 of the 12 U.S. slaughterhouses approved to export horsemeat to the EC. The ban was imposed to allow EC veterinary experts time to inspect the horse slaughterhouses.[103] In May officials lifted the ban after approving U.S. testing procedures for the trichinella worm. EC officials relisted all but one plant.[104] In 1991 the United States exported $112 million, or 79 percent, of its total horsemeat exports to the EC.[105]

Corn Gluten Feed

On October 16, 1991, U.S. and EC officials agreed on a definition of what constitutes corn gluten feed and on terms for its testing and certification, thus ending a dispute that emerged during the summer of 1991 when certain EC member states terminated duty-free access for imports of U.S. corn gluten feed.[106] Corn gluten feed is the United States' second-largest agricultural export to the EC; 97 percent of all U.S. corn gluten exports are imported by the EC. In 1991 U.S. exports of corn gluten feed to the EC rose to about $696 million, from $655 million in 1990 and $640 million in 1989.[107]

The dispute began in May 1991, when Dutch customs officials reclassified U.S. corn gluten feed under a dutiable category, after tests revealed that some samples consisted of up to 40 percent corn germ meal.[108] The Dutch, backed by EC officials who encouraged all member states to follow suit, maintained that to qualify for duty-free treatment, corn gluten feed could contain no more than 5 percent of such diverse residues. These officials also asserted that even though pure corn gluten feed and corn germ meal could each be imported separately duty free, a mixture of the two would be subject to a $200-per-ton variable levy.[109] Some member states introduced requirements for mandatory rather than random testing and posting of bonds for corn gluten feed imports.[110] The EC Association of Millers (CAM) demanded that further imports of U.S. corn gluten feed mixed with corn germ meal be banned pending a precise definition.[111]

This reaction drew criticism both from the United States and within the Community. British officials noted that they were satisfied with the current customs classification and questioned the reasoning behind the decision to assess a duty on a mixture of two duty-free products.[112] Although Belgian officials supported a stricter customs classification, they continued to support duty-free access and opposed the EC's proposed method of testing.[113] For its part the United States requested that the EC change its definition of corn gluten feed to permit a mixture.[114] Pending a new definition the Dutch eventually raised the limit of allowable diverse residues from 5 percent to 20 percent.[115]

In the process of devising a definition, both sides remained bogged down over the best way to detect the presence of corn germ meal in corn gluten feed. The EC insisted that fat content would best indicate such a presence and proposed setting a 3-percent maximum limit on fat. U.S. exports have an average fat content of 3.5 percent, however, so this limit would have blocked about half of U.S. exports to the EC market. The United States suggested instead that starch content would be the appropriate indicator and that a limit on fat would not automatically limit the corn germ meal. The U.S. definition set a 5-percent limit on fat and a 28-percent limit on starch. The EC accepted the 28-percent limit on starch but refused to compromise on the fat content. As a result on August 19, 1991, the administration lodged a formal diplomatic protest with the EC Commission, and U.S. producer associations sought retaliation.[116]

Another point of contention addressed the method for testing the content of corn gluten feed. The EC's Customs Nomenclature Committee wanted member states to use an advanced microscopic analysis, which directly identifies components. Only Germany and the Netherlands used this method. Instead, the United States demanded that chemical analysis be used, which identifies the amount of starch, protein, and fat content present in the product. In the end the EC accepted chemical analysis.

The dispute was not based on pure technicalities. Dutch and French officials charged that germ meal had been intentionally and fraudulently mixed with the corn gluten feed,[117] and EC officials maintained that the levels of corn germ meal in U.S. shipments had increased over the past 4 years.[118] The United States reportedly replied that corn germ meal was present in the corn gluten feed because it is a natural byproduct of the milling process and that corn gluten feed had contained varying amounts of corn germ meal since well before the zero binding was established. The United States also argued that no chemical standards were specified with regard to this zero-tariff binding.[119] The EC eventually conceded the point.

Politics, too, factored into the dispute. EC farm Ministers asserted that a solution to the dispute regarding corn gluten feed could be found only within the context of rebalancing.[120] As noted previously, the EC wishes to use rebalancing to impose a higher level of protection on some products—particularly nongrain feed substitutes such as corn gluten feed—in return for lowered protection on others such as grain.[121]

The United States and the EC formally resolved the dispute through consultations outlined in GATT article XXIII:1. As a result of these consultations U.S. and EC officials ended the stalemate over an acceptable fat content for corn gluten feed and signed a Memorandum of Understanding (MOU) on October 16, 1991. Among the provisions of the MOU, both sides agreed that for continued duty-free treatment, corn gluten feed could contain no more than 28 percent starch, 4.5 percent fat, and 40 percent protein. Both sides agreed to the basis for calculating the percentages and the method of testing for fat. Additionally, both sides noted that the U.S. industry planned to certify corn gluten feed to ensure that the standards specified in the agreement would be met. Finally, the EC agreed to refund the variable levies and bonds that had been collected on corn gluten feed.[122] On November 29, 1991, the EC passed legislation implementing the MOU, which took effect January 1, 1992.[123]

Enlargement-Related Farm Trade Dispute

In 1991 U.S. and EC officials did not, as hoped, permanently resolve a dispute over compensating the United States for feed grain exports lost when Spain and Portugal joined the EC. (For additional discussion of this dispute, see chapter 5, "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section.) Instead, the EC extended until the end of 1992 a temporary agreement, struck in 1987, that guaranteed the United States access to the Spanish feed grain market. Conflicting interpretations of GATT article XXIV:6, which governs compensation to trading partners injured by an enlargement of a customs union, underlie the dispute.

This dispute arose when Spain joined the EC in 1986 and was obligated to adopt the EC's system of variable import levies to comply with the EC's CAP.[124] In doing so Spain breached its tariff binding on imports of corn and sorghum. With about $200 million in annual corn and sorghum exports[125] to Spain jeopardized, the United States threatened to retaliate. In January 1987 the United States and the EC concluded an agreement under which Spain would import duty free 2 million metric tons of corn and specified nongrain feed ingredients, as well as 300,000 metric tons of sorghum, from non-EC suppliers[126] annually until December 1990. The EC also reduced tariffs on about 25 products. When the agreement expired in 1990 the EC extended it through 1991 to avoid retaliation.

Both sides pledged to achieve a permanent solution in 1991. Despite meetings in June and in September, however, no permanent solution was reached. In October, as the United States prepared to retaliate, the EC offered to extend the agreement informally for 1 more year. The EC did not want to extend the agreement through a formal exchange of letters because EC officials believed a formal exchange would be tantamount to accepting the U.S. interpretation of a GATT article underlying the dispute.[127] Conversely, it was reported that the United States did not want an informal extension because such an action would be difficult to enforce under the GATT.[128] As a compromise the EC offered to "inform the GATT that the relevant parts of the 1987 agreement remain in force and that the GATT rights reserved in that agreement for both sides are still valid."[129] Both sides agreed to review the issue in June 1992 in light of the outcome of the Uruguay Round.

The GATT article in dispute, XXIV:6, addresses compensation to trading partners for trade lost when a customs union has been enlarged. The EC reportedly interpreted this article to mean that tariff changes across all sectors must be considered when assessing compensation.[130] In the EC view the United States was not entitled to additional and permanent[131] compensation because any disadvantages in agricultural trade have been offset by gains in the manufacturing sector. The EC contended that relative to those of third countries, U.S. exports to Spain have experienced an above-average increase.[132]

In contrast the United States reportedly interpreted the article to mean that compensation should be determined by comparing tariff changes for specific products.[133] The United States demanded a permanent concession for lost trade and maintained that incidental trade benefits were irrelevant.[134] Because the United States is expected to insist on further compensation when the parties reexamine the agreement in June 1992, it will probably be referred to a GATT dispute-settlement panel.[135] Resolving this matter takes on added importance in view of the fact that the EC may soon admit new member states.

Moratorium on Milk-Enhancing Hormone (BST)

In December 1991 the EC extended until December 31, 1993, a moratorium on the use of bovine somatotropin (BST), a genetically engineered natural hormone that boosts milk production by an average of 25 percent in dairy cows. The EC Commission introduced the ban in September 1989 so that BST could be scientifically tested to determine whether it should be approved for use in the EC market.[136] The EC Commission stated that it will issue its findings and proposals by June 30, 1993.[137]

The controversy surrounding BST approval is part of the larger issue of whether socioeconomic impact (the so-called fourth criterion) should be considered along with the traditional criteria of safety, efficacy, and quality when assessing new biotechnology-based products.[138] In March 1991 the EC's Committee for Veterinary Products unanimously agreed that BST is safe for humans, and a majority agreed that it is safe for animals. However, BST still needs approval from the EC Council of Farm Ministers before it can be authorized for use. Farm Ministers must be convinced that there is a need for a hormone that increases the productivity of cows, especially when growing dairy surpluses already cost the EC taxpayers billions of dollars in aid each year. Furthermore, the surplus could be exacerbated on the demand side. EC officials are concerned that consumption of dairy products may decline among consumers who fear the hormone, and that dairy exports destined for countries that forbid BST would be harmed.[139]

The European Campaign Against BST, composed of more than 30 national farming, animal welfare, and environmental groups—and political parties—lobbied for the continuation of the moratorium and proposed that the current legal framework for assessing new products include socioeconomic criteria. For example, the group argued that BST would harm the health of cows, would conflict with changing consumer preference toward more natural food, would force many small farmers out of business, and would harm the environment because it would encourage intensive farming methods. The group believed there was insufficient evidence that BST is safe for humans, particularly babies.[140] In contrast the European Federation of Animal Health, representing manufacturers of veterinary drugs, objected to extending the moratorium. The group argued that imposing a moratorium for socioeconomic reasons would stifle progress and innovation.[141]

The United States urged EC officials to base BST approval solely on scientific criteria.[142] Although BST is manufactured by U.S. firms, the Food and Drug Administration has not yet approved BST for use in the U.S. market.[143]

Airbus

Airbus Industrie is a consortium of airplane manufacturers from Germany (Deutsche Airbus), France (Aerospatiale S.A.), the United Kingdom (British Aerospace PLC), and Spain (Construcciones Aeronauticas S.A.). Since 1986 the United States has claimed that Airbus receives unfair subsidies from the governments of the four partners, placing U.S. aircraft manufacturers at a disadvantage.[144] The EC, which negotiates on behalf of the partner governments, has countered that U.S. manufacturers receive indirect subsidies through defense contracts.

The United States and the EC have negotiated the issue of aircraft subsidies over the past 5 years, but without much success. The major point of contention has concerned limitations on the level of development subsidies. Airbus has been estimated to receive between 70 and 90 percent[145] of its development costs in a direct subsidy that is repayable through royalty arrangements. The U.S. Department of Commerce estimated that the four partner governments had committed more than $13.5 billion to Airbus by 1989, of which only $462 million had been repaid.[146]

Negotiations were suspended in February 1991, when the United States rejected the most recent EC proposal. The EC had suggested eliminating production subsidies and capping development subsidies at 45 percent of the development cost,[147] but the United States insisted on an eventual reduction to a 25-percent cap, plus the conclusion of a multilateral agreement that would include other GATT nations involved in the civil-aircraft industry, such as Canada and Japan. Other differences also remained unresolved: for example, the United States wanted any agreement to cover aircraft with more than 100 seats, whereas the EC wanted to limit coverage to aircraft with more than 140 seats. In addition, there was disagreement over whether, and how, to include indirect subsidies in the negotiations. The United States and the EC were ultimately unable to resolve these differences, leading the United States to pursue complaint procedures in the GATT.

The United States' first action was to request on February 14, 1991, that the GATT Subsidies Committee establish a dispute-settlement panel to investigate a German exchange-rate guarantee scheme. In 1988 the German Government agreed to protect Deutsche Airbus from currency fluctuations as part of its efforts to privatize Messerschmitt Bolkow-Blohm, of which Deutsche Airbus is a wholly owned subsidiary, through a merger with Daimler-Benz. The exchange-rate scheme offered by the German Government covers the financial risks of current and future projects through 2000 by offsetting adverse exchange-rate fluctuations between the German mark, in which production costs are incurred, and the U.S. dollar, the currency of the civil-aviation market. The United States alleged that the German Government distributed 390 million Deutschemarks ($244.4 million) in 1990 to Daimler-Benz under the exchange-rate scheme, resulting in an average subsidy of about $2.5 million for each completed aircraft delivered in 1990.[148] The U.S. complaint reflected concern that this scheme was cushioning the German aircraft-component industry from the effect of the weakening dollar and decreasing the competitiveness of U.S. aircraft components. On January 15, 1992, the GATT panel ruled that the German Government was violating the GATT Subsidies Code by providing exchange-rate guarantees to Deutsche Airbus. If the panel's findings were accepted by the 22-nation GATT Subsidies Committee, Germany would be required to stop payments under the guarantee scheme but would not necessarily be required to arrange restitution payments. Since nearly all such panel reports have been blocked in the Subsidies Committee by the losing party,[149] there remained a strong possibility that the European members of GATT might move to veto acceptance of the panel's findings.[150]

In May 1991 the United States announced its intention to file a second, broader complaint about Airbus production and development subsidies under the GATT Subsidies Code. Even though this announcement prompted the EC to call for a resumption of bilateral or multilateral negotiations over the subsidies issue, the United States formally requested consultation procedures under the Subsidies Code on May 31 to review the full range of subsidies provided to Airbus.

Throughout 1991 the EC objected to the use of the Subsidies Code over Airbus disputes and instead insisted that these disputes should be resolved under the Civil Aircraft Code. Currently the Civil Aircraft Code states that the Subsidies Code applies to aircraft but also permits signatories to consider "special factors" that might justify government subsidization of the aircraft industry.[151] In March 1991 the EC encouraged reform of the Civil Aircraft Code to clarify its provisions regarding subsidies and filed a request with GATT to renegotiate the Civil Aircraft Agreement.[152] On several occasions the EC attempted to have the two U.S. complaints resolved under the Civil Aircraft Code or through a joint Civil Aircraft-Subsidies Committee. The EC position is reportedly a potential indication that the EC will move to block any effort made by the Subsidies Committee to mediate the dispute.[153]

While continuing to dispute the U.S. choice of the Subsidies Code as the proper forum for discussion, the EC finally agreed to meet with the United States in early August to discuss both the substance and procedures associated with the consultation process.[154] Unsatisfied with the EC response at this August meeting, the United States proceeded with the next step in the complaint procedures[155] on August 21 by asking the Subsidies Committee to act as a mediator in a conciliation phase.[156] After a GATT Subsidies Committee meeting in late September, the EC and the United States agreed to continue negotiations and, by January 1992, had set early 1992[157] as a target date for concluding the negotiations.[158]

The issues under dispute at the end of 1991 were the same as those that stymied talks in early 1991. The proposed cap on development subsidies continued to be a prominent issue. The EC buttressed its argument for including indirect subsidies provided by the U.S. defense contracting system in the talks by releasing a report on December 4 that the EC Commission had requested from a private U.S. law firm, Arnold & Porter. The report concluded that the U.S. Government provided between $18 billion and $22 billion in direct and indirect support to the U.S. commercial aircraft industry between 1976 and 1990.[159] The three major sources of U.S. support identified by the report were

Department of Defense grants to conduct private research and development (R&D), R&D conducted by the National Aeronautics and Space Administration (NASA), and the U.S. system for taxing contract income.[160] Other areas of continuing U.S. concern, particularly to U.S. industry, were government guarantees of loans made by Airbus to customers and the royalty-based system of repaying Airbus subsidies.[161]

Canada

Merchandise Trade With the United States

In 1991 the United States and Canada remained each other's largest trading partners, accounting for the greatest volume of trade between any two countries in the world. Totaling $170 billion, the value of U.S. trade with Canada was nearly 20 percent higher than that with any other single country, including Japan, and was only $13.1 billion less than the value of all trade between the United States and the 12-nation European Community (EC).

In 1991 the United States recorded a $12.2 billion merchandise trade deficit with Canada (table 11). The lowest bilateral deficit with Canada since 1987, the figure reflected a slight drop from the 1990 level of $13.0 billion. The bilateral balance with Canada represented 15 percent of the overall U.S. merchandise trade deficit of $82.2 billion.

After rising by more than 4.3 percent from 1989 to 1990, the value of U.S. exports to Canada increased only slightly (0.6 percent) during 1991, to $78.7 billion. U.S. exports to Canada in 1991 rose in 7 of 10 SITC sections (table 11). Slight declines were registered in crude materials (section 3) and machinery and transport equipment (section 7). Exports in the mineral fuels category (section 4) decreased by more than 40 percent. More than 85 percent of the products exported to Canada are manufactured goods (figure 5).

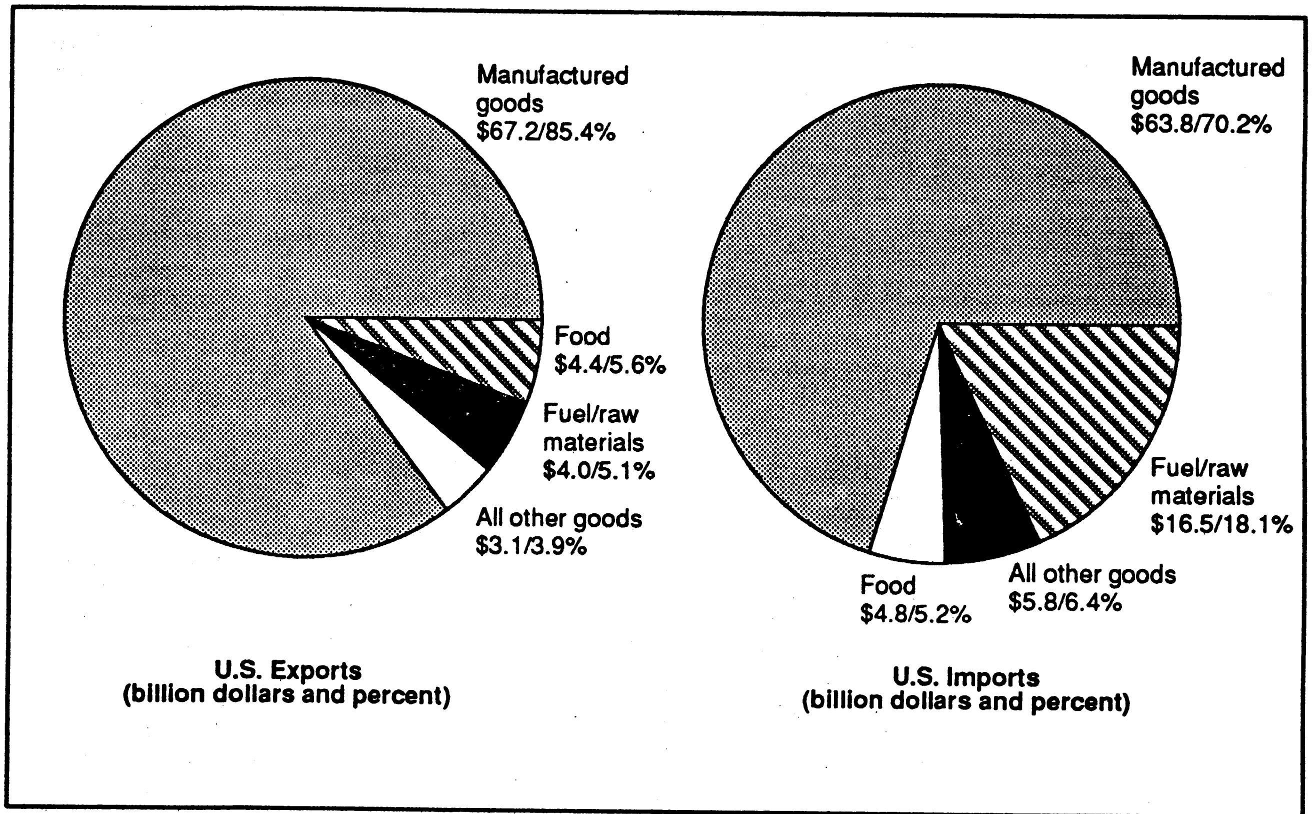
The major items of bilateral trade are highlighted in tables A-7 and A-8. The leading U.S. exports to Canada in 1991 were automobiles and parts of motor vehicles, reflecting the high degree of integration between the U.S. and Canadian automobile industries. Although the list of products was generally unchanged from 1990, the decline in exports of printed circuits (39 percent), together with the increase in parts for digital processing units (15 percent), altered the hierarchy slightly in 1991. Exports of half the items on the list decreased from 1990 to 1991.

Table 11
U.S. merchandise trade with Canada, by SITC Nos. (Revision 3), 1989-91
(Thousands of dollars)

SITC section no.	*Description*	*1989*	*1990*	*1991*
			U.S. exports	
0	Food and live animals	1,902,959	3,764,648	4,204,056
1	Beverages and tobacco	83,038	125,874	140,741
2	Crude materials, inedible, except fuels	2,288,497	2,923,638	2,747,873
3	Mineral fuels, lubricants and related materials	1,678,317	2,154,800	1,240,336
4	Animal and vegetable oils, fats and waxes	47,010	57,524	64,110
5	Chemicals and related products, n.e.s.	4,210,236	6,050,164	6,554,645
6	Manufactured goods classified chiefly by material	5,865,041	9,822,800	10,266,449
7	Machinery and transport equipment	33,194,049	42,746,260	42,289,120
8	Miscellaneous manufactured articles	4,325,923	7,508,083	8,122,351
9	Commodities & transact not class elsewhere in SITC	21,382,400	3,064,167	3,082,109
	Total all commodities	74,977,469	78,217,958	78,711,789
			U.S. imports	
0	Food and live animals	3,515,355	3,755,819	3,934,951
1	Beverages and tobacco	548,983	654,845	692,695
2	Crude materials, inedible, except fuels	7,855,915	7,335,834	6,253,552
3	Mineral fuels, lubricants and related materials	7,741,886	9,810,313	10,240,523
4	Animal and vegetable oils, fats and waxes	89,130	92,340	132,576
5	Chemicals and related products, n.e.s.	3,927,606	4,282,363	4,348,228
6	Manufactured goods classified chiefly by material	16,697,375	15,774,898	15,316,044
7	Machinery and transport equipment	39,123,230	40,753,015	40,548,726
8	Miscellaneous manufactured articles	3,600,183	3,588,667	3,635,340
9	Commodities & transact not class elsewhere in SITC	4,887,988	5,150,214	5,821,188
	Total all commodities	87,987,651	91,198,308	90,923,823

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

Figure 5
U.S. trade with Canada by product sector, 1991



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

Note.—Because of rounding, figures may not add up to 100 percent.

U.S. imports from Canada were valued at $90.9 billion in 1991, a slight (.30 percent) decline from the previous year. Trade in individual sector groupings was generally unchanged from 1990. The decline in imports from Canada occurred at a time when overall U.S. imports dropped by 1.5 percent. The leading categories of items imported from Canada in 1991—automobiles,[162] trucks, petroleum oils, and newsprint—accounted for 33.0 percent of total U.S. imports from Canada and were the same items that led the list of imports from Canada in 1990. U.S. imports of natural gas rose by 18 percent during the year, and shipments of nonmonetary gold soared by 176 percent.

Machinery and transport equipment (SITC section 7) was the major area of bilateral trade between the United States and Canada: it accounted for 53.7 percent of overall shipments to Canada and 44.6 percent of goods received from Canada in 1991. Nonetheless, trade in this sector declined in both directions. Plant shutdowns (both temporary and permanent) and a gradual erosion of market share for North American cars in the U.S. market contributed to the general weakening of cars and auto parts exports from Canada.[163] This trade is largely governed by a longstanding agreement, the 1965 Auto Pact, that antedates the U.S.-Canada Free-Trade Agreement (CFTA) and provides for duty-free treatment of imports of specified automotive products.

Major Policy Developments Affecting Trade

North American Free-Trade Agreement

The North American Free-Trade Agreement (NAFTA) evolved from a plan to establish a free-trade agreement (FTA) between the United States and Mexico.[164] It was not until early 1991, when Canada officially decided to participate in what had been bilateral talks on a U.S.-Mexico FTA, that the concept of a continent-wide agreement was formally established.[165] The Canadian Government indicated that it was interested in a broad agreement encompassing intellectual property rights, all goods and services, investment, and a range of issues similar to those under consideration in the Uruguay Round. Although two-way trade between Canada and Mexico is minuscule relative to U.S.-Canadian trade,[166] the Canadian desire to expand economic ties with Mexico, though important, was considered by many to be secondary to the desire to prevent erosion of any gains made in its bilateral pact with the United States. (For a detailed discussion of the NAFTA negotiations, see chapter 1.)

Interprovincial Trade Barriers

For decades Canada's Provinces have maintained numerous barriers to open trade: discriminatory Provincial procurement procedures, differing certification and licensing procedures, and restrictions on trade in agricultural products and alcohol.[167] The problem has been acknowledged, but efforts to resolve it have been unsuccessful—in part because the Canadian Provinces wield considerable power relative to the Federal Government and are not constitutionally required to obey all of its dictates. Even though additional efforts were made in 1991, progress was not significant.

Canada's interprovincial barriers have been estimated by the Canadian Manufacturers Association to cost the Canadian economy about Can$6.5 billion a year.[168] The problem was also highlighted in studies that the Government itself commissioned and, in 1991, became a focus for increasing international criticism.[169] In response the Government proposed a constitutional amendment in September of that year. Presented as part of a broader package to promote economic union in Canada, the amendment was to guarantee free movement of goods, services, capital, and people throughout Canada. July 1, 1995, was the proposed target date for elimination of all internal barriers among the Provinces. The amendment and the economic package were well received in business circles but were still under discussion at year's end.

Constitutional Developments—Quebec

In the past several years the Canadian Government has had to face a growing crisis with regard to the French-speaking Province of Quebec. The debate—which focuses on the question of whether Quebec should remain inside Canada's federal structure or become a sovereign state—came to a head in June 1990, when two of Canada's 10 Provinces failed to ratify the Meech Lake Accord. The accord would have brought Quebec under the aegis of the Canadian Constitution—a document that Quebec has consistently refused to approve since the early 1980s, when it was ratified by the other Canadian Provinces.[170]

Since the failure of the accord, pressures for secession have grown in Quebec, accompanied by related political fragmentation in the rest of Canada. As a result considerable time was devoted by both government and private institutions in 1991 to studying the possible political and economic impact of an independent Quebec, as well as the need for reform of the nation's current federal structure.[171] On September 24, 1991, Prime Minister Mulroney issued a 28-point package of proposed constitutional reforms aimed at strengthening Canada's federal structure and easing secessionist pressures in Quebec.[172] The proposed changes went before an all-party parliamentary commission in September 1991 for 5 months of public hearings. The Government was expected to present formal constitutional amendments by mid-1992. The Quebec Government, however, stated that if Ottawa failed to propose an acceptable set of constitutional reforms, it would hold a referendum on sovereignty no later than October 1992.[173]

The term "sovereignty" has acquired various definitions in the course of the national debate. Some Quebecois have advocated complete separation from Canada; many have proposed a system ("sovereignty-association") under which Quebec could function as a separate political entity while retaining such privileges as use of the Canadian dollar and coverage under the FTA. The Canadian Government's vehement rejection of the notion of "part-time Canadians,"[174] however, makes this option seem unlikely—a conclusion also reached by a recent C.D. Howe Institute report on the Quebec crisis. According to this study it would be unrealistic to believe that an arrangement such as sovereignty-association could be constructed to maintain an economic union or to create a common market between Quebec and Canada.[175] A free-trade agreement, the study claimed, would be the most that could be negotiated, and it would still result in increased border control to monitor the flow of people, services, and goods.[176] In addition, the report indicated that some sectors in Quebec—dairy, textiles, clothing, footwear, and furniture—would suffer greatly from lack of the protection they currently enjoy.[177] Further, the study noted, Quebec would be forced to take on increased responsibilities as a national government. These responsibilities would require certain Quebec policies and programs to be suspended, especially if Quebec were to become part of a new FTA.[178]

The effect of sovereignty on trade is a crucial issue for Quebec. Second only to Ontario, Quebec is the Canadian Province that depends most on exports (to other Canadian Provinces as well as to other countries) for its economic growth. A survey of Quebec's trade patterns indicated that exports to other Provinces and the rest of the world accounted for roughly 40 percent of the Province's gross domestic product in 1987.[179] Quebec's main exports are from the paper, aluminum and aluminum alloys, automobiles, telecommunications equipment, and airplane-engine sectors.[180] In 1989 more than 74 percent of Quebec's exports went to the United States.[181]

The leading items exported to and imported from the United States by Quebec in 1991 are shown in table 12. Although exports from Quebec to the United States declined by 4.3 percent from 1990 to 1991, imports into the Province dropped by 7.4 percent. The Province had a positive trade balance (equaling about $6.8 billion) with the United States in 1991, but a negative trade balance ($3.0 billion) with the world as a whole.

Quebec's strong dependence on trade—and on the United States as the primary market for its exports—leads to the question of how Quebec's possible secession from Canada would affect the Province's relations with the United States and its standing in the CFTA. For its part the United States has traditionally followed a two-track policy with regard to Quebec's aspirations for independence. On the one hand successive U.S. administrations, including that of President Bush, have declared that the issue is one for Canadians to resolve. On the other, the United States has supported a united Canada.[182]

Were Quebec to secede from the rest of Canada, it is unclear whether the United States would extend the current CFTA, or a future NAFTA, to include Quebec. Indeed, in the event of an acrimonious breakup with Canada, any kind of FTA between the United States and Quebec might not be possible. Even if Quebec's independence engendered little rancor, however, extension of the CFTA to an independent Quebec would not be automatic. Current legal thinking suggests that congressional approval would be required, a process that in turn could result in efforts to restructure the agreement. Further, as an independent state, Quebec's trading practices would no longer be shielded from the full rigors of an FTA. The new state might also face demands to eliminate the program of government subsidies so crucial to the so-called "Quebec Inc." strategy[183] before entering into an FTA with the United States.[184] ("Quebec Inc." is the term used to describe the partnership among government, business, and labor that has bolstered the industrial development of the Province over the past three decades.)

Concern over remaining a part of an FTA with the United States and over access to Canadian markets will undoubtedly play a large role in Quebec's Provincial referendum on sovereignty. Combined with the current recession and high levels of unemployment (12.5 percent in the Province as of March 1992), these concerns could very well inhibit the strong political desire for independence, making economic uncertainty a stronger influence on the outcome of the issue than is generally acknowledged.

U.S.-Canadian Bilateral Trade Issues

The U.S.-Canada Free-Trade Agreement continued to be the centerpiece of bilateral relations in 1991, although the NAFTA negotiations pointed up the increasing importance of strengthening regional trading relationships in North America. A number of specific

Table 12
Leading categories of trade between the United States and the province of Quebec, 1989-91
(Thousands of Canadian dollars)

Description	*1989*	*1990*	*1991*
		Quebec Exports	
Telecommunications equipment	1,335,927	2,665,726	3,015,737
Newsprint	2,434,529	2,421,538	2,382,523
Aluminum, including alloys	1,842,725	1,670,391	1,664,207
Special commercial transactions	253,389	1,261,074	1,171,298
Certain autos & chassis	1,784,668	1,701,693	689,420
Airplanes, including motors	296,621	398,848	579,612
Airplane motors & parts	564,880	524,168	415,700
Copper & alloys	374,698	328,911	363,485
Softwood lumber	451,093	349,123	327,359
Wood pulp	367,788	341,837	283,795
Subtotal, 10 principal products	9,706,318	11,663,310	10,893,137
Total all commodities	16,954,467	19,854,801	19,004,446
		Quebec Imports	
Certain autos & chassis	2,112,855	1,793,771	1,820,242
Electric tubes & semiconductors	932,969	1,042,520	953,470
Telecommunications equipment	479,353	1,520,801	934,830
Trucks, tractors, bodies & chassis	488,287	474,630	512,874
Special commercial transactions	281,577	311,656	414,212
Airplane motors & parts	383,672	387,639	366,064
Inorganic chemicals	389,934	298,332	356,347
Airplane parts, except motors	317,444	310,500	316,107
Computers	315,824	272,971	263,240
Organic chemicals	201,271	254,765	232,022
Subtotal, 10 principal products	5,903,186	6,667,585	6,169,407
Total all commodities	12,323,452	13,205,046	12,222,152

Source: Quebec Office of Statistics.

bilateral disputes were considered within the terms of the CFTA: most notably softwood lumber, beer, pork, and automobiles. By year's end, the tension generated by some of these disputes had reached unusually high levels in both Canada and the United States.

U.S.-Canada Free-Trade Agreement

January 1, 1992, marked the beginning of the 4th year of operation of the U.S.-Canada Free-Trade Agreement (CFTA). So far the agreement appears to have been successful in opening the border to increased commerce: bilateral trade has increased by 13.9 percent since the pact went into effect. In addition, the agreement has arguably been a catalyst in the movement toward a wider, hemispheric agreement involving Mexico. Equally important, the CFTA functions as a major channel through which the United States and Canada may address trade disputes. Testimony to the pact's role in expanding two-way commerce is the large number of petitions considered each year for accelerated tariff reduction. In 1990 more than 400 tariff items, covering approximately $6 billion in two-way trade, were reduced. In 1991 accelerated reductions affected 250 tariff items worth about $2 billion in two-way trade.[185]

When the CFTA was negotiated in 1987 both sides attempted to construct a mechanism that would address the resolution of trade disputes in a more timely fashion than was afforded them under existing GATT procedures. The consensus was that a bilateral process might be more open, more direct, and swifter than multilateral procedures. An innovative step was taken with the decision to provide for review through panels of trade experts, chosen by each side. Strict guidelines for due process and timeliness were set out. The aim was to lessen the political sensitivity that has traditionally been associated with U.S.-Canadian trade disputes.

Disputes under the CFTA are handled in one of two ways. General disputes arising out of the operation of the agreement, which cannot be resolved through consultations, are addressed under the CFTA's chapter 18 by a panel of five independent experts. Two are chosen by each side, and the fifth is chosen jointly. The second arrangement (under chapter 19 of the CFTA) allows for binational review of national antidumping and countervailing-duty determinations. Also conducted by a binational panel of experts, this review replaces review by national courts.

Since the inception of the CFTA in 1989, there have been a number of instances of consultation and review under chapter 18. Only two of these cases—concerning lobsters (1990) and salmon and herring (1989)—resulted in the formation of panels. There were no panels in operation last year, although consultations were requested on a number of issues, including rules of origin on automobiles and Provincial liquor board policies. Consultations are continuing on these issues.

In the 3-year history of the pact, there have been 23 cases involving binational review of antidumping or countervailing-duty determinations (chapter 19). Eighteen of them had been resolved by the start of 1992. Most of the decisions were unanimous, although individual panelists on occasion wrote dissenting opinions. At the end of 1991 there were five cases pending. They involved live swine from Canada (two cases), beer from the United States (two cases), and replacement parts for bituminous paving equipment from Canada.

The panel-review process embodied in chapter 19 of the CFTA has proven to be a practical mechanism for resolving bilateral antidumping and countervailing-duty disputes. The general consultation/dispute procedures of chapter 18 have also proven constructive as a means of addressing high-profile difficulties without rancor. Nevertheless, a number of bilateral issues were the subject of considerable attention on both sides of the border during the year. Disputes over cars and lumber—Canada's chief exports to the United States—were not subject to the bilateral dispute process in 1991, but generated enormous controversy. As a result of a U.S. Customs determination on domestic content, additional duties were imposed on certain automobiles (Hondas) imported from Canada.[186]

Although the CFTA appears to have met the obligation of resolving bilateral disputes, with both countries struggling through the effects of recession, more disputes are likely in the medium term.[187]

Softwood Lumber

The origins of the Canada-U.S. softwood lumber dispute date back to 1986, when the U.S. lumber industry filed a complaint asking for the imposition of a countervailing duty on Canadian lumber exports.[188] The industry claimed that Canadian "stumpage" fees, paid by timber producers to compensate the Provinces for access to and harvest of Provincial timber,[189] were artificially low and constituted a subsidy that benefited Canadian lumber producers. The U.S. lumber industry claimed that subsidized imports of Canadian lumber were a cause of material injury. Before final determinations were issued in the resulting countervailing-duty investigation, Canada and the United States entered into a Memorandum of Understanding (MOU) on December 30, 1986.[190] The MOU required Canada to impose a 15-percent export charge on softwood lumber exports to the United States, which could be reduced on exports from Provinces that exacted qualifying "replacement measures" that had the effect of raising charges for access to and harvest of timber. In return, the U.S. lumber industry withdrew its countervailing-duty petition, terminating the investigation before final determination and possible implementation of a countervailing duty.[191] The MOU was signed before the negotiation of the CFTA and in fact was incorporated into the CFTA in article 2009.

Although the MOU had no expiration date, it did state that either country could terminate the agreement with 30 days' notification. Canada announced its intention to terminate the MOU on September 3, 1991, effective October 4, 1991. It cited three reasons for the termination. First, Canada claimed, the MOU had served its purpose:[192] since the MOU was signed in 1986, many Canadian Provinces had adopted policies that increased the costs of resources used by the lumber industry. The Canadians stated that British Columbia, which accounted for 78.4 percent of Canadian exports of softwood lumber in 1990, had replaced its export charge with increased stumpage and other forestry charges. These changes cost the lumber industry an additional $620 million in 1990, in contrast to the 1987 export charge of $300 million.[193] Canada also claimed that Quebec, accounting for 10.9 percent of U.S. softwood lumber imports from Canada in 1990, had implemented policies that were costing the industry an added $52 million per year, compared with $45 million in 1987.[194] Further, Canada maintained, the rate imposed on Alberta softwood lumber producers was still the full 15 percent export charge, despite increased costs to the industry.[195]

Canada's second reason for termination was its claim that there was no subsidy to Canadian lumber producers in place.[196] Canada claimed that the Provincial forest revenues exceeded Provincial forest costs. This conclusion was reached after Canada applied a U.S. program, the Timber Sales Program Information Reporting System (TSPIRS), to the forestry accounts of British Columbia, Alberta, Ontario, and Quebec, the four major Canadian softwood lumber producers.[197]

Finally, Canada stated that the Canadian share of the U.S. softwood market was decreasing.[198] Canada's share of the U.S. market peaked at 32.8 percent in 1985. By the first quarter of 1991 it had declined to 26.1 percent. This drop could be attributed at least partially to the increase in the value of the Canadian dollar and, according to Canada, to the increase in stumpage fees, which drove up log costs.[199]

Termination of the agreement caused a predictable uproar. The U.S. Department of Commerce (Commerce) self-initiated a countervailing-duty investigation under title VII of the Tariff Act of 1930[200] and, in an effort to preserve the status quo, USTR, pursuant to an investigation initiated under section 302 of the Trade Act of 1974, directed U.S. Customs on October 4 to withhold liquidation and collect a bond on entries of Canadian softwood lumber.[201] The amount of the bond corresponded with the export charge previously collected by Canada for each Province—which meant that British Columbia, the largest Provincial exporter of lumber, was exempt from the bond requirement, as the export charge under the MOU had been eliminated following the enactment of qualifying replacement measures.[202] The Canadian Government complained to the GATT Committee on Subsidies and Countervailing Measures in October 1991, and a trade dispute panel was formed in December to examine the issue.

On December 12, 1991, the U.S. International Trade Commission made a preliminary decision that there was a reasonable indication that Canada's allegedly subsidized softwood lumber imports were causing material injury to domestic lumber producers.[203] Commerce continued to investigate the question of whether Provincial stumpage regimens and log export restrictions constituted countervailable subsidies under U.S. law.[204]

Beer

Although it required that trade barriers to most products traded between the United States and Canada be reduced, the CFTA expressly exempted the brewing industry from such requirements. Existing practices governing the internal sale and distribution of beer were recognized, thus preserving the State and Provincial controls that were in place at the time the agreement was signed. The CFTA did, however, commit both sides to refraining from introducing any further discriminatory practices.

In 1991, procedures involving the sale of beer became the focus of intense bilateral disputes,[205] resulting from claims on each side that imports of beer (and in the United States, wine) were discriminated against by State and Provincial restrictions. Many of the Canadian Provincial practices were determined to be inconsistent with the GATT in 1988, following a complaint brought by the EC.

U.S. claims about Canadian beer

Canadian breweries supply about 1 percent of the U.S. beer market, or $190 million in imports. U.S. breweries sell $30 million in Canada, which gives them a 3-percent share of the Canadian market. In Canada, Provincial liquor boards have exclusive control over the listing, distribution, pricing, and sale of all alcoholic beverages. The procedures and requirements vary from Province to Province. In addition, Provincial boards determine whether imported wines and beer may be sold in outlets other than Provincially controlled government liquor stores.

"Listing" is the process whereby a particular alcoholic beverage product is made available for purchase through a Provincially approved outlet. Provincial boards require U.S. producers (and Canadian producers from other Provinces) to apply for a separate listing for every product sold in the Province. For example, a manufacturer that brews four different brands of beer must receive a different listing for each brand, as well as a separate listing for each type of container in which the beers are sold. Further, the locations where foreign beer may be sold are controlled by the liquor control boards. Although most Canadian beers are sold through private retail outlets, the sale of imported beer is generally restricted to Government-owned stores.

In 1990 these restrictive practices were augmented by new pricing and sale policies in the Provinces of Ontario and Saskatchewan. First, in September 1990, the Liquor Control Board of Ontario instituted a new policy that established minimum prices below which it would not buy beer. Then, in October 1990, Saskatchewan removed the last prohibition on the sale of U.S. beers at the Provincial level. Only four U.S. brands were allowed, however, and they had to be priced within a specific range. Although the Saskatchewan markup on U.S. beer was the same as for domestic products, U.S. beer was subject to an additional surcharge of more than $3.50 per dozen to cover storage and shipping.

The United States maintained that a policy such as Ontario's could prevent certain U.S. brands from competing on the basis of price in the Province's market. As a result of these ongoing concerns, and in response to a complaint from U.S. breweries (G. Heileman Brewing Co. and Stroh Brewery Co.),[206] USTR initiated a section 301 investigation in June 1990.[207] The United States maintained that Canadian Provincial liquor boards discriminated against U.S. beer in regard to listing, distribution, and pricing.

Because existing beer distribution restrictions were grandfathered into the CFTA, USTR declined to pursue the U.S. industry's complaint through the bilateral pact's dispute-settlement mechanism. Instead the matter was pursued in the GATT through its normal dispute-settlement process, with bilateral consultations. A panel was formed in February 1991 and its report, circulated to the contracting parties in October 1991, called for an end to discriminatory pricing practices against U.S. beer, as well as for the termination of other unfair practices. The panel report was first presented to the contracting parties for adoption in December 1991.[208]

In that month the United States announced its intent to impose, under authority of section 301, additional duties on Canadian beer if the actions that had been found inconsistent with the GATT were not adequately addressed. A deadline of April 10, 1992, was given for the U.S. retaliatory action.[209]

Canadian claims about U.S. beer

While the United States was pursuing the matter of unfair trade practices by Canadian Provincial liquor boards in the GATT, the Canadian Government initiated an antidumping investigation against imports by Heileman, Stroh, and the Pabst Brewing Cos. in March 1991. The Canadian case was initiated by a complaint jointly filed by Labatt Breweries, Molson Breweries, and Pacific Brewing Cos. These three companies account for about 98 percent of the beer produced in the Province of British Columbia and had seen the market share of the three U.S. producers increase from 6.8 to 9.2 percent in the Province since 1988. The U.S. industry alleged that Canadian breweries were unable to be cost-competitive because of internal barriers that restrict the shipment of beer across Provincial borders. The Canadian Bureau of Competition Policy (CBCP) entered into the case, arguing before the Canadian International Trade Tribunal (CITT) that the imposition of antidumping duties would not be in the public interest because it would impede competition with U.S. brewers. The CBCP further maintained that such competition would allow Canadian breweries to lower prices and be more competitive. The CITT found injury or likelihood thereof in October 1991, and antidumping duties of approximately 30 percent on beer from the United States were imposed.[210]

Another Canadian complaint concerned the special tax treatment accorded certain U.S. beer producers. The U.S. Federal excise tax on beer provides for reduced tax treatment on beers made by U.S. producers, with no comparable treatment for foreign competitors.[211] Canada maintained that the tax treatment discriminates against small Canadian producers. In February 1991 the Canadians, citing their problems not only with the excise tax but with State regulations and practices affecting beer and wine distribution and sale as well, called for GATT consultations. The Government of Canada had compiled a list of State practices that it considered to be discriminatory in the treatment of Canadian beer.[212] In May 1991 the United States agreed to the formation of a panel in the GATT to examine the Canadian complaints. The Canadian request for a panel review of its complaints was supported by Australia, the EC, New Zealand, and Venezuela, all of which export beer to the United States.[213]

Pork

In July 1989 the International Trade Administration (ITA) of the Department of Commerce (Commerce) determined that producers and exporters in Canada of fresh, chilled, or frozen pork were being provided benefits that constitute subsidies within the meaning of the countervailing-duty law. In September 1989 the U.S. International Trade Commission (Commission) determined that the U.S. industry was threatened with material injury by reason of imports of subsidized fresh, chilled, or frozen pork from Canada.[214] Among the issues that the agencies addressed in the investigation were (1) the extent to which a subsidy to a primary product may be passed along in the production process; and (2) whether the domestic industry subject to investigation consisted of only pork producers (i.e., packers and processors), or both producers and live swine growers. Both determinations were challenged under article 1904 of the CFTA.

The Commerce and Commission determinations on pork from Canada were reviewed by separate binational panels. By the end of 1990 the panel reviewing the Commerce decision had affirmed in part a determination of the ITA that it had properly applied U.S. law in attributing subsidies to swine producers as subsidies to pork producers. The panel, however, remanded the case to the ITA to reconsider whether some of the Canadian subsidy programs were appropriately included as part of the countervailing determination.[215]

In August 1990, after a statistical discrepancy was discovered in the data on which at least part of the Commission's determination was based, the panel reviewing the Commission's determination remanded that determination to the Commission.[216] After making the correction, which resulted in a change to the data on Canadian pork production, and receiving additional information, the Commission reanalyzed the evidence and reaffirmed its prior determination.[217]

The Commission's remand determination was again appealed to the same binational panel. The panel again remanded the case to the Commission in January 1991.[218] Phrased in unusually blunt language, the panel's second remand determined that "the ITC's failure to follow its own notice was an error of law and that the majority Commissioners' findings of a threat of imminent material injury are not supported by substantial evidence."[219] The Commission was given 3 weeks to report back to the binational panel. It did so on February 12, 1991, when it unanimously determined that there was no injury or threat thereof to a domestic industry in the United States. In its majority opinion the Commission asserted that—

> notwithstanding this determination, this Second Panel Decision violates fundamental principles of the United States-Canada Free-Trade Agreement and contains egregious errors under U.S. law. Had this decision come from the Court of International Trade . . . we would have directed counsel to appeal it to the Court of Appeals for the Federal Circuit . . . thus, we will not change our practice or procedure to conform with [certain] aspects of the Panel opinion.[220]
>
> We disagree with what we consider to be the Panel's faulty disposition of the appeal in this investigation. However, because we are bound by the Panel's determination that there is no substantial evidence of any likelihood of product shifting, or of causation, we determine that a domestic industry is not materially injured . . . .Due, however, to the number of legal errors and violations of the FTA contained in the Panel's Second Remand Decision, we will not, in future investigations, regard as persuasive or follow the procedural or substantive decisions contained in this Decision.[221]

On March 29, 1991, the United States requested the first extraordinary challenge under the CFTA.[222] An extraordinary-challenge committee of three judges (two Canadians and one American) heard the case, and on June 14, 1991, dismissed the U.S. request on the grounds that the standards for an extraordinary challenge had not been met. The effect of the committee's opinion was to eliminate any duties on Canadian fresh, chilled, or frozen pork entering the United States.

Another dispute evolved later, in October 1991, when Commerce increased duties on imports of live Canadian hogs by more than 200 percent. The charge per animal under this new duty averaged $18. It was the second increase since the beginning of the year, when Canadian farmers paid approximately $5 per hog. The duties were imposed on the basis of 1989 and 1990 Canadian farm support that the U.S. claimed was countervailable.[223] In October the Canadian pork industry requested binational panel review of the new countervailing duties imposed by the United States.[224]

While the Commerce and Commission determinations were being reviewed under the terms of the FTA, a related consultation was being pursued multilaterally under the GATT Subsidies Code. Canada had challenged the original Commerce determination finding countervailable subsidies provided to Canadian pork producers.[225] The central issue in the GATT proceeding was the pass-through of a benefit from one level of production to another. Commerce had found that Canadian pork producers benefited because of subsidies paid to swine farmers at the primary production level in Canada. A GATT panel was formed, and it subsequently found that the U.S. countervailing duties on pork from Canada were being levied in a manner that was inconsistent with GATT rules.[226]

Japan

Merchandise Trade With the United States

The U.S. merchandise trade deficit with Japan rose to $44.3 billion in 1991, up by 4 percent from $42.7 billion in 1990. The value of imports from Japan increased by 2 percent, from $88.8 billion in 1990 to $90.5 billion in 1991 (table 13). Imports of manufactured goods (SITC sections 5, 6, 7, and 8) totaled $88.5 billion and accounted for 98 percent of U.S. imports (figure 6). The largest category of manufactured imports was passenger motor vehicles with engines of between 1,500 cc and 3,000 cc. The value of these imports fell from $19.4 billion in 1990 to $18.9 billion in 1991, marking the 3d straight year of decline. This decline was primarily a result of falling demand in the United States and increased production of Japanese automobiles at transplants in the United States. Nonetheless, the category continued to account for 21 percent of total manufactured imports from Japan. (See table A-10.)

Strong demand for Japanese computer and computer-related products persisted in the United States. The second-largest category of imports from Japan was automatic data-processing machines, with or without input/output units ($3.6 billion). The fourth-largest category was parts and accessories for automatic data-processing machines ($2.6 billion). The fifth-largest category was digital monolithic electronic integrated circuits ($2.5 billion), and the sixth-largest category was storage units of automatic data-processing machines ($2.4 billion). Imports of television cameras increased in value from $1.9 billion in 1990 to $2.2 billion in 1991. Other product categories that exhibited increases included parts and accessories for photocopiers (20 percent) and sound-reproducing apparatus (17 percent).

Imports of U.S. passenger motor vehicles with engines of 3,000 cc and over, the third-largest import category, increased in value from $2.0 billion in 1990 to $3.3 billion in 1991, or by 65 percent. The increase was primarily attributed to a rise in U.S. imports of luxury automobiles, such as the Toyota Lexus and the Nissan Infinity. The value of U.S. imports of passenger motor vehicles with engines of between 1,000 cc and 1,500 cc increased from $1.4 billion in 1990 to $1.7 billion in 1991, or by 23 percent. Imports of auto parts declined by 11 percent, to $1.2 billion in 1991, reflecting a decline in purchases by U.S. auto producers and an increase of sales by Japanese auto parts producers in the United States to Japanese transplants. Imports of video recorders, video games, and telegraphic apparatus (telecommunications equipment) continued to decline in 1991 as lower priced products from the Far East continued to replace Japanese imports.

Total U.S exports to Japan remained at roughly $46.1 billion during both 1990 and 1991. U.S. exports of manufactured goods (SITC sections 5, 6, 7, and 8) reached $28.6 billion, or 62 percent of total U.S. exports to Japan during 1991, compared with $27.8 billion in 1990. The leading U.S. export to Japan in 1991 was airplanes. The value of airplane exports decreased from $2.1 billion in 1990 to $1.9 billion in 1991, however, reflecting the downturn in worldwide deliveries of aircraft and a decline in passenger traffic. The second-largest export category was corn, which decreased by 8 percent, from $1.6 billion in 1990 to $1.5 billion in 1991. Other categories exhibiting declines included coniferous wood in the rough (16 percent), parts of airplanes or helicopters (8 percent), boneless frozen beef (20 percent), bituminous coal (10 percent), coniferous wood sawn or chipped lengthwise (2 percent), cotton (17 percent), passenger motor vehicles with engines between 1,500 cc and 3,000 cc (7 percent), and parts of turbojets or turbopropellers (3 percent). Leading U.S. exports to Japan that showed increases in 1991 were parts and accessories for digital processing units (1 percent), cigarettes (3 percent), digital processing units

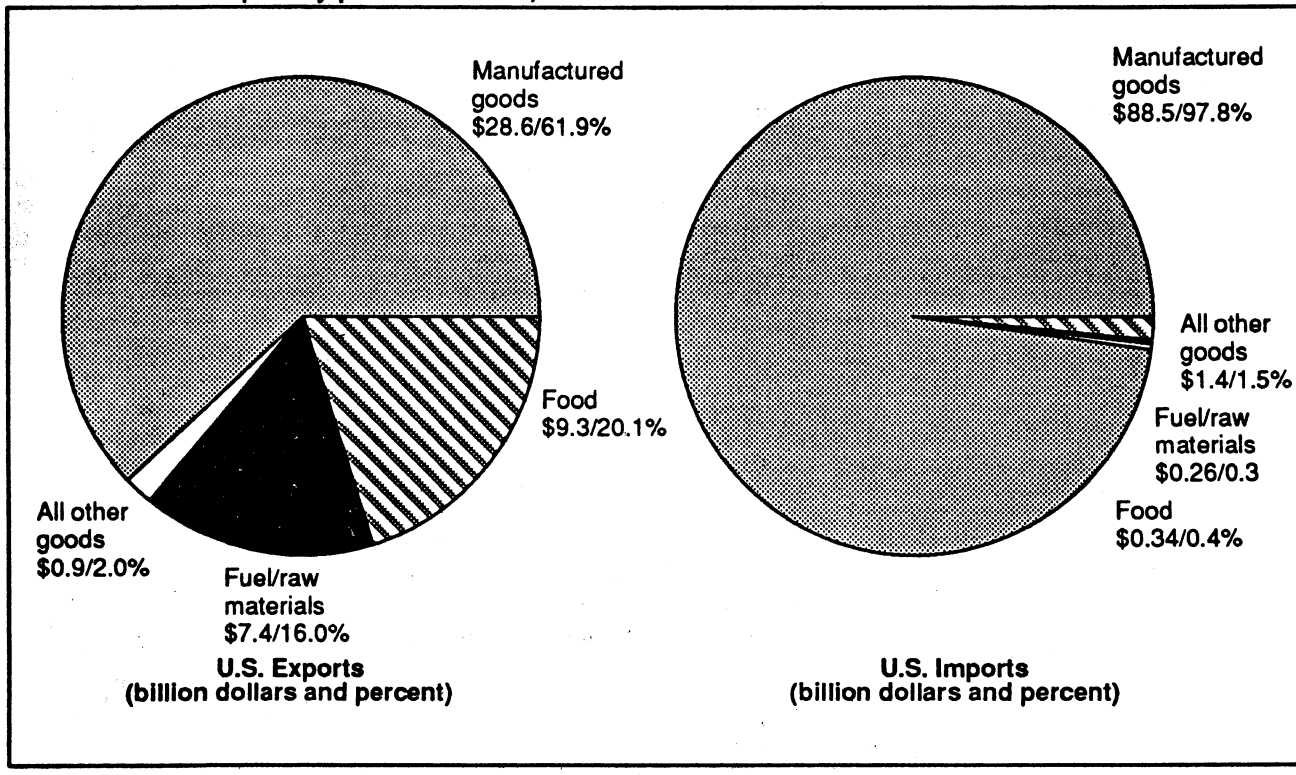
Table 13
U.S. merchandise trade with Japan, by SITC Nos. (Revision 3), 1989-91

(Thousands of dollars)

SITC section no.	Description	1989	1990	1991
			U.S. exports	
0	Food and live animals	7,283,424	7,323,076	7,408,330
1	Beverages and tobacco	1,387,231	1,839,113	1,797,777
2	Crude materials, inedible, except fuels	7,232,707	6,877,590	6,076,825
3	Mineral fuels, lubricants and related materials	1,509,649	1,454,548	1,305,916
4	Animal and vegetable oils, fats and waxes	67,535	67,854	72,817
5	Chemicals and related products, n.e.s.	4,663,893	4,581,762	5,046,500
6	Manufactured goods classified chiefly by material	3,712,407	3,725,479	4,004,656
7	Machinery and transport equipment	11,460,290	14,301,567	14,312,851
8	Miscellaneous manufactured articles	4,782,880	5,184,408	5,199,331
9	Commodities & transact not class elsewhere in SITC	664,256	783,039	919,065
	Total all commodities	42,764,273	46,138,436	46,144,069
			U.S. imports	
0	Food and live animals	301,713	303,088	287,884
1	Beverages and tobacco	29,951	31,904	31,552
2	Crude materials, inedible, except fuels	180,485	165,006	163,823
3	Mineral fuels, lubricants and related materials	140,359	89,489	94,685
4	Animal and vegetable oils, fats and waxes	17,875	19,185	20,277
5	Chemicals and related products, n.e.s.	2,367,382	2,387,213	2,738,844
6	Manufactured goods classified chiefly by material	7,160,446	6,599,900	6,362,098
7	Machinery and transport equipment	72,045,273	68,733,657	70,410,725
8	Miscellaneous manufactured articles	8,542,897	9,144,734	8,991,581
9	Commodities & transact not class elsewhere in SITC	1,055,385	1,360,103	1,367,352
	Total all commodities	91,841,766	88,834,279	90,468,823

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

Figure 6
U.S. trade with Japan by product sector, 1991



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

Note.—Because of rounding, figures may not add up to 100 percent.

(5 percent), soybeans (6 percent), enriched uranium (14 percent), frozen crabs (18 percent), and unwrought aluminum (22 percent). Table A-9 lists leading U.S. exports to Japan in 1991.

Major Policy Developments Affecting Trade

The Government of Japan has initiated a number of import-promotion programs in recent years, including six market-opening packages (since 1982) and a 1990 plan to offer tax credits to manufacturers if they increase their imports by 10 percent. In November 1991 the Ministry of International Trade and Industry (MITI) asked 17 trade associations and business groups to support its new Business Initiative for Global Partnership by having companies draw up plans to increase purchases of imported products and inputs and to increase local procurement by Japanese subsidiaries abroad. By year's end 88 companies and 22 industrial associations had agreed to participate in the initiative. Among the participants were 23 Japanese companies in the electronics, auto, and machinery industries, which planned to increase imports by about $10 billion in Japanese fiscal year (JFY) 1993.[227] Japanese officials indicated that it would be several years before the program could be expected to have any impact on imports.

U.S.-Japanese Bilateral Trade Issues

In general, U.S.-Japanese trade issues took second place in 1991 to the U.S. Government's preoccupation with the depressed economy and U.S. negotiators' emphasis on the Uruguay Round and NAFTA negotiations. However, pressures were placed on the bilateral relationship at two levels. At one level, perennial discussions on bilateral market-access issues continued to occupy negotiators' time and both countries' attention. The United States raised new sectoral issues with Japan (paper and computers) and engaged in discussions on old ones (semiconductors, automobiles and auto parts, construction services, and agriculture issues). During the first half of the year, agreements were reached on extending the 1986 semiconductor pact, expanding the major projects (construction services) agreement, and improving access to Japan's market for computers and auto parts.

On another level, broader policy questions relating to the functioning of the two economies and corporate behavior in both countries--and the role of each country in global economic and security affairs--became increasingly prevalent. Discussions with Japan on so-called structural issues continued under the rubric of the Structural Impediments Initiative (SII). However, there were also signs of tensions associated with changes in the relative positions of the United States and Japan in the global economy.

In July it became apparent that the bilateral deficit with Japan was widening. Concerns over the growing deficit were translated into action by policymakers in the fall. In November U.S. Representatives Gephardt and Levin introduced legislation that would extend and strengthen the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988, calling for "reciprocity" and trade sanctions for countries, such as Japan, with which the United States runs persistently high deficits.[228] By the end of 1991 election year concerns in the United States were beginning to spill over into the bilateral relationship. On December 4 President Bush invited high-level executives from 15 U.S. companies, including the heads of the Big Three U.S. auto firms (Ford, Chrysler, and General Motors), to accompany him on a "trade mission" to pressure Japan to open its market to foreign products. The trip, to Japan and Southeast Asia, had originally been scheduled for the fall of 1991 as a "goodwill tour" to help shore up U.S. relations in the region. For its part, Japan had hoped that the first state visit by President Bush would signify a new era of global partnership between the United States and Japan. Shortly thereafter, mounting calls for President Bush to devote more attention to the domestic economy led to the postponement of his visit. General Motors' announcement of large layoffs and plant closings in mid-December created further pressures on the President to raise the auto issue in Tokyo. By January 1992, when the President embarked on his trip, it was being billed as a mission to secure jobs for Americans. Although the White House released a list of economic accomplishments after the trip, there was some criticism regarding the President's choice of industry representatives (many observers believed that different industries should have been selected) and skepticism regarding whether Japanese "commitments" would eventually be turned into "sales."

Autos and Parts

The principal sectoral issue facing the United States and Japan during the year 1991 was the U.S. deficit in autos and parts, which reached $27.8 billion during 1991.[229] Imports of passenger vehicles totaled 1.8 million units, or $20.6 billion; imports of auto parts from Japan totaled $7.2 billion. Japanese automobiles accounted for almost 30 percent of the U.S. passenger car market in 1991.[230]

During 1991 two major issues garnered the attention of policymakers and the auto industry: low levels of U.S. sales of autos and parts in Japan and sales of parts to Japanese original equipment manufacturers (OEMs) in the United States.

U.S. sales of vehicles and parts in Japan

Total new registrations of cars in Japan increased from 42.9 million vehicles as of March 31, 1984, to 55 million vehicles[231] as of March 31, 1990. However, U.S.-made automobiles accounted for only 0.5 percent of the 5.1 million new vehicle registrations during 1990. Imports from all sources accounted for only 3 percent of Japan's market in 1990.[232] Several reasons were suggested to explain the United States' relatively lackluster sales performance. The Japanese claimed that U.S. producers failed to make high-quality products tailored to the Japanese market, that they had not made a serious commitment to the market (they had established no design centers and only a few dealerships in Japan),[233] and that in general their products simply did not "measure up" to Japanese products. The U.S. industry countered by saying that it had improved the quality and competitiveness of its products, that Japanese auto dealers refused to handle its products, and that Japanese business practices and consumer attitudes made it difficult to sell in Japan. In 1990 U.S. automotive parts suppliers accounted for less than 1 percent of Japan's $102 billion auto parts market.[234] Access to Japan's market for OEM auto parts has been the subject of bilateral discussions since the market-oriented sector selective (MOSS) talks on auto parts began in August 1986. The principal goal of the MOSS talks has been to give U.S. parts makers the opportunity to develop long-term design, engineering, and supply relationships between the U.S. auto parts suppliers and Japanese OEMs.[235] One of the major problems identified by U.S. industry and policymakers in selling parts to Japan was the lack of opportunity to participate in the design and engineering phase of new components (design-in process), including insufficient information and time to bid.[236]

U.S. parts and equipment sales to Japanese transplants in the United States

As of May 1991 Japanese investments in auto facilities in the United States totaled $6.2 billion. These facilities, known as transplants, will have the capacity to produce 2.1 million automobiles and light trucks by the end of 1992.[237] The U.S. auto parts industry expressed concerns about increasing numbers of Japanese parts suppliers moving to the United States and the low levels of procurement of parts from U.S. suppliers by Japanese-owned automaking facilities.[238] Japanese parts suppliers have followed the Japanese-owned automobile manufacturers to the United States.

The majority of Japanese investments in the auto and auto parts industries are characterized by keiretsu, or other close relationships between producers and suppliers. The term keiretsu is generally used to describe corporate groupings in Japan whose ties among member firms are reinforced through friendly cross-shareholding, exchange of personnel, interlocking directorates, intrafirm financial relations, and historical ties. However, keiretsu may exhibit different characteristics or structures. In this discussion keiretsu is used to refer to kigyo keiretsu (intramarket or industrial keiretsu), which are organized around an independent company and its subsidiaries and affiliates. Toyota Motor Corp., for example, owns 22.2 percent in Nippondenso, one of its leading parts suppliers. Nippondenso itself has relations with approximately 65 other lower tier suppliers. The U.S. auto industry has criticized these relationships for resulting in "implicit business contracts that preclude substantive procurement from new, 'outside' suppliers."[239] Japanese-owned automaking facilities claimed that they had tried to increase their purchases of U.S. automotive parts but were unable to find reliable suppliers in the United States or suppliers willing to meet their specifications for high-quality parts.[240] The advantages and disadvantages of keiretsu in the United States, including the possible anticompetitive effects of such groupings, were the subject of studies conducted by the U.S. Department of Justice, the Federal Trade Commission, and the General Accounting Office during 1991.

Developments

During 1991 the U.S. auto industry and some Representatives in Congress increased pressures on Japanese auto producers by filing a petition with the U.S. International Trade Commission alleging dumping of minivans,[241] holding several congressional hearings on auto-related issues, and introducing trade-reciprocity legislation. High-level U.S. officials raised the auto issue with Japanese Government representatives at almost every opportunity throughout the year.

In April 1991 the University of Michigan released a study[242] commissioned by the Auto Parts Advisory Committee (APAC).[243] The study predicted that the U.S. deficit in automotive parts with Japan could reach $22 billion during 1994, and that half of all U.S. automotive parts suppliers would go out of business by the end of the 1990s unless action were taken to curtail discriminatory Japanese procurement practices. At the same time, the APAC recommended that the administration self-initiate a section 301 investigation of Japanese automotive parts procurement practices in the United States.[244]

On June 27 a joint study by the Department of Commerce and Japan's MITI indicated that of 68 uninstalled aftermarket parts surveyed, 87 percent were priced higher in Japan than in the United States, and that of 65 installed parts surveyed, 80 percent were priced higher in Japan than the same or comparable U.S. parts.[245] Also in June U.S. Customs announced an audit of Honda Manufacturing's operations in Canada to investigate whether Honda had complied with the 50-percent North American content requirement under the U.S.-Canada Free-Trade Agreement. Customs began investigating whether Honda should have paid duties on vehicles produced at its facility in Allison, Ontario. A preliminary version of the audit showed that Honda automobiles contained only 36 percent North American content.[246]

Followup MOSS talks were held in Tokyo from July 23 to 24, at which time Japan agreed to add the issue of how to increase U.S. sales of automobiles in Japan to the MOSS agenda. The two countries agreed to conduct research on distribution of automobiles in Japan and Japanese safety and inspection requirements. The scope of the studies was to be further defined at meetings in September.

During high-level talks in mid-September, the two countries further agreed to conduct joint studies on auto-related issues. The studies were to address three major areas: (1) costs resulting from homologation/certification processes (environmental guidelines and standards and certification procedures), (2) business practices associated with distribution of auto parts in Japan, and (3) case studies of the experiences of Japanese, U.S., and European auto firms in entering Japan's market.[247] That month Toyota became the first major Japanese manufacturer to publish a compliance manual (implementation procedures) under new guidelines issued by the Japan Fair Trade Commission (JFTC) covering reciprocal, exclusionary, discriminatory, price restrictive, or cartelized practices.[248]

At the Tokyo Motor Show in October, Under Secretary of Commerce J. Michael Farren told representatives of the Government of Japan that the United States was looking for improvements in the trade imbalance. Leading U.S. manufacturers renewed their calls for a fixed ceiling on Japan's overall share of the U.S. auto market, including production from Japanese transplants unless the bilateral trade imbalance in this sector could be lowered.[249] Then, in November, Secretary of State James Baker asked Prime Minister Miyazawa to address the issue of the trade imbalance in automobiles and parts. Shortly thereafter, Japan's five largest auto producers announced that they would increase their purchases of U.S.-made auto parts to $17.2 billion by JFY 1994. Japanese firms claimed that the share of domestically made parts (parts made both by traditional U.S. suppliers and by Japanese suppliers in the United States) in vehicles produced in the United States would rise from 50 to 70 percent.[250] Toyota, Nissan, and Mitsubishi also announced plans to allow their dealers to handle brands of automobiles other than their own.

The President arrived in Tokyo on January 8, 1992, with the chief executive officers of the Big Three for a summit meeting with Prime Minister Miyazawa. Following 2 days of intense working-level meetings in Tokyo in conjunction with the summit, Japan announced that it would increase its purchases of U.S. auto parts from a level of $9 billion during JFY 1990 to $19 billion by JFY 1994. About $15 billion of the total $19 billion procurement would result from procurement of U.S. parts by Japanese auto firms in the United States, assuming a 50-percent increase in production by Japanese transplants in the United States.[251] This target could be met through purchases from Japanese-owned parts suppliers in the United States. Japanese imports of U.S.-made parts and vehicles would be expected to increase from $2 to $4 billion.[252]

Immediately following the announcement of the import-promotion measures, the "voluntary commitments" by Japanese auto producers were criticized by the U.S. auto industry executives themselves, Government officials, and analysts. Critics charged that if fulfillment of previous "action plans" was any indication, the new promises by Japan were unlikely to result in substantial improvement in the bilateral trade deficit. The import program was also seen as unlikely to address other fundamental factors that contribute to the U.S. trade deficit and affect U.S. auto industry competitiveness such as the U.S. budget deficit, relatively low savings rates, U.S. corporate emphasis on short-term profits, and lower levels of spending on research and development. Within a short time, disagreement between the two countries emerged over whether the Japanese auto companies' import goals were considered by the Japanese to be "targets" and not "commitments," as the U.S. auto industry believed.[253]

Agriculture

Japan is the largest single market for U.S. agricultural exports. During 1991 U.S. exports of agricultural products to Japan totaled $7.7 billion. The leading U.S. exports of agricultural products to Japan during 1991 included corn, soybeans, beef, cotton, and wheat. Japan has reduced tariffs, eliminated quotas, and lowered producer support prices for many items in recent years. However, the Government continues to maintain direct or indirect controls over the import and distribution of corn, barley, wheat, rice, dairy starches, and many other products.[254]

Other agricultural topics that were a focus of bilateral discussion in 1991 were Japan's high tariffs on sugar confectionery, fruit juice, various dairy products, corn grits, potato flakes, bakery products, and numerous other items.[255] The United States continued to push for reform of Japanese policies toward feed grains, pork, dairy products, and apples. The United States also sought improved access for tomato paste and puree, embryos, pulses, peanuts, bumped rice, and corn for industrial use.[256]

Rice

During 1991 Japan's virtual ban on imported rice once again came under scrutiny during the Uruguay Round negotiations. Only a negligible amount (15,000 tons) of imported rice is permitted, for use in liquor processing or for mixing with other ingredients for pilaf, rice flour mixes, and crackers.[257] The potential market for U.S. exports of rice to Japan has been estimated at $656 million. The U.S. Rice Millers' Association has previously challenged Japan's policies toward rice through the filing of two section 301 petitions, in 1986 and 1988. The petitions were subsequently rejected on the grounds that the Uruguay Round was the appropriate forum for seeking access.[258]

Although some members of Japan's Liberal Democratic Party (LDP) leadership reportedly accepted a partial opening of Japan's rice market to imports in principle,[259] Japan's Government agencies remained divided in their views on lifting Japan's rice ban. They also maintained differing views on accepting the tariffication proposal put forth in the Uruguay Round negotiations, under which existing quantitative restrictions would be translated into tariffs. The Ministry of Foreign Affairs supported liberalization; the Ministry of Agriculture, Forestry, and Fisheries opposed it.[260] During 1991 the leaders of two Japanese organizations, representing primarily big businesses (Keidanren and the Japan Chamber of Commerce and Industry), announced their support for the partial opening of Japan's rice market, but both opposed the U.S. tariffication proposal.

On March 13 bilateral tensions over rice escalated when, acting on a legal complaint filed by a Japanese rice farmers' organization, the Ministry of Agriculture demanded the removal of samples of uncooked U.S. rice that were on display at the Tokyo Trade Fair. The Japanese rice farmers claimed that the samples were a violation of Japan's Food Control Law, which bans rice imports for commercial purposes. U.S. Embassy officials intervened in the dispute and refused to remove the rice until after the trade fair closed, saying that the rice was being displayed for informational purposes.

In April 1991 at a summit meeting with then Prime Minister Kaifu in Newport Beach, California, and again at another meeting in July at Kennebunkport, Maine, President Bush encouraged Japan to open its rice market to contribute to the successful conclusion of the Uruguay Round. Prime Minister Kaifu restated his Government's official position that the issue must be resolved within the context of a comprehensive Uruguay Round agreement. The Government of Japan had indicated in the past that it would make concessions only if the United States and the European Community were willing to make significant cuts in export subsidies. In early November 1991 Japan was reportedly willing to offer a one-time-only opening of about 3 percent of the market but continued to reject the U.S. tariffication proposal during negotiations in the GATT.[261] During a visit to Tokyo in mid-November, USTR Carla Hills indicated that a partial opening of Japan's rice market would be unacceptable, and that it was necessary for rice to be included in any GATT tariffication settlement.[262] Late in November the OECD released a report indicating that Japanese support for agricultural liberalization was essential for the successful outcome of the Uruguay Round.[263] Nonetheless, Japan reportedly hoped to receive some type of exemption for the tariffication proposal for rice.[264] The December Dunkel draft, however, did not contain any such exemption. (For a discussion of the Dunkel draft language on agriculture, see chapter 1, "Uruguay Round Negotiations in 1991" section.) In late December Prime Minister Miyazawa restated Japan's opposition to removing its ban on rice.

Beef

On April 1, 1991, Japan lifted its import quotas on beef and raised the tariff rate on imported beef from 25 to 70 percent in accordance with its commitments under the 1988 U.S.-Japan Beef and Citrus Agreement.[265] The role of the Livestock Industry Promotion Council (LIPC) in handling import-quota allocations was eliminated, and the surcharges to quota holders were removed. However, the LIPC continued to maintain a role in domestic price stabilization and in promoting domestic livestock.[266]

Prior to lifting the import quota, Japanese beef producers began buying ranches and feedlots in the United States and Australia. Japanese supermarkets also began importing their own brands of beef from the United States and Australia. U.S. beef producers hoped to capitalize on the trade concessions and projected increased beef consumption in Japan. One factor favoring Japanese beef producers, however, was the Japanese consumer preference for wagyu or Kobe beef, a marbled beef containing two to three times more fat than U.S. prime beef.

Following the elimination of the quota on imported beef, U.S. beef imports in Japan rose by 9.6 percent during the month of April. Prices initially fell because of high inventories of beef in Japanese warehouses and lower beef consumption.[267] For example, the price of frozen U.S. tenderloin fell from $9.23 per pound to $6.59 per pound by July. The number of licensed importers increased from 37 companies to 80 companies, and Japanese importers complained of lower profit margins.[268] By the end of the year, however, prices for imported beef remained generally higher because of the 70-percent import tariff. U.S. beef exporters reportedly continue to face difficulties in competing with established Japanese beef traders and in getting access to distribution networks.[269]

Citrus

On April 1, 1991, Japan removed its quotas on imports of oranges in accordance with provisions of the 1988 agreement on beef and citrus.[270] However, the United States continued to request that Japan lower its high seasonal tariffs on fresh oranges (40 percent in season and 20 percent out of season). U.S. exports of orange juice, from Florida in particular, increased from $4.7 million in 1987 to $27.3 million in 1991.[271]

Supercomputers and Computers

The U.S. Government continued to monitor implementation of a June 1990 agreement that established procedures for government procurement of supercomputers in Japan.[272] The new procedures were intended to ensure that the procurement process for supercomputers by Japanese Government entities would be transparent and nondiscriminatory. By the end of 1991 three of eight public-sector awards for foreign supercomputers had been given to U.S. firms.

Japan's market for Government procurement of computers was estimated at $9 billion in 1990.[273] U.S. companies reportedly accounted for only 6 percent of Japan's mainframe computer market for the public sector (0.4 percent at the national level) but accounted for 41 percent of private-sector purchases of the same equipment.[274] On January 26, during bilateral talks, the United States cited several factors that contribute to low levels of Japanese Government procurement of foreign computers:[275] nontransparent specification formulation process, absence of bid-protest procedures, high levels of single-source tendering, and other procedural problems. On April 26 public-sector computer procurement in Japan was included on the so-called watch list prepared by USTR and included in its report to Congress on implementation of the government procurement provisions of title VII of the Omnibus Trade and Competitiveness Act of 1988.[276] The report indicated that the United States was pursuing talks with Japan on allegations of sole-source procurement and prepublication disclosure of bid information to Japanese producers in public-sector computer procurement.

U.S. negotiators held two more rounds of negotiations with the Japanese on March 23 and July 26, 1991, each time addressing procedural problems related to government procurement practices. Two more sets of negotiations were held in December 1991.[277]

Semiconductors

On February 14, 1991, the United States and Japan began negotiations on a new bilateral semiconductor agreement to replace the existing 5-year agreement, which was set to expire on July 31, 1991. The 1986 agreement was intended to end dumping of Japanese semiconductors in the United States and third-country markets and to increase foreign market access in Japan.[278] The U.S. share of Japan's semiconductor market had, however, remained below the 20-percent market share expected by the United States under the 1986 agreement. By the end of 1990 some leading U.S. manufacturers and users had urged the administration to negotiate a new agreement. The foreign share of Japan's semiconductor market was 14.4 percent during the fourth quarter of 1991, according to U.S. Department of Commerce calculations.[279]

After seven rounds of negotiations, the United States and Japan reached a consensus on June 4, 1991, regarding the terms of a new semiconductor arrangement, which was finalized in an exchange of letters on June 11, 1991. The new agreement became effective in August 1991 for a period of 5 years (until July 31, 1996). At the end of 3 years, the United States and Japan are to review the agreement and decide whether to terminate it before it expires.[280]

The major issues that emerged during the negotiations leading to the 1991 pact were how to incorporate the market-access objectives of the existing agreement, how to revise the pricing provisions of the agreement, and what to do about the $165 million in retaliatory tariffs still being imposed by the United States on imports of certain Japanese electronics products.[281]

With regard to market access, the 1991 agreement states that the Government of Japan "recognizes that the U.S. semiconductor industry expects that the foreign market share will grow to more than 20 percent of the Japanese market by the end of 1992 and considers that this can be realized. The Government of Japan welcomes the realization of this expectation. The two Governments agree that the above statements constitute neither a guarantee, a ceiling nor a floor on the foreign market share."[282] Indications of potential future controversies regarding the issue arose immediately after the agreement was signed. Some analysts and industry officials praised the agreement for stating the 20-percent numerical goal publicly and held it up as a model for other agreements. Japanese officials, however, stated that they viewed the 20-percent figure as only an indication of expectations, not a guarantee of market share.

In return for Japan's promised efforts to increase foreign semiconductor purchases through the promotion of long-term relationships between Japanese purchasers and foreign producers, the United States agreed to a new mechanism for tracking prices of semiconductors. A fast-track antidumping mechanism that had been proposed by a consortium of semiconductor manufacturers and users was adopted. Japanese semiconductor producers will continue to maintain cost and pricing data but will not be required to report them to the U.S. Department of Commerce unless a dumping complaint is filed. The United States agreed to terminate the remaining $165 million in retaliatory tariffs against imports of laptop computers, power tools, and other electronics goods from Japan effective on August 1, 1991.[283]

U.S. and Japanese methods for calculating foreign market share in Japan have differed since the original agreement was signed. The U.S. method excludes shipments by IBM Japan and other captive sales[284] of U.S. firms to their Japanese subsidiaries, as well as semiconductors made by Japanese producers for sale under foreign producers' names in Japan (branded products). Japanese calculations have included these sales. Under the new agreement the two countries agreed to include both categories of semiconductors in calculating market share. Quarterly reviews are held with representatives of both Governments and industries to report the official market share. However, the U.S. Government recognizes only the U.S. method as the proper way of calculating market share.

Reaction to the new agreement was mixed. Representatives from the U.S. semiconductor and electronic equipment industries—the Semiconductor Industry Association (SIA) and the Electronics Industry Association (EIA)—praised the agreement and Japanese company efforts to promote "designing-in" of foreign semiconductors in Japanese products. The two groups announced a number of joint activities, such as the formation of a steering committee to monitor implementation of the agreement and promotional activities to encourage "design-ins." These activities are important in attempting to expand U.S. sales to some of Japan's largest semiconductor purchasers in the consumer and automotive electronics sectors. Managed-trade proponents inside and outside the U.S. Government criticized the pact as too vague in its market-share commitments; supporters of free trade and Japanese semiconductor producers were uneasy about the agreement's market-share goal provisions.

In a letter dated December 30, 1991, the SIA urged President Bush to convey to Prime Minister Miyazawa during the upcoming summit in January 1992 the need to comply with the conditions of the semiconductor agreement. SIA was particularly concerned that the "foreign share of Japan's market has again stagnated."[285]

Telecommunications

Since the MOSS talks in 1985 the United States and Japan have reached numerous agreements regarding U.S. access to Japan's telecommunications equipment and services market. The agreements have covered digital service units, network channel terminating equipment, and international value-added network services (IVANs).

During 1991 the United States reached two additional agreements to clarify an August 1990 agreement on IVANs.[286] On March 29, 1991, in announcing its review of telecommunications trade agreements under section 1377 of the Omnibus Trade and Competitiveness of 1988, USTR said that it was "concerned primarily with Japan's implementation of the 1990 agreement on IVANs dealing with 'joint use.'"[287] The United States was concerned about regulations issued in January that would have subjected all users to paperwork and reporting requirements that it saw as excessive. The new regulations were supposed to ensure that users were not reselling IVAN services illegally. Although USTR did not find Japan to be in violation of the 1990 IVAN agreement, the agency said that it would "review the situation in 30 days" and believed that U.S. concerns could be resolved through technical talks in the meantime.

On April 27 Japan's Ministry of Posts and Telecommunications agreed in principle to change some of its regulations regarding implementation of the

1990 IVAN agreement. As a result under the new agreement the amount of information that IVAN users would have to provide the Government of Japan would be reduced; "joint users" were defined to satisfy Japanese concerns about reselling of IVAN services; and a means was reached to settle disputes between foreign users and Kokusai Denshin Denwa (KDD), Japan's major international phone carrier. The new reporting requirements went into effect in June 1991. On June 25 an agreement was reached on procedures for investigating allegations of piracy of leased international circuits.[288]

Nippon Telegraph and Telephone

Nippon Telegraph and Telephone (NTT), which is the only company permitted to offer nationwide cellular telephone services in Japan, announced in 1991 that it would divest itself of its mobile communications business and set up a subsidiary that would be wholly owned by NTT for 5 years. NTT indicated that purchases of mobile telephones, pagers, and other equipment would not be subject to the procedures of the 1980 NTT Procurement Agreement, under which NTT agreed to open and competitive procurement procedures.[289] The United States reportedly believed that such action could adversely affect sales of mobile communications equipment by Motorola. In the administration's report to Congress on April 26 regarding implementation of the government procurement provisions of title VII of the Omnibus Trade and Competitiveness Act, "the scheduled removal of its [Japan's] mobile telecommunications procurement from the NTT Agreement" was cited as being of concern to the United States.[290]

In September 1991 an advisory panel recommended to the Government of Japan that foreigners be allowed to purchase up to 20 percent equity in NTT or KDD. (Foreigners are prohibited from buying NTT stock unless the stock resides with a Japanese agent.)[291]

Forest Products

During 1991 the United States and Japan continued to hold followup meetings on the 1990 U.S.-Japan Wood Products Agreement, which includes provisions for tariff cuts, reclassification of certain wood products, and the elimination of some nontariff measures.[292] During 1991 three meetings were held between committee members and representatives of the Governments of the United States and Canada to discuss various aspects of the agreement and to monitor progress on implementation.

A subcommittee of the Building Experts Committee (BEC) met in Tokyo from March 25 to 26 to discuss Japanese research on structural and fire-safety systems for wooden construction and proposed changes in Japanese building codes. At the conclusion of the meeting, all sides agreed that implementation of the U.S.-Japan Wood Products Agreement was on track.[293] A second meeting was held in Tokyo on June 19, 1991, by the Japan Agricultural Standard (JAS) Technical Committee. During this meeting the Japanese Ministry of Agriculture, Forestry, and Fisheries announced several modifications to existing standards as part of its efforts to boost imports of wood products.[294] Also discussed were JAS standards for softwood plywood, machine-stress-rated lumber, and glue-laminated beams and other products.

A third meeting was conducted in Tokyo on December 6, 1991. The U.S. delegation asserted that proposed changes in Japanese building codes contained prescriptive elements, contrary to the U.S.-Japan Wood Products Agreement. The United States was reportedly concerned that the proposed changes would place requirements on wood-frame construction that are not required for other types of construction and emphasized the need to treat wood-frame construction the same as concrete and steel construction in building standards law. The Japanese responded that the building codes in question would be revised by March 1992, and prescriptive elements relaxed or replaced with performance elements.[295]

Major Projects

In May 1988 the United States and Japan signed an agreement that allowed U.S. firms to compete on 17 major public, private, and third-sector projects in Japan, worth $23 billion over 10 years. The original major projects agreement included three different tracks of procedures or measures for bidding on projects.[296] On June 1, 1991, the United States and Japan concluded a further agreement[297] that will allow U.S. firms to bid on an additional 23 Japanese construction projects worth $26.7 billion.[298] Seventeen of the new projects, worth approximately $6.4 billion, had been approved for construction; another six would be open to U.S. participation if and when they are approved. The agreement came within hours of a May 31 deadline that had been set by USTR for avoiding sanctions. USTR had previously announced, on April 26, that it would bar Japanese contractors or subcontractors from Federal or Federally funded building and public-works procurement by certain government agencies "until Japan makes significant improvements in its procurement policies."[299]

The United States pressured Japan during 1991 to expand the 1988 Major Projects Agreement to include all construction projects, to add a new track of procedures to cover projects with a design component, and to take efforts to eliminate bid rigging in connection with awarding construction contracts. In response to U.S. demands, five of the projects are so-called "third-sector projects," which are managed by private-sector organizations but funded wholly or partially by the Government. Under the new agreement, the Government of Japan promised to take further steps to prevent bid rigging and to develop guidelines for improving the bidding process and access to information about future projects. A new procurement track for design-and-build contracts was added to the 1988 agreement. This track covers procurement of a combination of design and consulting services with the supply, manufacturing, or installation of goods. In addition, an independent Procurement Review Board was established to handle complaints by potential suppliers relating to contract awards.

Although the agreement was welcomed by U.S. negotiators, the U.S. business community and some members of Congress were less optimistic about the prospects for an increase in U.S. participation in Japan's market. U.S. firms have won approximately $324 million in contracts under the May 1988 agreement.[300] According to some analysts, the reasons for the relatively lackluster performance of U.S. firms in Japan's construction market include inexperience in the market, difficulties in obtaining Japanese partners, and financial problems in the U.S. market. U.S. companies continued to contend with the exclusionary effects of dango (a mutual consultation system involving rotation of winning bids to participants) and bid rigging. Even though the 1988 and 1991 agreements were intended to familiarize U.S. firms with Japan's bidding system, the imbalance between U.S. and Japanese participation in each other's construction markets persisted.

Machine Tools

The 5-year voluntary restraint agreement (VRA) on Japanese exports of machine tools[301] to the United States was set to expire on December 31, 1991.[302] Since the enactment of the VRA in 1987, Japanese machine-tool makers increased their production in the United States and now account for more than 70 percent of foreign transplants for machine tools.[303] Under the current VRA Japanese exports of machining centers, computer-controlled lathes, and other computer-controlled equipment are limited to market shares of from 19.25 percent to 57.47 percent. However, Japanese exports of machine tools declined in 1991 to a level below the VRA ceiling, partially as a result of the U.S. recession.[304]

As early as March 1991 representatives of the U.S. machine-tool industry began pressuring the administration to extend the VRAs. In September the National Machine Tool Builders Association-Association for Manufacturing Technology[305] and nearly 100 members of Congress urged the President to extend the VRAs for 3 to 5 years on national security grounds.[306] On December 5, 1991, at a meeting of the National Security Council, the U.S. Department of Defense reportedly agreed with the U.S. Department of Commerce and the U.S. Department of the Treasury in favoring an extension of the VRA on grounds of national security.[307] On December 27 President Bush "directed that the USTR negotiate a limited extension of the VRAs with Japan and Taiwan." Although quotas on non-computer-controlled lathes, non-computer-controlled punching and shearing machine tools, and non-computer-controlled milling machine tools were allowed to expire on December 31, the quotas on machining centers, computer-controlled lathes, computer-controlled punching and shearing machine tools, and computer-controlled milling machine tools would be phased out over a 2-year period beginning in January 1992.[308] To allow sufficient time for negotiations on the phaseout schedule, President Bush requested Japan and Taiwan to extend the existing VRAs for an additional 30 days. In making the announcement, the President noted that although it was important to maintain a domestic machine-tool industry for national security purposes, "the main responsibility for achieving international competitiveness rests with the industry itself."[309]

Paper

Japan is the world's second-largest consumer and producer of paper and paperboard.[310] According to U.S. industry estimates, however, imports accounted for only 3.7 percent of Japan's $27 billion paper and paperboard market in 1991. The U.S. share totaled only 1.7 percent. Accordingly, the United States held three rounds of talks with Japan during 1991 to increase foreign access to Japan's market for printing and writing paper and paperboard products.[311] U.S. paper manufacturers have experienced difficulties in marketing higher-value-added paper in Japan. According to the JFTC, distribution channels for paper are reportedly characterized by close, long-term relationships, including financial ties, among a few manufacturers, intermediaries, and customers.[312]

In October hearings before the Senate Finance Committee, the American Paper Institute offered several suggestions for improving access to Japan's paper market, including establishing a mechanism for monitoring the progress of Japanese imports of paper products, getting commitments from Japan to enforce the antimonopoly law, and initiating an investigation of distribution and other business practices in Japan's paper sector. During U.S.-Japanese trade committee meetings in December, the issue of market access for paper was again discussed, setting the stage for an announcement in conjunction with President Bush's visit to Tokyo in early January.[313]

Structural Impediments Initiative

The United States and Japan continued to hold followup meetings (January and May) to review implementation of the Structural Impediments Initiative during 1991.[314] In May 1991 the first annual report was published, describing progress made by both countries in implementing their SII commitments.

In its statement the Japanese delegation cited progress on the six issues of interest to the United States: savings and investment patterns, land policy, distribution system, exclusionary business practices, keiretsu relationships, and pricing mechanisms. This progress included shortening the approval process for large-store openings to 18 months (and introducing legislation that would shorten the process further to 12 months); increasing spending on public works by 6 percent and adopting a 430-trillion-yen investment program for JFYs 1991-2000; issuing antimonopoly guidelines; increasing the JFTC's budget and investigations staff; raising the surcharges on illegal cartel activities to between 1 and 6 percent of the sales involved in the violation (compared with 0.5 and 2 percent previously); raising fines for bid rigging; and conducting price surveys in conjunction with the U.S. Government.[315] Despite these and other efforts the U.S. delegation indicated that Japan had not gone far enough in strengthening its antimonopoly law so as to "effectively deter collusive anticompetitive practices that exclude foreign competition in the Japanese market and result in higher costs to consumers." The U.S. delegation also maintained that penalties for criminal violations were not high enough,[316] and they continued to push for increases in administrative fines, more vigorous antitrust enforcement, and improvements in the system of private rights of action throughout the year.

In its report the U.S. delegation cited U.S. progress in eliminating impediments through (1) the Omnibus Budget Reconciliation Act of 1990, which aims at reducing the deficit by $400 billion over 5 years; (2) various measures aimed at increasing Federal revenues; (3) proposals for "family" savings accounts; (4) proposed legislation to allow U.S. firms to enter into joint production agreements without being held in violation of U.S. antitrust laws; (5) initiatives to support research and development; and (6) export-promotion activities.[317]

Mexico

Merchandise Trade With the United States

In 1991, for the first time in a decade, the United States registered a surplus in merchandise trade with Mexico. By reaching $62.7 billion, representing a 10-percent increase over 1990, two-way trade established a new record (table 14). Mexico maintained its usual place as both the third-largest single-country market for U.S. exports and

Table 14
U.S. merchandise trade with Mexico, by SITC Nos. (Revision 3), 1989-91

(Thousands of dollars)

SITC section no.	*Description*	*1989*	*1990*	*1991*
			U.S. exports	
0	Food and live animals	1,990,452	1,917,947	2,085,619
1	Beverages and tobacco	19,434	23,440	44,384
2	Crude materials, inedible, except fuels	1,492,799	1,395,064	1,625,918
3	Mineral fuels, lubricants and related materials	712,280	826,113	865,401
4	Animal and vegetable oils, fats and waxes	143,026	120,562	142,615
5	Chemicals and related products, n.e.s.	2,195,143	2,298,156	2,624,076
6	Manufactured goods classified chiefly by material	2,961,214	3,488,357	4,419,172
7	Machinery and transport equipment	10,812,782	12,938,173	15,059,415
8	Miscellaneous manufactured articles	2,469,490	2,894,371	3,693,571
9	Commodities & transact not class elsewhere in SITC	1,320,637	1,565,413	1,719,047
	Total all commodities	24,117,255	27,467,595	32,279,218
			U.S. imports	
0	Food and live animals	2,379,604	2,565,454	2,503,296
1	Beverages and tobacco	256,628	259,762	246,484
2	Crude materials, inedible, except fuels	597,161	769,406	685,441
3	Mineral fuels, lubricants and related materials	4,200,483	5,191,617	4,623,646
4	Animal and vegetable oils, fats and waxes	13,961	8,649	16,956
5	Chemicals and related products, n.e.s.	570,256	646,598	699,532
6	Manufactured goods classified chiefly by material	2,632,168	2,463,605	2,229,692
7	Machinery and transport equipment	11,786,584	13,235,230	14,492,027
8	Miscellaneous manufactured articles	2,738,135	3,033,724	3,559,289
9	Commodities & transact not class elsewhere in SITC	1,381,591	1,331,918	1,388,770
	Total all commodities	26,556,570	29,505,962	30,445,131

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

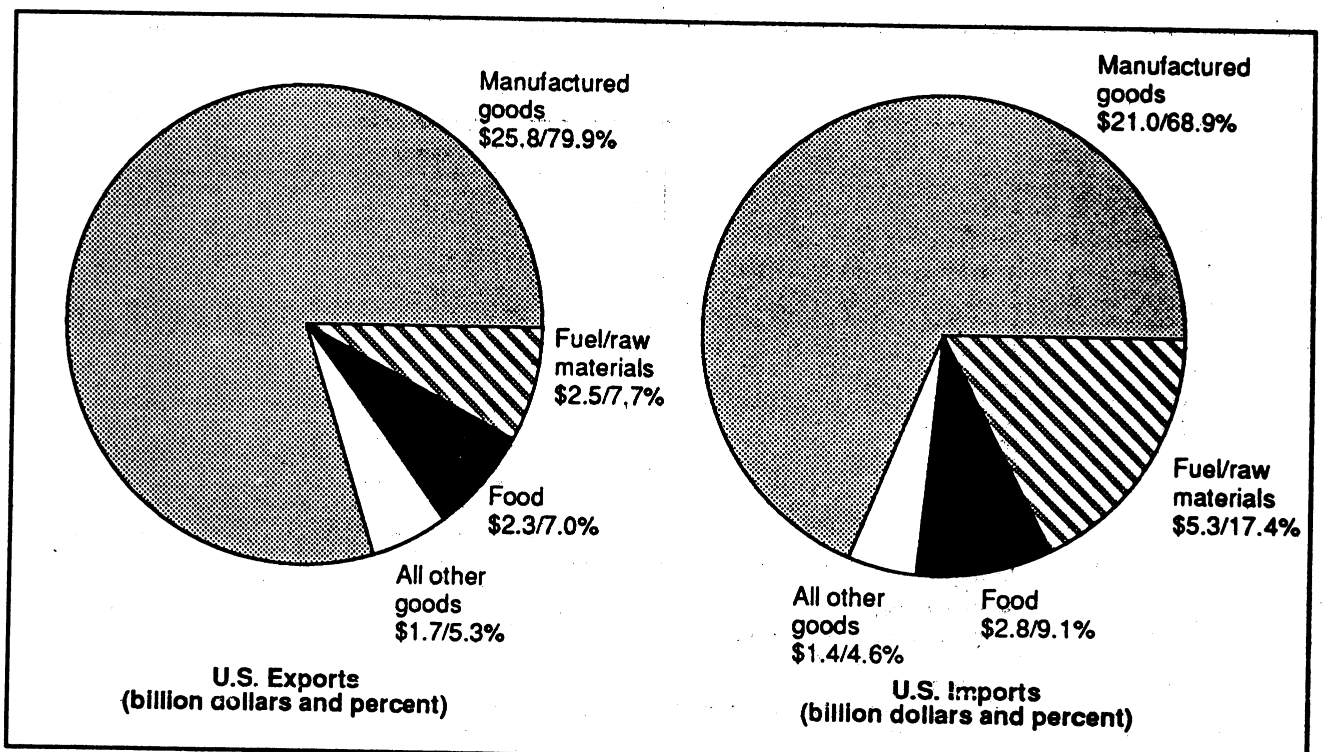
third-largest source of U.S. imports. However, despite ranking right behind Canada and Japan as a U.S. trading partner, Mexico still accounted for only 8.1 percent of overall U.S. exports and 6.3 percent of total U.S. imports. By contrast Mexico depended on the United States for 70 percent of its exports and 67 percent of its imports.[318]

In 1982, when Mexico's debt crisis became manifest, the U.S. trade balance with Mexico shifted from a pattern of U.S. surpluses to a U.S. deficit. The debt crisis triggered the imposition of rigorous controls in Mexico designed to generate the sizable trade surpluses needed to finance debt servicing. In 1983 the United States had a large trade deficit ($7.9 billion) with Mexico. It shrank thereafter, as Mexico gradually relaxed its controls. The U.S. deficit began to shrink faster and faster from 1988 onward, when the liberalization of Mexican imports that was started in earnest in 1986 began to be truly felt. By 1991 the U.S.-Mexican trade balance had returned to its typical precrisis pattern, with a U.S. surplus of $1.8 billion (table 14).

Manufactures predominate in U.S.-Mexican trade, accounting for nearly 80 percent of U.S. exports and 69 percent of U.S. imports in 1991 (figure 7). Two-way trade in manufactures can be characterized as being largely "intra-industry," because a considerable part of this trade in both directions takes place in the same large product categories or comes from production sharing, that is, production processes on both sides of the border between U.S. and Mexican plants.[319] In 1991 bilateral trade in machinery and transportation items continued to be largely balanced. This major product category constituted 46.7 percent of total U.S. exports to Mexico and 47.6 percent of total U.S. imports from that country (table 14). Miscellaneous manufactured articles, another group with balanced trade, was responsible for more than 10 percent of U.S. trade flows in both directions.

The three SITC product categories that contributed most to the positive U.S. balance with Mexico were chemicals (8.1 percent of U.S. exports but only 2.3 percent of U.S. imports); manufactured articles classified chiefly by material[320] (13.7 percent of U.S. exports but only 7.3 percent of U.S. imports); and crude materials (5.0 percent of U.S. exports but only 2.3 percent of imports). By contrast the United States had its typical deficit in trade of mineral fuels, which accounted for 15.2 percent of U.S. imports from Mexico but only 2.7 percent of U.S. exports to that country. The United States also had a deficit in food trade with Mexico, due largely to considerable U.S.

Figure 7
U.S. trade with Mexico by product sector, 1991



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

Note.—Because of rounding, figures may not add up to 100 percent.

imports of Mexican fruit and vegetables. Food and live animals was responsible for 8.2 percent of U.S. imports but only 6.5 percent of U.S. exports.

For the 5th year in a row, Mexico was among the top-performing markets for U.S. exports. Mexicans spend more per capita on U.S goods than Europeans do, and almost as much as the Japanese, in spite of their lower per capita income.[321] As table 14 shows, 1991 U.S. exports to Mexico continued to rise rapidly, amounting to $32.3 billion. This amount was up by 17.5 percent from 1990, representing a faster expansion than the 13.9-percent expansion of 1990 but slower than the 41.4-percent and 21.5-percent surges of 1988 and 1989. The steep upward trend can in great part be attributed to Mexico's radical economic and trade-liberalization reforms. These efforts helped to ensure that pent-up demand--the result of protectionist practices in prior years--could finally be met, and it was met largely from the United States. The vigor of the Mexican economy and the relative strength of the peso (deliberately maintained by the Government's exchange-rate policy) were additional factors that boosted U.S. exports.

U.S. exports in 1991 increased in all major SITC product categories. Exports of virtually all the leading items were up over 1990 (table A-11). Auto parts continued to be top items, with several of them registering significant export gains. Mexico has consistently been the second-biggest U.S. export market after Canada and the fastest growing market for U.S. auto parts in the past decade. U.S. sales of these and a number of other items in the leading machinery and transportation items category--especially electronics--were sustained, in part, by U.S.-Mexican production sharing.[322] U.S. items with notable export gains in 1991 included refined oil products, soybeans, and grain sorghum. Mexico is the third-largest export market for U.S. agricultural products--mostly cereals and soybeans--after Japan and the former Soviet Union.

In 1991 U.S. imports from Mexico amounted to $30.4 billion, up by 3.2 percent. This trade flow contained two components deserving special note: (1) imports resulting from U.S.-Mexican production sharing, part of which enter duty free under HTS 9802.00.60 and 9802.00.80 (formerly TSUS items 806.00 and 807.00)[323] and (2) Mexican products enjoying duty-free treatment under the U.S. Generalized System of Preferences (GSP).

U.S. imports of Mexican machinery and transportation equipment--the largest SITC category of such imports--continued to grow in 1991. Imports of the miscellaneous manufactures and chemicals group also increased. Automotive products and telecommunications equipment were the leading items (table A-12). The Mexican automobile industry consists mainly of U.S. or other foreign subsidiaries, such as those of the big three U.S. automakers, and Volkswagen and Nissan.

Large shares of U.S. machinery and transportation equipment imports from Mexico, especially of auto parts, telecommunications equipment, and office machinery, are generated by production sharing. Imports from shared production enter the United States under HTS 9802.00.60 and 9802.00.80 (henceforth under HTS 9802) after further processing or assembly in Mexico from inputs produced in and imported from the United States. The United States levies duty only on the value added in Mexico; the U.S. content reenters duty free. The U.S. content in imports from production sharing is higher from Mexico than from any source. In 1990 U.S. content accounted for 50 percent of import value from Mexico under HTS 9802.[324] The comparable figures from Canada were 40 percent and, from the rest of the world, 13 percent.[325]

The plants involved on the Mexican side in production sharing are generally "maquiladoras," in-bond production facilities established since 1965 under Mexico's Border Industrialization Program. The term "maquiladora" is frequently associated with the labor-intensive subsidiary of a foreign company (usually U.S.) that receives from its parent the machinery, equipment, and raw materials needed for processing or assembling components manufactured outside Mexico. Because maquiladoras generally export their products, their imports are considered temporary and are therefore not subject to Mexican import duties. Maquiladoras rank as Mexico's second-largest industry, after petroleum production.

In the 1980s U.S. imports under HTS 9802 rapidly increased as a share of overall imports from Mexico, accounting in 1991 for 47.1 percent of the total (table 15). In addition to machinery and equipment items, significant portions of imported Mexican apparel and miscellaneous manufactures are made from U.S. materials and supplied by production-sharing units in Mexico.

Mineral fuels, the second-leading SITC import category (table 14), used to dominate U.S. imports from Mexico before the Mexican Government embarked on a comprehensive and highly successful economic diversification program. In 1982 petroleum still accounted for more than half of overall U.S. imports from Mexico. Although petroleum continued in 1991 to be the number one U.S. item from Mexico, the share of mineral fuels as a group dropped to 15.2 percent of total imports in 1991. Oil imports were lower in 1991 than in 1990, because 1990 was a year of high world prices and extraordinary demand, triggered by the Persian Gulf crisis. U.S. imports of Mexican food and live animals also dropped in 1991, albeit minimally, mostly due to falling imports of live bovine animals and tomatoes from their atypically high level in 1990.[326] Imports of coffee remained virtually unchanged (table A-12). Mexico is the second-largest foreign supplier of agricultural products to the U.S. market after Canada.

Table 15
U.S. imports from Mexico entered under HTS items 9802.00.60 and 9802.00.80 and under GSP provisions, 1988–91
(Values in millions of dollars)

	1988		1989		1990		1991	
	Value	Percent of total	Value	Percent of total	Value	Percent of total	Value	Percent of total
Total U.S. imports	22,617.2	100.0	26,556.6	100.0	29,506.0	100.0	30,445.1	100.0
HTS 9802.00.60	131.0	.6	180.8	.7	188.3	.6	183.5	.6
HTS 9802.00.80	10,653.5	47.1	11,787.9	44.3	12,836.3	43.5	14,150.6	46.5
Imports under items 9802.00.60 and 9802.00.80	10,784.5	47.7	11,947.8	45.0	13,024.6	44.1	14,334.1	47.1
Imports under GSP	2,192.3	9.7	2,470.8	9.3	2,688.6	9.1	3,838.2	12.6

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

In 1991 a record 12.6 percent of U.S. imports from Mexico entered duty free under the U.S. GSP program, for which Mexico is eligible as a developing country (table 15). In 1991 President Bush granted GSP benefits for an additional 29 Mexican product categories by waiving a "competitive-needs" requirement that denies duty-free treatment when one country supplies more than half of U.S. imports of an item. (For an explanation of this concept, see chapter 5, "Generalized System of Preferences" section.) The waiver was a positive response to new intellectual property legislation passed by Mexico during the year. Major imports from Mexico receiving GSP treatment include auto parts; furniture; household electrical appliances; float glass; and toys, games, and sporting goods. The share of products benefiting from GSP has increased through the years as a share of overall U.S. imports from Mexico (table 15).

Major Policy Developments Affecting Trade

While focusing in 1991 on the momentous decision of entering into FTA negotiations with the United States, and then on the actual NAFTA negotiations, the Mexican Government also has continued its unilateral trade-liberalization program. (For a detailed discussion of the NAFTA negotiations, see chapter 1.) During the year the Government abandoned its exchange-rate controls and made major progress in privatizing its state-owned sector. Mexico attracted significant foreign investment in 1991 on the strength of its good economic performance, the prospects of a NAFTA, and by passing its long-awaited new patent law and copyright regulations. In December the Mexican Congress approved a major land-reform package designed to increase agricultural productivity and to attract foreign investment into Mexican farming. Mexico also took steps during the year toward forging closer economic relations with countries other than the United States and Canada, such as Chile, other Latin American countries, and the nations of the EC.

Foreign-Exchange Policy

When extending Mexico's Economic Growth and Stabilization Pact (PECE) for the fifth time in November 1991, the Mexican Government also announced the repeal of the peso's controlled exchange rate, which had been used for most major international transactions. This action amounted to abandoning the official exchange controls that had been in effect in the country since 1982. Mexico now has a managed floating exchange-rate system. The Government allows the rate at which large foreign-exchange transactions are executed (the "brokerage rate") to fluctuate within a band that is the spread between the rates at which banks will buy and sell U.S. dollars. Although it no longer imposes direct controls, the Government "manages" the width of this spread. For example, in November 1991 the Bank of Mexico froze the dollar/peso exchange rate at 3,051 pesos for the purposes of buying dollars but, for the purposes of selling dollars, it allowed the peso's nominal daily devaluation to continue. However, the Government slowed its daily devaluation rate to half its previous level to accelerate the currency's appreciation in real terms.[327] Because inflation in Mexico has been consistently higher than in the United States and the daily devaluation of the peso has not compensated for the difference, in real terms the peso appreciated against the dollar by 9.9 percent in 1990 and another 9.3 percent in 1991.[328]

The Government began the gradual slowing of the peso's devaluation rate in May 1990.[329] Currently, the peso's exchange rate is close to the Government's declared objective of attaining a "fixed" peso/dollar parity, which was abandoned in the mid-1970s.[330] Successive lowering of the daily devaluation rate indicates that the Salinas government's policy is seeking to keep the purchasing power of the peso relatively high as a way to control inflation. In 1991 the strength of the peso was also held up by massive inflows of foreign investment dollars.

The strength of the peso encouraged imports by making them cheaper. However, the strong domestic currency also made peso-denominated Mexican exports more expensive, with the predictable result of a deteriorating Mexican balance of trade.

Privatization

In 1991 Mexico proceeded with streamlining its state-owned and state-controlled (parastatal) sector as part of the ongoing shift to a market economy. During the year the process concentrated on reprivatizing Mexico's banking system, which was nationalized in 1982. A special disinvestiture committee has been in existence since September 1990, to oversee the sale of Mexico's existing 18 commercial banks.[331]

Throughout 1991 the program proceeded quickly. In February rules pertaining to the privatization process were published, and by the end of the year the Government had sold the first 9 of the country's 18 commercial banks to the private sector. The sales included the Banco Nacional de Mexico (BANAMEX), Mexico's oldest and most profitable bank, and also one of Latin America's three largest banks. The sale of BANAMEX in September 1991 to ACCIVAL, a rich domestic interest group, fetched a price of $3.2 billion. According to estimates, the Government's combined revenues from the sale of Mexico's entire banking system, which is expected to be accomplished by late summer 1992, will amount to some $11 billion.[332]

Also in 1991 the Government completed the privatization of Telefonos de Mexico (TELMEX), another major entity in Mexican commercial life. The first stage of TELMEX's privatization took place in December 1990, when the Government sold its controlling interest in this monopoly to a consortium that was led by the GRUPO CARSO and included Southwestern Bell of the United States and France Telecom.[333] This transaction left the Mexican Government with a 26-percent equity stake in TELMEX. In May and June 1991 the Government reduced its equity stake to 8.4 percent through stock offerings to a variety of foreign and domestic purchasers, including TELMEX employees. The Government's combined revenues from both stages of privatizing TELMEX were estimated to exceed $4.0 billion.[334]

Most of the Mexican Government's holdings in three large steel companies--Altos Hornos de Mexico (AHMSA), SIBALSA, and Siderirgica Lazaro Cardenas-Las Truchas (SICARTSA)--were also sold in 1991. The purchasers were three large domestic investment groups, including one with foreign partners.[335]

In addition, Mexico took the first steps during the year to privatize its transportation system. The Government granted concessions to private entrepreneurs to build and operate more than 1,500 miles of new highways, linking major manufacturing centers with large cities and with the U.S. border. The Government also announced that it would further expand private ownership and operations of trains. Private companies will be allowed to buy rail cars and operate them, relying on Mexico's state-owned railroad only for engine services. The Government also began the privatization of Mexico's port systems by (1) granting concessions to private companies to own and operate warehouses, docks, and loading facilities, and (2) long-term leasing of facilities.

The key parastatal enterprises scheduled for sale in 1992 include the remaining commercial banks, FERTIMEX (the fertilizer monopoly,) ASEMEX (an insurance company), and the state-owned television station.

Revenues from the sale of state-owned enterprises and the concomitant elimination of large subsidies required to keep many of these entities in operation considerably strengthened Mexico's public finances. During 1991 the Government used part of these sales revenues to retire internal debt, reducing it from 23.4 percent of GDP at the end of 1990 to 17.2 percent at the end of 1991. Subsidies to parastatals have decreased from 2.9 percent of the GDP in 1982 to less than 1.5 percent in 1991.[336]

In 1991 the Mexican Government continued with liquidations, mergers, and other forms of disincorporating the parastatal sector, in addition to its impressive progress in selling entities to private interests. As of February 1992 the number of parastatal enterprises has dropped to 234 from 1,155 in 1982. By the time the entire disinvestiture process is completed, the Government expects to own fewer than 200 entities. The most notable ones that will remain state-owned are PEMEX (the petroleum monopoly), the Federal Electricity Commission, the railroads, and the postal service. In addition, companies that provide social services but are not profitable will remain in the public sector. The Government's objective is to withdraw entirely from most industrial areas and thereby eliminate economically and socially unjustifiable expenditures and subsidies, thus strengthening public finances.

Foreign Investment

In 1991 foreign investment in Mexico increased dramatically. During the first three quarters of the year direct investment from abroad of $3.6 billion was recorded in Mexico's balance of payments, up from $2.6 billion in all of 1990.[337] This total included repatriation of domestic "flight capital," which was intense during the year. The surge in foreign investment reflected growing confidence in the Mexican economy due, in part, to the prospects of a NAFTA. It also continued to show the effect of a May 1989 decree[338] that significantly eased the rigid barriers to foreigners in Mexico's 1973 Law on Foreign Investment (LFI).[339]

The May 1989 decree allowed foreigners to invest in economic activities from which they were previously excluded, notably including telecommunications, selected secondary petrochemicals, banking, and insurance, although subject to specified equity restrictions.[340] This measure and subsequent regulations also significantly broadened the range of economic activities open to 100-percent foreign ownership under specified conditions.[341] In 1991 the most important legal change favoring foreign investment was the promulgation of the Law for Promotion and Protection of Industrial Property in June. As of June 1991 accumulated direct foreign investment in Mexico amounted to some $32.6 billion, of which 59.2 percent was invested in manufacturing and 32.1 percent in services.[342]

Foreign portfolio investment surged even faster than foreign direct investment, from $2 billion in all of 1990 to $6.3 billion in the first three quarters of 1991.[343] Notably, as recently as 1988 there was still a net outflow of capital from Mexico. Foreign portfolio investment was fostered by, among other things, changes in Mexican regulations that facilitated the purchase by foreigners of Mexican debt and equity instruments, and an increase in the international issues of Mexican securities.[344]

The measures easing barriers to foreign investment, and the inflow of funds they triggered, reflected the total reversal of Mexico's earlier, notoriously hostile policy toward foreign investment. A desire to attract foreign capital and know-how, in addition to the hope of capturing foreign markets, was a major reason for the Mexican Government's keen interest in the NAFTA.

Nonetheless, 46 segments of the Mexican economy still remain off limits to foreigners. The Constitution of 1917 and the LFI, which has not been removed from the books, reserve these segments either to the state or to Mexican nationals. Areas of economic activity reserved to the state include (1) extraction of petroleum and natural gas, (2) production of basic petrochemicals, (3) mining of radioactive materials, (4) power and nuclear energy generation, (5) railroads, and (6) minting of coins. Activities reserved to Mexican nationals include (1) radio and television; (2) automotive, air, and maritime transport; (3) forestry; (4) distribution of gas; (5) customs brokers; (6) administration of ports; (7) credit unions; and (8) public-notary services.[345] Equity restrictions to foreign owners apply in an additional 95 activities. Altogether 141 segments of the economy are considered "classified"--that is, with some limitations on foreign investment.[346]

Trade Accords With Third Countries

In 1991 Mexico took steps toward forging closer trade relations not only with Canada and the United States, but with other nations. The most significant of these moves was the FTA that Mexico and Chile signed in September, which became the second major trade accord in the Americas since the 1989 U.S.-Canada FTA.

The Mexico-Chile agreement abolished all nontariff barriers between the two countries, including import licenses. The accord was to take effect immediately, with a common tariff of 10 percent for 95 percent of the trade. Beginning in 1991 it provided for a staged reduction of tariffs to zero by 1996, with some extensions for "sensitive items." For items such as Mexican oil, Chilean sugar, cooking oil, wheat, and flour, tariff reductions have yet to be negotiated.[347]

The accord also included a dispute-resolution mechanism and a general 50-percent national-content requirement for goods shipped to the FTA partner. Lower national-content requirements, however, apply to certain traded items, such as Mexican automobiles (32 percent), because Chile is interested in importing Mexican automobiles (which frequently contain significant third-country components). The particular reason is reportedly Chile's special interest in cars assembled in Mexico by Nissan.[348]

In April 1991 Mexico and the EC signed a framework agreement that identified a wide range of economic areas for cooperation.[349] In August Mexico also began discussions about closer trade ties with Colombia, Brazil, and some countries in South America and outside the Americas.[350]

U.S.-Mexican Bilateral Trade Issues

U.S.-Mexican economic relations were dominated in 1991 by the NAFTA negotiations, which formally began in June. The mutual approval of the idea first of an FTA, which was then broadened into a trilateral NAFTA, was the crowning event in the steady improvement of U.S.-Mexican relations. As Mexican President Carlos Salinas de Gortari stated in his annual Informe (state-of-the-union address to Congress) on November 1, 1991, "North of our border, there can be no doubt that we have entered a new stage in our relations with Canada and the United States." (For a detailed discussion of the NAFTA negotiations, see chapter 1.)

The forging of closer bilateral U.S.-Mexican economic ties was greatly assisted by Mexico's accession to the GATT in 1986. In November 1987 the two countries concluded the Framework of Principles and Procedures for Consultation Regarding Trade and Investment Relations, a document that established a consultative mechanism for discussing concerns in mutual trade and investment issues. In October 1989 the United States and Mexico concluded the Understanding Regarding Trade and Investment Facilitation Talks (TIFTs). The TIFTs forced the parties to conduct continuous negotiations on specific sectors and nonsectoral issues, and provided a framework for comprehensive trade and investment negotiations.

The NAFTA negotiating structure accommodated most issues that needed to be addressed bilaterally. Nonetheless, the United States and Mexico maintained their consultative mechanism for resolving bilateral issues and used the earlier work begun under the aegis of the TIFTs as a basis for NAFTA negotiations in certain areas. Also, in November 1991 a Memorandum of Understanding between the United States and Mexico established mutual recognition of each country's commercial driver's licenses, and provided for mutually enhancing truck and bus safety, effective April 1, 1992.

Intellectual Property Rights

For many years Mexico's weak intellectual property rights (IPR) protection provoked sharp protests from adversely affected U.S. interests, principally pharmaceutical manufacturers, software producers, and the recording and movie industries. Mexico addressed some of these U.S. concerns for the first time in December 1986, when amending the Mexican patent and trademark law of 1976.[351] However, the United States considered the protections inadequate even following the amendment.

In May 1989 the U.S. Government placed Mexico, along with seven other countries, on a priority watch list under the Special 301 provision of the Omnibus Trade and Competitiveness Act of 1988 for its failure to provide adequate IPR protection.[352] In January 1990 the U.S. Government removed Mexico from the watch list in response to the Mexican Government's promise that legislation to provide effective IPR protections would be passed shortly by the Mexican Congress.[353]

In 1991 Mexico made major progress in extending protection for IPR. On June 26 President Salinas signed the Law for the Promotion and Protection of Industrial Property, a new patent and trademark legislation that replaced the 1976 Law of Inventions and Marks and the 1982 Law on Transfer of Technology.[354] In August amendments to Mexico's existing Federal Copyright Law of 1963 became effective.[355]

The new measures followed the mainstream of international IPR legislation and were in line with Mexico's overall strategy of opening the economy to foreign investment and trade. It is believed by some that Mexican protections of intellectual property are now stronger than elsewhere in the Third World and, in some respects, even than in Canada.

Highlights of the new industrial property law included extension of patent protection from 14 to 20 years. The law extended product patent protection to chemical, pharmaceutical, and metal alloy products, as well as to some biotechnological inventions. Under the new law inventions patented in other Patent Cooperation Treaty countries would also qualify for protection in Mexico for the remaining term of a patent. In addition, the law significantly strengthened the processes through which foreign patentholders might seek prosecution of violators.

Trademarks may now be registered for a period of 10 years, with renewable 10-year terms. The law also provided for the establishment of a Mexican Institute of Industrial Property, designated to perform patent licensing and trademark registration within the Ministry of Commerce and Industrial Development. Additional provisions covered protection of industrial designs, trade secrets, and other matters.

The amendments to the Copyright Law extended explicit protection for computer programs and sound recordings in Mexico for the first time. Mexico now protects computer software for 50 years. The amendments also significantly enhanced sanctions and penalties for infringement. Penalties are now indexed to inflation, replacing a system of fixed fines that were rendered ineffective deterrents by inflation.[356]

When, in the summer of 1991, Mexico delivered on its promise of new IPR laws, the U.S. private sector responded favorably. Officials of both countries reportedly considered Mexico's IPR among the less difficult issues to be negotiated in the NAFTA. Nonetheless, for all the progress made in Mexican IPR protections, skepticism still existed in some quarters about ambiguous language in certain parts of the new measures and the insufficiency of penalties.[357] Most of all, many doubted that the new legislation would be adequately enforced.

U.S. Embargo of Mexican Tuna

The question of a U.S. embargo banning imports of yellowfin tuna or products derived from yellowfin tuna from Mexico (and other countries) for ecological reasons had not been resolved by the end of 1991.[358] The U.S. embargo in question was prompted by the Earth Island Institute, a California nonprofit corporation seeking to enforce an amendment of the Marine Mammal Protection Act (MMPA) that was intended to save dolphins from being killed in tuna nets. This measure forbids tuna imports from any nation whose vessels have an incidental marine-mammal taking rate higher than that of U.S. vessels.[359]

In response to the court-ordered U.S. embargo that took effect on February 22, 1991, the Mexican Government brought a complaint before the GATT. In August 1991 a GATT dispute panel completed its report. The GATT panel found the U.S. import ban was not justified on the basis of articles III and XX. The panel suggested that countries should advance environmental improvements by seeking amendments to pertinent GATT rules or waivers from certain GATT obligations, not by imposing unilateral trade sanctions against perceived environmental offenders.

Both the U.S. and Mexican administrations were anxious, however, to end the dispute at a time when they were trying to forge a comprehensive free-trade agreement. Therefore, at the September 9 annual meeting of the U.S.-Mexico Binational Commission, the two countries reached a compromise that led them both to request the GATT to hold off any further consideration of its preliminary ruling in Mexico's favor. On September 24 Mexico announced a program designed to make its tuna harvesting less dangerous to dolphins and other marine mammals and promised that it would also draft legislation authorizing penalties for violations of mammal-protection measures. For its part the United States maintained the embargo but indicated that the MMPA might be modified to make it more flexible in a fashion that would meet both U.S. environmental objectives and also be acceptable to Mexico. Such legislative modification was to make the embargo unnecessary and to allow Mexico to withdraw its complaint before the GATT.[360] (For additional discussion of this issue, see chapter 1, "Trade and the Environment" section.)

Import Licensing

In 1991 Mexico eliminated import-licensing requirements for apples, peaches, and nectarines. These actions followed the removal of licensing requirements for automobiles, buses, red meat, sorghum, computers, oilseeds, oilseed flours, and animal and vegetable fat products in 1990.

As a cornerstone of its import-liberalization policy, and in accordance with GATT accession obligations, Mexico in 1985 began to dismantle its previously universal regime of import-licensing requirements. Manufactured products in particular benefited from liberalization. By the end of 1991, however, some 200 Mexican product categories still remained subject to import-licensing requirements. These products included a significant number of agricultural imports from the United States, such as corn, wheat, barley, dry beans, table grapes, poultry, bacon, and most dairy products.[361] Although import licensing was required for less than 6 percent of Mexican tariff categories and applied to only 8 percent of Mexico's overall imports from the United States,[362] it affected approximately one-third of their imports of U.S. farm products.[363] In addition, due to continued revisions and lack of transparency in Mexico's sanitary and phytosanitary regulations, exporters of many U.S. farm products encountered inconsistent treatment in obtaining access.

Import Bans: Swine and Fruit

In early December 1991 Mexico announced that as of December 15 it would prohibit imports of live swine for slaughter or breeding purposes from the United States and Canada. Mexican officials contended that the ban was necessary to protect Mexican swine from Swine Infertility and Respiratory Syndrome (SIRS), also known as mystery swine disease. Representatives of U.S. breeders contended that the ban was a nontariff barrier designed to protect Mexican producers, and that it was a threat to NAFTA negotiations.[364] The Animal & Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture supported the U.S. swine breeders' argument on the grounds that there was virtually no risk of introducing SIRS-infected animals into a foreign country, given the extremely small number of infected herds in the United States.[365] Although Mexico is a relatively small market for U.S. swine, the episode engendered special concern because (1) the future potential of the trade in swine, as well as trade in other animals, might be affected and (2) the episode coincided with NAFTA negotiations. Also in December Mexico banned imports of U.S.-grown apples, peaches, nectarines, pears, and quinces, because of concern about the spread of the oriental fruit moth.

On December 13 U.S. and Mexican officials met in San Antonio, Texas, to address Mexico's concerns and to facilitate resumption of swine and fruit shipments from the United States. A working group under the jurisdiction of both Governments' Departments of Agriculture sought to resolve the problems caused by these developments.[366]

Textile Product Labeling

A bilateral conflict that developed in 1990 over Mexico's labeling regulations on textile product imports was resolved in 1991. The dispute involved an announcement by the Mexican Government in October 1990 that introduced new labeling requirements for textile and apparel products. The requirements specified that labels identify both exporter and importer, that they use Spanish in care instructions, and that they employ metric units of measurement. U.S. exporters criticized the new regulations as too burdensome, claiming that the revised requirements were blocking their products' entry at the Mexican border and causing them substantial loss of sales.[367] The U.S. Government complained that the new rules should have been announced in advance, in accordance with Mexico's obligations under the GATT Standards Code.

In March 1991 the Mexican Government issued a notice suspending the implementation of portions of the controversial regulations.[368] The labeling dispute was resolved when Mexico and the United States concluded the Understanding Regarding Mexico's Labeling Decree for Textile and Apparel Products, which went into effect on July 1, 1991. The Mexican Government eased therein some of its earlier requirements by (1) compromising with the use of more than one label in conveying information, (2) accepting internationally used care symbols without text or dual language labeling where text was being used (provided one language is Spanish), and (3) suspending indefinitely the requirement of measurements in metric units.

The Government of Mexico also extended the deadline for domestic manufacturers and importers to abide by the new labeling regulations until October 1, 1991.

U.S. Investment in Mexico

Conditions underlying bilateral investment flows constitute an important part of U.S.-Mexican economic relations. The United States is by far the largest foreign investor in Mexico, accounting for about 63 percent of the country's accumulated total direct investments as of December 1991. It is notable, however, that this large share of U.S. investments in Mexico represents only 4.5 percent of all U.S. investment abroad.[369]

As noted previously, 141 "classified" economic activities in Mexico are still closed to foreign investors or apply some restrictions to them. These activities include a number of areas of substantial interest to U.S. investors, such as petroleum, secondary petrochemicals, mining, transportation equipment, auto parts, and most financial services. In the remaining "unclassified activities,"[370] U.S. investment does not face any equity restrictions and receives automatic approval from Mexican authorities, as long as these investments are $100 million or less and meet five other criteria.[371]

The limits imposed on foreign investors in the area of Mexican banking were in sharp evidence in the 1991 bank privatization process. In contrast to the sale of TELMEX, in which private purchasers included Southwestern Bell of the United States and other foreign interests, there was no foreign participation in the privatization of BANAMEX.[372] Under existing rules foreign investors are restricted to a maximum 30-percent share in the banking sector. As a result U.S. and other foreign banks--with the notable exception of a Spanish bank--have shown little interest in the reprivatization of Mexican banks.

Republic of Korea

Merchandise Trade With the United States

The U.S. bilateral trade deficit with Korea in 1991 was $1.7 billion, a figure significantly lower than those of previous years. (In 1987-88 the bilateral deficit exceeded $9 billion.) Total trade between the two countries exceeded $32 billion. U.S.-Korean trade was dominated by manufactured goods (SITC categories 5, 6, 7, and 8), which accounted for 97 percent of U.S. imports from Korea and 70 percent of U.S. exports to Korea (figure 8 and table 16). The remainder of U.S. exports to Korea consisted of fuel and raw materials (21 percent), food (7.3 percent), and other nonmanufactured goods (1.9 percent).

Total U.S. exports to Korea reached $15.2 billion in 1991, up by 8 percent over 1990 and the 7th year running that U.S. exports to Korea rose. The leading exports to Korea were bovine hides and skins ($529 million), digital monolithic integrated circuits ($466 million), cotton ($356 million), oil ($446 million), airplanes and parts ($1.0 billion), and helicopters ($392 million). (Leading items exported to Korea during 1989-91 are listed in table A-13.)

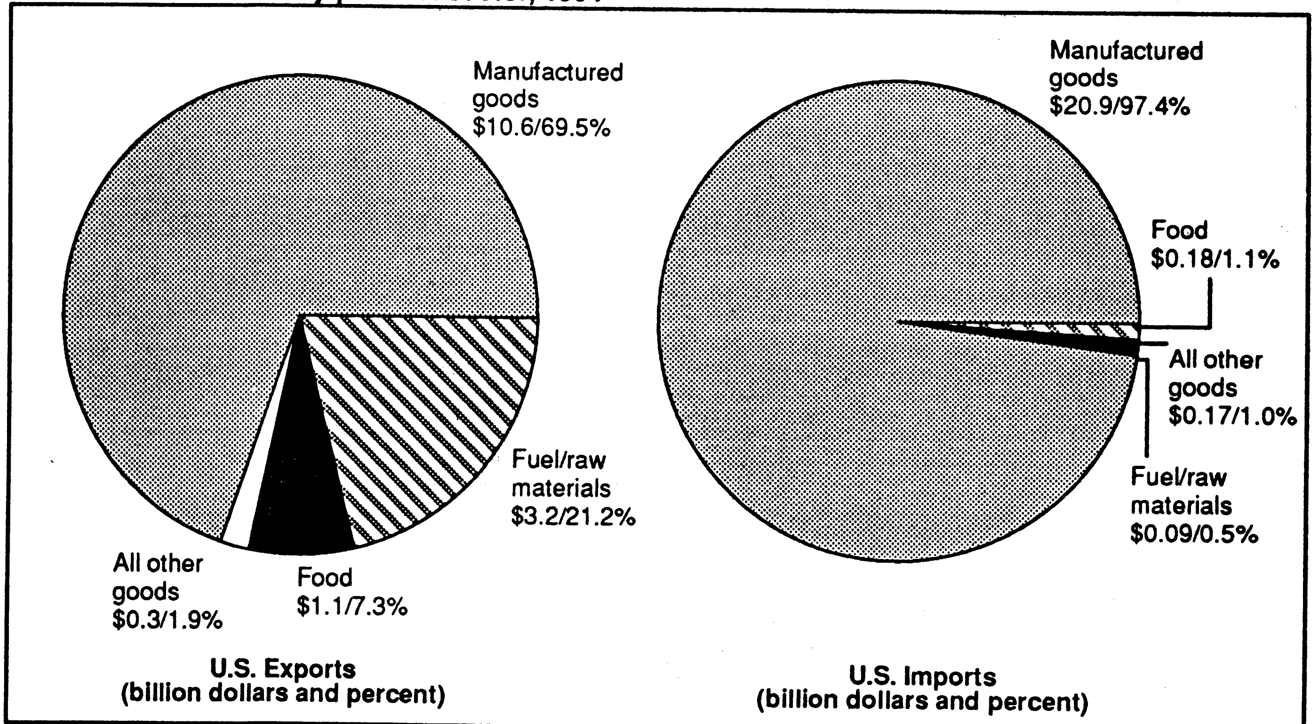
U.S. imports from Korea fell for the 4th consecutive year in 1991; they dropped by 8 percent, to $16.9 billion. The leading imports were footwear ($1.5 billion), digital monolithic integrated circuits ($1.5 billion), passenger motor vehicles ($1.0 billion), articles of apparel of leather or composite leather ($705 million), and ADP machines ($623 million). (Leading items imported from Korea during 1989-91 are listed in table A-14.)

Major Policy Developments Affecting Trade

Seventh 5-Year Plan

In late 1991 Korea adopted a 5-year economic plan for the period 1992-96. By the end of the period annual per capita gross national product (GNP) is projected to be $10,900, or 73 percent above the estimated 1991 level of $6,300. Annual economic growth is projected to be 7.5 percent, lower than the average annual rate of 10 percent over the past 5 years. The lower growth target is an attempt by Korean planners to solve economic problems they associate with high rates of growth, such as a shortage of skilled manufacturing workers, wages that grow at faster rates than productivity, inflation, increasing consumption of imports, a current account deficit, and decreased growth in exports and savings.[373]

Figure 8
U.S. trade with Korea by product sector, 1991



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

Note.—Because of rounding, figures may not add up to 100 percent.

Table 16
U.S. merchandise trade with Korea, by SITC Nos. (Revision 3), 1989-91

(Thousands of dollars)

SITC section no.	Description	1989	1990	1991
		U.S. exports		
0	Food and live animals	1,217,330	1,194,519	946,960
1	Beverages and tobacco	119,830	118,513	124,320
2	Crude materials, inedible, except fuels	2,872,417	2,939,527	2,558,595
3	Mineral fuels, lubricants and related materials	344,282	719,503	670,952
4	Animal and vegetable oils, fats and waxes	43,138	51,817	44,769
5	Chemicals and related products, n.e.s.	1,641,681	1,689,909	1,657,998
6	Manufactured goods classified chiefly by material	1,043,655	978,844	1,275,991
7	Machinery and transport equipment	5,016,988	5,156,907	6,523,301
8	Miscellaneous manufactured articles	784,727	1,052,163	1,116,161
9	Commodities & transact not class elsewhere in SITC	123,694	172,182	292,050
	Total all commodities	13,207,742	14,073,883	15,211,098
		U.S. imports		
0	Food and live animals	188,325	176,012	177,140
1	Beverages and tobacco	9,149	5,452	4,942
2	Crude materials, inedible, except fuels	51,417	47,834	58,562
3	Mineral fuels, lubricants and related materials	24,988	9,572	31,460
4	Animal and vegetable oils, fats and waxes	1,385	947	1,254
5	Chemicals and related products, n.e.s.	184,881	251,971	240,866
6	Manufactured goods classified chiefly by material	2,027,936	2,101,079	2,018,764
7	Machinery and transport equipment	8,760,823	7,446,226	7,194,489
8	Miscellaneous manufactured articles	8,180,151	8,153,540	6,963,738
9	Commodities & transact not class elsewhere in SITC	137,670	144,326	171,167
	Total all commodities	19,566,725	18,336,960	16,862,383

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

The Korean plan features three main policy goals. First, Korea will attempt to restructure its economy and strengthen its industrial competitiveness. This goal is to be reached through implementing advanced worker training, developing new industrial technologies, and reducing competition-limiting economic concentration. Second, Korea intends to achieve greater socio-economic equity and balanced development through remedying housing problems, expanding social security, and simplifying land-use regulations. Finally, Korea hopes to internationalize its economy further by restructuring agricultural and fishery industries, joining the Organization for Economic Cooperation and Development, and promoting cooperation with North Korea.[374]

Anti-Import Campaigns

On several occasions since April 1990 campaigns designed to deter consumption of imports or luxury items have been launched in Korea.[375] The Government of Korea consistently denied taking a role in such campaigns and maintained that blatantly anti-import campaigns are grass-roots efforts designed to reduce both conspicuous consumption and Korea's external deficit. U.S. officials responded skeptically to the Government's claims.

In late August 1991 the Government of Korea announced a number of austerity measures designed to stabilize the Korean economy. Government officials were quick to state that these measures were designed not to reduce imports, but to appeal to what they describe as the Korean virtue of frugality.[376] Other Government sources noted that "some of the newly rich have seemed to demonstrate contempt for [the] hard work and thrifty ways of others and their behavior has become a serious political problem."[377]

In explaining the frugality measures Korean officials pointed with a degree of alarm at economic conditions of recent years that many economists say mean that Korea's economy is overheated.[378] They noted, for example, that compared with the 1980s, Korea's rates of growth in gross domestic product are markedly lower, consumption is higher, inflation has approximately doubled, and the current account is in deficit after several years of surplus. Early statistics showed that nominal GNP growth was 8.6 percent in 1991, consumption rose by 9.0 percent, inflation registered 9.5 percent, and the current-account deficit was a record $9.5 billion. The Government of Korea also stated that since 1987, manufacturing wages have been rising faster than productivity.[379]

In reaction to these developments the Government of Korea has taken steps to encourage consumers to exercise restraint in consumption. This "movement to end excessive consumption," as it has been called in the Korean media, is reminiscent of the 1990 "anti-import campaign" in which Korean consumers, importers, and retailers were urged by the Government to exercise self-restraint regarding purchases of imports. Korean officials have stated that the campaign is directed at reducing domestic consumption, particularly consumption deemed to be "excessive."[380] Some of the measures taken by the Korean Government included restricting housing and large-scale construction projects, restraining Government spending, and considering tax increases on services such as restaurants. Other reported developments included a reluctance of the Government to criticize private efforts to discourage imports, investigations by the Bank of Korea into "excessive" credit-card purchases made abroad by Korean citizens, and media reports that individuals who travel frequently or spend "too much" on "luxury goods" might face tax audits.[381]

According to Korea's Office of Customs Administration (OCA), imports of 16 "luxury consumer imports" fell by 22 percent during the first 7 months of 1991. Approximately 60 percent of these items were imported by Korea's 50 largest importing companies. The large concerns have been blamed for the "flood" of luxury imports.[382] The five leading items identified as luxury goods by the OCA are granite, marble, automobiles, refrigerators, and washing machines.[383] In response to the 1991 campaign, USTR Carla A. Hills said that Korea's definition of "luxury goods" was too wide and added that she was "trying to convince our Korean friends that trade liberalization is not only occasionally good and necessary but is always a good policy." During her November trip to Seoul, she expressed concern that "the current 'frugality campaign' could be simply a euphemism for protectionism."[384] In an address before the National Assembly during a January 1992 visit to Seoul, President Bush characterized the "frugality campaign" as a manifestation of "pressures for protectionism."[385]

U.S.-Korean Bilateral Trade Issues

Barriers to U.S. Exports

Korea's tariffs have been a topic of bilateral discussion for several years. In 1989 Korea implemented its second 5-year tariff-reduction plan.[386] This plan, originally designed to run from 1989 to 1993,[387] is scheduled to reduce the average tariff rate to 7.9 percent. Although Korea's tariff level has fallen significantly in recent years, U.S. exporters have reported difficulties obtaining entry into Korea for certain categories of imports. High duties remain on many high-value agricultural products of export interest to the United States. For example, 50-percent tariffs are levied on most fresh fruits and fruit juices, kiwifruit, peaches, and grape juice. High tariffs are also levied against distilled spirits (which are also subject to what the United States describes as an "excessive and discriminatory tax"), soybean oil, paper, cottonseed oil (although oilseeds imported for crushing enter duty free), jams and jellies, canned soups, and avocados. Raisins and almonds face 35-percent tariffs.[388] Even for products whose tariffs have been reduced, U.S. exporters have sometimes complained that they still face other import restrictions. Korea is one of the major U.S. markets for bulk commodity exports--feed grains, cotton, wheat, soybeans, and hides and skins in particular. In addition, although exports to Korea of high-value-added agricultural products are growing, their levels are limited because of nontariff measures maintained by Korea.[389]

All imports into Korea must have an import license issued by a Foreign Exchange Bank. The majority of imports (more than 95 percent) are granted automatic approval for entry; however, Korea maintains import quotas or bans on the remaining items. Products in the latter category are largely agricultural and fishery products. In July 1991 Korea finished implementing a 3-year agreement to grant automatic import-license approval for 237 agricultural products. Under the terms of an agreement reached with the GATT Balance of Payments Committee in late 1989, Korea planned to "eliminate all existing agricultural import restrictions or otherwise conform with GATT requirements by July 1, 1997."[390]

In addition to quantitative restrictions, Korea also applies food safety and phytosanitary restrictions on imports. The United States has disputed the validity of some of Korea's food safety measures, arguing that the measures are unscientific[391] or based on nonexistent health threats.

Korea's import ban on rice is one of the most contentious topics of bilateral dispute between the United States and Korea. Negotiating pressure on Korea to remove the rice ban was focused, in 1991, on the Uruguay Round of GATT negotiations. The United States tried to encourage Korea to end its import ban on rice and replace the ban with a tariff. The United States argued that any tariff, even a tariff of several hundred percent, would be preferable to the import ban, as long as that tariff is subject to reduction over time. The Korean Government maintained that rice should be excluded from liberalization for reasons of food security. It also argued that rice imports would create serious political and economic difficulties by severely harming the livelihood of Korea's 8 million rice farmers.

Exchange Rates

The question of whether Korea uses capital controls to manipulate its currency and thereby obtain an unfair trade advantage has been a bilateral concern for several years.[392] The Government of Korea has planned to shift gradually to a floating exchange-rate regime by 1996. In September the Government announced that the daily fluctuation band for the won-dollar exchange rate would widen from 0.4 percent to 0.6 percent. In a December 1991 report to Congress regarding economic conditions in U.S. trading partners, the Department of State concluded that "the role of market forces in the exchange market remains restricted by the existence of pervasive controls on capital and exchange flows both into and out of Korea."[393]

Telecommunications

In 1989 Korea was named as a priority country under section 1374(a) of the 1988 Omnibus Trade and Competitiveness Act (OTCA), for allegedly engaging in unfair trade practices regarding U.S. telecommunications goods and services.[394] The OTCA provides for an initial 1-year negotiating period, which may be extended for two additional 1-year periods. "Appropriate Presidential action" is required if a negotiated agreement cannot be reached. Negotiations continued during 1989, and on two occasions--in February of 1990 and 1991--the deadline for the negotiations was extended for a year.[395]

During the negotiations the United States sought liberalization of Korea's trade policies (i.e., standards, government procurement, and tariffs issues) regarding telecommunications goods and services. In particular the United States was concerned about Korea's alleged restrictions on the sale of value-added telecommunications services by foreign vendors and standards, tariffs, and government-procurement policies regarding telecommunications goods.[396] In February 1991 Korea stated that it would liberalize international value-added network services (IVANs) by July 1, 1991. Korea agreed to liberalize access for other telecommunications services as well.[397] Also in February 1991 a record of understanding on telecommunications committed the Government of Korea to a framework for future negotiations.[398] At that time the President stated that "substantial progress has been made in telecommunications trade talks" and extended the time period for bilateral discussions.[399]

Protection of Intellectual Property Rights

In May 1989 Korea was placed on the priority watch list under the Special 301 provision over lack of protection for intellectual property rights. In particular the United States expressed concern about inadequate enforcement of IPR laws, problems with the patent law, and lack of protection for semiconductor mask works. Improved enforcement of IPR laws was largely responsible for Korea's being moved from the priority watch list to the watch list on November 1, 1989. Actions Korea took to prevent such a designation included (1) creating a task force to improve coordination among its ministries on IPR protection, (2) designating special enforcement teams of police and prosecutors, (3) instituting vigorous search and seizure efforts, and (4) prosecuting violators. In April 1990 Korea was retained on the watch list.

In 1991, according to USTR, Korean efforts to enforce IPR laws continued to improve. Korea stated that it investigated 2,722 cases of IPR infringement in 1990, compared with 1,857 cases in 1989.[400] The United States remained concerned, however, that penalties were not sufficient to prevent violations. The U.S. motion picture industry, for example, estimates losses of $30 million annually in Korea because of insufficient enforcement of IPR laws.[401]

In December 1991 the Korean National Assembly enacted a law designed to protect trade secrets. Legislation to protect semiconductor mask works was submitted to the National Assembly earlier in the year.[402] Other U.S. Government concerns were video and textbook piracy and counterfeiting, inconsistent determination of a "well-known" trademark, absence of bioequivalency testing for drugs registered prior to 1989, and inadequate patent protection.[403]

Taiwan

Merchandise Trade With the United States

The U.S. trade deficit with Taiwan declined to $10.2 billion in 1991, a figure 11 percent lower than the 1990 deficit, and the lowest since 1985. Rising U.S. exports to Taiwan (up 14 percent in 1991) and slow growth in U.S. imports from Taiwan (less than 2 percent) both contributed to the improved deficit position (table 17).

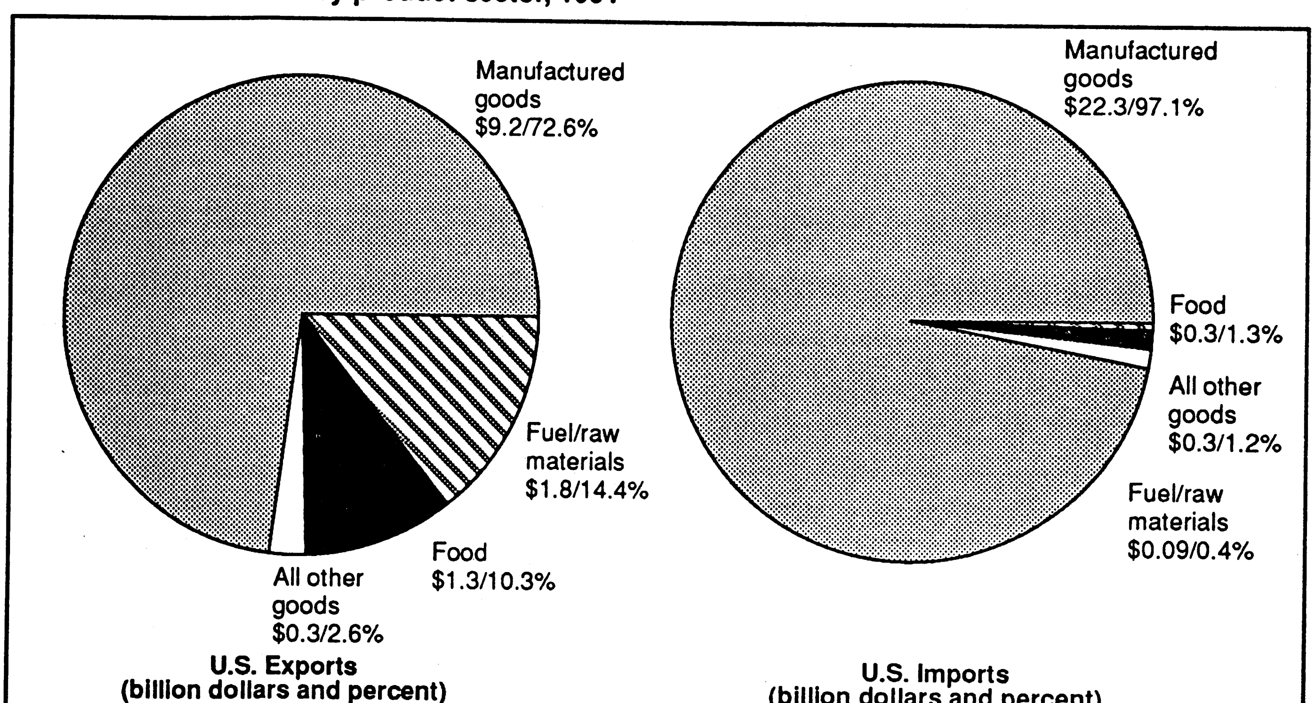
As in recent years manufactured goods (SITC categories 5, 6, 7, and 8) continued to account for the vast majority of two-way trade between the United States and Taiwan in 1991. Nearly 73 percent of U.S. exports to and 97 percent of U.S. imports from Taiwan were manufactured goods (figure 9). Fuel and raw materials made up more than 14 percent of U.S. exports to Taiwan; food accounted for another 10 percent.

Table 17
U.S. merchandise trade with Taiwan, by SITC Nos. (Revision 3), 1989-91
(Thousands of dollars)

SITC section no.	Description	1989	1990	1991
			U.S. exports	
0	Food and live animals	1,008,179	1,002,667	1,148,075
1	Beverages and tobacco	172,890	166,530	163,992
2	Crude materials, inedible, except fuels	1,361,493	1,263,611	1,396,601
3	Mineral fuels, lubricants and related materials	515,895	491,209	440,709
4	Animal and vegetable oils, fats and waxes	13,998	5,338	4,252
5	Chemicals and related products, n.e.s.	1,750,791	1,529,415	1,839,888
6	Manufactured goods classified chiefly by material	753,551	821,177	1,053,593
7	Machinery and transport equipment	4,450,997	4,818,055	5,482,287
8	Miscellaneous manufactured articles	760,904	793,870	859,115
9	Commodities & transact not class elsewhere in SITC	185,999	250,085	329,562
	Total all commodities	10,974,696	11,141,956	12,718,074
			U.S. imports	
0	Food and live animals	343,800	309,222	296,515
1	Beverages and tobacco	2,988	3,996	4,489
2	Crude materials, inedible, except fuels	81,015	87,341	94,011
3	Mineral fuels, lubricants and related materials	265	102	67
4	Animal and vegetable oils, fats and waxes	1,207	1,678	1,315
5	Chemicals and related products, n.e.s.	346,945	348,785	394,278
6	Manufactured goods classified chiefly by material	3,286,449	3,122,376	3,130,832
7	Machinery and transport equipment	9,186,267	9,037,344	9,404,296
8	Miscellaneous manufactured articles	10,746,993	9,404,559	9,337,661
9	Commodities & transact not class elsewhere in SITC	207,357	250,712	278,103
	Total all commodities	24,203,285	22,566,115	22,941,568

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

Figure 9
U.S. trade with Taiwan by product sector, 1991



Source: Compiled from official statistics of the U.S. Department of Commerce.
Note.—Because of rounding, figures may not add up to 100 percent.

The leading U.S. export items to Taiwan in 1991 were airplanes and parts ($954 million), corn ($634 million), digital monolithic integrated circuits ($556 million), passenger vehicles ($537 million), and soybeans ($467 million). (Leading items exported to Taiwan from 1989 to 1991 are listed in table A-15.)

The leading Taiwan items imported by the United States in 1991 were ADP machines and parts ($2.3 billion), digital processing units with storage ($675 million), digital monolithic electronic integrated circuits ($421 million), footwear ($375 million), bicycles ($365 million), wooden furniture ($356 million), and sweaters ($338 million). (Leading items imported from Taiwan from 1989 to 1991 are listed in table A-16.)

Major Policy Developments Affecting Trade

GATT Application

In 1991 Taiwan's trading partners continued to discuss its bid to join the General Agreement on Tariffs and Trade.[404] Several GATT members expressed support for the effort. In January 1991 French Foreign Minister Roger Fauroux noted that Taiwan had become a major economic power and maintained that "its joining the GATT will contribute to the world organization."[405] A matter of months later, in July, President Bush expressed his interest in seeing Taiwan become a GATT member, adding that the United States would "begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession."[406]

Taiwan is applying for GATT membership at a time when the People's Republic of China (China) is trying to rejoin the organization.[407] One of the original contracting parties to the GATT was the "Republic of China." It withdrew from the GATT in 1950, after the Communist takeover on the mainland, which caused the Republic of China representatives to flee to Taiwan. Taiwan was a GATT observer from February 1965 until the Chinese representation in the United Nations switched from Taiwan to China in October 1971.[408] Taiwan is not seeking membership under accession procedures used by independent countries but rather as the Taiwan, Penghu, Kinmen, and Matsu Customs Territory.[409] In August a Chinese official said that Taiwan's membership "can only be considered" after China rejoins the GATT, and only with the agreement of the Chinese Government.[410] By year's end no working party to consider Taiwan's application had been formed.[411]

Six-Year Economic Development Plan

In late 1990 Taiwan announced a 6-year economic development plan to cover the period 1991-96.[412] Major elements of the plan included economic targets for and structural adjustments to Taiwan's economy. The plan calls for an annual GNP growth rate of 7 percent, a rise in GNP per capita to nearly $14,000 per year, a reduction in the trade surplus, inflation of 3.5 percent or lower, and unemployment of 2.5 percent. Structural changes envisioned by the plan include expenditures of more than $300 billion on public works and industrial projects. Such projects will include diversification of energy consumption, introduction of major antipollution projects, and infrastructure projects such as a high-speed railway, a north-south superhighway, construction of 120,000 public housing units, construction of 5 water reservoirs, and conversion of 28,600 hectares of reserved agricultural land to industrial or other nonagricultural use. Financial liberalization is also part of the plan.[413]

During 1991, the first year the plan was in effect, the U.S. Government sought to alert U.S. businesses to the potential export or investment opportunities presented by Taiwan's spending plans.[414] The President's Export Council identified Taiwan as a top market for U.S. exporters and organized a trade mission to Taiwan designed to increase awareness of business opportunities created by the plan and to assist U.S. firms interested in exporting to Taiwan.[415]

U.S.-Taiwan Bilateral Trade Issues

Machine Tools

On December 31, 1991, voluntary restraint agreements on imports of machine tools from Taiwan were to expire. The VRAs, established for reasons of national security, had been in place since January 1, 1987.[416]

On December 27, 1991, the President directed that limited extensions to the VRAs covering some of the products be negotiated, and that restrictions on other products expire as scheduled. Import restrictions on machining centers, computer-controlled lathes, computer-controlled punching and shearing machine tools, and computer-controlled milling machine tools were to be "removed progressively" over 2 years beginning January 1992. Import restrictions on non-computer-controlled lathes, non-computer-controlled punching and shearing machine tools, and non-computer-controlled milling machine tools expired on December 31, 1991.[417]

When the President announced the VRA phaseout he also introduced a seven-point plan to assist efforts by the domestic machine-tool industry to regain international competitiveness. The program called for involving various Government agencies in export-promotion efforts; reviewing export-control regulations; monitoring industry performance; improving training, management, and application of new technologies; examining research and development efforts that could be applied to machine tool production; continuing efforts to promote sales of U.S. machine tools to Japanese users in the United States; and also continuing joint efforts by the Departments of Commerce and Defense to assist revitalization of the industry.[418]

Protection of Intellectual Property Rights

Protection of intellectual property rights in Taiwan has been a concern of the United States for several years. Since the so-called Special 301 law was first used in 1989, Taiwan has been named under its various provisions every year.[419] In May 1989 USTR placed Taiwan, among others, on a priority watch list.[420] Several measures that Taiwan took in 1989 to improve enforcement of IPR protection led USTR to determine that Taiwan had shown a "strong commitment" to protecting and enforcing IPRs. USTR accordingly transferred Taiwan from the priority watch list to the watch list, where Taiwan remained through 1991.[421]

The types of IPR violations that reportedly occur in Taiwan include piracy of copyrighted software, compact discs, videotapes, and cable television; trademark counterfeiting; and lack of patent protection for micro-organisms, foodstuffs, and new plant and animal varieties.[422]

Negotiations held with Taiwan throughout 1991 focused on securing better enforcement of patent, copyright, and trademark laws. The United States' major concerns were inconsistent enforcement of IPR laws, long delays in prosecuting cases, and penalties insufficient to deter future infringements. Taiwan took several steps to improve protection of IPRs in 1991. It designated 1991 as "the year of IP rights," and considered revised versions of laws protecting patents, copyrights, and trademarks.[423] However, in April 1992 Taiwan was named a priority foreign country under Special 301.[424]

Driftnet Fishing

In an effort to limit and monitor the driftnet fishing activities of U.S. trading partners, the United States has negotiated scientific monitoring and enforcement agreements with a number of nations that use driftnets, including Taiwan and Korea. The agreement requires vessels using driftnets to carry satellite transmitters, which allow the United States to determine whether the vessels are operating outside the area permitted by the agreement. In 1991 at least 21 ships from Taiwan and 17 from Korea were detected operating outside the legal area in the North Pacific. In August, pursuant to the Fisherman's Protective Act of 1967 (also known as the Pelly amendment), Secretary of Commerce Robert A. Mosbacher certified that Taiwan and Korea were conducting driftnet fishing inconsistent with the bilateral agreements.[425]

The certification by Secretary Mosbacher authorized import restrictions on fish and fish products from Taiwan and Korea. In response to the certification Taiwan announced its intention to punish vessels that had violated driftnet fishing rules and announced its plans to stop using driftnets in 1992.[426] Korea recalled to port and levied penalties against vessels that used driftnets and violated the driftnet rules. In light of these efforts to phase out driftnet fishing, the President decided to defer sanctions against either Taiwan or Korea.[427]

Distilled Spirits

On December 3, 1990, representatives of certain U.S. distillers filed a section 301 petition alleging that Taiwan maintained barriers to U.S. distilled spirits.[428] The barriers, petitioners alleged, restricted the importation, distribution, and sale of U.S. distilled spirits.[429] On January 7, 1991, Taiwan announced that it would allow importation of distilled spirits from the United States and the EC. The distillers withdrew their petition on January 11, 1991, in response to Taiwan's market-opening measures.

Under the market-opening plan announced by Taiwan, import bans on various products will be phased out by 1993. The plan outlined import tariffs[430] and regulations on advertisements, labeling, bulk imports, and sales promotions for distilled spirits.[431] USTR announced its intention to monitor implementation of the plans.[432]

Tariffs

Taiwan's Trade Action Plan (TAP) of February 1989 was designed to counteract the bilateral trade imbalance with the United States and to improve foreign access to Taiwan's market.[433] The plan included a 3-year schedule of tariff reductions for Taiwan. This schedule was to lower Taiwan's average nominal tariff rate to 10.3 percent in 1989, 9.2 percent in 1990, and 8.1 percent in 1991. Taiwan lowered its average nominal tariff rate to 9.7 percent in 1989 but did not adjust tariffs in 1990. A comprehensive tariff-reduction bill was submitted to the Legislative Yuan in November 1990 but was not passed until December 1991. The bill cut Taiwan's average nominal and effective tariff rates to 8.92 percent and 4.0 percent respectively. These levels were, however, higher than the TAP target of an average nominal tariff rate of 8.1 percent and an effective rate of 3.9 percent for 1991.[434]

Tariffs on certain items of export interest to the United States remain higher than Taiwan's average nominal tariff rate. The average nominal tariff rate for agricultural products, for example, was 23.2 percent in

1991. About one-third of agricultural products are subject to tariffs of 40 to 50 percent.[435] The United States has asked Taiwan to reduce the high tariffs on numerous occasions. Tariffs of 35 percent or higher exist on fresh fruits including apples, citrus, peaches, kiwifruit, avocados, fruit juices, various canned fruits, raisins, dried fruit, soups, and processed popcorn. Manufactured goods that face high tariffs include plywood (up to 20 percent), hot-rolled iron and steel products (10 to 17.5 percent), and small passenger cars (42.5 percent.)[436]

Insurance

In 1992 Taiwan expanded slightly the ability of foreign firms to gain access to its tightly controlled insurance market. When U.S. insurance companies were first allowed to operate in Taiwan, in 1986, the Taiwan authorities established a quota system that permitted only two life and two nonlife U.S. insurance companies to enter the market each year. In August 1990 the annual quota was raised to 3 life and 3 nonlife insurance companies, and other restrictions were eased.

Taiwan enacted a law in 1991 designed to allow foreign insurance firms to establish subsidiaries and joint ventures. The new law, which became effective in January 1992, allows creation of domestic insurance companies and provides for the entry of all foreign insurance companies, including mutual insurance companies.[437]

Import Licensing

Taiwan uses import licensing to enforce entry restrictions on certain products. An import ban is employed on 242 categories of products, including agricultural items such as animal offals.[438] In 1991 65.6 percent of the items on Taiwan's import schedule were exempt from such permits. Another 2,174 items require pro forma licenses from commercial banks, and 691 items require permits from the Board of Foreign Trade. Of these 691 items 56 are agricultural products that require additional approval from agricultural agencies. Some of these products, including rice, peanuts, small red beans, dried garlic, wheat flour, fresh potatoes, sugar, certain poultry and pork products, catfish, and certain cuts of pork, are subject to de facto bans. In 1991 bans were put in place on imports of breeding swine, swine embryos, swine semen, and dairy cattle vaccinated against brucellosis disease.[439]

Brazil

Merchandise Trade With the United States

The United States remained Brazil's largest single trading partner in 1991. Brazil's exports to the United States, hurt by reduced U.S. demand and Brazil's overvalued currency, continued a 3-year decline to $6.7 billion in 1991, in contrast with a peak of $9.1 billion in 1988. Machinery and transport equipment was the largest category of Brazilian exports ($1.6 billion), although exports in this category have declined since 1988 (table 18).[440] More generally, manufactured goods dominated U.S. trade with Brazil in 1991 (figure 10). Footwear was the single largest Brazilian export in 1991 ($942 million, down slightly from 1990). Other important Brazilian exports to the United States in 1991 included coffee ($396 million), frozen orange juice ($240 million), and noncrude petroleum oils ($234 million). (Leading products imported from Brazil during 1989-91 are listed in table A-18).

U.S. exports to Brazil again expanded in 1991, rising from $4.9 billion in 1990 to more than $5.9 billion in 1991. Machinery and transport equipment was by far the largest category ($3.3 billion) and accounted for more than one-half of the value of all U.S. exports to Brazil (table 18). Sales of U.S. aircraft, which increased from $346 million in 1990 to $1.1 billion in 1991, were a key factor in the rise. (Other leading U.S. products exported to Brazil during 1989-91 are listed in table A-17).

Major Policy Developments Affecting Trade

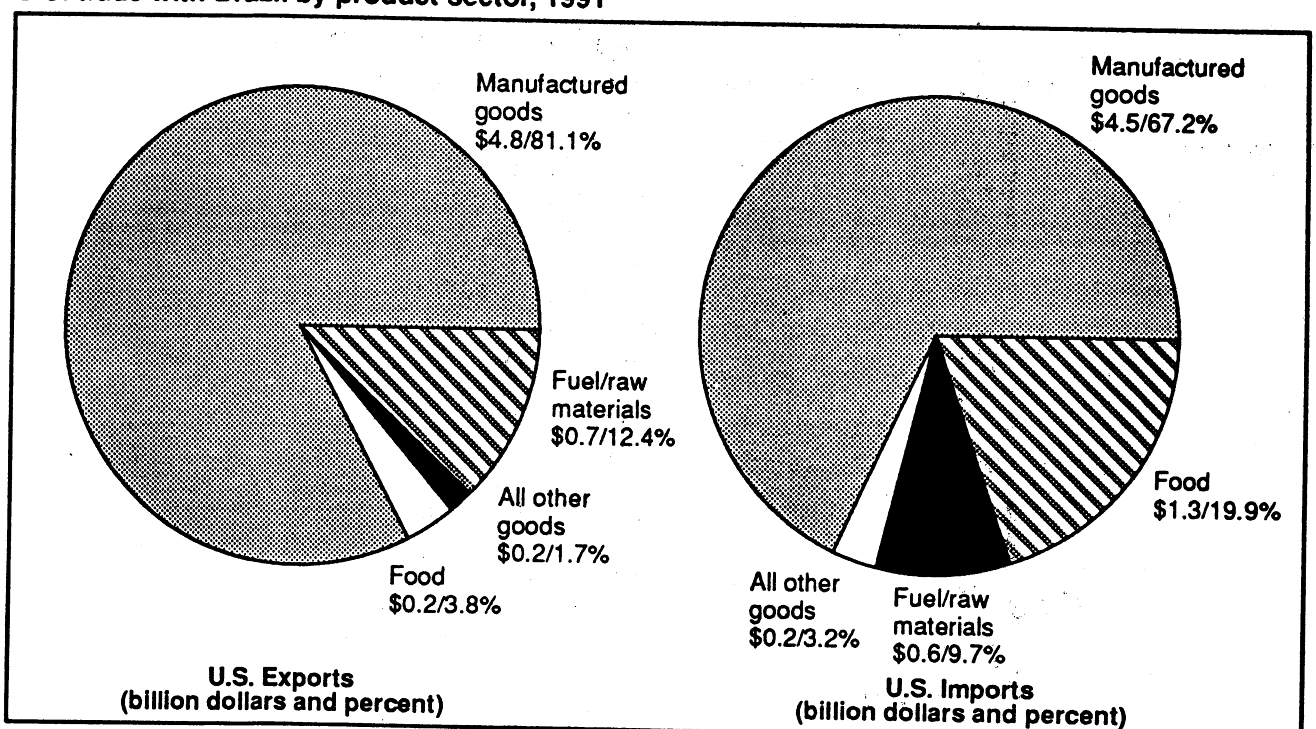
Historically, Brazil has maintained one of the most protectionist foreign trade regimes in the world. The country's many barriers to trade have included high import tariffs; prohibitions on imports of certain items; import quotas; prohibitions on imports of products that are functionally equivalent to products already produced or capable of being produced in Brazil (under the so-called Law of Similars); restrictions on foreign investment and foreign ownership; lack of intellectual property protection; and export subsidies. In addition, Brazil has used restrictive import-licensing policies to deny market access to foreign investors and manufacturers in sectors such as petroleum, semiconductors, and data processing. For computer equipment and software (so-called informatics), market-reserve restrictions were codified in Brazil's 1984 Informatics Law[441] and were expanded to reserve the production of all items incorporating digital components for Brazilian-owned companies. The Collor administration has pledged not to extend the Informatics Law past its scheduled October 1992 expiration date.[442]

Table 18
U.S. merchandise trade with Brazil, by SITC Nos. (Revision 3), 1989-91
(Thousands of dollars)

SITC section no.	Description	1989	1990	1991
			U.S. exports	
0	Food and live animals	86,928	135,433	207,409
1	Beverages and tobacco	2,117	5,250	6,934
2	Crude materials, inedible, except fuels	227,055	193,987	259,650
3	Mineral fuels, lubricants and related materials	311,091	301,146	476,934
4	Animal and vegetable oils, fats and waxes	27,976	10,257	12,796
5	Chemicals and related products, n.e.s.	773,714	896,782	949,270
6	Manufactured goods classified chiefly by material	228,036	237,557	231,413
7	Machinery and transport equipment	2,491,014	2,601,660	3,294,346
8	Miscellaneous manufactured articles	331,651	348,375	345,360
9	Commodities & transact not class elsewhere in SITC	156,527	146,014	161,023
	Total all commodities	4,636,110	4,876,461	5,945,134
			U.S. imports	
0	Food and live animals	1,365,933	1,472,881	1,172,887
1	Beverages and tobacco	105,710	105,939	144,278
2	Crude materials, inedible, except fuels	484,057	471,651	399,781
3	Mineral fuels, lubricants and related materials	705,984	507,317	253,626
4	Animal and vegetable oils, fats and waxes	36,537	34,395	26,791
5	Chemicals and related products, n.e.s.	310,089	306,039	270,914
6	Manufactured goods classified chiefly by material	1,568,475	1,413,327	1,410,457
7	Machinery and transport equipment	2,324,564	1,993,122	1,591,169
8	Miscellaneous manufactured articles	1,490,447	1,381,855	1,271,859
9	Commodities & transact not class elsewhere in SITC	91,968	75,585	218,771
	Total all commodities	8,483,765	7,762,112	6,760,533

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

Figure 10
U.S. trade with Brazil by product sector, 1991



Source: Compiled from official statistics of the U.S. Department of Commerce.
Note.—Because of rounding, figures may not add up to 100 percent.

In the past Brazil justified its nontariff import barriers by invoking GATT article XVIIIb, which allows certain restrictive practices on balance-of-payments grounds. In June 1991, however, the Collor government disinvoked the article XVIIIb justification for restricting imports as an indication of its commitment to trade liberalization.

The Collor administration has introduced several trade-liberalizing measures since assuming office to encourage greater competitiveness and to attract foreign investment and technology. Measures introduced in 1990 included a new round of phased tariff reductions;[443] abolition of the list of prohibited imports; repeal of the Law of Similars for most products except those covered by the 1984 Informatics Law; and action to draft new legislation to provide intellectual property protection.[444] The Collor administration expanded on these policies and articulated new ones in 1991. In February, for example, the Brazilian Government issued a new tariff schedule calling for accelerated tariff reductions. This new schedule envisioned lowering the average tariff to 21.1 percent ad valorem in 1992, 17.1 percent in 1993, and 14.2 percent in 1994 from levels of 32.0 percent in 1990 and 25.3 percent in 1991.[445] Late in the year the Brazilian Government decided to implement a second phase of tariff reductions, which became effective in January 1992. As a result of these changes, the average tariff level was to be reduced to 17.1 percent by October 1, 1992, and to 14.2 percent on July 1, 1993.[446]

On October 23, 1991, President Collor signed legislation to phase out the use of import licenses as a barrier to imports entering Brazil by October 29, 1992. However, licenses would continue to be used for statistical and exchange-control purposes and would be issued automatically within 5 days.[447] The removal of restrictive import licensing also would apply to digital technology and the software sector after the scheduled October 1992 expiration of the Brazilian Informatics Law. These actions stand to significantly increase the access of U.S. exporters and investors into Brazil's digital technology and computer software markets after October 1992.

On March 26, 1991, the Brazilian Government signed the Treaty of Asuncion, which provides for the establishment of a common market comprising Argentina, Brazil, Paraguay, and Uruguay. The goal of this regional common market, known as the Southern Common Market (MERCOSUR),[448] was to eliminate most barriers to trade among the four countries by December 1994, except for a list of exempt products each country will maintain. The MERCOSUR agreement also included plans to establish a dispute-resolution mechanism, as well as a code of sanctions for treaty infractions before full implementation.[449]

In addition to the progress made in reducing trade barriers, the Collor administration took several important steps in 1991 toward privatizing the numerous Government-owned Brazilian enterprises. Over the years these enterprises accumulated significant operating losses due to their inefficient operations. In March 1990 the Collor administration targeted over 20 large enterprises for sale to the private sector.[450] However, the privatization program got bogged down in accounting problems and political disputes throughout 1990 and most of 1991. There was extensive debate on what instruments of payment were to be acceptable.[451] Stringent controls about the audit process of each Government-owned company earmarked for sale required more time than originally expected. Political disputes sprang from strong nationalist sentiment in some quarters against sales to foreign investors as well as from political parties and trade unions strongly opposed to privatization.[452]

The first auction of a major Government-owned company occurred in October 1991 when Usinas Siderurgicas de Minas Gerais (USIMINAS) was put up for sale. The largest buyers of USIMINAS were a Brazilian iron producer (whose primary stockholder is the Brazilian Government) and the pension fund of the Banco do Brazil, Brazil's largest and Federally owned bank. Three more companies were auctioned before the end of 1991: another steel mill, a railway car manufacturer, and an aircraft engine parts manufacturer.[453]

U.S.-Brazilian Bilateral Trade Issues

Pharmaceuticals

Pharmaceutical products have not been patentable in Brazil since 1945. In 1987 a bilateral dispute about pharmaceuticals led the United States to initiate an investigation under section 301 of the Trade Act of 1974.[454] The next year the United States began taking retaliatory trade action, which consisted of tariff increases valued at $40 million on certain paper products, nonbenzenoid drugs, and consumer electronics items from Brazil.[455] USTR terminated this investigation in June 1990 and lifted the trade sanctions against imports from Brazil as a result of President Collor's statement of intent to revise Brazil's intellectual property legislation.[456] The Collor administration drafted new legislation in May 1991 to provide protection for intellectual property. The draft includes (1) full and immediate patent protection for pharmaceutical and for biotechnological products and processes; (2) 20-year protection for all patents, with a possible extension of 5 years for companies that manufacture locally; (3) recognition of trade secrets; and (4) greater protection for well-known trademarks. The Brazilian Congress did not act on the proposed legislation during 1991.[457] Moreover, the United States has informed the Government of Brazil that the proposed legislation contains flaws.[458]

Other Issues

In May 1989 Brazil was placed on the priority watch list under the Special 301 provision of the Omnibus Trade and Competitiveness Act of 1988. Cited were serious deficiencies in Brazilian patent law, including the failure to provide process or product patent protection for chemicals, foodstuffs, and pharmaceuticals; losses from piracy in the video and computer software areas; and market-access restrictions on computer software.[459] As part of the 1991 review of the Special 301 provision, USTR indicated that Brazil would be retained on the priority watch list. USTR noted that although U.S. losses from Brazilian piracy in the video and computer software products continued, the Brazilian Government had achieved some progress in reducing market-access restrictions on computer software. USTR further noted that the Brazilian Government was considering legislation to reduce market-access restrictions for computer software products, and that new legislation providing for process or product patent protection for chemicals, foodstuffs, and pharmaceuticals was scheduled to be introduced in the Brazilian Parliament.[460]

ENDNOTES

[1] Data for Germany included no trade from East Germany in 1989, 3 months of trade from East Germany in 1990, and full year trade from East Germany in 1991.

[2] For a more detailed analysis of recent U.S.-EC trade, see U.S. International Trade Commission (USITC), *The Effects of Greater Economic Integration Within the European Community on the United States: Third Followup Report* (investigation No. 332-267), USITC publication 2368, Mar. 1991, pp. 1-19 to 1-20.

[3] EC Commission, *Report of the Commission to the Council and the European Parliament on the Implementation of Measures for Completing the Internal Market*, SEC (91) 2491, Dec. 19, 1991, p. 3; U.S. Department of State Telegram, Mar. 18, 1992, Brussels, message reference No. 03831.

[4] EC Commission, *Report of the Commission to the Council and the European Parliament on the Implementation of Measures for Completing the Internal Market*, SEC (91) 2491, Dec. 19, 1991. For a detailed analysis of member-state implementation, see USITC, *The Effects of Greater Economic Integration Within the European Community on the United States: Fourth Followup Report* (investigation No. 332-267), USITC publication 2501, Apr. 1992, ch. 3.

[5] Office of the United States Trade Representative (USTR), *1991 Trade Policy Agenda and 1990 Annual Report*, 1991, p. 9.

[6] For an analysis of these directives, see USITC, *Effects of EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992, pp. 5-57 to 5-60.

[7] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 49. For a discussion of this provision, see USITC, *The Effects of Greater Economic Integration Within the European Community on the United States: Second Followup Report* (investigation No. 332-267), USITC publication 2318, Sept. 1990, pp. 5-6.

[8] Presidential Determination No. 92-22, of Apr. 22, 1992, 57 F.R. 81, 15217 (1992). Special 301 provisions are outlined in the Trade Act of 1988, amending the Trade Act of 1974. 19 U.S.C. §2411 (1988). See also USTR, "Hills Announces Implementation of Special 301 and Title VII," press release, Apr. 26, 1992.

[9] USITC, *Effects of EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992.

[10] For more information, see U.S. International Trade Commission, *Effects of Greater EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992.

[11] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 48.

[12] U.S. Chamber of Commerce International Division, *EC 1992: A Practical Guide for American Business*, 3d update, 1991.

[13] Denmark rejected the treaty in a referendum taken June 2, 1992.

[14] For a more detailed discussion of economic and monetary union, see USITC, *Effects of EC Integration: Fourth Followup Report*, USITC publication 2501, Apr. 1992, ch. 4.

[15] "Official Text of the European Union Treaty Signed in Maastricht on February 7, 1992, by the European Community Heads of State and Government," *European Report*, supplement, No. 1746 (Feb. 22, 1992).

[16] For additional information, see USITC, *Effects of EC Integration: Fourth Followup*, USITC publication 2501, Apr. 1992, ch. 4; "Maastricht Treaty Means Single Currency by 1999," *Common Market Reporter*, Dec. 12, 1991, p. 2; and U.S. Department of State Telegram, Dec. 1991, The Hague, message reference No. 09360.

[17] The Western European Union was a defense pact that served as a link between NATO and the EC.

[18] For additional background, see U.S. Department of State Telegram, Dec. 1991, The Hague, message reference No. 09385.

[19] "Official Text of the European Union Treaty."

[20] Ibid.

[21] "EC Sets Deadline for Single Currency; Britain Wins Opt-Out on Labor Measures," *1992: The External Impact of European Unification*, Dec. 16, 1991, p. 12.

[22] U.S. Department of State Telegram, "Italian Views on Maastricht," Dec. 1991, Milan, message reference No. 03011.

[23] U.S. Department of State Telegram, "German Reactions to Maastricht: Overall," Dec. 1991, Bonn, message reference No. 34838.

[24] U.S. Department of State Telegram, "UK: Commons Debates Major's Maastricht," Dec. 1991, London, message reference No. 22971.

[25] EFTA member states are Norway, Finland, Sweden, Switzerland, Austria, Iceland, and Liechtenstein.

[26] Bruce Barnard, "The European Economic Area," *Europe*, Dec. 1991, p. 17.

[27] International Monetary Fund, *Direction of Trade Statistics Yearbook*, 1991.

[28] "The European Economic Area: Towards a Single Market of 19 Countries," *European Report*, supplement, No. 1715 (Oct. 26, 1991), pp. 1-7.

[29] "EEC/EFTA: Make or Break as Ministers Meet With Crucial EEA Questions Unsolved," *European Report*, No. 1685 (June 15, 1991), External Relations, p. 9. For more information, see USITC, "EEA Progress Stalls Again," *International Economic Review*, Sept. 1991, pp. 9, 10.

[30] "EEC/EFTA: Impasse on EEA Again," *European Report*, No. 1730 (Dec. 17, 1991), External Relations, p. 3. On April 11, 1992, the ECJ approved a revised EEA. The key changes included the elimination of the EEA court and the creation of an EFTA court that would have jurisdiction only

within EFTA. For a discussion see Bureau of National Affairs, Inc. (BNA), "European Court of Justice Ruling Clears Way for European Economic Area," *International Trade Reporter*, Apr. 15, 1992, p. 668.

[31] For more information on this type of agreement, refer to "Second Generation of Association Agreements Strengthens Ties Between the European Community and Eastern European Countries," *International Economic Review*, USITC, May 1991, p. 10.

[32] "EC Clinches New Free Trade Accords With Czechoslovakia, Hungary, Poland," *1992: The External Impact of European Unification*, Dec. 2, 1991, pp. 1, 12.

[33] "EEC Enlargement: Frans Andriessen Under Heavy Fire," *European Report*, No. 1672 (Apr. 26, 1991), External Relations, p. 8.

[34] In February 1992 Finland applied for membership.

[35] Commission of the European Communities, *Communication of the Commission to the Council and the European Parliament: The Development and Future of the Common Agricultural Policy*, July 22, 1991, p. 3.

[36] *General Report on the Activities of the European Communities*, report No. 25, Feb. 1991, p. 397; and *Bulletin of European Communities*, report No. 12, 1991, p. 125.

[37] EC Office of Press and Public Affairs, "EC Commission Submits Major Detailed Proposals on the Development and Future of the Common Agricultural Policy," *European Community News*, July 10, 1991.

[38] "Farm Council: Ministers Disappointed With First Talks on CAP Reform," *European Report*, No. 1622 (Jan. 21, 1991), Internal Market, p. 9.

[39] For background information see BNA, "EC Farm Ministers Critical of Proposed Agriculture Changes, See Need for Reform," *International Trade Reporter*, July 17, 1991, p. 1063.

[40] "CAP Reform: Uproar Breaks Out in Farming Circles," *European Report*, No. 1693 (July 13, 1991), Internal Market, pp. 4-6.

[41] *Bulletin of European Communities*, "From Single Act to Maastricht and Beyond, the Means to Match Our Ambitions," supp. 1, 1992, p. 36.

[42] "Farm Council: CAP Reform Proposals Receive Mixed Response," *European Report*, No. 1694 (July 17, 1991), Internal Market, pp. 9-11.

[43] "Farm Council: Ministers Strive to Reach Consensus on Oilseeds and CAP Reform," *European Report*, No. 1714 (Oct. 23, 1991), Internal Market, p. 8.

[44] "CAP Reform: Rejection in Europe but Praise From Americans," *European Report*, No. 1694 (July 17, 1992), Business Brief, p. 2.

[45] European Parliament Committee on Agriculture, Fisheries and Rural Development, Internal Paper reprinted in *Inside U.S. Trade Special Report*, Oct. 4, 1991, p. S-3.

[46] The 1991 annual average exchange rate of the ECU in U.S. dollars was ECU 1 = $1.2407.

[47] "Farm Prices: Commissions's 1991/92 Proposals Aim to Curb Spending," *European Report*, No. 1657 (Feb. 27, 1991), Internal Market, p. 5.

[48] "Farm Prices: Cuts Too Soon and Too Deep, Say Farm Ministers," *European Report*, No. 1658 (Mar. 5, 1991), Internal Market, p. 6.

[49] "Farm Prices: MacSharry Tells ESC Members Urgent Action Is Needed to Curb Farm Spending," *European Report*, No. 1668 (Apr. 12, 1991), Internal Market, p. 7.

[50] "COPA: EEC Farm Group Rejects Commission's Farm Price Package," *European Report*, No. 1657 (Mar. 1, 1991), Business Brief, p. 11.

[51] For additional detail, see BNA, "MacSharry Readies Plans for CAP Reform as Details of EC Plan Are Released," *International Trade Reporter*, May 29, 1991, p. 820.

[52] "Farm Prices: Council Decision Paves the Way to CAP Reform," *European Report*, No. 1680 (May 28, 1991), Internal Market, p. 3.

[53] EC Office of Press and Public Affairs, "1991/92 Agriculture Price Package Adopted," *European Community News*, May 29, 1991, and "Farm Prices: Council Decision Paves the Way to CAP Reform," *European Report*, No. 1680 (May 28, 1991), Internal Market, p. 3.

[54] "Farm Council: Farm Ministers Freeze EEC Cereal Prices for 1991/92," *European Report*, No. 1686 (June 19, 1991), Internal Market, p. 2.

[55] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 48.

[56] "White House Fact Sheet on the Commercial Space Launch Policy," *Weekly Compilation of Presidential Documents*, Sept. 5, 1990.

[57] The oilseeds in dispute are soybeans, rapeseed, sunflowerseed, and related animal-feed proteins. Of the three oilseeds, soybeans account for about 98 percent of the dollar value. Soybeans are the United States' largest agricultural export to the EC and the eighth-largest export to the EC overall. U.S. 1991 soybean exports to the EC totaled nearly $1.5 billion.

[58] For a discussion of the U.S. position, the EC position, the panel views, and the conclusion, see "Sidebar US/EC: Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins," *GATT Focus*, No. 68, Feb. 1990, p. 3.

[59] For a discussion of events that led to the establishment of the GATT dispute-settlement panel, see USITC, *International Economic Review*, June 1991, pp. 8-9, and USITC, *OTAP, 1988*, USITC publication 2208, July 1989, p. 88.

[60] U.S. House of Representatives, letter to the President of the United States, Apr. 29, 1991.

[61] For additional information see William Dullforce, "Brussels to Comply With GATT Ruling on Oilseeds Subsidies," *Financial Times*, May 30, 1991, p. 4.

[62] "Sidebar US/EC: Payments and Subsidies Paid," p. 3.

[63] Ibid. and American Soybean Association, letter to Secretary of Agriculture Madigan, Aug. 13, 1991, reprinted in *Inside U.S. Trade*, Aug. 16, 1991, p. 5.

[64] For more information see USITC, "U.S.-EC Dispute Over EC Oilseeds Subsidies Lingers On," *International Economic Review*, USITC, June 1991, pp. 8-9.

[65] U.S. Department of State Telegram, "History of GATT Binding on Non-Grain Feeds," Dec. 1991, Washington, DC, message reference No. 409371.

[66] Because EC grain, protected by variable levies, is more expensive than nongrain feed substitutes like oilseeds, imports of substitutes are encouraged. The EC complains that increased imports of these substitutes make disposing of grain surpluses more expensive and also encourage excess animal production. The EC wants to make substitutes more expensive to encourage use of domestic grain. The United States strongly opposes this action. U.S. Department of Agriculture (USDA), Economic Research Service (ERS), "Agricultural Trade Negotiations Approach Their Conclusion," *Western Europe Agriculture and Trade Report Situation and Outlook Series*, Nov. 1990, pp. 80-82.

[67] USDA, telephone conversations with USITC staff, Washington, DC, Mar. 2 and 16, 1992. For additional information, see Dean R. Kleckner, letter to Secretary Ed Madigan, Mar. 18, 1991, reprinted in Inside Washington Publications, *Inside U.S. Trade*, Mar. 22, 1991, p. 12.

[68] Frans Andriessen and Ray MacSharry, letter to Ambassador Carla Hills and Secretary Ed Madigan, Mar. 7, 1991, reprinted in *Inside U.S. Trade*, Mar. 22, 1991, p. 13.

[69] Senators David Pryor and John C. Danforth, letter to President Bush, April 1991, reprinted in *Inside U.S. Trade*, Apr. 19, 1991, p. 17.

[70] For additional detail, see BNA, "EC Officials Surprised by U.S. Threat of Retaliation Over Oilseeds Subsidies," *International Trade Reporter*, Apr. 24, 1991, p. 623.

[71] "EEC/GATT: European Commission Agrees to Comply With Oilseed Ruling," *European Report*, No. 1681 (May 30, 1991), External Relations, p. 7.

72 "Oilseeds: First Steps Toward CAP Reform Undertaken," *European Report*, No. 1699 (Aug. 3, 1991), Internal Market, p. 1. Refer to this document for details on calculation of aid, payment of aid, maximum guaranteed quantities and areas, the quality policy, and provisions for Spain and Portugal.

[73] USDA, Foreign Agricultural Service (FAS), *Highlights of the EC Oilseeds Reform*, Dec. 4, 1991, pp. 1-2.

[74] Ibid.

[75] "Oilseeds: First Steps Toward CAP Reform Undertaken," *European Report*, No. 1699 (Aug. 3, 1991), Internal Market, p. 1.

[76] Ambassador Carla Hills and Secretary Ed Madigan, letter to Frans Andriessen and Ray MacSharry, Sept. 9, 1991, reprinted in *Inside U.S. Trade*, Sept. 13, 1991, p. 10.

[77] "Farm Council: Slim Chance of Prompt Agreement on Oilseeds," *European Report*, No. 1707 (Sept. 28, 1991), Internal Market, p. 12.

[78] "Oilseeds: Farm Ministers Approve Transitional Reform," *European Report*, No. 1715 (Oct. 26, 1991), External Relations, p. 2.

[79] "GATT: U.S. Rejects EEC Oilseed Reform Plan and Insists on October 31 Deadline," *European Report*, No. 1711 (Oct. 12, 1991), External Relations, pp. 1-2.

[80] The European Parliament approved the reform December 9, 1991. It became law on December 12, 1991, and will apply to oilseeds harvested beginning in 1992 and marketed through the 1992/93 and subsequent seasons. For the legal text, see Council Regulation No. 3766/91 on Establishing a Support System for Producers of Soya Beans, Rape Seed and Colza Seed and Sunflower Seed, *Official Journal of the European Communities*, No. L 356 (Dec. 24, 1991), pp. 17-20.

[81] "Oilseeds: Farm Ministers Approve Transitional Reform," *European Report*, No. 1715 (Oct. 26, 1991), Internal Market, p. 2.

[82] USDA, telephone conversation with USITC staff, Washington, DC, Mar. 16, 1992.

[83] For additional information, see "U.S. Likely to Protest EC Refusal to Cut Oilseeds Subsidies, Evaluate Options," *Inside U.S. Trade*, Mar. 22, 1991, p. 12.

[84] For additional information, see "Council Approves New System for Oilseeds Subsidies, U.S. Ponders Response," *Inside U.S. Trade*, Oct. 25, 1991, p. 16.

[85] For additional information, see "EC Official Likely to Reject U.S. Request for Review of Oilseed Subsidies," *Inside U.S. Trade*, Oct. 4, 1992, p. 19.

[86] USTR, telephone conversation with USITC staff, Washington, DC, Feb. 21, 1991. On March 16, 1992, the panel ruled that the EC's oilseed reform program also violates GATT rules. On May 1, 1992, USTR announced that it intended to impose duties on $1 billion of EC products imported into the United States in retaliation for the failure of the EC to comply with the GATT ruling. On June 9, the USTR released a list of products targeted for retaliation should the EC not reform its oilseeds subsidies. The United States and the EC are currently negotiating compensation.

[87] This dispute is separate from one in which the EC imposed a ban on meat treated with growth-promoting hormones. The United States has lost nearly $100 million annually since that ban took effect for the United States on January 1, 1989.

[88] U.S. Senate, Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Agricultural Research and General Legislation, John Hardin, *Statement Before the Subcommittee*, 102d Cong., 2d sess., Apr. 9, 1992, p. 3.

[89] "EEC/US: Talks on Meat Plant Dispute Stall," *European Report*, No. 1663 (Mar 23, 1991), External Relations, p. 6, and "EEC: Council Set to Adopt Regulation on Meat Marketing Rules," *European*

Report, No. 1699 (Aug. 3, 1991), Internal Market, p. 4.

[90] 56 F.R. 1663 and USTR, "Hills Initiates Investigation of European Community Meat Rules," press release, Jan. 10, 1991.

[91] USTR docket No. 301-83. National Pork Producers Council and American Meat Institute, *Petition for Relief Under Section 301 of the Trade Act of 1974, as Amended, Before the Office of the United States Trade Representative*, Nov. 28, 1990, p. 2.

[92] Ibid., p. 15.

[93] U.S. House of Representatives, letter to Ambassador Carla Hills, Jan. 8, 1991, and U.S. Senate, letter to Ambassador Carla Hills, Jan. 7, 1991, both reprinted in *Inside U.S. Trade*, Jan. 11, 1991, p. 5.

[94] Frans Andriessen and Ray MacSharry, letter to Ambassador Carla Hills and Secretary Edward Madigan, May 7, 1991.

[95] Ibid.

[96] "EEC/US: Community Gives a Little but Not Enough on Meat Plant Dispute," *European Report*, No. 1685 (June 15, 1991), External Relations, p. 3.

[97] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 50.

[98] This is because section 301 required the USTR to request a GATT dispute-settlement panel if this dispute was not resolved within 150 days of the beginning of the investigation. At the time the section 301 case was initiated, USTR extended the consultation by an additional 90 days.

[99] GATT, *GATT Focus*, No. 83, Aug. 1991, p. 9. However, under new GATT rules the EC would have to agree to the establishment of the panel within the next two GATT Council meetings.

[100] Urging the administration to fight back, a bill was introduced in the Senate on September 20, 1991, that would empower the President to prohibit importation of EC meat. As of March 1992 the bill had not been reported out of committee.

[101] USTR, telephone conversation with USITC staff, Washington, DC, Mar. 30, 1992.

[102] The case has not been brought before the GATT. The United States and EC are currently negotiating a settlement. For more information, see U.S. Department of State Telegram, "US-EC Discussions on Third Country Meat Directive," July 25, 1992, message reference No. 239246.

[103] "EEC/US: EEC Bans Imports of Horsemeat Following Human Cases of Trichinosis," *European Report*, No. 1665 (Apr. 3, 1991), External Relations, p. 1.

[104] "EEC/US: EEC Lifts Ban on US Horsemeat," *European Report*, No. 1674 (May 4, 1991), External Relations, p. 7.

[105]USITC staff estimate based on official statistics of the U.S. Department of Commerce.

[106] In 1967 the EC agreed to a zero-bound duty on imports of corn gluten feed, officially classified as residue of the manufacture of starch from maize. "Memorandum of Understanding Reflecting Results of Article XXIII:1 Consultations on European Community Restriction Affecting Imports of Corn Gluten Feed," Oct. 16, 1991, par. B.

[107] USITC staff estimate based on figures compiled by the U.S. Department of Commerce.

[108] "EEC/US: Political Spotlight on Corn Gluten Feed Dispute," *European Report*, No. 1683 (June 8, 1991), External Relations, p. 9.

[109] "EEC/US: Corn Gluten Feed Shipments Refused at Dutch Port," *European Report*, No. 1678 (May 21, 1991), External Relations, pp. 3-4.

[110] "Memorandum of Understanding Reflecting Results of Article XXIII:1 Consultations on European Community Restriction Affecting Imports of Corn Gluten Feed," Oct. 16, 1991, par. B.

[111] "EEC/US: EEC Millers Demand Action on Corn Gluten Feed Dispute," *European Report*, No. 1696 (July 24, 1991), External Relations, p. 6.

[112] U.S. Department of State Telegram, "HMG Reactions to U.S. Corn Gluten Feed Demarche," June 1991, London, message reference No. 10420.

[113] U.S. Department of State, "Corn Gluten Feed Imports—Belgian Perspective," June 1991, Brussels, message reference No. 07989.

[114] "EEC/US: Corn Gluten Feed Dispute Boils Down to Name Calling," *European Report*, No. 1680 (May 28, 1991), External Relations, p. 6.

[115] "EEC/US: Corn Gluten Feed Dispute Causes Outrage in France," *European Report*, No. 1697 (July 27, 1991), External Relations, p. 7.

[116] "Corn Gluten Feed Demarche," Estate Cable 27-4510, Dept. of State, Aug. 20, 1991, and Jack Kintzle letters to Yvonne Van Rooy and Edward Madigan, Aug. 21, 1991, reprinted in *Inside U.S. Trade*, Aug. 23, 1991, p. 2-3.

[117] U.S. Department of State Telegram, "French Response to Corn Gluten Feed Demarche," June 1991, Paris, message reference No. 16852.

[118] "EEC/US: Corn Gluten Feed Dispute Continues," *European Report*, No. 1695 (July 20, 1991), External Relations, p. 4.

[119] "Memorandum of Understanding Reflecting Results of Article XXIII:1 Consultations on European Community Restriction Affecting Imports of Corn Gluten Feed," Oct. 16, 1991, par. D.

[120] "EEC/US: Corn Gluten Feed Dispute Causes Outrage in France," *European Report*, No. 1697 (July 27, 1991), External Relations, p. 7.

[121] "Agricultural Trade Negotiations Approach Their Conclusion," *Western Europe Agriculture and Trade Report Situation and Outlook Series*, USDA, ERS, Nov. 1990, pp. 80-82.

[122] "Memorandum of Understanding Reflecting Results of Article XXIII:1 Consultations on European Community Restriction Affecting Imports of Corn Gluten Feed," Oct. 16, 1991, par. E.

[123] Commission Regulation (EEC) No. 3492/91 on Amending Regulation (EEC) No. 2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff, *OJ* No. L 328 (Nov. 29, 1991), pp. 80-81.

124 For more background, see USITC, *OTAP, 1987*, USITC publication 2095, July 1988, p. 4-7.

125 U.S. Department of State Telegram, "1991 Trade Act Report: Spain," Nov. 1991, Madrid, message reference No. 12898.

126 A side letter to the agreement, referred to by Andriessen, guarantees at least 80 percent of this quota to the United States according to "U.S. Leans Toward Rejecting EC Offer on Extending Trade Pact," *Inside U.S. Trade*, Oct. 25, 1991, p. 11.

127 Frans Andriessen, letter to Ambassador Carla Hills, Nov. 5, 1991, reprinted in *Inside U.S. Trade*, Nov. 8, 1991, p. 20.

128 For additional information, see "U.S. Leans Toward Rejecting EC Offer on Extending Trade Pact," *Inside U.S. Trade*, Oct. 25, 1991, p. 11.

129 Frans Andriessen, letter to Ambassador Carla Hills, Nov. 5, 1991, reprinted in *Inside U.S. Trade*, Nov. 8, 1991.

130 For additional information, see "U.S. Leans Toward Rejecting EC Offer on Extending Trade Pact," *Inside U.S. Trade*, Oct. 25, 1991, p. 11.

131 Frans Andriessen letter to Carla Hills, Oct. 13, 1991, reprinted in *Inside U.S. Trade*, Oct. 25, 1991, p. 12.

132 "EEC/US: MEPs Outraged by Lack of Consultation on Maize Pact," *European Report*, No. 1716 (Oct. 30, 1991), External Relations, p. 4.

133 For additional information, see "U.S. Leans Toward Rejecting EC Offer on Extending Trade Pact," *Inside U.S. Trade*, Oct. 25, 1991, pp. 11-12.

134 Carla Hills letter to Frans Andriessen, Oct. 30, 1991, USTR.

135 For additional information see "EC Goes Back on Deal Struck With U.S. Over Review of Oilseeds Subsidies," *Inside U.S. Trade*, Nov. 15, 1991, p. 4.

136 For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 101, and USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, pp. 94-95.

137 "BST: Commission Puts Off the Day of Reckoning," *European Report*, No. 1729 (Dec. 14, 1991), Internal Market, p. 5.

138 "BST: European Interest Groups Urge EEC-Wide Ban," *European Report*, No. 1728 (Dec. 11, 1991), Business Brief, p. 4.

139 "BST: Commission Puts Off the Day of Reckoning," *European Report*, No. 1729 (Dec. 14, 1991), Internal Market, pp. 5-6.

140 "BST: European Interest Groups Urge EEC-Wide Ban," *European Report*, No. 1728 (Dec. 11, 1991), Business Brief, p. 4.

141 "In Brief: FEDESA Objects to Longer BST Moratorium," *European Report*, No. 1730 (Dec. 17, 1991), Business Brief, p. 5.

142 USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 50.

143 U.S. Food and Drug Administration, telephone conversation with USITC staff, Washington, DC, Mar. 31, 1992.

144 For further background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 102-103.

145 See, for example, "Airbus and Boeing: The Jumbo War," *The Economist*, June 15, 1991, p. 66, which cites Jean Pierson, managing director of Airbus, as setting the subsidy level at 70 to 90 percent, and Nancy Dunne, "U.S. Moves One Step Closer to Taking Airbus Dispute to GATT," *Financial Times*, June 6, 1991, p. 5, which cites USTR as estimating the level to be 75 percent.

146 When the cost of borrowing funds in the private market is included, the estimate of total subsidy rises to $25.9 billion. These figures are considered to be underestimates because Airbus does not disclose financial information. Gellman Research Associates, Inc., *An Economic and Financial Review of Airbus Industrie*, prepared for the U.S. Department of Commerce, International Trade Administration, Sept. 4, 1990, p. 2-2.

147 "Airbus: Member States Give Mandate for Negotiations to Phase Out Subsidies," *European Report*, No. 1649, Jan. 30, 1991, External Relations, p. 4.

148 For additional information, see "GATT to Rule Against German Aid to Airbus," *Wall Street Journal*, Jan. 16, 1992, p. A10.

149 U.S. Library of Congress, Congressional Research Service (CRS), *Airbus Industrie: An Economic and Trade Perspective*, report No. 91-166 E, Feb. 20, 1992, p. CRS-40.

150 On April 28, 1992, the EC announced at the Subsidies Committee that the German Government had suspended operation of the scheme. However, the EC continues to block adoption of the panel report. GATT, *GATT Focus*, No. 90, May-June 1992, p. 8.

151 CRS, *Airbus Industrie*, p. CRS-36.

152 "GATT/Airbus: EEC Proposes Reform of Civil Aircraft Code," *European Report*, No. 1663 (Mar. 23, 1991), External Relations, p. 7.

153 For additional information, see "EC Spells Out Intent to Seek Airbus Arbitration Under GATT Aircraft Code," *Inside U.S. Trade*, Sept. 27, 1991, p. 5.

154 For additional information, see "U.S., EC Set Aside Procedural Tiff, Meet on Airbus Dispute," *Inside U.S. Trade*, Aug. 2, 1991, p. 11.

155 Under GATT complaint procedures, the United States and the EC had 60 days, starting from June 6, to resolve their differences through negotiation. If negotiations fail the United States may request the Subsidies Committee to act as a mediator in a conciliation phase, and 30 days after this request it may request a dispute-settlement panel.

156 "Dispute Over Airbus," *GATT Focus*, Sept. 1991, p. 1.

157 The United States eventually set March 31, 1992, as a deadline for achieving a negotiated agreement that would prevent it from calling for a GATT panel to intervene. On April 1 the United States and the EC reached a tentative agreement, which was signed July 17. The agreement prohibits all future production supports, limits indirect subsidies to 3 percent of the value of annual industry revenue

in each signatory and 4 percent of the value of each firm's annual sales, establishes strict terms for the repayment of development subsidies received, and sets up transparency requirements to ensure that the agreement is effectively implemented. The agreement covers civil aircraft with over 100 seats. USTR, "U.S. and EC Sign Trade Agreement on Commercial Aircraft," press release No. 92-44, July 17, 1992.

[158] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 51.

[159] When interest rates are included in the calculations to cover the cost of borrowing, the level of support rises to between $33.5 and $41.5 billion. The report notes that these figures are conservative estimates as it is difficult to identify indirect support. "U.S. Government Support to U.S. Commercial Aircraft Industry During the Past 15 Years Exceeds $33 Billion," *European Community News*, Dec. 4, 1991, p. 1.

[160] Ibid., p. 2-3.

[161] For additional information, see "U.S. to Assess EC Willingness, Ability to Negotiate on Airbus Subsidies," *Inside U.S. Trade*, Nov. 15, 1991, p. 2.

[162] Two different-sized engines are included here, and as a result, two separate tariff lines are taken into account.

[163] U.S. Department of State Telegram, Ottawa, message reference No. 01540, Mar. 9, 1992.

[164] For a detailed discussion of the U.S.-Mexican developments in 1990, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 134.

[165] The expansion of the FTA negotiations to include Canada resulted from a September 1990 Canadian expression of its desire to participate in the free-trade talks. The trade Ministers of the three countries then began to explore the feasibility of trilateral negotiations. Canada's role in the U.S.-Mexican FTA negotiations and the effects of Canadian participation are discussed in USITC, *The Likely Impact on the United States of a Free Trade Agreement With Mexico* (investigation No. 332-297), USITC publication 2353, Feb. 1991.

[166] The United States—Mexico's leading trade partner—accounted for over 70 percent of Mexico's exports and imports in 1989. Canada was Mexico's fifth-ranking trade partner in terms of both exports and imports, accounting for 1.9 percent of each. Reported in USITC, *The Likely Impact on the United States of a Free Trade Agreement With Mexico* (investigation No. 332-297), USITC publication 2353, Feb. 1991, pp. 1-2 to 1-4.

[167] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 108-109.

[168] Harvey Enchin, "Canada Unprepared for EC Unity," *Globe and Mail* (Toronto), Feb. 19, 1992, p. B1.

[169] Canada's lack of preparation to meet the challenges of increased competition was highlighted in two high-profile publications—*Is Canada Ready for Europe 1992?*, a study by the Royal Bank of Canada (as reported in Enchin, *Toronto Globe and Mail)* and Michael Porter, *The Competitive Advantage of Nations* (London: MacMillan, 1990).

[170] The Canadian Constitution of 1982 was drawn up with the approval of all of the Canadian Provinces except Quebec. To secure Quebec's acceptance of the Constitution, Prime Minister Mulroney and the 10 Provincial premiers drafted the Meech Lake Constitutional Accord in 1987. The accord would have amended the Constitution to designate Quebec a "distinct society" within Canada, entitling it to special consideration in protecting its French linguistic and cultural heritage. Parliament and eight of the Provinces approved the accord; the deadline for full ratification by all 10 Provinces was June 23, 1990. Only Manitoba and Newfoundland withheld approval of the accord. In an attempt to break the impasse, proposals were made to reopen the accord to amendments that, among other things, proffered special recognition to women's and native people's rights. Quebec refused to consider any deviations from the terms of the original accord, maintaining that it would consider changes only after Meech Lake was fully ratified. For more detailed discussion of the issues involved, see Jeffrey Simpson, "The Two Canadas," *Foreign Policy*, No. 81 (winter 1990-91), pp. 71-86; also Ben Tonra, *Canada's Identity Crisis: A Background Review*, Washington: Center for Strategic and International Studies, CSIS Policy Papers on the Americas, vol. 2, report No. 1, Feb. 5, 1991. For more detailed information on the Meech Lake Accord, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 104-105.

[171] In response to the failure, Prime Minister Brian Mulroney established a forum, headed by Keith Spicer, which collected "intimate consultations" from members of the public. Quebec also established various committees like the Allaire committee and the Belanger-Campeau commission that are pushing for a minimum of decentralization of power to a maximum of total separation. For a discussion, see *The Economist*, Sept. 21, 1991, p. 37.

[172] The reform package introduced by Prime Minister Mulroney included, among other things, the following economic measures: (1) the removal of interprovincial trade barriers, (2) strengthening the Bank of Canada's mandate to fight inflation but also amending the Bank of Canada Act so that the Provinces would have a voice in selecting bank directors, (3) closer cooperation between Ottawa and the Provinces on budget and fiscal matters, (4) a constitutional amendment that would allow Parliament to make laws for the efficient functioning of the economic union, (5) strengthening of the constitution's "common market" clause to extend not only to the movement of goods, but also to the full mobility of capital, services, and people. For an analysis, see U.S. Department of State Telegram, Sept. 26, 1991, Ottawa, message reference No. 06374.

[173] Quebec is seeking increased political, cultural, and language rights and would like greater Provincial power over economic decisionmaking. In June 1991 Quebec's legislature voted to set October 26, 1992, as the last day for a referendum on sovereignty, with the provision that Quebec should "acquire the status of a foreign state one year to the day" if the vote chose breakage from Canada.

[174] The Canadian Government's position was elucidated in a November 1991 speech given by Prime Minister Mulroney in Quebec. As Mulroney put it—

They say Canada is unacceptable, but Canadian currency is acceptable. Canada is unacceptable, but the benefits of the Canadian economic union are acceptable. Canada is unacceptable, but Canadian citizenship is acceptable. These dream merchants have to learn once and for all that Canada is not a buffet where you can pick the choicest morsels, then walk out the door.

In the same speech Mulroney stated, "you can't be part-time Canadian." Office of the Prime Minister, "Notes for an Address by Prime Minister Brian Mulroney," Forestville, Quebec, Nov. 13, 1991.

[175] Strategico Inc., *Free Trade: Year Three, Put to the Test*, Dec. 1991, p. 14. This was taken from the study "Putting Humpty Dumpty Together Again: Free Trade, the Breakup Scenario," ch. in *Broken Links: Trade Relations After a Quebec Secession*, ed. by John McCallum, C.D. Howe Institute.

[176] Ibid.

[177] Ibid.

[178] Ibid.

[179] Québec Ministère du Commerce extérieur et du Développement technologique, *The Canada-United States Free Trade Agreement: A Quebec Viewpoint*, 1988.

[180] Québec Ministère des Affaires internationales, *The Uruguay Round of Multilateral Trade Negotiations, A Quebec Perspective*, 1st quarter, 1990, p. 1.

[181] Ibid.

[182] R. Kent Weaver, ed., *The Collapse of Canada?* (Washington: Brookings, 1992), p. 175. See also Ross Howard, "U.S. President Praises a 'United Canada' During Brief Ottawa Visit," *Globe and Mail* (Toronto), Mar. 14, 1991.

[183] The most notable subsidy program presently in use by Quebec is the practice of supplying cut-rate electric power to certain industries through Hydro-Quebec—a state-owned hydroelectric power company. Some analysts believe that supplying differential energy prices to domestic customers would likely constitute a violation of the U.S.-Canada FTA and would probably be a point of contention between Quebec and the United States in the negotiation of a new bilateral FTA agreement. Jeffrey Simpson, "Something for Quebeckers to Ponder as Their Powerhouse Goes on Show," *Globe and Mail* (Toronto), Dec. 5, 1991.

[184] K. Banting, "If Quebec Separates: Restructuring North America," in Weaver, ed., *The Collapse of Canada?*, p. 177. See also T.J. Courchene, *In Praise of Renewed Federalism*, (Toronto: C.D. Howe Institute, 1991).

[185] USTR, press release No. 91-52, Nov. 14, 1991.

[186] Additional duties were also imposed on imports of softwood lumber from Canada, after a finding by the U.S. Department of Commerce that the wood was subsidized. See below.

[187] Opinions on the efficacy of the FTA cover a very broad spectrum. A study by the Institute for Policy Analysis, a Canadian think tank, concluded that the agreement has reduced barriers to trade and investment between Canada and the United States, with most gains coming in industry-specific areas as a result of increased business investment. U.S. Department of State Telegram, Ottawa, message reference No. 07684, Nov. 21, 1991.

A Gallup poll, released in November 1991, showed a majority of Canadians (54 percent) in opposition to the FTA. U.S. Department of State Telegram, Ottawa, message reference No. 07272, Nov. 5, 1991.

The Canadian Centre for Policy Alternatives issued a report in January 1992 that claimed over 461,000 Canadian jobs had been lost in the 3 years that the FTA had been in operation. Bruce Campbell, *Canada Under Siege*, as reported in Virginia Galt, *Globe and Mail* (Toronto), Jan. 30, 1992, p. A5.

[188] USITC cases involving softwood lumber date back to 1982. See USITC, *OTAP, 1982*, USITC publication 1414, 1983, pp. 153-5.

[189] In Canada most natural and scarce resources are owned by the Provinces, including timber rights.

[190] For a discussion of the issues in the 1986 case, see USITC, *OTAP, 1986*, USITC publication 1995, July 1987, pp. 4-17 to 4-20.

[191] Canadian/U.S. lumber disputes have flared up intermittently for more than 30 years. There were disputes during 1961-62 and 1981-83, as well as the 1986 and 1991-92 cases being discussed.

[192] Embassy of Canada, Diplomatic Note, No. 105, press release, Sept. 3, 1991, and "Reasons for Termination," *Canada-United States Softwood Lumber Memorandum of Understanding*, Sept. 1991, p. 1.

[193] Ibid.

[194] Ibid.

[195] Ibid., p. 2.

[196] Ibid.

[197] Ibid, pp. 2-3.

[198] Ibid., p. 3.

[199] Ibid.

[200] U.S. Department of Commerce, "Self-Initiation of Countervailing Dauty Investigation: Certain Softwood Lumber Products from Canada," 56 F.R. 56055, Oct. 31, 1991. This was only the second time the Department of Commerce self-initiated a countervailing-duty investigation.

[201] USTR, *United States Announces Action on Canadian Lumber Imports*, press release No. 91-44, Oct. 4, 1991, p. 2.

[202] 56 F.R. 50738.

[203] The USITC vote consisted of the 3 to 0 ruling along with three abstentions.

[204] Canadian respondents of various Provincial governments, lumber companies and labor unions asked the U.S. Commerce Department to designate

their case as "extraordinarily complicated." Such a designation would allow for a more detailed and longer investigation and would give Canada 2 more months to present its arguments.

205 See "Beer in North America: Trouble Is Brewing," *International Economic Review*, USITC, July 1991.

206 USTR docket No. 301-80.

207 55 F.R. 27731. The U.S. industry complained that Canada had not implemented the recommendations of the 1988 GATT panel and that new discriminatory practices had been introduced in some Provinces. The 1988 GATT dispute-settlement panel report was the result of a successful EC complaint against Canadian Provincial liquor board restrictions on wine. The panel found that certain Provincial practices were inconsistent with certain articles of the GATT.

208 The report was adopted by the GATT Council on Feb. 18, 1992. *GATT Focus*, No. 88, Mar. 1992, p. 7. A timetable for Canada to come up with a plan to address the GATT panel's findings was put into place. By March 1992 an "action plan" for the pricing practices was due; July 1992 is the deadline by which other practices are to be addressed.

209 The Canadian response to the GATT report was announced in March 1992. It was a 3-year plan that would eliminate discrimination against U.S. beer by the end of March 1995. It also called for the elimination of interprovincial barriers to Canadian beer by July 1992. (Interprovincial barriers are a major problem in Canada, particularly in the brewing industry. For example, Moosehead beer, brewed in New Brunswick and very popular in the States, is not available in Ontario or a number of other Provinces.) The United States termed the Canadian action plan "inadequate," noting that internal Canadian barriers could be eliminated within 3 months, whereas cross-border discrimination against U.S. beer would take 3 years to be addressed. One Canadian response is that foreign companies should not be afforded quicker access than domestic suppliers. The counterpoint to this argument, which allows for continued protection, maintains that Canadian brewers cannot be expected to loosen up their market to foreign brewers when they are so tightly bound at home (i.e., vis a vis other Provinces.)

Following intense negotiations in April 1992, "agreement in principle" was reached. The compromise shortened the time frame within which certain Canadian Provincial liquor board distribution and pricing practices are to be dismantled. Imposition of an "environmental tax" by Ontario, however, prompted retaliation by the United States. The controversy continued well into 1992.

210 The determination of dumping by Revenue Canada and of injury by the CITT are currently being reviewed at the request of U.S. producers by binational panels under the FTA. Panel decisions are due in August 1992.

211 Federal Government measures include the U.S. Omnibus Budget Reconciliation Act of 1990, section 11201, which among other things, Canada maintained, increased the excise tax on beer but provided for reduced rates for certain smaller U.S. producers. State Government measures include discriminatory taxes on imported beer and wine and lower tax rates on locally produced beverages. GATT, *GATT Focus*, No. 81, May-June 1991, p. 13.

212 As an example of State practices, the Canadians cited tax exemptions provided for in-State brewers in eight States and preferential treatment afforded beer with less than 4 percent alcohol content in some States. Most Canadian beers contain 5 percent and are thus not eligible for the preferential tax treatment.

213 The GATT panel report in February 1992 supported the Canadian claim of the unfairness of certain U.S. Federal and State regulations and taxes.

214 The affirmative decision was made by three Commissioners. Two others found in the negative, and a sixth Commissioner did not participate. USITC, *Fresh, Chilled, or Frozen Pork From Canada* (investigation No. 701-TA-298 (final)), USITC publication 2218, Sept. 1989.

215 "Status Report of Cases," U.S.-Canada Free-Trade Agreement, Binational Secretariat, U.S. Section, Jan. 30, 1991.

The ITA Determination on Remand was ordered to be reviewed by the binational panel on January 3, 1991. In a March 1991 decision, the panel affirmed in part the ITA remand determination and again remanded the case to ITA for further reconsideration of two Provincial support programs.

216 This was the Commission's first remand proceeding under the U.S.-Canada FTA.

217 Between the time of the Commission's original injury determination and the remand, two Commissioners, who took opposing views in the original determination, left the ITC. The new decision was 2 to 1 in favor of threat of injury, as opposed to 3 to 2 in favor of threat originally. See USITC, *Fresh, Chilled or Frozen Pork From Canada* (investigation No. 701-TA-298 (final)), USITC publication 2330, Oct. 1990.

218 This was the first instance of a case being remanded for a second time under the bilateral trade pact.

219 "Memorandum Opinion and Order Regarding ITC's Determination on Remand," Jan. 22, 1991, p. 37.

220 USITC, *Fresh, Chilled, or Frozen Pork From Canada: Views on Second Remand in Investigation No. 701-TA-298 (final)*, USITC publication 2362, Feb. 1991, pp. 3-4.

221 Ibid., p. 27.

222 The CFTA provides for an appeal of a panel decision if, inter alia, "the panel seriously departed from a fundamental rule of procedure, or the panel manifestly exceeded its powers, authority, or jurisdiction set forth in this article," and those actions "materially affected the panel's decision and threatens the integrity of the binational panel process." *U.S.-Canada Free-Trade Agreement*, ch. 19, art. 1904.13.

223 The United States has imposed countervailing duties on live hogs since 1985. The level of the countervailing duty is periodically reviewed to determine its accuracy in light of existing foreign

subsidy programs. The October increase was based on a review of the Canadian Federal tripartite subsidy program between April 1, 1989, and March 30, 1990.

[224] In May 1992 a binational panel remanded in part the Commerce countervailing-duty detemination. For additional information, see USITC, *Monthly Import/Business Review*, July 1992.

[225] The GATT consultation concerned the ITA-Commerce determination and not the USITC findings.

[226] The GATT panel report stated "The U.S. may impose a countervailing duty on pork only if a subsidy has been determined to have been bestowed on the production of pork; the mere fact that trade in pork is affected by the subsidies granted to production of swine is not sufficient." However, the panel also made clear that it had not made a finding that the countervailing duty should not have been levied at all. The panel noted that its mandate led it to rule merely that the subsidy determination in the case was not in conformity with the GATT article in question, article VI: 3.

[227] "Global Partnership Plan of Action (Part II), released Jan. 9, 1992 in Japan, LEGISLATE, Report for the 102nd Congress. Japan's fiscal year begins on April 1 and ends on March 31.

[228] At the end of the year this legislation and others, such as the Trade Agreements Compliance and Technology Preservation Act, had not been acted on by the full Congress.

[229] Estimated by USITC staff based on official statistics of the U.S. Department of Commerce.

[230] During 1986-91 U.S. imports of Japanese automobiles actually fell, primarily because Japan shifted more of its production to the United States during that period.

[231] Includes automobiles, trucks, and buses.

[232] *Ward's Automotive Yearbook*, 53rd edition, 1991, p. 79.

[233] For additional information, see "U.S. Carmakers Partly to Blame," *Seattle Post-Intelligencer*, Jan. 10, 1992, p. A12.

[234] Office of the United States Trade Representative (USTR), *1991 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 1991, p. 135.

[235] See, for example, *OTAP, 1988*, USITC publication 2208, July 1989, p. 112.

[236] American Chamber of Commerce in Japan, "United States-Japan Trade White Paper," 1990, pp. III.5 and III.6.

[237] *Keiretsu: The Effects of Corporate Inter-Relationships on Japanese OEM Sourcing*, Motor & Equipment Manufacturers Association, 1990, p. 1.

[238] A September 1991 study by the U.S. Department of Commerce showed that Japanese-owned auto facilities in the United States had increased their imports of parts from Japan from next to zero in 1980 to $2 billion during 1988. Donald H. Dalton, U.S. Department of Commerce, *Foreign Direct Investment in the United States*, August 1991, p. 59.

[239] Motor & Equipment Manufacturers Association, *Keiretsu: The Effects of Corporate Inter-Relationships on Japanese OEM Sourcing*, 1990, p. 2.

[240] As evidence of their efforts to improve their purchasing records, according to Japanese producers, there are over 1,000 supply relationships between U.S. parts and equipment suppliers and Japanese auto producers, including 400 design-in relationships. U.S. Department of State Telegram, Nov. 25, 1991, Tokyo, message reference No. 21125.

[241] On May 31, 1991, a petition was filed with the USITC and the Department of Commerce alleging that minivans were being sold at less than fair value in the United States. In its preliminary decision, on July 10, 1991, the USITC found reasonable indication of actual or potential material injury to the U.S. industry from minivans sold at least than fair value. On December 20, 1991, in a preliminary ruling, the U.S. Department of Commerce ruled that Japanese auto producers were selling minivans in the United States at less than fair value. The dumping margins were found to be 6.4 percent for Mazda, 0.95 percent for Toyota and 4.23 percent for other Japanese producers.

[242] Sean P. McAlinden and others, *The U.S.-Japan Bilateral 1994 Trade Deficit*, Transportation Research Institute, University of Michigan, Apr. 1991, 80 pp.

[243] The APAC is a private-sector group established under the 1988 Omnibus Trade and Competitiveness Act to increase sales of U.S. original equipment and aftermarket parts to Japanese auto producers in Japan and the United States. For background information, see "Auto Parts Issue Heats Up Again," *Japan Economic Institute Report*, Aug. 9, 1991, p. 9.

[244] Ibid.

[245] *The DOC/MITI Automotive Parts Price Survey*, ITA, U.S. Department of Commerce, June 27, 1991.

[246] On March 2, 1992, the Customs Service ruled that Civic hatchbacks shipped from Honda's plant in Ontario between January 1989 and March 1990 did not meet 50-percent North American content levels and therefore did not qualify for duty-free entry to the United States. Customs found that Honda automobiles contained only 46 percent North American content. For further information on the Customs decision, see private letter rulings from November 1991 through May 8, 1992, U.S. Department of the Treasury, U.S. Customs Service. No public documents, including press releases, were issued by Customs.

[247] At the end of 1991 the United States and Japan continued to discuss issues relating to the methodology for the studies. For additional information see "U.S., Japan Set Parameters for Auto Study," *Washington Trade Daily*, Sept. 26, 1991, p. 3.

[248] During the SII talks, the United States had encouraged the JFTC to take steps towards stricter enforcement of its antimonopoly law.

[249] On January 11 MITI had announced that the voluntary restraint agreement on exports of

automobiles from Japan would remain at 2.3 million units until March 31, 1992.

[250] Ibid. Estimates on the domestic content of Japanese autos are inconclusive and U.S. auto analysts dispute the Japanese claim of a current level of 50 percent domestic content.

[251] The White House, "Fact Sheet on U.S.-Japan Achievements on Auto and Auto Parts," press release, Tokyo, Japan, Jan. 9, 1992.

[252] Japan also announced measures intended to increase imports of mainframe computers, paper products, and flat glass. The Japan Fair Trade Commission will study these industries from the perspective of competition policy. Ibid.

[253] For background information, see "U.S. and Tokyo Scramble to Clear Up Confusion on Language of Trade Pact," *Wall Street Journal*, Jan. 22, 1992.

[254] U.S. Department of Agriculture (USDA), "Trade Policies and Market Opportunities for U.S. Farm Products, 1990," 1991.

[255] USDA, Foreign Agricultural Service (FAS).

[256] USDA, "Market Opportunities for U.S. Farm Products," 1990, sec. 1132 report, and FAS, interview by USITC staff, May 5, 1992.

[257] For background information on the Japanese rice controversy, see USITC *OTAP, 1991*, USITC publication 2404, July 1991, pp. 123-124.

[258] The Food Agency under the Ministry of Agriculture, Forestry, and Fisheries (MAFF) is responsible for the production, pricing, and distribution of rice in Japan. Through administrative guidance and the Food Agency's rice purchases from farmers, domestic rice producers receive substantial subsidies. Despite reductions in producer support prices since 1986, retail prices in Japan remain higher than anywhere else in the world. For background information on the section 301 petitions, see USITC *OTAP, 1988*, USITC publication 2208, July 1989, p. 107.

[259] For additional information, see "Japan Rethinks Lifting of Rice Ban," *Financial Times*, Feb. 11, 1992, p. 4. The LDP has traditionally been heavily dependent on agricultural votes and financing in an electoral system where rural voters are represented in disproportionately large numbers.

[260] Ibid.

[261] For background information, see "Japan Resists U.S. Pressure for New Rice Tariff Regime," *Financial Times*, Nov. 19, 1991, p. 9.

[262] For background information, see "Hills Urges Japan to Open Rice Market and Help Push Talks on Global Trade, *Wall Street Journal*, Nov. 18, 1991, p. A11.

[263] For background information, see OECD Economic Surveys, 1990-91 series, *Japan*, November 1991.

[264] "U.S.-Japan Economic Relations in 1991: A Look Back," *Japan Economic Institute Report*, Feb. 14, 1992, app. A, p. 19.

[265] For background on the agreement, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, pp. 106-107.

[266] USDA, *Trade Policies and Market Opportunities for U.S. Farm Products, 1990*, Aug. 1991.

[267] For additional information, see "Japan Beef Demand Lifts Imports," *Journal of Commerce*, May 29, 1991, p. A7.

[268] For additional discussion, see "Japan's Beef Imports Exceed Its Appetite," *Washington Times*, July 9, 1991, p. C10.

[269] For additional information, see "Japan's Market Tough on U.S. Beef," *Journal of Commerce*, June 7, 1991, p. A1.

[270] For background information on the agreement, see USITC *OTAP, 1990*, USITC publication 2403, July 1991, p. 121.

[271] Statistics provided to USITC by USDA Foreign Agricultural Service. Quotas on orange juice were lifted on Apr. 1, 1992.

[272] For information on the 1990 supercomputer agreement, see USITC *OTAP, 1990*, USITC Publication 2403, July 1991, pp. 119-120.

[273] This figure includes $6 billion for computer hardware, peripherals, and packaged software and $3 billion for computer services, systems integration, and software development. The White House, "Fact Sheet on the U.S.-Japan Computer Agreement," Jan. 22, 1992.

[274] During U.S.-Japan trade committee meetings held in 1990, the United States indicated for the first time that it would like to hold discussions on increasing access to Japan's public sector market for foreign computers.

[275] "Government Computer Procurement," *Japan Economic Institute Report*, May 17, 1991, p. 13, and "U.S.-Japan Economic Relations in 1992: A Look Back," *Japan Economic Institute Report*, Feb. 14, 1992, app. A, p. 2.

[276] USTR, Title VII Report, Apr. 26, 1991.

[277] On January 22, 1992, the United States and Japan, through an exchange of letters, finalized an agreement (initialed on January 10) under which the Government of Japan "will base its procurement on the principles of non-discrimination, transparency, and fair and open competition." The agreement was to take effect on April 1, 1992, for measures relating to computer products and October 1 and April 1, 1993, for computer services. The "Measures" agreed to will be "based on the principles of non-discrimination, transparency, and fair and open competition in the procurement of computer products and services. . . with the aim of expanding Japan's procurement of competitive foreign computer products and services." The agreement provides commitments to ensuring equal access of foreign suppliers to pre-bid information, to reducing sole-source tendering, to improving transparency in evaluating bids and awarding contracts on the basis of both price and performance, and to establishing a bid protest system. The United States proposed that the first followup consultations on the agreement be held on July 1992. This was the first bilateral government

procurement agreement to cover services. Ryohei Murata, Ambassador of Japan, letter to USTR Carla A. Hills, Jan. 22, 1992; USTR, "Measures Related to Japanese Public Sector Procurement of Computer Products and Services," fact sheet, Jan. 22, 1992; and The White House, Office of the Press Secretary, "U.S.-Japan Computer Agreement," fact sheet, Jan. 22, 1992.

278 Formally known as the U.S.-Japan Semiconductor Arrangement, the previous accord was the outgrowth of a petition by the semiconductor industry association under section 301 of the Trade Act of 1974, docket No. 301-48. Pursuant to the agreement, the 301 investigation was suspended (51 F.R. 27811). Notification instituting an investigation under the statute was printed in 50 F.R. 28866.

279 U.S. Department of Commerce, International Trade Administration, and USTR, "Statement of U.S. Trade Representative on Foreign Share of Japanese Semiconductor Market," Mar. 30, 1992.

280 "Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products," June 11, 1991, p. 8.

281 52 F.R. 13412.

282 "Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Semiconductor Products," June 11, 1991, p. 4.

283 The duties were suspended by Presidential Proclamation 5631. For additional information see USTR, "United States, Japan Conclude Semiconductor Agreement," press release,.June 4, 1991.

284 Semiconductors manufactured by companies for their own use and not sold on the open market.

285 Andrew A. Procassini, Semiconductor Industry Association, letter to President George Bush, Dec. 30, 1991.

286 For background information on the August 1990 telecommunications agreement, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 124-125.

287 Joint use refers to "groups of unrelated companies that seek to communicate over a private telephone line leased from the public network." USTR, "USTR Hills Releases 1991 Inventory of Foreign Trade Barriers, Announces Results of Japan Telecommunications Agreement Review," Mar. 29, 1991.

288 Letter from Mitsuo Igarashi, Japan's Ministry of Posts and Telecommunications, to Ambassador S. Linn Williams and Under Secretary of Commerce J. Michael Farren; letter from S. Linn Williams J. Michael Farren to Mitsuo Igarashi, June 25, 1991.

289 Letters from Ministry of Posts and Telecommunications and USTR, June 25, 1991.

290 USTR, "Title VII," fact sheet, April 26, 1991.

291 "NTT, KDD Ownership," *Japan Economic Institute Report*, Sept. 27, 1991, p. 13.

292 For background information on the Wood Products Agreement, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 120 and 121.

293 U.S. Department of Commerce, informal communication with USITC staff, Feb. 18, 1992.

294 "Ministry to Revise Forest Product Standards," *Foreign Broadcast Information Service, East Asia Daily*, Apr. 3, 1991, p. 18.

295 U.S. Department of Commerce, USDA, informal communication with USITC staff, Feb. 29, 1992.

296 For further information on the agreement, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, pp. 107-108.

297 A formal exchange of letters occurred on July 31, 1991.

298 56 F.R. 37934.

299 See USTR press release, Apr. 26, 1991, and USTR docket No. 301-69A. Notice of the proposed action was published in the *Federal Register* on May 1 (56 F.R. 20057). USTR had determined on November 21, 1989, under section 1305 of the Omnibus Trade and Competitiveness Act of 1988 that Japanese construction procurement practices were "unreasonable and burden or restrict U.S. trade." However, retaliation was postponed until 1991 because USTR hoped that progress could be achieved through further negotiations. See 54 F.R. 49150.

300 "U.S. Access to the Japanese Construction Market Still Limited," *International Economic Review*, USITC, Nov. 1990, pp. 7-8.

301 The VRA with Japan was initialed in 1986, and implementation began on January 1, 1987. The VRAs with Japan cover machining centers, numerically controlled lathes, noncomputerized NC punching and shearing machines, and three other products. A VRA was also negotiated on machine tool exports from Taiwan in 1986. This VRA was set to expire at the end of 1991.

302 For background information on the machine tool VRAs, see *USITC, Report*, 1986, USITC publication 1995, July 1987, p. 4-27.

303 For background information, see "U.S. Toolmakers' Fight for Exports Centres on Japan," *Financial Times*, Sept. 7, 1990, p. 1.

304 Association for Manufacturing Technology, telephone interview, July 15, 1992.

305 After Jan. 1, 1992, this organization was known only as the Association for Manufacturing Technology (AMT).

306 For background information, see Nancy Dunne, "U.S. Machine-Tool Makers Seek to Keep Import Curb," *Financial Times*, Sept. 17, 1991.

307 "U.S.-Japan Economic Relations in 1991: A Look Back," *Japan Economic Institute Report*, Feb. 14, 1992, p. 18.

308 "Statement by Press Secretary Fitzwater on Extension of the Voluntary Restraint Agreements With Japan and Taiwan," *Weekly Compilation of Presidential Documents*, Dec. 27, 1991, pp. 1895-1896.

[309] On Apr. 27, 1992, the White House announced that the United States and Japan had agreed to phase out the VRAs by the end of 1993 and that negotiations with Taiwan were continuing.

[310] On December 31, 1991, the U.S. ban on imports of products produced by Toshiba Machine Co. and Kongsberg Trading Co. expired. The U.S. Government had implemented trade sanctions on December 28, 1988, after Toshiba Machine Co., a subsidiary of Toshiba Corp. was found to have violated COCOM export rules in illegally shipping advanced milling machines to the Soviet Union. For background information on this topic, see USITC, *OTAP, 1987*, publication No. 2095, July 1988, pp. 4-25 to 4-26.

[311] In 1986 the Japan Fair Trade Commission cited concerns about the low levels of foreign penetration in Japan's paper market.

[312] The Fair Trade Commission of Japan, "Competition Policy Measures for Improved Market Access," May 29, 1986.

[313] On April 5, 1992, through an exchange of letters, the two countries agreed to "Measures to Increase Market Access in Japan for Foreign Products." The objective of this accord was to increase market access in Japan for foreign paper products.

[314] For background information on SII, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 118-119.

[315] For further information regarding progress on SII, see "First Annual Report of the U.S.-Japan Working Group on the Structural Impediments Initiative (SII)," Tokyo, Japan, May 22, 1991.

[316] "U.S/Japan Structural Impediments Initiative, Comments of the U.S. delegation on the First Annual Report by the Japanese Delegation," Tokyo, Japan, May 22, 1991.

[317] "Report by the U.S. Delegation, First Annual Report of the U.S.-Japan Working Group on the Structural Impediments Initiative," Tokyo, Japan May 22, 1991 and see for example "New Trade Pact Has Aided Japan More Than U.S.," *Los Angeles Times*, May 20, 1991, p. D1.

[318] Bank of Mexico data.

[319] For an explanation of production sharing, see the analysis of U.S. imports.

[320] An important portion of this category is trade in steel and textile products.

[321] U.S. Department of Commerce, Office of Mexico, memorandum of Feb. 20, 1992.

[322] On the concept of production sharing and Mexico's maquiladora industry see discussion of U.S. imports later in this section.

[323] HTS item 9802.00.60 applies to nonprecious metal articles (1) made or processed in the United States, (2) exported for more processing abroad, and then (3) returned to the United States for further processing. HTS item 9802.00.80 applies to articles that are assembled abroad, in whole or in part of U.S.-made components, and then imported into the United States.

[324] USITC, *Production Sharing: U.S. Imports Under Harmonized Tariff Schedule Subheadings 9802.00.60 and 9802.00.80, 1987-1990*, USITC publication 2469, Dec. 1991, tables B-5 and B-18.

[325] Ibid.

[326] For more background on food imports, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 132.

[327] Bank of Mexico, *Economic Indicators Report*, Jan. 1992.

[328] Ibid.

[329] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p.132.

[330] For additional information, see U.S. Department of State, *Mexico: Economic Trends Report*, sec. I.

[331] USITC, *OTAP, 1990*, USITC publication 2403, July, 1991, p. 132.

[332] Department of State, *Mexico: Economic Trends Report*, op. cit. sec. K.

[333] For additional information, see USITC, *OTAP, 1990*, USITC publication 2403, p.133.

[334] U.S. Department of State, *Mexico: Economic Trends Report*, sec. K.

[335] *U.S.-Mexico Free Trade Reporter*, Dec. 2, 1991, p. 8.

[336] Bank of Mexico data.

[337] Bank of Mexico, *Economic Indicators Report*, Jan. 1992.

[338] "Regulations of the Law to Promote Mexican Investment and Regulate Foreign Investment," published in the *Diario Oficial de la Federacion* on May 16, 1989.

[339] For additional information on foreign investment laws and regulations in Mexico, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations* (investigation No. 332-282), USITC publication 2275, Apr. 1990, p. 5-1, and USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 115.

[340] Due to restrictions the participation of foreign investors in the privatization of Mexico's banking sector in 1991 has been minimal.

[341] USITC, *Review of Trade and Investment Liberalization Measures*, USITC publication 2275, p. 5-4.

[342] Bank of Mexico, *Annual Report*, 1991.

[343] Ibid.

[344] Bank of Mexico, *Economic Indicators Report*, Jan. 1992.

[345] Ibid.

[346] USTR, *1992 National Trade Estimate Report on Foreign Trade Barriers*, p. 181.

[347] For background information, see "Mexico and Chile to Sign Free Trade Agreement", *Financial Times*, Aug. 2, 1991.

[348] Carlos Singer, director of ProChile, quoted in Charles W. Thurston, "Another Trade Zone Formed

as Chile, Mexico Implement Pact," *Journal of Commerce*, Dec. 31, 1991, pp. 1-2.

349 U.S. Department of State Telegram, Apr. 1991, Mexico City, message reference No. 12356.

350 U.S. Department of State, *Mexico Economic Trends Report*, sec. N.

351 For a detailed description of Mexico's prior IPR system see USITC, *Review of Trade and Investment Liberalization Measures, Phase I*, USITC publication 2275, pp. 6-1 through 6-17.

352 For more background, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 113.

353 For further information, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 136.

354 The decree that implements the new law was published in the *Diario Oficial de la Federacion* on June 27, 1991.

355 The new amendments were published in the *Diario Oficial de la Federacion* on July 17.

356 U.S. Department of Commerce, *Intellectual Property Rights (IPR) in Mexico*, Aug. 23, 1991.

357 USTR, *1992 National Trade Estimate Report on Foreign Trade Barriers*, Mar. 1992, p. 179.

358 For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 136.

359 Dolphins, which are air-breathing, generally swim above tuna, and some fishing fleets end up dropping their purse seine nets on the dolphins to catch the tuna. Dolphins caught in the net are often maimed or killed.

360 This matter is under consideration by the U.S. industry and Government, but no bill has been introduced at the time of this writing.

361 For additional information on Mexican import licensing, see USITC, *Review of Trade and Investment Liberalization Measures, Phase I*, USITC publication 2275, pp. 4-5. See also U.S. Department of State Telegram, Jan. 1992, message reference No. 02807, and U.S. Department of State, *1992 Trade Act Report*, p. 3.

362 Ibid.

363 USTR, *1992 National Trade Estimate Report*, p. 177.

364 USITC, *Monthly Import Business Review*, Feb. 1992, p. 2.

365 *Pork Report*, Feb. 1992, p. 6.

366 On January 14, 1992, the United States and Mexico agreed to end Mexico's ban on U.S. live swine under specified conditions pertaining to the transportation and certification of the animals. At the same time Mexico also lifted its December ban on certain U.S. fruits, although certification procedures were still under consideration for fruit.

367 For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 135.

368 Published on March 19, 1991, in the *Diario Oficial de la Federacion.*

369 U.S. Department of State, *Mexico Economic Trends Report*, sec. L.

370 Ibid.

371 For more detail on these criteria, see U.S. Department of State, *Mexico Economic Trends Report*, sec. L.

372 Ibid.

373 For additional information, see John T. Bennett, "Korea Adopts Seventh Five-Year Plan," *Korea's Economy, 1992*, vol. 8, No. 1, Korea Economic Institute of America, pp. 1-7.

374 Government of Korea, Economic Planning Board, "Outline of the Seventh Five-Year Economic and Social Development Plan," *Economic Bulletin*, Sept. 1991, pp. 3-4.

375 For background regarding the anti-import campaign in 1990, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 143-146.

376 Sang Mok Suh, "Korea: A Growing Economy." *Korea's Economy 1992*, vol. 8, No. 1, Korea Economic Institute of America, pp. 28-29. See also Government of Korea, Economic Planning Board, "Korea's National Campaign for a Consumption Ethic," *Economic Bulletin*, Nov. 1991.

377 Sang Mok Suh, "Korea: A Growing Economy," pp. 28-29.

378 "The Korean Economy in 1991," *Korea Economic Update*, vol. 3, No. 1 (spring 1992), p. 1.

379 Sang Mok Suh, "Korea: A Growing Economy," pp. 28-29.

380 Government of Korea, Economic Planning Board, "Korea's National Campaign for a Consumption Ethic," pp. 9-12.

381 U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, p. 117.

382 U.S. Department of State, "Customs Report to the National Assembly on Imports of 'Luxurious Consumer Goods.'" Seoul, Oct. 23, 1991, message reference No. 11306.

383 The other items identified as luxury goods are golf equipment, carpets, video game machines, color televisions, electronic organs, ski equipment, jet ski, fur apparel, motor boats, yachts, and beds. Seoul 11306, Oct. 23, 1991.

384 "The Benefits of Open Markets," remarks by Ambassador Carla A. Hills, USTR, before the American Chamber of Commerce, Seoul, South Korea, Nov. 14, 1991.

385 "The U.S. and Korea: Entering a New World." *U.S. Department of State Dispatch*, Jan. 13, 1992, p. 24.

386 The first 5-year tariff-reduction plan (1984-88) reduced Korea's average tariff rate from 23.7 percent to 18.1 percent. For details, see USTR, *1989 National Trade Estimate Report on Foreign Trade Barriers*, p. 115.

387 In 1990 the Ministry of Finance proposed a 1-year delay in implementation of the plan, to make up for unanticipated revenue shortfalls. The National Assembly approved the revision, and the second 5-year tariff-reduction plan is scheduled to last until January 1, 1994. For more information, see USTR, *Foreign Trade Barriers*, 1992, p. 157.

[388] USTR, *Foreign Trade Barriers*, 1992, pp. 157-158.

[389] Ibid., p. 158.

[390] Government of Korea, Economic Planning Board, *Economic Bulletin*, July 1991, p. 16.

[391] USTR, *Foreign Trade Barriers, 1992*, p. 158.

[392] See, for example, USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 147-148.

[393] U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, p. 114.

[394] Pub. L. 100-418, title I, sec. 1372-1374, Aug. 23, 1988. This act directs the administration to eliminate discriminatory practices by foreign governments toward the U.S. telecommunications industry. USTR was required to conduct an investigation within 5 months of Aug. 23, 1988, identifying priority countries. Priority countries are defined in part as those whose acts, policies, and practices deny mutually advantageous market opportunities to telecommunications products and services of U.S. firms. USTR's findings are updated in its semiannual report to Congress submitted under sec. 309(3) of the Trade Act of 1974.

[395] Ibid.

[396] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 147, and USTR, *Foreign Trade Barriers*, 1990, p. 135.

[397] USTR, "Telecommunications Talks With EC and Korea to Continue," Feb. 22, 1991.

[398] USTR, 1991 *Annual Report of the President of the United States on the Trade Agreements Program*, p. 41.

[399] "Letter to Congressional Leaders on Telecommunications Trade Talks With the European Community and Korea," reprinted in *Weekly Compilation of Presidential Documents*, Mar. 8, 1991, p. 268.

An agreement designed to provide U.S. access to Korea's telecommunications market was reached on February 21, 1992. Korea agreed to liberalize value added services, streamline registration, eliminate investment restrictions in enhanced services by 1994, improve access to the standards-setting process, open up government procurement practices, and cut key tariffs by 40 percent. Korea also agreed to liberalize safeguard measures regarding the telecommunications monopoly, Korea Telecom. USTR Carla A. Hills said that the agreement would "give U.S. firms a fair shot at the fastest growing sectors of a market now estimated to be worth $5 billion annually." USTR, "Hills Announces Telecommunications Agreement With Korea, Other Trade Act Decisions on Government Procurement and Telecommunications," Feb. 21, 1992; USTR, "Fact Sheet: Negotiations With the European Community and the Republic of Korea Under Section 1374 of the 1988 Trade Act," Feb. 1992, p. 1.; and USTR, *Foreign Trade Barriers*, 1992, p. 166.

[400] Government of Korea, Economic Planning Board, *Economic Bulletin*, July 1991, p. 29.

[401] USTR, *Foreign Trade Barriers*, 1992, p. 163.

[402] Ibid.

[403] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 148, and USTR, *Foreign Trade Barriers*, 1992, pp. 163-164.

[404] Taiwan applied for GATT membership on January 1, 1990. For background see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 140-141.

[405] "French Minister Announces Paris Backing ROC GATT Bid," *Free China Journal*, Jan. 14, 1991, p. 1.

[406] President George Bush letter to Senator Baucus regarding MFN for China, July 19, 1991, reprinted in *Inside U.S. Trade*, July 26, 1991, pp. S-2 to S-3.

[407] China reapplied for GATT membership in 1986. Talks regarding its readmission have been stalled since the Chinese Government's crackdown on the prodemocracy movement in 1989.

[408] Foreign Broadcast Information Service, *China Daily Report*, Oct. 28, 1991, p. 41.

[409] The provisions for accession as a "separate customs territory" are contained in GATT article XXXIII. In 1991 Macao acceded to the GATT under the terms of article XXXIII. For further information, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 50.

[410] Foreign Broadcast Information Service, *China Daily Report*, Oct. 28, 1991, p. 41.

[411] U.S. Department of State, "Taiwan Economic Trends Report," Mar. 3, 1992, Taipei, message reference No. 01452.

[412] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 140.

[413] For more details on the economic development plan, see U.S. Department of State Telegram, Nov. 14, 1990, Taipei, message reference No. 7570, and FBIS, *Daily Report: China*, "Six-Year Plan Seeks to Attract Foreign Investment," May 30, 1991, pp. 106-109.

[414] "Taiwan: Billions of Dollars in Major Infrastructure Opportunities." *Business America*, July 29 and Aug. 12, 1991, pp. 2-13.

[415] The mission took place in February 1992. "President's Export Council Leads Trade Mission to Taiwan to Focus on Six-Year, $303 Billion Development Plan." *Business America*, Mar. 23, 1992, pp. 25-27.

[416] For more background, see USITC, *OTAP, 1986*, USITC publication 1995, July 1987, p. 4-41.

[417] "Statement by Press Secretary Fitzwater on Extension of the Voluntary Restraint Agreements With Japan and Taiwan," *Weekly Compilation of Presidential Documents*, Dec. 27, 1991, pp. 1895-1896.

[418] Ibid.

[419] According to USTR, "the objective of Special 301 is to enhance the Administration's ability to negotiate improvements in foreign intellectual property regimes through bilateral and/or multilateral initiatives." The law requires USTR to identify "those foreign countries that deny adequate and effective

protection of intellectual property rights, or deny fair and equitable market access for U.S. persons relying on intellectual property protection, and to determine which of those countries are priority foriegn countries." Trading partners not named as "priority foreign countries" but whose environment for protection of IPRs is of concern to the United States may be placed on a "priority watch list" or a "watch list." Trading partners designated as a "priority foreign country" are subject to a 6-month section 301 investigation and face possible retaliation. For more details, see USTR, "Fact Sheet: 'Special 301' on Intellectual Property." Apr. 26, 1991. For a discussion of Special 301, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, pp. 6-7.

420 Ibid., pp. 6-7 and 117.

421 USTR, *Foreign Trade Barriers 1992*, p. 234.

422 USTR, *Foreign Trade Barriers, 1992*, pp. 234-236, and U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, pp. 170-172.

423 Ibid.

424 The major reasons USTR cited for naming Taiwan as a priority foreign country include a lack of progress in enacting and implementing improvements in IPR laws and serious enforcement difficulties. Designation as a "priority foreign country" made it the target of an accelerated unfair trade practices investigation initiated by USTR. Such investigation must be concluded within 6 months. In early June the United States and Taiwan reached agreement terminating the case.

425 Secretary of Commerce Robert A. Mosbacher, letter to the President, Aug. 13, 1991. For additional information, see *Weekly Compilation of Presidential Documents*, Oct. 18, 1991, pp. 1462-1463, and *International Trade Reporter*, "Taiwan, Korea Found Violating Pact, Clearing Way for Possible Sanctions," Aug. 21, 1991, p. 1239.

426 "Message to Congress Deferring Sanctions Under the Pelagic Driftnet Agreement," reprinted in *Weekly Compilation of Presidential Documents*, Oct. 18, 1991, p. 1463.

427 Driftnets are floating gillnets used on the high seas. They extend from 1.5 miles to 30 or more miles in length and kill all marine life in their path. Concern over the use of driftnets centers on the incidental capture of whales, dolphins, birds, salmon en route to spawning grounds, and other marine animals. In 1990, according to the National Marine Fisheries Service, 10 percent of Japan's driftnet fleet killed 1,758 whales and dolphins, 253,288 tuna, 81,956 blue sharks, 30,464 sea birds and more than 3 million other "nontarget" fish, including salmon tagged from Columbia River basin hatcheries. United Nations resolution 44/225, effective June 30, 1992, calls for a temporary end to all driftnet fishing on the high seas from that date. The resolution, however, has been criticized by environmental groups for having too many loopholes that will permit continued driftnetting. On September 18, 1991, the United States banned imports of fish caught with driftnets in the South Pacific. The ban was implemented immediately for fish caught on the high seas in that region and pertains to fish caught anywhere on the high seas after July 1 1992. The impetus for the new rules grew out of the Dolphin Protection Consumer Information Act of 1990. Under the new regulations, nations using driftnets that export seafood to the United States must certify that the products were not caught in driftnets.

428 The petition was filed by the Distilled Spirits Council of the United States, and the American Beverage Alcohol Association. USTR, "U.S. Distilled Spirits Industry Withdraws Taiwan Petition." Jan. 11, 1992, p. 1

429 USTR, "Section 302 Petitions—No Investigation Initiated," Jan. 17, 1991, p. 6.

430 Tariffs were defined as follows: Irish and Scotch whiskeys, $20.41 (550 NTD) per liter effective Apr. 1, 1991; other whiskeys, $7.35 (198 NTD) per liter effective Apr. 1, 1991; cognac and armagnac, $46.38 (1,250 NTD) per liter with Taiwan Tobacco and Wine Monopoly Bureau (TTWMB) accepting applications for import effective Jan. 1, 1993; other brandies, $20.41 (550 NTD) per liter, with TTWMB accepting applications for import effective Jan. 1, 1993; rum, gin, vodka and other distilled spirits (excluding kaoliang, rice distilled spirits, other processed spirits and spirits processed with Chinese medicine) $8.35 (225 NTD) per liter, TTWMB accepting applications for import effective Sept. 1, 1992; and distilled spirits preparations, $1.67 (45 NTD) for alcohol content under 7 percent, $4.42 (119 NTD) for alcohol content above 7 percent but below 20 percent, and $8.35 (225 NTD) for alcohol content above 20 percent, with applications for import effective beginning Sept. 1, 1992. U.S. Department of State Telegrams, Mar. 4, 1991, Taipei, message reference No. 1546, and Jan. 16, 1991, message reference No. 420. NTD converted to U.S. dollars using average 1990 exchange rate of 26.95 NTD/US$.

431 U.S. Department of State Telegram, Jan. 7, 1991, Taipei, message reference No. 1546, and *Free China Journal*, Jan. 10, 1991, p. 7.

432 USTR, *1990 Trade Policy Agenda and 1989 Annual Report of the President of the United States on the Trade Agreements Program*, 1990, p. 55.

433 For a discussion of the Trade Action Plan of February 1989, see USITC, *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 118.

434 USTR, *Foreign Trade Barriers, 1992*, p. 231.

435 U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, p. 166.

436 USTR, *Foreign Trade Barriers, 1992*, pp. 231-232, and U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, p. 166.

437 For more details, see USTR, *Foreign Trade Barriers, 1992*, pp. 236-237, and U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, pp. 167-168.

438 The import ban also applies to weapons and drugs.

439 USTR, *Foreign Trade Barriers, 1992*, pp. 231-232, and U.S. Department of State, *Country Reports on Economic Policy and Trade Practices*, Mar. 1992, pp. 167-168.

[440] For data prior to 1988, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, table 18, p. 152.

[441] Decree Law 7232 of Oct. 29, 1984.

[442] For more background, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 154.

[443] The previous Brazilian administration of President Jose Sarney had lowered the maximum tariff from 105 percent to 85 percent. Decree-Law 2433 of May 19, 1988.

[444] For more background on the measures undertaken by Brazilian President Collor during 1990, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, pp. 151-155.

[445] U.S. Department of State Telegram, Jan. 10, 1992, Washington, DC, message reference No. 008338.

[446] USTR, F*oreign Trade Barriers*, 1992, p. 19.

[447] U.S. Department of State Telegram, Nov. 20, 1991, Brasilia, message reference No. 12412.

[448] MERCOSUR is the Spanish acronym, and MERCUSUL is the Portuguese acronym.

[449] U.S. Department of State Telegrams, Nov. 18, 1991, Sao Paulo, message reference No. 03768 and Nov, 14, 1991, Sao Paulo, message reference No. 03761.

[450] Legislation to enact the administration's privatization program was promulgated in April 1990 as Brazilian law No. 8031. *Gazeta Mercantil Weekly*, Apr. 23, 1990, p. 3.

[451] One of the debated subjects was whether to sell Government-owned enterprises for cruzeiros (Brazilian currency), U.S. dollars, or debt instruments. See also "Privatization a Bit Slow Out of Gate," *Journal of Commerce*, Sept. 30, 1991, p. 10A.

[452] "Privatization Program Overcomes Skepticism: Interview With Eduardo Monado, President of the National Bank of Economic and Social Development," *Modern Brasil*, Nov. 1991, p. 6, and The Economist Intelligence Unit, *Brazil Country Report*, No. 3, 1991, p. 14.

[453] The Economist Intelligence Unit, *Brazil Country Report 1991-92*, pp. 14-15.

[454] The investigation was launched on Aug. 23, 1987, in response to a petition filed by the Pharmaceutical Manufacturers Association on June 11, 1987. USTR docket No. 301-61. 52 F.R. 28223.

[455] See 53 F.R. 41551 for more background. Also see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 169.

[456] 55 F.R. 27324.

[457] U.S. Department of State, Jan. 10, 1992, Washington, DC, message reference No. 008338.

[458] USTR, *Foreign Barriers to Trade*, 1992, p. 21.

[459] *World Intellectual Property Report*, special edition, May 1991.

[460] USTR, "Fact Sheet: 'Special 301' on Intellectual Property," Apr. 26, 1991.

CHAPTER 5
Administration of U.S. Trade Laws and Regulations

This chapter reviews activities related to the administration of U.S. trade laws during 1990. It is subdivided into sections on (1) import-relief laws (the escape-clause, market-disruption, and adjustment-assistance provisions of the Trade Act of 1974); (2) unfair trade laws; and (3) certain other trade provisions. These other provisions include section 22 of the Agricultural Adjustment Act (interference with programs of the U.S. Department of Agriculture), section 232 of the Trade Expansion Act of 1962 (impairment of national security), the Caribbean Basin Recovery Act (CBERA), the U.S. Generalized System of Preferences (GSP), and the Andean Trade Preference Act (ATPA).

Import Relief Laws

Safeguard Actions

Section 201 of the Trade Act of 1974[1] is the so-called U.S. "escape clause" law. It is based on article XIX of the General Agreement on Tariffs and Trade (GATT), which permits a country to "escape" from its obligations under the agreement with respect to a particular article of merchandise when certain conditions exist. The U.S. International Trade Commission conducts investigations under section 201 upon receipt of a petition from an entity such as a trade association, firm, certified or recognized union, or other group of workers that is representative of an industry; upon request from the President or the United States Trade Representative (USTR); upon resolution of the House Committee on Ways and Means or the Senate Committee on Finance; or upon its own motion. The Commission did not conduct any new or followup investigations under section 201 in 1991.

Market Disruption

Under section 406 of the Trade Act of 1974,[2] the Commission conducts investigations to determine whether imports of an article produced in a "Communist country" are causing market disruption with respect to an article produced by a U.S. industry. "Market disruption" is defined to exist whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing so rapidly, either absolutely or relatively, that they are a significant cause of material injury or threat of material injury to the domestic industry. The Commission did not conduct any investigations under section 406 in 1991.

Adjustment Assistance

Title II of the Trade Act of 1974, the Trade Adjustment Assistance (TAA) program, authorizes the President to extend economic assistance to workers, firms, and industries displaced as a result of national policies to liberalize trade barriers. Initially authorized through the Trade Expansion Act of 1962, the program is scheduled to expire September 30, 1993. The program and certain eligibility standards were modified by the Deficit Reduction Act of 1984 and by the Omnibus Budget Reconciliation Acts of 1981 and 1985.[3] Additional modifications, primarily in job-training assistance and in coverage of certain workers in the oil and gas industries, were made through provisions of the Omnibus Trade and Competitiveness Act (OTCA) of 1988.[4]

The TAA system of readjustment allowances to individual workers is administered by the U.S. Department of Labor through its Office of Employment and Training Administration (ETA) in the form of (1) monetary benefits for direct trade readjustment allowances and (2) service benefits that include allocations for job search, relocation, and training. Industrywide technical consultation provided through Commerce-sponsored programs is designed to restore the economic viability of U.S. industries adversely affected by international import competition.[5]

Assistance to Workers

The Department of Labor instituted 1,509 investigations in fiscal year 1991 on the basis of petitions filed for trade adjustment assistance. This figure represents a small increase from the 1,455 petitions instituted in fiscal 1990. The results of investigations completed or terminated in fiscal 1991, including those in process from the previous fiscal year, are shown in the following tabulation:[6]

Item	Number of investigations or petitions	Estimated number of workers
Completed certifications ...	546	52,194
Partial certifications	3	663
Petitions denied	851	91,889
Petitions terminated or withdrawn	41	802
Total	1,441	145,548

The number of completed and partial certifications in fiscal 1991 decreased to 549 from 588 in fiscal 1990. Despite lower rates of eligibility stemming in part from the more stringent criteria contained in the Deficit Reduction Act of 1984 and subsequent omnibus budget acts, preliminary figures for fiscal year 1991 indicate that Labor expenditures for direct Trade Readjustment Allowances to certified workers increased by a significant proportion to $115.7 million, approximately $23.1 million more than the estimated $92.6 million expenditure in fiscal 1990. Department officials indicated the increase reflects the implementation of special provisions of the OTCA of 1988, which allowed workers in the oil and gas industry a one-time, 90-day opportunity to apply for retroactive trade readjustment allowances.[7]

In addition, Labor provided training, job search, and relocation services valued at a preliminary estimate of $64.9 million in fiscal 1991 for worker activities in the areas shown in the following tabulation:

Item	Estimated number of participants[1]
Training	20,100
Job search	500
Relocation allowances	750
Total	21,350

[1] Preliminary figures.

Preliminary data for fiscal 1991 indicate that an estimated 21,350 workers used available service benefits, representing an increase of 7.3 percent from the 19,900 workers receiving such services in the previous fiscal year. The increase is in part a result of the OTCA of 1988, which made the receipt of income-support payments contingent on worker participation in ETA-sponsored training programs.[8]

Assistance to Firms and Industries

Through its Trade Adjustment Division (TAD), the U.S. Department of Commerce certified 155 firms as eligible to apply for trade adjustment assistance during fiscal year 1991.[9] This figure represents a 9.4-percent decrease from the 171 firms certified in the previous fiscal year. The TAD administers its programs through a nationwide network of 12 Trade Adjustment Assistance Centers (TAACs). Technical services are provided to certified firms through consultants under direct contract with Commerce's Economic Development Administration (EDA). Funding for the TAACs during fiscal 1991 totaled $12.3 million for provision of technical services to 792 firms adversely affected by international import competition.

In addition to the technical assistance component of the TAD program, Commerce funded four industry development projects valued at $543,000.[10] The industries receiving such funding represented fabricators of engines and automotive equipment and producers of semiconductors and electrical systems. Technical assistance projects initially funded in previous years continued in effect throughout fiscal year 1991 for industries that process steel and produce electronics.

Laws Against Unfair Trade Practices

As a result of antidumping investigations conducted in 1991 by the Commission and Commerce, 19 new antidumping orders were issued. Commerce issued two countervailing-duty orders in 1991; in the case of one of the orders, no Commission injury determination was required.[11] During 1991, the Commission completed 13 investigations under section 337 of the Tariff Act of 1930 involving allegations of patent, trademark, or copyright infringement or other unfair methods of competition. In three of those investigations, the Commission issued exclusion orders prohibiting the importation of merchandise, and cease and desist orders enjoining further violation of section 337.

In 1991, two section 301 investigations were instituted as a result of petitions filed by private parties, and two investigations were self-initiated by USTR. In addition, two new investigations under the "super 301" provision contained in the OTCA 1988 were initiated in 1991. Bilateral settlements were reached in several pending section 301 cases.

Antidumping Investigations

The present antidumping law is contained in title VII of the Tariff Act of 1930 (19 U.S.C. 1673 et seq.), which was added by the Trade Agreements Act of 1979. (The 1979 provisions superseded the Antidumping Act of 1921.) The antidumping law provides relief in the form of special additional duties that are intended to offset margins of dumping. Antidumping duties are imposed when (1) the administering authority (under present law, Commerce) has determined that imports are being, or are likely to be, sold at less than fair value (LTFV) in the United States, and (2) the Commission has determined that a United States industry is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of such imports.

In general, imports are considered to be sold at LTFV when the United States selling price is less than the foreign market value, which is usually the home-market price or, in certain cases, the price in a third-country market or a "constructed" value. The antidumping duty equals the difference between the U.S. price and the foreign market value. Most investigations are conducted on the basis of a petition filed with Commerce and the Commission by or on behalf of a U.S. industry.

Commerce and the Commission each conduct preliminary and final antidumping investigations as the basis of their separate determinations.[12] In 1991 the Commission completed 53 preliminary and 32 final antidumping injury investigations.[13] Antidumping orders were imposed as a result of 19 of these investigations on a total of 13 products being imported from 9 countries. Details of antidumping actions and orders, including suspension agreements[14] in effect in 1991, are presented in tables A-19 and A-20. The following tabulation summarizes antidumping investigations in 1991:

Antidumping Duty Investigations	*Number[1] 1989*	*1990*	*1991*
Petitions filed	13	19	24
Preliminary Commission determinations:			
Negative	5	6	22
Affirmative (includes partial affirmatives)	20	27	31
Terminated	0	1	2
Final Commerce determinations:			
Negative	2	0	0
Affirmative	36	16	28
Terminated	0	0	1
Suspended	0	0	0
Final Commission determinations:			
Negative	15	2	13
Affirmative (includes partial affirmatives)	23	14	19
Terminated	0	1	0

[1] When a petition alleges dumping (or subsidies) with respect to more than one product and/or by more than one country, separate investigations generally are instituted for imports of each product from each country. For this reason, the numbers of investigations instituted and determinations made generally exceed the number of petitions filed. Moreover, an investigation based on a petition filed in one calendar year may not be completed until the next year. The above numbers do not include determinations made following court-ordered remands.

Countervailing-Duty Investigations

The United States countervailing-duty law is set forth in section 303 and title VII of the Tariff Act of 1930. It provides for the levying of special additional duties to offset foreign subsidies on products imported into the United States.[15] In general, procedures for such investigations are similar to those of antidumping investigations. Petitions are filed with Commerce (the administering authority) and the Commission. Before a countervailing-duty order can be issued, Commerce must find a countervailable subsidy, and, in most cases, the Commission must make an affirmative determination of material injury, threat of material injury, or material retardation by reason of the subsidized imports.

Investigations are conducted under section 701 of the Tariff Act if the subject article is imported from a country that has signed the GATT Code on Subsidies and Countervailing Duties[16] or has otherwise been designated a "country under the Agreement."[17] Investigations with respect to imports from other countries are conducted under section 303 of the Tariff Act. Such imports are subject to an injury investigation by the Commission only if (1) they normally enter free of duty, and (2) international obligations of the United States require an injury investigation.[18] For imports not falling under this category or under section 701, a countervailing-duty order may be issued under section 303 on the basis of an affirmative subsidy determination by Commerce alone.

One new countervailing-duty order—on Atlantic salmon from Norway—was imposed in 1991 as a result of an investigation involving both Commerce and the Commission. A countervailing-duty order on steel wire rope from Thailand was imposed in 1991 following investigation by Commerce alone. In 1991 the Commission completed 7 preliminary and 3 final injury investigations.[19] Details of countervailing-duty actions and outstanding orders, including suspension agreements[20] in effect in 1991, are presented in tables A-21 and A-22. The following tabulation is a summary of countervailing-duty investigations in 1991:

Countervailing Duty Investigations	*Number*[1] *1989*	*1990*	*1991*
Petitions filed	7	5	8
Preliminary Commission determinations:			
Negative	0	2	1
Affirmative (includes partial affirmatives)	3	3	6
Terminated	0	0	1
Final Commerce determinations:			
Negative	2	2	2
Affirmative	8	2	4
Terminated	1	0	1
Suspended	0	0	0
Final Commission determinations:			
Negative	4	0	2
Affirmative (includes partial affirmatives)	5	0	1
Terminated	0	0	0

[1] The numbers of investigations instituted and determinations made generally exceed the number of petitions filed. The number of petitions filed does not include an investigation self-initiated by Commerce in 1991. The above numbers do not include determinations made following court-ordered remands.

Reviews of Outstanding Antidumping and Countervailing-Duty Orders

Section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675), requires Commerce (the administering authority), if requested, to conduct annual reviews of outstanding antidumping and countervailing-duty orders to determine the amount of any net subsidy or dumping margin, and to review suspension agreements to determine compliance. Section 751 also authorizes Commerce and the Commission, as appropriate, to review certain outstanding determinations and agreements after receiving information or a petition that shows changed circumstances. The party seeking revocation or modification of an antidumping or countervailing-duty order or suspension agreement has the burden of persuading the Commission that circumstances have changed sufficiently to warrant review and revocation. Based on either of the reviews above, Commerce may revoke a countervailing-duty or antidumping order in whole or in part, or terminate, or resume a suspended investigation.

The Commission did not complete any investigations under section 751 in 1991. As a result of reviews conducted under section 751 in 1991, Commerce revoked one countervailing-duty order (on litharge—a fused lead monoxide—from Mexico) and one antidumping order (on trichloro-isocyanuric acid from Japan). In addition, after determining that the orders or findings were no longer of interest to interested parties, Commerce revoked two antidumping orders/findings (on clear sheet glass from Italy and animal glue from Sweden) and one countervailing-duty order/finding (on cement from Mexico). Commerce revoked one antidumping order (on construction castings from India) and two countervailing-duty orders (on pork and oil country tubular goods from Canada) as a result of negative determinations issued by Commerce or the Commission following review by a U.S. court or by a "binational panel" established under the U.S.-Canada Free-Trade Agreement. Also in 1991, Commerce terminated three investigations that had previously been suspended. They concerned float glass from Mexico, leather wearing apparel from Uruguay, and certain dynamic random access memories from Japan.

Section 337 Investigations

Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), authorizes the Commission, on the basis of a complaint or on its own initiative, to conduct investigations with respect to certain practices in import trade. Section 337 declares unlawful the importation, sale for importation, or sale after importation of articles that infringe a valid and enforceable U.S. patent, registered trademark, registered copyright, or registered semiconductor "mask" work, for which a domestic industry exists or is in the process of being established. Also unlawful under section 337 are other unfair methods of competition or unfair acts[21] in the importation of articles into the United States or in the sale of imported articles, the threat or effect of which is to destroy or substantially injure a domestic industry, to prevent the establishment of an industry, or to restrain or monopolize trade and commerce in the United States.

If the Commission determines that a violation exists, it can issue an order excluding the subject imports from entry into the United States, or can order the violating parties to cease and desist from engaging in the unlawful practices.[22] The President may disapprove a Commission order within 60 days of its issuance for "policy reasons."

The Commission is required to complete section 337 investigations within 12 months of publishing notice of investigation in the *Federal Register*, but may take up to 18 months to complete investigations it designates "more complicated." When a complainant requests temporary exclusion or cease and desist orders or both, the Commission must decide whether to issue that relief within 90 days (or 150 days in an investigation it designated "more complicated") from the date of publication of the notice of investigation.

In 1991, as in previous years, most complaints filed with the Commission under section 337 alleged infringement of a U.S. patent by imported merchandise. The Commission completed a total of 13 investigations under section 337 in 1991, including remands, advisory opinion proceedings, and enforcement proceedings, compared with 25 in 1990. These investigations pertained to products in a number of industries, such as semiconductors, medical equipment, industrial machinery and materials, and various consumer products including soft drinks, plastic trays for carrying or displaying food, air impact wrenches, toy vehicles, vacuum cleaners, and automotive fuel caps. In three investigations, exclusion orders and cease and desist orders were issued. Several investigations were terminated by the Commission without determining whether section 337 had been violated. Generally, these terminations were based on settlement agreements or consent orders. At the close of 1991, there were 10 section 337 investigations, including an advisory opinion proceeding and an ancillary candor proceeding, pending before the Commission. Commission activities involving section 337 actions in 1991 are presented in table A-23.

As of December 31, 1991, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect. Thirty-one of these orders involved patent violations. Table A-24 also lists the investigations that preceded the issuance of the orders.

Enforcement of Trade Agreements and Response to Unfair Foreign Practices[23]

Chapter 1 of title III of the Trade Act of 1974, as amended[24] (sections 301 through 310), gives USTR,[25] subject to any direction by the President, the authority and means to enforce U.S. rights under trade agreements, or to respond to unjustifiable, unreasonable, or discriminatory acts by a foreign country or instrumentality that burden or restrict U.S. commerce.[26] If USTR finds that the foreign practice is "unjustifiable" and that it burdens or restricts U.S. commerce, or finds that U.S. rights under a trade agreement are being violated, USTR must take all appropriate and feasible action to enforce such rights or to obtain the elimination of such act, policy, or practice. For "unreasonable" or "discriminatory" acts, USTR has discretion over whether to take action.[27] An interagency committee headed by USTR conducts the investigations, including hearings if requested. Section 301 investigations are usually initiated on the basis of petitions by interested parties alleging violations of section 301, but an investigation may also be initiated by USTR under section 302 of the Trade Act even if a petition is not filed. If the foreign entity does not agree to change its practices, USTR is empowered to (1) deny it the benefits of trade-agreement concessions, (2) impose duties, fees, or other import restrictions on products and services, when appropriate, and (3) enter into an agreement with the subject country to eliminate the practice or to provide compensatory benefits for the United States. USTR monitors compliance of foreign countries with the steps they have agreed to take under these provisions and may modify or terminate action under section 301 in certain circumstances.

In 1991 six new section 301 investigations were initiated by USTR. Two of the new investigations responded to petitions filed by private parties. Of these, one petition was filed by the National Pork Producers Council and the American Meat Institute alleging that the European Commuity (EC) Third Country Meat Directive denies the rights of the United States under the GATT and is otherwise unreasonable and burdens or restricts U.S. commerce.[28] The other petition, filed by the Pharmaceutical Manufacturers Association, alleges that the Government of Thailand does not provide adequate and effective patent protection for pharmaceutical products, thereby denying market access opportunities to those who rely on patents.

Among the four investigations self-initiated by USTR, two were initiated pursuant to the "special 301" provision of section 182(a) of the Trade Act of 1974, as amended (Trade Act). "Special 301" requires USTR to identify countries that deny adequate and effective protection of intellectual property rights or that deny fair and equitable market access to U.S. persons relying on intellectual property protection. USTR identified India and China as "priority foreign countries" and initiated section 301 investigations to determine whether the act, policy, or practice that was the basis of the identification is actionable under section 301 of the Trade Act. The other two investigations initiated by USTR relate to acts, policies, and practices of foreign governments that are allegedly unreasonable and burden or restrict U.S. commerce. These two concern Canada, with respect to the treatment of softwood lumber imports, and China, with respect to certain regulatory and technical barriers to trade. Further developments occurred in 11 of the investigations initiated prior to 1990. Therefore, 17 section 301 investigations were active during 1991.

One petition was withdrawn in 1991 before an investigation was initiated. On December 3, 1990, the Kentucky Distillers' Association, the Distilled Spirits Council of the United States, and the American Beverage Alcohol Association filed a petition alleging that Taiwan imposes a variety of trade barriers that severely restrict trade in distilled spirits. However, the petition was withdrawn on January 11, 1991 (before USTR initiated an action thereunder), in response to Taiwan's announcement of plans to open its market to distilled spirits from foreign countries.

Investigations Initiated in 1991

China: market access[29]

On October 4, 1991, USTR self-initiated an investigation under section 302 of the Trade Act to determine whether specific market access barriers in China are unreasonable or discriminatory and burden or restrict U.S. commerce. On October 10, 1991, USTR invited public comments on the matters being investigated[30] and requested consultations with the Chinese Government. As of December 1991, USTR was soliciting information from interested persons and engaging in negotiations with the Chinese Government on the matters in the investigation.

Canada: softwood lumber[31]

On October 4, 1991, USTR self-initiated an investigation under section 302(b)(1)(A) of the Trade

Act with respect to certain acts, policies, and practices of the Government of Canada affecting exports to the United States of softwood lumber. USTR determined pursuant to section 304 of the Trade Act that following Canada's termination of a 1986 Memorandum of Understanding (MOU) on softwood lumber, certain Canadian Government acts, policies, and practices are unreasonable and burden or restrict U.S. commerce, and that expeditious action in this matter was required. USTR announced that Commerce would self-initiate a countervailing-duty investigation on softwood lumber imports.[32] As an interim measure, USTR also announced that the U.S. Government would suspend liquidation of Customs entries of certain imported Canadian softwood lumber products, pending completion of the investigation. To preserve the status quo in the U.S. lumber industry, the U.S. Government through the Treasury Department also required a bond to be posted corresponding to the charges under the terminated MOU, where certain Provinces and territories of Canada would be subject to duties of up to 15 percent ad valorem.[33] (For additional discussion, see chapter 4, "Canada" section.)

China: intellectual property[34]

On April 26, 1991, USTR identified China as a "priority foreign country" under section 182(a) of the Trade Act of 1974.[35] In identifying China as a priority country, USTR noted deficiencies in China's intellectual property acts, policies, and practices including—

1. Deficiencies in its patent law, in particular, the failure to provide product patent protection for chemicals, including pharmaceuticals and agrichemicals;

2. Lack of copyright protection for U.S. works not first published in China;

3. Deficient levels of protection under the copyright law and regulations that came into effect on June 1, 1991; and

4. Inadequate protection of trade secrets.

USTR also noted the absence of effective enforcement of intellectual property rights in China, including rights in trademarks.

On April 26, 1991, USTR initiated an investigation of these acts, policies, and practices of China pursuant to section 302(b)(2)(A) of the Trade Act to determine whether action could be taken under section 301 of the Trade Act.

On May 1, 1991, USTR invited public comments on the matters being investigated.[36] USTR engaged in consultations with the Chinese Government concerning the issues under investigation.[37] On December 2, 1991, USTR requested public comment on a proposed determination that certain acts, policies, and practices of China with respect to its protection and enforcement of intellectual property rights are unreasonable and constitute a burden or restriction on U.S. commerce.[38] USTR also sought public comment on appropriate action in response to these acts, policies, and practices.[39]

India: intellectual property[40]

On April 26, 1991, USTR also identified India as a "priority foreign country" under section 182 of the Trade Act. USTR noted deficiencies in India's intellectual property acts, policies, and practices, including—

1. Numerous deficiencies in its patent law, in particular the failure to provide product patent protection for a wide range of products including pharmaceuticals and products resulting from chemical processes, an inadequate term of protection, and overly broad compulsory licensing provisions; and

2. Copyright compulsory licensing provisions that are overly broad.

USTR also noted the absence of effective enforcement of intellectual property rights in India, including copyrights, which has led to a high level of piracy in that country.

On April 26, 1991, USTR initiated an investigation of these acts, policies, and practices of India pursuant to section 302(b)(2)(A) of the Trade Act to determine whether action could be taken under section 301 of the Trade Act.

On May 1, 1991, USTR invited public comments on the matters being investigated.[41] The agency held extensive consultations with the Government of India, both bilaterally and in the Uruguay Round, concerning the issues under investigation.[42] After these consultations, the Indian Government agreed to enhance copyright and trademark protections and improve access to India's motion picture and video market.[43]

Thailand: patent protection for pharmaceuticals[44]

On January 30, 1991, the Pharmaceutical Manufacturers' Association (PMA) filed a petition under section 302(a) of the Trade Act, alleging that the Royal Thai Government denies adequate and effective patent protection for pharmaceutical products. On March 15, 1991, USTR initiated an investigation, requested public comment on the allegations in the petition[45], and requested consultations with the Thai Government. Consultations were held on June 19, 1991.[46]

EC: meat inspection[47]

On November 28, 1990, the National Pork Producers Council and the American Meat Institute filed a petition under section 302 of the Trade Act alleging that the EC Third Country Meat Directive (which sets requirements for meat slaughter and packing plants only for meat shipped across national borders) constitutes a foreign practice that denies U.S. rights under the GATT and is otherwise unreasonable and burdens or restricts U.S. commerce.

Following inconclusive consultations with the EC in December 1990, USTR initiated an investigation on January 10, 1991, under section 302(a) of the Trade Act and invoked the provisions of section 303(a)(2)(A) to delay GATT consultations for up to 90 days.[48] On July 11, 1991, the United States requested that a GATT dispute-settlement panel be convened to examine the EC practice. (For additional discussion, see chapter 4, "European Community" section.)

Other Investigations Active in 1991

Thailand: copyright enforcement[49]

On November 15, 1990, the International Intellectual Property Alliance (IIPA), the Motion Picture Export Association of America (MPEAA), and the Recording Industry Association of America (RIAA) filed a petition under section 302(a) of the Trade Act of 1974, alleging that the Government of Thailand inadequately enforces its copyright laws, thereby denying market-access opportunities to those who rely on copyrights.

On December 21, 1990, USTR initiated an investigation under section 302(b) of the Trade Act with respect to the Thai Government's acts, policies, and practices relating to the enforcement of copyrights[50] and requested consultations with the Royal Thai Government. Several rounds of consultation were held, and public comment was received. On December 21, 1991, USTR determined that acts, policies, and practices of the Government of Thailand concerning the enforcement of copyrights in that country are unreasonable and burden or restrict U.S. commerce. However, because the Thai Government is taking steps to amend its copyright laws, improve enforcement procedures, and combat copyright piracy, USTR decided to terminate the investigation and to monitor Thai Government implementation measures.

Canada: import restrictions on beer[51]

On May 15, 1990, G. Heileman Brewing Co., Inc. filed a petition alleging that Canada's import restrictions on beer—including listing requirements, discriminatory markups, and restrictions on distribution—are inconsistent with the GATT and the U.S.-Canada Free-Trade Agreement. On June 29, 1990, USTR initiated an investigation and requested consultations with Canada under article XXIII:1 of the GATT.[52]

On September 14, 1990, the Stroh Brewing Co. filed a petition complaining about the distribution and pricing practices of the Province of Ontario with respect to imported beer. On October 17, 1990, USTR decided to investigate the allegations contained in the Stroh petition in the context of this investigation.

On October 16, 1991, a GATT panel reported that the Canadian practices were inconsistent with the GATT and recommended that they be removed. The panel report was first presented for adoption at a meeting of the GATT contracting parties held from December 12 to 13, 1991. On December 29, 1991, USTR determined, pursuant to section 304 of the Trade Act, that the acts, policies, or practices of Canada violate the provisions of the GATT and that substantially increased duties—high enough to offset fully the impairment of U.S. rights under the GATT—would be levied on beer and malt beverages from Canada. (For additional discussion, see chapter 4, "Canada" section.)

Followup on Investigations Terminated Before 1991

EC: enlargement (monitoring)[53]

A previous investigation involving the accession of Spain and Portugal into the EC was terminated in 1987, following an agreement that provided certain compensation to the United States through the end of 1990.[54] On November 15, 1990, USTR initiated an investigation under section 302(b) of the Trade Act with respect to denial of benefits by the EC under this trade agreement.

On December 5, 1990, USTR published notice that it had notified the GATT contracting parties that the U.S. intended to suspend certain tariff concessions.[55] A settlement agreement was reached with the EC on December 20, 1990, which extended the rights accorded to the United States under the 1987 agreement through the end of 1991. The United States and the EC expressed their intention to resume reviewing the situation by June 1991 to achieve a final understanding by September 30, 1991. Consequently, USTR terminated the investigation on December 21, 1990.[56]

USTR monitored EC compliance with this trade agreement throughout 1991, and consultations were held during the summer and fall of that year. In November 1991, the EC agreed to a second 1-year extension, through December 31, 1992, thereby eliminating the need for any action in the near future. (For additional discussion, see chapter 4, "European Community" section.)

Norway: toll equipment[57]

On July 11, 1989, a petition was filed on behalf of Amtech Corp. alleging, among other things, that practices by the Government of Norway deny U.S. rights under the GATT Government Procurement Code, adversely affecting U.S. trade in the sale of highway toll electronic identification systems.

USTR initiated an investigation on August 2, 1989,[58] and requested consultations with Norway under the GATT Government Procurement Code. In an exchange of letters between the United States and Norway on April 26, 1990, Norway agreed to take actions to offset the negative impact of Norway's discriminatory practices. On this basis, the United States withdrew its complaint from the Committee on Government Procurement, and USTR terminated the section 302 investigation on April 26, 1990.[59] However, in monitoring Norway's implementation of these steps, USTR discovered that Norway was excluding U.S. suppliers from the procurement of an electronic toll collection system for the city of Trondheim. Therefore, on April 26, 1991, pursuant to title VII of the 1988 OTCA, the Bush administration identified Norway as a country that appeared to be in violation of its code obligations. In accordance with section 305(e) of the Trade Agreements Act of 1979, as amended, and article VII:4 of the Government Procurement Code, USTR requested consultations with Norway. Those consultations were held on May 24, 1991. On June 20, 1991, the United States requested conciliation by the code committee, in accordance with article VII:6 of the Government Procurement Code, and the establishment of a dispute-settlement panel as provided by article VII:7. A panel was established on September 23, 1991.

EC: canned fruit subsidies[60]

On May 8, 1989, USTR self-initiated an investigation regarding compliance by the EC with a trade agreement[61] in which the EC agreed to limit processing subsidies on canned fruit. Consultations with the EC concerning this matter resulted in a resolution that included three elements: (1) the EC lowered its 1989-90 subsidy rates for canned peaches and pears; (2) U.S. and EC officials clarified their interpretation of a 1985 bilateral agreement to forestall future disputes; and (3) the EC Commission modified its regulations to limit canned peach and pear subsidies in future years.

Because the EC subsidies to canned peaches and pears exceeded the agreed-upon levels during 1991, the United States consulted with the EC in an effort to resolve the matter. The United States continued to monitor EC compliance with the agreement and to scrutinize EC subsidies calculated for the next year.

Japan: construction-related services[62]

On November 21, 1988, USTR self-initiated an investigation pursuant to section 1305 of the OCTA of 1988 concerning acts, policies, and practices of the Government of Japan that are barriers to U.S. persons offering architectural, engineering, construction, and consulting services in Japan.[63]

On November 21, 1989, USTR determined that these acts, policies, and practices are unreasonable and burden or restrict U.S. commerce.[64] However, USTR determined that no responsive action was appropriate at that time, in light of certain commitments by Japan. USTR indicated that it would monitor Japan's implementation of these commitments and seek an agreement with Japan in bilateral negotiations. Because no agreement had been reached as of April 1991, USTR proposed prohibiting Japanese contractors and subcontractors from entering into services or contracts with certain Federal agencies for the construction, alteration, or repair of any public buildings or public works in the United States.[65]

On June 1, 1991, an agreement was concluded and a formal exchange of letters was signed on July 31, 1991.[66] Therefore, no action was taken pursuant to section 301. USTR continues to monitor Japan's implementation of the agreement. (For additional discussion, see chapter 4, "Japan" section.)

EC: oilseeds[67]

On December 16, 1987, the American Soybean Association (ASA) filed a petition complaining that the EC policies and practices relating to oilseeds and oilseed substitutes nullify and impair benefits accruing to the United States under GATT and, specifically, were inconsistent with a zero tariff binding agreed to by the EC. ASA alleged that the practices also are unjustifiable, unreasonable, and burden or restrict U.S. commerce.

On January 5, 1988, USTR initiated an investigation and requested consultations with the EC.[68] A GATT panel, convened under GATT article XXIII:2, ruled in favor of the United States in a report that was circulated to GATT contracting parties on December 14, 1989. On January 25, 1990, the panel report was adopted by the GATT Council. The EC representative confirmed the EC intention to take measures to comply with the panel's conclusions by the 1991 marketing year.

On January 31, 1990, consistent with the panel's conclusions, USTR determined that rights of the United States under a trade agreement were being denied by the EC production and processing subsidies on oilseeds and animal feed proteins, and that EC production subsidies denied benefits to the United States. USTR also found that the EC had agreed to take satisfactory measures to grant the rights of the United States under a trade agreement. Accordingly, USTR decided to terminate the investigation and to monitor the EC implementation of its commitment within the framework of the Uruguay Round.[69] Subsequently, the EC adopted a proposal to convert to a system of direct producer payments in the 1992 crop year, which the United States claims is not in conformity with the 1990 GATT panel report. Thus, the United States challenged this EC proposal before the same GATT panel for failure to eliminate the tariff concession impairment.[70] (For additional discussion, see chapter 4, "European Community" section.)

Brazil: pharmaceuticals[71]

The Pharmaceutical Manufacturers Association filed a petition under section 301 of the Trade Act of 1974 on June 11, 1987, citing Brazil's lack of patent protection for pharmaceutical products and processes. On July 23, 1987, USTR initiated an investigation and requested consultations with Brazil.[72] After determining that Brazil's policy was unreasonable and restricted U.S. commerce, the President, on October 20, 1988, used section 301 authority to proclaim tariff increases to 100 percent ad valorem on certain paper products, certain drugs, and consumer electronics items from Brazil.[73]

On June 26, 1990, the President of Brazil announced that he would seek legislation to provide product and process patent protection for pharmaceuticals. The Brazilian administration indicated its intention to ensure the presentation of a bill to the Brazilian National Congress for this purpose by March 20, 1991, to seek its approval, and to implement its provisions immediately after it comes into force.

Consequently, on June 27, 1990, USTR terminated the application of the increased duties with respect to articles entered or withdrawn from warehouses for consumption on or after July 2, 1990.[74] In early May 1991, USTR reported that although the Brazilian Government had submitted patent protection legislation to the Brazilian Congress, the legislation still contained certain deficiencies. USTR is monitoring closely the Government of Brazil's efforts to enact appropriate legislation. (For additional discussion, see chapter 4, "Brazil" section.)

Canada: salmon and herring[75]

On April 1, 1986, Icicle Seafoods and nine other seafood processors filed a petition alleging that the Canadian prohibition on exports of unprocessed herring and salmon violates GATT article XI, covering quantitative restrictions, and provides Canadian processors with an unfair cost advantage that burdens U.S. exports in third-country markets.

On May 16, 1986, USTR initiated an investigation.[76] In November 1987 a GATT dispute-settlement panel ruled in favor of the United States; the panel report was adopted by the GATT Council in February 1988.

USTR determined on March 28, 1989, that Canada's export prohibition denied a right to which the United States was entitled under the GATT. On April 25, 1989, Canada replaced its discriminatory export prohibitions with landing requirements. On October 13, 1989, a free-trade agreement dispute-settlement panel issued a report finding that the landing requirements violated U.S.-Canada Free-Trade Agreement article 407, which prohibits GATT-inconsistent export restrictions.

In mid-February 1990, the United States and Canada reached agreement on an interim settlement of the dispute. The settlement permitted U.S. buyers to purchase 20 percent of British Columbia roe herring and salmon directly from British Columbia fishing grounds during the 1990 fishing season. The percentage will increase to 25 percent during 1991-93. Under the arrangement, roe herring shipped to the United States from Canada must be processed to the same extent required under Canadian law before re-export to third countries.

Canada and the United States are scheduled to review the operation of this arrangement in 1993. The investigation was terminated on June 1, 1990.[77] USTR continued to monitor compliance with the arrangement throughout 1991. USTR reported that Canada had issued all regulations necessary to implement the arrangement and otherwise had carried out its obligations under the arrangement.

EC: enlargement[78]

By Proclamation 5601 of January 21, 1987, the President determined, pursuant to section 301(a), (b), and (d)(1), that duties should be increased to 200 percent ad valorem on a most-favored-nation (MFN) basis for certain specified articles imported from the EC. The action was taken in response to import restrictions affecting soybeans and feed grains in Portugal and corn and sorghum in Spain introduced on March 1, 1986, as a result of the accession of Portugal and Spain to the EC.

In a *Federal Register* notice dated January 30, 1987, USTR noted that the United States and the EC had reached an agreement on January 29, 1987. An exchange of letters occurred on January 30, 1987. Under the agreement, the EC agreed to provide adequate compensation to the United States at least through December 31, 1990,[79] by extending certain tariff commitments, reducing certain tariffs, taking steps to ensure that Spain imported certain quantities of feed grains from non-EC countries, and eliminating restrictions on imports of non-EC grain into Portugal. In return, the United States suspended the increased duties of Proclamation 5601 on all the articles specified in the annex to that proclamation and increased the level of the import quotas imposed on certain EC products.

On March 7, 1991, the EC confirmed that as of January 1, 1991, it had removed its restrictions on Portuguese imports of oilseeds and oilseed products. USTR terminated the quantitative restrictions on certain articles that had been imposed to mirror Portugal's restrictions (restrictions on certain chocolate; candy; apple or pear juices; ale, porter, stout, and beer), effective July 8, 1991. (For additional discussion, see chapter 4, "European Community" section.)

Japan: semiconductors[80]

On June 14, 1985, the Semiconductor Industry Association filed a petition alleging that the Japanese Government had created a protective structure that acted as a major barrier to the sale of foreign semiconductors in Japan.[81]

On July 11, 1985, USTR initiated an investigation. Thereafter, the United States began consultations and technical discussions with Japan that led to an agreement under which Japan agreed to increase access for U.S. firms to the Japanese semiconductor market, and to help prevent dumping of semiconductors in the United States and third-country markets. Pursuant to this agreement, the President suspended the investigation.[82] The United States and Japan signed the final agreement on September 2, 1986.

However, in response to the failure of Japan to fulfill its obligations under the agreement,[83] the President subsequently proclaimed increased duties on imports of certain articles of Japan (i.e., certain televisions, power hand tools, and automatic data processing machines).[84] Later, Japan came in conformity with some of its obligations under the agreement; therefore, the United States suspended certain of the increased duties.[85]

The 1986 U.S.-Japan Semiconductor Arrangement was scheduled to expire on July 31, 1991. In response to recommendations from the major producers of U.S. semiconductors, a new arrangement was concluded on June 11, 1991. As a result of Japan's progress in implementing its obligations under the 1986 arrangement, and because the market access objectives are expected to be fully realized within the framework of the 1991 arrangement, USTR suspended the increased duties on the remainder of the targeted Japanese products under Proclamation 5631. The duty suspension became effective upon the date of the entry into force of the 1991 arrangement (August 1, 1991). Throughout 1991, USTR continued to assess compliance with the arrangement and the level of U.S. participation in the Japanese market. (For additional discussion, see chapter 4, "Japan" section.)

Other Import Administration Laws

Agricultural Adjustment Act

Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) authorizes the President to take action to prevent imports from undermining the integrity of U.S. Department of Agriculture (USDA) programs that are designed to stabilize domestic agricultural commodity prices.[86] The President acts on the basis of a formal investigation and report by the U.S. International Trade Commission. Following review of the Commission's findings and recommendations, the President may impose quantitative restrictions or fees on imports, not to exceed 50 percent of the value of the imported product, to protect relevant USDA programs. If the President determines that an emergency situation exists, he may take action without receiving the Commission's report. Such emergency action continues in effect until terminated or made permanent by the President.

On July 9, 1991, the President temporarily increased the United States' 1.7-million-pound quantitative restriction on peanuts to allow, on an emergency basis, entry of an additional 100 million pounds of peanut products during the annual quota period ending July 31, 1991.[87] This action followed an investigation by the Commission under section 22(d) to determine whether the existing import quota on specified peanut products should be expanded to compensate for domestic shortages induced by drought. The Commission's investigation, initiated on its own motion, was instituted on December 3, 1990. Findings and recommendations were forwarded to the President on March 22, 1991.[88]

Section 22 quantitative import restrictions continued in effect throughout 1991 on cotton products of certain specified staple lengths; cotton waste; peanuts; specified dairy products; and certain products containing added sugar, such as sweetened cocoa, imported pancake flours, and iced-tea mixes. Import fees remained in place on refined sugar.[89]

Meat Import Act of 1979

The U.S. Meat Import Act of 1979[90] requires the President to impose quotas on imports of bovine meat—primarily fresh, chilled, or frozen beef[91]—if the projected aggregated quantity of the subject meats for the calendar year, as estimated by the USDA, is expected to exceed a specified "trigger" level.[92] The trigger level, equivalent to 110 percent of the applicable quota for meat imports in a given year, is calculated on the basis of a formula outlined in the law.

Meat imports subject to the law are reviewed quarterly by the Secretary of Agriculture for conformance to trigger levels, at which time an estimate is made of total imports for the year. If the annual unrestrained meat import level is projected to exceed the trigger level, attempts are made to negotiate voluntary restraint agreements (VRAs) with major suppliers. To date, VRAs have eliminated the need for unilateral Presidential action.

On December 31, 1990, the USDA announced that the quota level for meat imports in 1991 was 1,198.6 million pounds, which translated into a 1,318.5-million-pound trigger level. The USDA also estimated that 1,220 million pounds of meat would be imported during 1991, approximately 98.5 million pounds below the trigger level.[93] As a result, the

United States imposed no quota limitations in 1991. Actual imports of meat subject to the act totaled 1,330.6 million pounds in 1991, as shown in the following tabulation:

Country	Quantity (million pounds)
Australia	743.3
New Zealand	443.3
Costa Rica	46.1
Dominican Republic	35.3
Guatemala	29.1
Honduras	25.7
Sweden	5.9
Mexico	1.3
Finland	.3
European Community	.3
Total	1,330.6

Because of heavy shipments in the first two quarters of the year, Australia and New Zealand agreed on September 9 to limit voluntarily exports of quota meat to 743 million pounds and 445 million pounds, respectively, for calendar year 1991.[94] On the basis of these agreements, the USDA issued a fourth-quarter estimate at 1,318.4 million pounds—only 0.1 million pounds short of the 1,318.5-million-pound trigger level. USDA representatives indicated, however, that the actual 1991 import figure of 1,330.6 million pounds exceeded trigger levels because of unexpectedly strong shipments from Central American countries in the final months of the year.

On December 31, 1991, the USDA released its initial estimate of 1992 meat imports in the absence of restraint. Meat imports subject to the law were projected to total 1,274 million pounds—37.2 million pounds below the 1992 trigger level of 1,311.2 million pounds, which would mandate quantitative restrictions.[95]

National Security Import Restrictions

Section 232 of the Trade Expansion Act of 1962[96] authorizes the President, on the basis of a formal investigation and report by the Secretary of Commerce, to make adjustments to the importation of articles that threaten to impair the national security of the United States. Among the most important criteria considered by Commerce are—

- Requirements of the defense and essential civilian sectors;
- Maximum domestic production capacity;
- Quantity, quality, and availability of imports;
- Impact of foreign competition on the economic welfare of the essential domestic industry; and
- Other factors relevant to the unique circumstances of the specific case.

The President has 90 days to decide on appropriate action after receipt of the Secretary's findings.

The section 232 authority to adjust imports has been used sparingly in the past. It has most notably been employed in connection with the imposition of quotas, fees, or economic sanctions[97] on imports of petroleum products.

The most recent investigation conducted under this section leading to import restrictions was a 1986 case that focused on imports of machine tools. The President, rather than acting unilaterally under authority of section 232, directed Commerce and USTR to negotiate VRAs with leading machine-tool exporting countries. Agreements were subsequently negotiated with Japan and Taiwan.[98] The agreements to date have eliminated the need for Presidential action under section 232. On December 27, 1991, President Bush directed that a limited extension of the machine tool VRAs be negotiated with Japan and Taiwan. Import restrictions on non-computer-controlled machine tools were lifted at the end of 1991. Import restrictions on computer-controlled tools were to be removed progressively and lifted altogether by December 1993.[99]

In 1991, Commerce received a petition from the American Gear Manufacturers Association requesting an investigation to determine the impact of gear imports on national security.[100] Commerce accepted the petition on October 31, 1991.[101]

Generalized System of Preferences[102]

The Generalized System of Preferences (GSP) is a temporary preferential tariff scheme offered by industrialized countries to promote the economic growth and development of nonindustrialized countries through expanded trade. The U.S. GSP program offers nonreciprocal duty-free entry into the customs territory of the United States for designated articles[103] shipped directly from designated beneficiaries. Preferential GSP tariffs apply to approximately 4,300 products from more than 130 designated countries and territories. Legislative authority for the GSP was provided in title V of the Trade Act of 1974 (Public Law 93-618), and was originally granted for a period of 10 years beginning January 3, 1975.[104] The scheme became fully operational on January 1, 1976 (Executive Order 11888), making the United States the 19th member of the Organization for Economic Cooperation and Development (OECD) to implement such a program. Title V of the Trade and Tariff Act of 1984 (Public Law 98-573) renewed the U.S. GSP and extended the program until July 4, 1993.[105]

preference programs such as the Caribbean Basin Economic Recovery Act (CBERA) or the U.S.-Israel Free-Trade Agreement. GSP duty-free imports in 1991 accounted for 14.2 percent of total imports from the beneficiary countries and 2.8 percent of U.S. imports from the world (table 19).

Table 20 lists the 10 leading U.S. GSP beneficiaries in 1991 and the value of U.S. imports from each country. These 10 countries collectively accounted for more than 84 percent of all duty-free GSP imports. The four leading beneficiaries—Mexico, Malaysia, Thailand, and Brazil—together accounted for more than one-half of all duty-free U.S. GSP imports. Mexico ranked as the single largest beneficiary in 1991 and accounted for 28.6 percent, or $3.8 billion, of duty-free GSP imports. Nevertheless, GSP duty-free imports from Mexico made up only 12.6 percent of all U.S. imports from Mexico—a fact explained by the dominance of petroleum (which is not GSP eligible) in U.S. imports from that country.

Table A-27 lists the major categories of U.S. imports under the GSP program during 1991, along with their leading suppliers. Machinery and mechanical appliances, electrical equipment, and parts formed the largest single category of imports and accounted for nearly one-third of the value of GSP imports in 1991. Malaysia was the leading supplier of these imports. Mexico was the leading supplier of the next five leading categories: miscellaneous manufactures ($1.7 billion); base metals and articles of base metal ($1.2 billion); prepared foodstuffs, beverages, and tobacco ($1.0 billion); plastics and rubber ($770 million); and chemicals ($775 million).

Table A-26 provides a more detailed list of 1991 GSP imports. Telephone sets ($292 million) were the leading GSP duty-free import, continuing a trend that the Commission noted in 1991 was "significantly higher" than imports in prior years.[141] Raw cane sugar ($272 million) fell from first place in 1990 to second place in 1991 as a result of major U.S. quota reductions.

Tables A-26 and A-27 list GSP imports aggregated by sections of the Harmonized Tariff Schedule (HTS), and table A-28 lists GSP imports aggregated by two-digit divisions of the Standard Industrial Classification (SIC) system. Each table shows the percentage of duty-free imports, the leading GSP source, and the value of the competitive-need exclusions for each category.

Table 19
U.S. imports for consumption[1] from GSP beneficiaries and the world, 1991

Item	*All GSP beneficiaries*	*World*
	Value (1,000 dollars)	
Total	96,010,817	481,348,788
GSP eligible products	29,315,147	181,051,414
Duty-free under GSP	13,662,883	13,662,883
GSP program exclusion	7,386,400	7,386,400
Other	8,265,864	160,002,131
Noneligible product imports	66,695,670	300,297,374
	Ratio of (percent)	
GSP eligible to total imports	30.5	37.6
GSP duty-free to GSP-eligible imports	46.6	7.5
GSP exclusions to GSP-eligible imports	25.2	4.1
Other imports to GSP-elibible imports	28.2	88.4
GSP duty-free to total imports	14.2	2.8

[1] Customs value basis.

Source: Compiled from official statistics of the U.S. Department of Commerce, as adjusted by the USITC.

Table 20
U.S. imports for consumption under the GSP from leading beneficiaries, and total, 1991

Rank	Beneficiary	Total imports	GSP-eligible imports		GSP duty-free imports			GSP share
			Value	Share of total	Value	Share of eligible	Share of total	
		Million dollars	Million dollars	Percent	Million dollars	Percent	Percent	Percent
1	Mexico	30,440	13,433	44.1	3,838	28.6	12.6	28.1
2	Malaysia	6,073	2,693	44.3	1,922	71.4	31.7	14.1
3	Thailand	6,068	2,342	38.6	1,471	62.8	24.2	10.8
4	Brazil	6,733	2,212	32.9	1,303	58.9	19.4	9.5
5	Philippines	3,430	1,029	30.0	821	79.7	23.9	6.0
6	India	3,199	591	18.5	524	88.7	16.4	3.8
7	Israel	3,488	1,307	37.5	483	36.9	13.8	3.5
8	Argentina	1,250	451	36.1	363	80.6	29.1	2.7
9	Indonesia	3,465	677	19.5	351	51.8	10.1	2.6
10	Yugoslavia[1]	665	343	51.6	251	73.0	37.7	1.8
	Top 10	64,812	25,078	38.7	11,327	45.2	17.5	82.9
	Total	[2]96,011	29,315	30.5	13,663	46.6	14.2	100.0

[1] Reference loss of GSP elig, 12/91.
[2] Total for all GSP beneficiaries only.

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

Source: Compiled from official statistics of the U. S. Department of Commerce, as adjusted by the USITC.

Caribbean Basin Economic Recovery Act[142]

The Caribbean Basin Economic Recovery Act (CBERA) is the trade component of the U.S. Caribbean Basin Initiative (CBI). The CBI was launched in 1983 to expand foreign and domestic investment in nontraditional sectors of the Caribbean Basin countries as a means to help them diversify their economies and expand their exports. The CBERA, which provides duty-free entry into the United States for eligible products from designated Caribbean Basin countries, became operative on January 1, 1984 (Public Law 98-67, title II), and was significantly expanded in 1990 (Public Law 101-382, title II). As a result of the 1990 legislation, the CBERA has no statutory expiration date.

There were 24 designated eligible beneficiaries ("CBERA countries") during calendar year 1991: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, the British Virgin Islands, Costa Rica, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, the Netherlands Antilles, Nicaragua, Panama, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Although President Bush declared an embargo on nonhumanitarian exports to and most imports from Haiti following an October 1991 military coup in that country, Haiti did not lose its CBERA designation.[143] Anguilla, Cayman Islands, Suriname, and Turks and Caicos Islands are potentially eligible for CBERA benefits, but they have neither requested designation nor been so designated by the United States.

To be eligible for duty-free entry under the CBERA, articles must meet one of three criteria. They must be of CBERA-country origin (i.e., either wholly produced and manufactured in a CBERA country or have at least 35 percent of direct processing costs and materials produced in a CBERA country or countries, including Puerto Rico and the U.S. Virgin Islands); be produced in Puerto Rico and advanced in value or improved in condition in a CBERA country; or be assembled in a CBERA country from U.S. components. In addition, eligible articles must be exported directly to the customs territory of the United States.[144]

Specifically excluded from duty-free or reduced-duty entry under the CBERA are most textiles and apparel, canned tuna, petroleum and petroleum products, certain footwear, watches and watch parts with components from Communist countries, and sugar from Communist countries in the Caribbean Basin and in Central America.[145] Beginning in 1992, duties on handbags, luggage, flat goods, work gloves, and leather wearing apparel are being reduced under the program by a maximum of 20 percent to be phased in over the next 5 years.[146]

In addition to receiving broader CBERA privileges, the countries of Costa Rica, Dominican Republic, Guatemala, Haiti, Jamaica, and Trinidad and Tobago also benefited from the special Guaranteed Access Levels (GAL) program during 1991. The GAL program, established in 1986, sets liberal quotas for textile and apparel items assembled in eligible CBERA countries from fabric formed and cut to pattern in the United States. GALs are separate from quotas applicable to products that were not assembled solely from U.S.-made and U.S.-cut fabric. GAL items are treated under HTS statistical reporting number 9802.00.8010 and duties are levied only on the value added in the CBERA countries, not on the exported and re-imported U.S. content.

In 1991, total U.S. imports (dutiable and duty-free) from CBERA countries reached $8.2 billion, or 1.7 percent of all U.S. imports. U.S. exports to CBERA countries reached $9.9 billion, or 2.5 percent of all U.S. exports. The 1991 U.S. trade surplus with the CBERA countries was $1.6 billion, a figure that is slightly lower than that of the prior year because of the slow growth in U.S. exports to the region.

Approximately 65 percent of U.S. imports from CBERA countries in 1991, valued at $5.4 billion, entered duty-free under various U.S. programs. Items that entered duty-free under the CBERA accounted for 13.4 percent of imports from beneficiaries. These imports were valued at $1.1 billion in 1991, a slight increase from $1.0 billion in 1990 (table 21). Leading items entering Insert table 21 duty-free under the CBERA in 1991 were cane sugar ($116.6 million), frozen beef ($80.3 million), and footwear ($70.5 million). (See table 22.)

More than one-fifth of imports from beneficiaries, valued at $1.9 billion, were duty-free under the MFN general (column 1-general) duty rates. MFN accounted for the largest share of duty-free imports from CBERA beneficiaries. Almost 5 percent of imports, valued at $410 million, entered duty-free under GSP (table 21).

Somewhat less than one-fifth of imports from beneficiaries, valued at $1.4 billion, entered under special duty provisions of HTS subheadings 9802.00.60 (imported products containing certain metal of U.S. origin) and 9802.00.80 (imported assembled products containing U.S. components).[147] Included in this amount are imports of textile and apparel items subject to GAL agreements (HTS number 9802.00.8010), which increased sharply to $411 million in 1991 from $318 million in 1990 (table 21).

Table 21
U.S. imports for consumption from countries designated under CBERA,[1] by duty treatment, 1989-91

Item	*1989*	*1990*	*1991*
	Value (1,000 dollars, customs value)		
Total imports	6,637,440	7,525,208	8,229,366
Dutiable value[2]	2,101,839	2,573,813	2,869,880
HTS 9802.00.60 and 9802.00.80	504,882	520,107	691,052
HTS 9802.00.80.10	106,055	112,770	146,307
HTS 9802.00.80.50	398,241	406,235	544,695
Other	1,596,957	2,053,706	2,178,828
Duty-free value[3]	4,535,601	4,951,395	5,359,486
MFN[4]	1,854,400	1,968,007	1,912,824
CBERA[5]	905,762	1,020,717	1,120,697
GSP[5]	415,859	472,303	410,439
HTS 9802.00.60 and 9802.00.80	1,089,694	1,153,325	1,418,075
HTS 9802.00.80.10	286,437	318,106	410,905
HTS 9802.00.80.50	785,766	815,542	1,007,115
Other duty free[6]	269,886	337,042	497,451
	Percent of total		
Total imports	100.0	100.0	100.0
Dutiable value[2]	31.7	34.2	34.9
HTS 9802.00.60 and 9802.00.80	7.6	6.9	8.4
HTS 9802.00.80.10	1.6	1.5	1.8
HTS 9802.00.80.50	6.0	5.4	6.6
Other	24.1	27.3	26.5
Duty-free value[3]	68.3	65.8	65.1
MFN[4]	27.9	26.2	23.2
CBERA[5]	13.6	13.6	13.4
GSP[5]	6.3	6.3	4.9
HTS 9802.60 and 9802.00.80	16.4	15.3	17.2
HTS 9802.00.80.10	4.3	4.2	5.0
HTS 9802.00.80.50	11.8	10.8	12.2
Other duty free	4.1	4.5	6.0

[1] Panama is included as a beneficiary country in figures for 1988, and again in 1990-91.
[2] Reported dutiable value has been reduced by the duty-free value of imports entering under HTS subheading 9802.00.60 and 9802.00.80 and increased by the value of ineligible items that were reported as entering under the CBERA and GSP programs.
[3] The total duty-free value is calculated as total imports less dutiable value.
[4] Figures for MFN duty-free imports represent the value of imports which have a col. 1-general duty rate of zero.
[5] Values for CBERA and GSP duty-free imports have been reduced by the value of MFN duty-free imports and ineligible items that were misreported as entering under the programs.

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

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

Andean Trade Preference Act[148]

A new U.S. trade preference scheme that was formally enacted in 1991, the ATPA was established to provide duty-free entry into the United States for certain products from designated countries in the Andean mountain region of South America. The U.S. Congress approved the ATPA on November 27, 1991 (H.R. 1724, originally H.R. 661), and legislation to enact the ATPA was signed by President Bush on December 4, 1991 (Public Law 102-82).[149] In February 1992, the United States requested a waiver from article I of the GATT, which requires that MFN tariffs be applied to all GATT members, to provide ATPA tariff preferences.[150] Bolivia, Colombia, Ecuador, and Peru are the only countries cited as eligible ATPA beneficiaries.[151] At this writing, however, they were awaiting formal designation as beneficiaries by the President. The ATPA will become fully operational once such designations are made.

The ATPA has two principal objectives. One is to increase market access in the United States for legitimate Andean products. This increased market access is part of U.S. policy efforts to discourage the production of illicit coca, the raw material of cocaine, which is grown and processed in large quantities in the Andean region. The other objective is to promote the "transition into a comprehensive free-trade zone for the Americas."[152]

Table 22
Leading U.S. imports for consumption entered under CBERA provisions, by descending customs value of duty-free imports, 1988–91

HTS item	Description	1988 CBERA duty-free imports	1988 CBERA imports as a percent of total imports	1989 CBERA duty-free imports	1989 CBERA imports as a percent of total imports	1990 CBERA duty-free imports	1990 CBERA imports as a percent of total imports	1991 CBERA duty-free imports	1991 CBERA imports as a percent of total imports	Leading Source[2]
		1,000 dollars		1,000 dollars		1,000 dollars		1,000 dollars		
1701.11.00	Cane sugar, raw, not containing added flavoring or coloring[1]	93,137	69.7	106,446	61.7	117,377	51.1	116,626	52.6	Dominican Republic
0202.30.60	Non retail cuts of meat of bovine animals, frozen, boneless, nesi ...	109,989	92.6	70,804	96.8	84,320	98.8	80,321	97.2	Costa Rica
6406.10.65	Footwear uppers, other than formed, of leather	12,320	19.3	11,877	16.6	25,148	21.6	70,479	58.1	Dominican Republic
0201.30.60	Nonretail cuts of meat of bovine animals, fresh, chilled boneless, nesi	....	12,218	92.6	47,685	96.2	45,525	99.7	50,951	99.6
Costa Rica										
9018.90.80	Instruments and appliances medical, surigical dental and other	8,660	50.6	27,054	42.7	55,164	64.6	48,659	45.2	Dominican Republic
8538.90.00	Parts nesi, suitable for use solely or principally with apparatus of heading 8535, 8536, 8537	4,737	60.9	11,850	62.1	12,457	71.4	35,198	92.3	Dominican Republic
2402.10.80	Cigars, cheeroots and cigarillos containing tobacco valued over $.23	22,121	62.5	25,613	78.8	35,459	96.2	33,008	97.3	Dominican Republic
2207.10.60	Undenatured ethyl alcohol of 80 percent volume alcohol, for nonbeverage use	10,641	62.2	21,093	100.0	14,534	84.6	32,367	97.2	Jamaica
7113.19.50	Articles of jewelry and parts of precious metal, nesi	1,226	9.5	16,106	38.1	27,099	49.9	29,529	70.5	Dominican Republic
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates	29,438	98.3	32,000	87.5	34,195	84.5	29,442	76.9	Costa Rica
9506.69.20	Baseballs and softballs	26,293	69.2	28,833	77.8	33,607	77.7	29,386	83.1	Haiti
0807.10.20	Cantaloupes, fresh, if entered at any other time	8,517	76.1	12,167	64.3	22,466	95.0	28,288	98.8	Costa Rica
0807.10.70	Melons, nesi, fresh, if entered at any other time	8,406	80.2	7,182	72.0	9,599	92.1	20,070	98.5	Costa Rica
0302.69.40	Fish, nesi, excl. fillets, livers and roes, fresh, chilled	4,737	60.9	11,054	45.7	16,828	50.1	18,693	60.8	Costa Rica

See footnotes at end of table.

Table 22–Continued
Leading U.S. imports for consumption entered under CBERA provisions, by descending customs value of duty-free imports, 1988–91

HTS item	Description	1988 CBERA duty-free imports	1988 CBERA imports as a percent of total imports	1989 CBERA duty-free imports	1989 CBERA imports as a percent of total imports	1990 CBERA duty-free imports	1990 CBERA imports as a percent of total imports	1991 CBERA duty-free imports	1991 CBERA imports as a percent of total imports	Leading Source[2]
0201.30.40	Retail cuts of meat of bovine animals frozen boneless, nesi	0	0.0	1,217	100.0	12,110	100.0	16,161	100.0	Costa Rica
2401.20.80	Tobacco, partly or wholly stemmed (stripped)	2,590	76.1	9,617	99.7	13,272	99.9	12,487	100.0	Guatemala
8536.90.00	Electrical apparatus nesi, for switching/making connections	3,406	52.4	21,326	55.1	21,802	60.8	11,547	49.6	Haiti
7213.31.30	Bars and rods, hot-rolled, of iron or non-alloy steel	1,094	100.0	5,322	60.7	10,211	100.0	10,822	100.0	Trinindad and Tobago
1703.10.50	Cane molasses nesi	8,922	52.0	7,933	58.4	8,211	42.0	9,799	46.6	Dominican Republic
2208.40.00	Rum and tafia	4,065	64.7	7,770	79.9	13,669	89.6	9,215	81.4	Jamaica
	Total of above items	372,517	6.2	482,949	7.3	613,143	8.2	693,048	11.8	
	Total, all items entering under CBERA	790,941	13.0	905,762	13.6	1,022,686	13.6	1,120,697	13.6	

[1] HTS item 1701.11.00 became obsolete effective Oct. 1, 1990, wehn it was replaced by items 1701.11.01, 1701.11.02, 1701.11.03. In this report, 1990 and 1991 data on all three of these items are included under item 1701.11.00.
[2] Indicates leading CBERA source based on total U.S. imports for consumption.
Note.–Figures for 1988 are estimated under the HTS classification system.
Note.–Because of rounding, figures may not add to totals given.
Source: Compiled from official statistics of the U.S. Department of Commerce.

The ATPA was modeled on the CBERA. Like the CBERA, the ATPA excludes from duty-free entry textiles, footwear, canned tuna, and petroleum. However, the ATPA also excludes rum because of U.S. concern over potential damage to the rum industries in Puerto Rico and the U.S. Virgin Islands.[153] The ATPA also provides duty-free entry only for a period of 10 years (the CBERA has no statutory expiration date). The ATPA does not offer the Andean countries GALs for textile products, which are available for CBERA countries.

Total U.S. imports from the four eligible ATPA countries totaled $5.0 billion in 1991, down slightly from $5.5 billion in 1990. Bananas ranked as the largest nonoil import ($1.3 billion), followed by coffee ($474 million), shellfish ($219 million), and cut flowers ($371 million).[154] The U.S. Department of Commerce estimates that based on current trade patterns, approximately 5 percent of the U.S. imports from Bolivia, Colombia, Ecuador, and Peru that are not already eligible for duty-free entry under GSP will benefit from duty-free status under the ATPA.[155]

[1] 19 U.S.C. 2251 et seq.

[2] 19 U.S.C. 2436

[3] The Omnibus Budget and Deficit Reduction Acts made changes in the law designed to tighten the criterion used to determine eligibility. The principal change affecting petitions filed retroactive to October 25, 1982, stipulated that increased imports must be determined to be a cause no less important than any other cause of worker separations, as opposed to simply an important cause.

[4] See Public Law 100-418, sec. 1421-1430. The OTCA of 1988 also provided for the imposition of an import fee, the proceeds of which are to be used to fund adjustment programs. The President is directed to negotiate an agreement to permit the fee under GATT. Given the lack of an agreement, the fee would go into effect 2 years from date of passage of the act, unless the President certifies that it is not in the national economic interest. With a joint resolution the Congress could impose the fee, the President's certification notwithstanding. The President on August 23, 1990, notified the Congress that negotiations in the GATT had not gained the acceptance by any foreign trading parties for an import fee and that unilateral imposition of a fee would not be in the U.S. national economic interest. No House or Senate resolutions were introduced in calendar year 1991 to disapprove the executive action.

[5] Certified firms are eligible to apply for technical services necessary to implement programs of economic recovery. Technical services include legal consultation designed to assist firms in assessing the appropriateness of pursuing remedies available through various trade statutes, and in-depth technical consultation in engineering, marketing, production methods, and financial management.

[6] Derived from official statistics of the U.S. Department of Labor, Employment and Training Administration (ETA), Office of Trade Adjustment Assistance Management Information System.

[7] Section 1421 of the OTCA of 1988 provided that employees of independent firms engaged in the exploration and drilling of oil and natural gas, which were separated after September 30, 1985, had 90 days in which to file petitions requesting monetary benefits for trade readjustment allowances covering the period. Petitions were accepted from August 23 through November 18, 1988.

[8] See Public Law 100-418, sec. 1421 through 1430.

[9] Derived from official statistics of the U.S. Department of Commerce, Economic Development Administration.

[10] Ibid.

[11] See discussion of section 303 of the Tariff Act of 1930, below.

[12] Upon the filing of a petition, the Commission has 45 days to make a preliminary determination of whether there is a reasonable indication of material injury or threat of material injury to an industry or material retardation of the establishment of an industry. If this determination is affirmative, Commerce continues its investigation and makes preliminary and final determinations concerning whether the imported article is being, or is likely to be, sold at LTFV.

If Commerce makes an affirmative final determination, the Commission makes a final injury determination. If Commerce's final determination is negative, the proceedings end and the Commission does not make a final injury determination.

[13] This figure does not count court-remanded cases on which new votes were taken, or investigations terminated before a determination was reached.

[14] An antidumping investigation may be suspended through an agreement prior to a final determination by the U.S. Department of Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping or to cease exports of the merchandise to the United States within 6 months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. A suspended investigation is reinstituted should LTFV sales recur. See 19 U.S.C. 1673c.

[15] A subsidy is defined as a bounty or grant bestowed directly or indirectly by any country, dependency, colony, province, or other political subdivision on the manufacture, production, or export of products. See 19 U.S.C. 1303(a)(1), 1677(5), and 1677-1(a).

[16] Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

[17] See 19 U.S.C. 1671.

[18] Section 303(a)(2) provides that "[i]n the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there are affirmative [injury] determinations by the Commission . . . except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States." 19 U.S.C. 1303(a)(2).

[19] This figure does not count court-remanded cases on which new votes were taken, or investigations terminated prior to a determination being reached.

[20] A CVD investigation may be suspended through an agreement prior to a final determination by Commerce if (1) the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to completely offset the net subsidy, or to cease exports of the merchandise to the United States within six months; or (2) extraordinary circumstances are present and the government or exporters described above agree to

completely eliminate the injurious effect of the imports of the merchandise under investigation. A suspended investigation is reinstituted if subsidization recurs. See 19 U.S.C. 1671c.

[21] Examples of "other" unfair acts are common law trademark or copyright infringement, false advertising, false designation of origin, and trade secret misappropriation. Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping and CVD provisions and not under section 337.

[22] Sec. 337 proceedings at the Commission are conducted before an administrative law judge in accordance with the Administrative Procedure Act, 5 U.S.C. 551 et seq. The administrative law judge conducts an evidentiary hearing and makes an initial determination, which is transmitted to the Commission. The Commission may adopt the determination by deciding not to review it, or it may choose to review it. If the Commission finds a violation, it must determine the appropriate remedy, the amount of any bond to be collected while its determination is under review by the President, and whether certain public-interest considerations preclude the issuance of any remedy.

[23] Significant portions of this section were taken from two reports published by the Office of the United States Trade Representative (USTR): "Section 301 Table of Cases," Feb. 20, 1992, and the "Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974," Jan.-June and July-Dec. 1991. Additional information was taken from USTR, *1992 National Trade Estimate Report on Foreign Trade Barriers*, (1992) and USITC, *Operation of the Trade Agreements Program, (OTAP), 42nd Report, 1990*, USITC publication 2403, July 1991.

[24] 19 U.S.C. 2411, et seq.

[25] Prior to the enactment of the OTCA of 1988, authority to act under section 301 resided with the President, while USTR was effectively responsible for administration of the investigations cases. The new trade law placed section 301 authority directly in the hands of USTR.

[26] Within this context, "commerce" includes services associated with international trade, regardless of whether such services are related to specific products, and foreign direct investment by U.S. persons with implications for international trade.

[27] The statute provides a number of procedures and time limits for action by USTR. USTR has 45 days from receipt of a petition to determine whether or not to initiate an investigation. In all investigations, consultations are requested with the foreign country or instrumentality involved. If a case involves issues arising under a trade agreement, the United States employs the dispute settlement provisions of the agreement. The time period for a determination by USTR concerning the practice in question, and any action to be taken, varies according to the type of practice alleged.

[28] USTR docket No. 301-83. An investigation involving the same directive had been initiated prior to the enactment of the 1988 amendments to sec. 301 but had been suspended (USTR docket No. 301-60).

[29] USTR docket No. 301-88.

[30] See 56 F.R. 51943.

[31] USTR docket No. 301-87.

[32] This countervailing duty investigation was self-initiated by Commerce on October 31, 1991.

[33] Canada has raised issues in dispute resolution proceedings before the GATT concerning the U.S. action. Consultations were held on October 16, 1991 on these issues and conciliation proceedings were held on November 15, 1991 before the GATT Committee on Subsidies and Countervailing Measures. On December 2, 1991, Canada requested the establishment of a dispute-settlement panel, which was convened on December 16, 1991.

[34] USTR docket No. 301-86.

[35] Section 182(a) of the Trade Act of 1974 requires USTR to identify countries that deny adequate and effective protection of intellectual property rights or which deny fair and equitable market access to U.S. persons that rely on intellectual property protection. 19 U.S.C. 2242, et seq.

[36] See 56 F.R. 24878.

[37] On November 26, 1991, USTR determined that the case required additional time due to complex and complicated issues (56 F.R. 61447).

[38] See 56 F.R. 61278.

[39] On January 17, 1992, the United States reached an agreement with the Chinese Government in which China agreed to make significant improvements in its protection of patents, copyrights, and trade secrets and also to enforce intellectual property rights. Based on these commitments, USTR revoked China's identification as a "priority foreign country" under section 182 of the Trade Act and terminated the section 301 investigation. See 57 F.R. 3084.

[40] USTR docket No. 301-85.

[41] See 56 F.R. 24877.

[42] On November 26, 1991, USTR determined that the case required additional time due to complex and complicated issues (56 F.R. 61447). Consultations with the Government of India continued after this extension to the end of 1991.

[43] On February 26, 1992, USTR determined that India's denial of adequate and effective patent protection continues to be unreasonable and burdens or restricts U.S. commerce. Although USTR terminated the investigation, it left open the possibility of trade action and instructed an interagency group to develop options.

[44] USTR docket No. 301-84.

[45] See 56 F.R. 11815.

[46] On March 13, 1992, USTR determined that the Government of Thailand's acts, policies, and practices related to the protection of patents are unreasonable and burden or restrict U.S. commerce. USTR further determined that action is appropriate under section 301 but that a delay of implementation

of such action is desirable. In this regard, USTR directed Section 301 Committee to recommend specific options that can be taken if the matter is not resolved satisfactorily.

[47] USTR docket No. 301-83. This action relates to the section 302 investigation under USTR docket No. 301-60, which was initiated by USTR on July 22, 1987. See 52 F.R. 28223. Consultations under GATT in this investigation never took place because the EC took steps to provide access for a number of U.S. meat packers and USTR suspended its section 302 investigation thereafter. Beginning October 31, 1990, the EC removed the eligibility of U.S. packers to ship pork to the EC, precipitating the filing of the recent petition by the National Pork Producers Council and the American Meat Institute.

[48] See 56 F.R. 1663.

[49] USTR docket No. 301-82.

[50] See 56 F.R. 292.

[51] USTR docket No. 301-80.

[52] See 55 F.R. 27731.

[53] USTR docket No. 301-81.

[54] For a discussion of this case, see the *EC: Enlargement* case, USTR docket No. 301-54, discussed below, and *OTAP, 1989*, USITC publication 2317, Sept. 1990, p. 140.

[55] See 55 F.R. 50269.

[56] See 55 F.R. 53376.

[57] USTR docket No. 301-79.

[58] See 54 F.R. 36089.

[59] See 55 F.R. 19692.

[60] USTR docket No. 301-71.

[61] This trade agreement resulted from an investigation initiated by USTR on December 10, 1981 (USTR docket 301-26), pursuant to a petition filed by the California Cling Peach Advisory Board, et al. The investigation involved alleged violations by the EC of GATT article XVI in granting production subsidies on EC member states' canned peaches, pears, and raisins that displaced scales of non-EC products within the EC and impaired tariff bindings on those products.

[62] USTR docket No. 301-60.

[63] 53 F.R. 47897.

[64] 54 F.R. 49150.

[65] 56 F.R. 20057.

[66] 56 F.R. 37934.

[67] USTR docket No. 301-63.

[68] See 53 F.R. 984.

[69] See 55 F.R. 4294.

[70] See USTR, *1992 National Trade Estimate Report on Foreign Trade Barriers.* On March 16, 1992, the panel issued its "follow-up" report.

[71] USTR docket No. 301-61.

[72] See 52 F.R. 28223.

[73] See 53 F.R. 41551.

[74] See 55 F.R. 27324.

[75] USTR docket No. 301-55.

[76] See 51 F.R. 19648.

[77] See 55 F.R. 23322.

[78] USTR docket No. 301-54.

[79] See USTR docket No. 301-81.

[80] USTR docket No. 301-48.

[81] 50 F.R. 28866.

[82] 51 F.R. 27811.

[83] 52 F.R. 13419.

[84] 52 F.R. 13412.

[85] 52 F.R. 22693 and 52 F.R. 43146.

[86] The authority of section 22 supersedes any inconsistent provisions of international agreements entered into by the United States. The use of section 22 quotas is considered to be inconsistent with articles II and XI of the GATT. Article II prohibits unequitable treatment of trading partners; article XI forbids the use of quantitative import restrictions. The United States sought and received from the GATT contracting parties a waiver of its GATT obligations pursuant to provisions of articles II and XI in 1955.

[87] For details, see Presidential Proclamation No. 6313, July 9, 1991.

[88] A detailed description of the Commission's findings and recommendations is contained in USITC, *Peanuts* (investigation 22-52), USITC publication 2369, Mar. 1991.

[89] Outstanding section 22 actions in which no executive resolution occurred in 1991 included sugar (investigation No. 22-49), sugar-containing articles (investigation No. 22-48), and ice cream (investigation No. 22-50). The Commission's respective reports to the President are dated September and October 1985 and August 1989.

[90] The U.S. Meat Import Act of 1979 (Pub. Law 88-482) became law on January 1, 1980, and amends the original statute, the Meat Import Act of 1964.

[91] The law, which also encompasses imports of certain veal, mutton, and goat meat, does not apply to imports of pork, lamb, fish, or poultry meat.

[92] U.S. imports from Canada became exempt from the law on Jan. 1, 1989, with the implementation of the U.S.-Canada Free-Trade Agreement (Pub. Law 100-499).

[93] See 56 F.R. 510 (Jan. 7, 1991).

[94] See 56 F.R. 193 (Oct. 4, 1991). Shipments from Australia were particularly heavy during the early part of the year due to an unusually high slaughter rate induced by drought.

[95] See 57 F.R. 553 (Jan. 7, 1992).

[96] Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) became law on October 11, 1962, and replaces the predecessor statute section 8 of the Trade Agreements Extension Act of 1958.

[97] Libyan policies and actions supported through revenues from the exportation of oil to the United

States were initially declared to be adverse to U.S. national security in March 1982. Economic sanctions based on Presidential proclamations of previous years continued in effect throughout 1991 on U.S. imports of crude and refined petroleum products originating in Libya.

[98] Japan and Taiwan agreed in 1986 to limit for a 5-year period, through December 1991, exports of machine tools to the United States. Negotiations with West Germany and Switzerland failed to produce similar agreements, prompting notification by the United States that it was prepared to take unilateral action should imports from these countries exceed prescribed levels. No action to limit machine tool imports from West Germany or Switzerland has been taken by the U.S. Government to date. For further details, see USITC, *OTAP, 1986*, USITC publication 1995, July 1987, pp. 4-11, 4-27, and 4-41.

[99] For further details, see Statement by Press Secretary Fitzwater, Dec. 27, 1991, on the Machine Tool Revitalization Program.

[100] See 56 F.R. 56626 Nov. 6, 1991.

[101] The USITC analyzes the gear industry in USITC, *Competitive Position of the U.S. Gear Industry in U.S. and Global Markets* (investigation No. 332-275), USITC publication 2278.

[102] Information in this section on the current operation of the U.S. GSP program is based a U.S. Department of State "Standard Seminar Presentation" on the GSP program presented in U.S. Department of State Telegram, Nov. 22, 1991, Washington, DC, message reference No. 384619.

[103] To be eligible, the article must be produced in one or more beneficiary countries, and the sum of (a) the cost or the value of materials produced, plus (b) the direct cost of processing performed in such country (or countries) is not less than 35 percent of the appraised value of the article when it enters the U.S. customs territory. Trade Act of 1974, sec. 503(b)(1), title V, as amended.

[104] Relatively minor amendments to the statute were made under section 1802 of the Tax Reform Act of 1976 (Pub. Law 94-455) and section 1111 of the Trade Agreements Act of 1979 (Pub. Law 96-39).

[105] Trade Act of 1974, sec. 505, as amended.

[106] The President must notify Congress of his intention to make such designations and provide the considerations entering into the decision. Trade Act of 1974, title V, sec. 502(a), as amended.

[107] These countries are Australia, Austria, Canada, European Economic Community members, Finland, Iceland, Japan, Monaco, New Zealand, Norway, Republic of South Africa, Sweden, Switzerland, and Union of Soviet Socialist Republics. Trade Act of 1974, title V, sec. 502(b), as amended.

[108] Trade Act of 1974, title V, sec. 502(b), as amended.

[109] Ibid.

[110] "Gist: Generalized System of Preferences," U.S. Department of State dispatch, Sept. 2, 1991, p. 661, and U.S. Department of State Telegram, Nov. 22, 1991, Washington, DC, message reference No. 384619.

[111] Trade Act of 1974, title V, sec. 502(c), as amended.

[112] Trade Act of 1974, title V, sec. 503(a), as amended.

[113] Trade Act of 1974, title V, sec. 503(c)(1), as amended.

[114] Trade Act of 1974, title V, sec. 504(a)(1), as amended.

[115] Trade Act of 1974, title V, sec. 504(c)(6)(A), as amended. Least-developed beneficiaries are Bangladesh, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Cape Verde, Chad, Comoros, Djibouti, Equatorial Guinea, the Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lesotho, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Western Samoa, and Yemen Arab Republic (Sanaa). Harmonized Tariff Schedule, general note 3(c)(ii)(B) .

[116] Trade Act of 1974, title V, sec. 504(c)(2)(B), as amended. Taiwan, the Republic of Korea, Hong Kong, and Singapore were graduated from the U.S. GSP program on this basis effective Jan. 2, 1989. For further details, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, p. 154.

[117] Automatic graduation is phased in over 2 years. and (2), Trade Act of 1974, title V, sec. 504(f)(1), as amended. Bahrain, Bermuda, Brunei, and Nauru have been graduated based on this policy. Bahrain subsequently was reinstated. For additional details, see USITC, *OTAP, 1988*, USITC publication 2208, July 1989, p. 154, and USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 178.

[118] Trade Act of 1974, sec. 504(c), as amended.

[119] Becomes effective not later than July 1 of the next calendar year. Trade Act of 1974, title V, sec. 504(c)(1), as amended. A country's GSP treatment may be reinstated if imports of the excluded article in a subsequent year fall below the competitive need ceilings in effect during the preceding calendar year. Trade Act of 1974, title V, sec. 504(c)(5), as amended.

[120] Trade Act of 1974, title V, sec. 504(c)(2)(A) and (B), as amended.

[121] Trade Act of 1974, title V, sec. 504(c)(2)(A) and (B), as amended.

[122] Trade Act of 1974, title V, sec. 504(c)(3)(A)(i) and (ii), as amended.

[123] Trade Act of 1974, title V, sec. 504(d)(2), as amended.

[124] For a more detailed discussion, see USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 179.

[125] USTR, "Generalized System of Preferences, Notice of Review of Petition and Public Hearing," 55 F.R. 43196 (Nov. 19, 1990).

[126] 56 F.R. 20484 (May 3, 1991).

[127] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 84.

[128] 56 F.R. 42080 (Aug. 26, 1991).

[129] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 60.

[130] 56 F.R., 37758 (Aug. 8, 1991).

[131] 57 F.R. 67 (Jan. 2, 1991).

[132] 56 F.R. 42080 (Aug. 26, 1991).

[133] Presidential Proclamation 6282, Apr. 25, 1991, published in 56 F.R. 19525 (Apr. 29, 1991).

[134] Presidential Proclamation 6388, Dec. 4, 1991, published in 56 F.R. 63863 (Dec. 6, 1991).

[135] Presidential Proclamation 6402, Feb. 5, 1991, published in 57 F.R. 4833 (Feb. 7, 1992).

[136] Presidential Proclamation 6389, Dec. 5, 1991, published in 56 F.R. 64467 (Dec. 9, 1991).

[137] USTR, *1992 Trade Policy Agenda and 1991 Annual Report*, 1992, p. 84.

[138] 56 F.R. 65750 (Dec. 18, 1991).

[139] Romania was suspended in 1987 after a determination that the Romanian Government did not provide basic internationally recognized workers' rights. For details of this action, see USITC, *OTAP, 1987*, USITC publication 2095, July 1988, p. 5-14.

[140] 56 F.R. 42083 (Aug. 26, 1991).

[141] USITC, *OTAP, 1990*, USITC publication 2403, July 1991, p. 180.

[142] For a more detailed description of the benefits under the CBERA, and on the modifications made to the program in 1990, see USITC, *Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers: Sixth report, 1990*, USITC publication 2432, Sept. 1991, and USITC, OTAP, 1990, USITC publication 2403, July 1991, p. 172.

[143] Executive Order 12779 of Oct. 28, 1991 Prohibiting Certain Transactions With Respect to Haiti, 56 F.R. 55975 (Oct. 30, 1991).

[144] CBERA, sec. 213, as amended.

[145] CBERA, sec. 213(b), 231, as amended.

[146] CBERA, sec. 213(h)(1), as amended.

[147] These subheadings provide special tariff treatment to certain U.S.-origin goods processed or assembled in other countries and returned to the United States. Duties on products under the subheadings are assessed only on the value added to the goods as a result of foreign processing or assembly, not on the value of the exported and re-imported U.S. content. For further information, see USITC, *Production Sharing: U.S. Imports Under Harmonized Tariff Schedule Subheadings 9802.00.60 and 9802.00.80, 1986-1989*, USITC publication 2349, Jan. 1991.

[148] For more background on the ATPA, see USITC, *OTAP, 1990*, 1990, USITC publication 2403, July 1991, p. 40.

[149] *Congressional Record*, H11402, Nov. 26, 1991 and U.S. Department of State Telegram, Jan. 7, 1992, Washington, DC, message reference No. 004246.

[150] U.S. Department of State Telegrams, Jan. 7, 1992, Washington, DC, message reference No. 004246, and Feb. 11, 1992, Geneva, message reference No. 01176.

[151] Venezuela, although technically an "Andean" country, was not included as an eligible beneficiary of the ATPA because (1) its per capita GDP is significantly higher than that of the other Andean countries, (2) petroleum (excluded from duty-free entry under the ATPA) is Venezuela's leading export, and (3) the United States is concerned that Venezuelan industrial exports under the ATPA would compete with sensitive sectors of the U.S. economy. U.S. Department of State Telegram, Jan. 25, 1992, Washington, DC, message reference No. 023987.

[152] "Remarks Following Discussions With President Rodrigo Borja Cevallos of Ecuador," *Presidential Documents*, July 23, 1990, p. 1140.

[153] Sec. 204 (b) (8) of the Andean Trade Preference Act. For additional information, see Trade Reports International Group, "Ways and Means Acts on Host of Trade Bills," *Washington Trade Daily*, Nov. 20, 1991, p. 2.

[154] U.S. Department of Commerce data, reproduced in *Washington Report on Latin America and the Caribbean*, Jan. 28, 1992, p. 42.

[155] Latin America/Caribbean Business Development Center, International Trade Administration, U.S. Department of Commerce, "Andean Trade Preference Act Passes," *LA/C Business Bulletin*, Dec. 1991, p. 2.

APPENDIX
STATISTICAL TABLES

Table A-1
Countervailing-duty actions reported by signatories to the GATT Committee on Subsidies and Countervailing Measures, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
Australia	Brazil	Agricultural ground engaging tools	10–18–90	NPF	
	China	Canned peaches	02–27–91	NPF	
	China	Canned pears	02–27–91	NPF	
	Denmark	Canned ham	01–30–91		
	Greece	Canned peaches	02–27–91	NPF	
	Ireland	Canned ham	01–30–91		
	Netherlands	Canned ham	01–30–91		
	Spain	Canned peaches	02–27–91	NPF	
	Spain	Canned pears	02–27–91	NPF	
	Turkey	500 kVA dry–type transformers	12–05–90	NPF	
Brazil	Malaysia	Vulcanized rubber	03–12–91		11–01–91–DD
Canada	Brazil	Electric motors	07–31–91–R		11–28–91–DD
	Brazil	Women's leather boots and shoes	08–14–91–R		12–16–91–DD
Chile	Poland	Skimmed milk powder	02–04–91	03–16–91	10–18–91–DD
	Pakistan	Polyester/cotton cloth (dowlas)	08–31–90	10–08–90	01–10–91–DD
	Czech and Slovak Federal Republic	Skimmed milk powder	10–03–91	10–19–91	
	Poland	Skimmed milk powder	10–13–91	10–19–91	
	Hungary	Skimmed milk powder	10–13–91	10–19–91	
	Mexico	Vans	11–16–91		
European Community	Turkey	Polyester fibers and yarn	02–09–89	05–31–91	09–23–91–SU
New Zealand	Australia	Alloy wheels	12–17–90		03–18–91–NS

[1] Initiation date codes: R = Review of existing countervailing measures.
[2] Provisional measures codes: NPF = Negative preliminary finding.
[3] Final outcome codes: DD = Definitive duty; NS = No subsidy; SU = Subsidy undertaking.

Table A-2
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
Australia	Argentina	Low density polyetylene (LDPE)	09–26–90	01–31–91	
	Argentina	Polyvinyl chloride (PVC)	05–08–91		
	Belgium	Dioctyl phthalate (DOP)	01–31–91	05–31–91	
	Brazil	LDPE	09–26–90	01–31–91	
	Brazil	Agricultural ground engaging tools	10–18–90	02–16–91	
	Brazil	Frozen orange juice concentrate	01–29–91	NPF	
	Brazil	PVC	05–08–91		
	Brazil	Triethanolamine and mixtures of ethanolamines consisting essentially of triethanolamine (TEA)	05–22–91		
	Canada	LDPE	09–26–90	01–31–91	
	China	Canned peaches	02–27–91	NPF	
	China	Canned pears	02–27–91	06–27–91	
	China	Dibutyl pthalate (DBP)	05–08–91		
	Denmark	Canned ham	05–02–90	08–29–90	01–29–91–OM
	Finland	LDPE	09–26–90	01–31–91	
	France	LDPE	09–26–90	01–31–91	
	France	DOP	01–31–91	05–31–91	
	Germany	Sodium cyanide	10–10–90	02–07–91	
	Germany	Plaster of Paris bandages	01–18–91	05–18–91	
	Germany	DOP	01–31–91	05–31–91	
	Greece	Canned peaches	02–27–91	NPF	
	Hungary	PVC	05–08–91		
	Indonesia	Replacement automotive lead–acid storage batteries (batteries)	02–27–90	05–29–91	
	Ireland	Canned ham	05–02–90	08–29–90	01–25–91–DD
	Israel	LDPE	09–26–90	01–31–91	
	Israel	PVC	05–08–91		
	Italy	LDPE	09–26–90	04–27–91	
	Italy	Sodium cyanide	10–10–90	02–07–91	
	Italy	DBP	05–08–91		
	Japan	LDPE	09–26–90	01–31–91	
	Japan	Sodium cyanide	10–10–90	02–07–91	
	Japan	Portland and blended cements	02–22–91	NPF	
	Japan	Thermoplastic rubber modified mineral filled polypropylene compound	02–27–91	NPF	

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	Japan	Facsimile and other thermal coated papers less than 100 g. per square meter in rolls (fax paper)	06–19–91		
	Korea	LDPE	09–26–90	04–27–91	
	Korea	Sodium cyanide	10–10–90	02–07–91	
	Korea	Batteries	07–02–90	05–25–91	
	Korea	DOP	01–31–91	NPF	
	Korea	PVC	05–08–91		
	Korea	Fax paper	06–19–91		
	Malaysia	Batteries	07–02–90	05–29–91	
	Mexico	PVC	05–08–91		
	Netherlands	Canned ham	05–16–90	08–28–90	01–25–91–DD
	Philippines	Batteries	07–02–90	05–29–91	
	Poland	PVC	05–08–91		
	Qatar	LDPE	09–26–90	01–31–91	
	Singapore	LDPE	09–26–90	01–31–91	
	Singapore	Batteries	07–02–90	05–29–91	
	Singapore	PVC	05–08–91		
	Singapore	0.6 to 1kV cross linked polyethylene insulated, aerial bundled electric cable	05–15–91		
	Spain	Canned peaches	02–27–91	NPF	
	Spain	Canned pears	92–27–91	NPF	
	Sweden	LDPE	09–26–90	04–27–91	
	Taiwan	Batteries	07–02–90	05–29–91	
	Taiwan	LDPE	09–26–90	04–27–91	
	Taiwan	Sodium cyanide	10–10–90	NPF	
	Taiwan	PVC	05–08–91		
	Turkey	500 KVA dry type transformers	12–05–90	NPF	
	Thailand	LDPE	09–26–90	04–27–91	
	United Kingdom	Diagnostic reagent strips	03–12–90	04–29–91	
	United Kingdom	Sodium cyanide	10–10–90	02–07–91	
	United States	Diagnostic reagent strips	03–12–90	04–29–91	
	United States	LDPE	09–26–90	01–31–91	
	United States	Sodium cyanide	10–10–90	02–07–91	
	United States	PVC	05–08–91		
	United States	TEA	05–22–91		
	United States	Fax paper	06–19–91		

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	Venezuela	DOP	01–31–91	05–31–91	
	Yugoslavia	LDPE	09–26–90	04–27–91	
	Canada	Aluminum chloride anhydrous	08–13–91		01–22–92–DD
	United States	Aluminum chloride anhydrous	08–13–91		01–22–92–DD
Canada	Argentina	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Austria	Artificial graphite electrodes	09–20–91		
	Brazil	Carbon steel welded pipe	09–12–90 –R		01–18–91–PU
	Brazil	Electric motors	07–31–91 –R		11–28–91–DD
	Brazil	Tillage tools	06–09–91 –R		12–05–91–DD
	Brazil	Women's leather boots and shoes	08–14–91 –R		12–16–91–DD
	Czech & Slovak Federal Republic	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	Germany	Gasoline chain saws	05–06–91 –R		08–30–91–DD
	Germany	Artificial graphite electrodes	09–20–91 –R		
	France	Ski poles	03–28–91 –R		06–28–91–DD
	France	Artificial graphite electrodes	09–20–91		
	Hong Kong	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	India	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Indonesia	Photo albums w/self–adhesive leaves and self–adhesive leaves	06–08–90	09–04–90	01–02–91–DD
	Indonesia	Photo albums w/self–adhesive leaves and self–adhesive leaves	01–02–91 –R		06–18–91–DD
	Italy	Ski poles	03–28–91 –R		06–28–91–DD
	Japan	Electric motors	01–03–91 –R		05–30–91–DD
	Japan	Tapered roller bearings	12–12–91		
	Korea	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	Korea	Oil and gas well casing	12–11–91 –R		
	Luxembourg	Carbon steel welded pipe	09–12–90 –R		01–18–91–PU
	Luxembourg	Carbon steel welded pipe	09–16–87	09–25–91	
	Malaysia	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	China	Paint brushes	04–08–91 –R		07–10–91–DD
	China	Women's leather boots and shoes, women's non–leather boots and shoes	08–14–91 –R		12–16–91–DD

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti–Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	China	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	Philippines	Photo albums w/self–adhesive leaves and self–adhesive leaves	07–10–90	09–04–90	01–02–91–DD
	Philippines	Photo albums w/self adhesive leaves and self–adhesive leaves	01–02–91 –R		06–18–91–DD
	Poland	Electric motors	03–01–91 –R		05–03–91–DD
	Poland	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	Poland	Carbon steel welded pipe	09–16–87	09–25–91	
	Romania	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Spain	Artificial graphite electrodes	09–20–91		
	Sweden	Gasoline chain saws	06–05–91 –R		08–30–91–DD
	Sweden	Aluminum Venetian blind material	07–12–91	10–10–91	
	Taiwan	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Taiwan	Stainless steel welded pipe	12–24–90	05–08–91	09–05–91–DD
	Taiwan	Women's leather boots and shoes, women's non–leather boots and shoes	08–14–91 –R		12–16–91–DD
	Taiwan	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
	Taiwan	Electric motors	03–01–91 –R		05–30–91–DD
	Thailand	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Thailand	Photo albums with self–adhesive leaves and self–adhesive leaves	07–10–90	09–04–90	01–02–90–DD
	Thailand	Photo albums with self–adhesive leaves and self–adhesive leaves	01–02–91 –R		06–18–91–DD
	Turkey	Carbon steel welded pipe	09–16–87	09–25–91	
	United Kingdom	Electric motors	03–01–91 –R		05–30–91–DD
	United Kingdom	Artificial graphite electrodes	09–20–91		
	United States	Certain machine tufted carpeting	08–06–91	12–19–91	
	United States	Christmas trees	11–15–91		
	United States	Delicious apples	06–19–91 –R		11–20–91–DD
	United States	Electric motors	11–30–90 –R		03–28–91–DD
	United States	Flat wooden toothpicks	08–19–91	11–15–91	
	United States	Gasoline chain saws	06–05–91 –R		08–30–91–DD
	United States	Grinding balls	08–30–91 –R		12–12–91–PU
	United States	Lint rollers and refills	07–06–90	10–04–90	02–01–91–NI

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti–Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	United States	Malt beverages (beer)	03–06–91	06–04–91	10–02–91–DD
	United States	Malt beverages (beer)	10–21–91 –R		
	United States	Metal storage cabinets	09–12–90 –R		01–14–91–OT
	United States	Oil and gas well casing	11–12–91 –R		
	United States	Wedge clamps	11–14–90		02–12–91–PU
	Venezuela	Carbon steel welded pipe	11–16–90	03–28–91	07–26–91–DD
	Yugoslavia	Carbon steel welded pipe	09–12–90 –R		01–18–91–PU
	Yugoslavia	Carbon steel welded pipe	09–16–87	09–25–91	
	Yugoslavia	Waterproof rubber footwear	03–27–91 –R		06–24–91–DD
European Community	Brazil	Ferro–silicon	05–03–90 –R		05–03–91–DD/PU
	Czech & Slovak Federal Republic	Oxalic acid	08–31–90 –R		06–01–91–NI
	Egypt	Ferro–silicon	05–08–91		
	Hong Kong	Video cassette tapes	01–11–91 –R		
	Hong Kong	Small screen color television receivers	11–12–88	01–19–91	
	Hong Kong	Audio cassettes and audio cassette tapes	01–14–89		05–14–91–NI
	India	Oxalic acid	08–31–90	06–01–91	
	Japan	Outer rings of tapered roller bearings	04–01–91		
	Japan	Thermal paper	01–24–91		
	Japan	Electronic weighing scales	02–26–91 –R		
	Japan	Large aluminum electrolytic capacitators	04–11–91		
	Japan	Linear tungsten halogen lamps	07–20–89		01–19–91–DD
	Japan	Hydraulic excavators	08–18–90 –R		02–08–91–ON
	Japan	EPROM's	04–14–87		03–12–91–DD/PU
	Japan	Audio cassettes and audio cassette tapes	01–14–89		05–14–91–DD
	Japan	Pocket lighters (gas fuelled, not refillable)	08–18–90	05–28–91	
	Japan	Aspartame	03–03–90	09–25–91	
	Korea	Small screen color television receivers	01–26–91 –R		
	Korea	DRAM's	03–06–91		
	Korea	Audio cassettes and audio cassette tapes	01–14–89		05–14–91–DD
	Korea	Pocket lighters (gas fuelled, refillable)	08–18–90	05–28–91	
	Korea	Thin polyester film	02–01–90		06–15–91–CW
	Norway	Atlantic salmon	02–02–90		03–16–91–Other

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti–Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	Poland	Ferro–silicon	05–08–91		
	United States	Aspartame	03–03–90		05–29–91–DD
	Venezuela	Welded tubes of iron or steel	02–09–89		04–12–91–DD
	Yugoslavia	Portland cement	06–16–89		01–22–91–NI
	Yugoslavia	Welded wire mesh	07–28–90		05–18–91–PU
Finland	Japan	Optical fiber cables	04–17–91		
	Poland	Polythene foil and sheet for agricultural or building purposes	02–23–88 –R		08–13–90–DD
	Romania	Polythene foil and sheet for agricultural or building purposes	02–23–88 –R		08–13–90–DD
Japan	China	Ferro–silico manganese	11–29–91		
	Norway	Ferro–silico manganese	11–29–91		
	South Africa	Ferro–silico manganese	11–29–91		
Korea	France	Polyacrylamide	02–20–90		02–21–91–NI
	Germany	Polyacrylamide	02–20–90		02–21–91–NI
	Japan	Polyacetal resin	08–25–90		09–30–91–DD
	United Kingdom	Polyacrylamide	02–20–90		02–21–91–NI
	United States	Polyacetal resin	08–25–90		09–30–91–DD
Mexico	United States	Kraft board, coated	10–11–90 –R	02–08–91	
	United States	Plastic sterile hypodermic syringes	07–14–91 –R	10–28–91	
	Netherlands	Cationic modified starch of the brands: "Amilofax 2000" and "Solvitose NX"	07–14–91 –R	11–15–91	
	Brazil	Shock absorbers, struts, hydraulic or gas cylinders/cartridges	08–29–89 –R	12–10–90	08–02–91–NI
	Brazil	Ceramic wall tiles	01–03–90 –R	10–11–90	09–05–91–DD
	United States	Jean/denim	05–28–90 –R	02–06–91	09–09–91–ND
	Hong Kong	Jean/denim	05–28–90 –R		09–09–91–ND
	Spain	Graphitic carbon elements for ovens	12–18–87	04–03–89	09–05–91–OR
	United States	Non–alloyed iron and steel	08–28–91	09–20–91	
	India	Diiodohydroxyquinolene	10–05–90 –R		10–17–91–DD
	Germany	Vat blue	12–18–87 –R		10–17–91–OR

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti–Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	United States	Connectors for cable joints	09–18–91	10–28–91	
	United States	2 Ethylhexanol	08–29–90 –R	05–28–91	11–15–91–DD 04–19–91–PU and 05–14–91–PU (for two firms)
	United States	Acrylic fibers (TOW)(STAPLE)	09–21–89 –R	06–28–90	06–05–91–DD/PU
	United States	Electric power transformers	11–08–91	11–15–91	
	Spain	Vulcanized rubber thread	10–02–89	10–26–90	06–05–91–DD
	United States	Hot–rolled sheets	11–14–90 –R	05–22–91	12–26–91–ND
	United States	Cold–rolled sheets	11–14–90 –R	05–22–91	12–26–91–ND
	United States	Plate, in coils	11–14–90 –R	05–22–91	12–26–91–NI
	United States	Vinyl flooring in rolls	03–18–91 –R	06–05–91	11–15–91–DD
	United States	Vinyl polychloride (PVC)	01–23–90 –R	08–28–90	06–05–91–DD
	Spain	Regenerated cellulose casing	04–30–91 –R	10–17–91	
	United States	Regenerated cellulose casing	04–03–91 –R	10–17–90	
	United States	Dishware or single items or articles of tableware or kitchenware	04–03–91 –R	10–28–91	
	Hong Kong	Dishware or single items or articles of tableware or kitchenware	04–30–91 –R	10–28–91	
	Venezuela	Corrugated rods used to reinforce concrete	11–14–90 –R	05–22–91	12–23–91–DD
	United States	Corrugated rods used to reinforce concrete	11–14–90 –R	05–22–91	12–23–91–DD
New Zealand	China	Hog bristle paint brushes	08–27–90 –R		
	Thailand	Plasterboard	11–26–90 –R		04–09–91–DD
	Indonesia	Lead–acid automotive batteries	06–14–91	10–10–91	12–09–91–DD
	Korea	Lead–acid automotive batteries	06–14–91	10–10–91	12–09–91–DD
	Malaysia	Lead–acid automotive batteries	06–14–91	10–10–91	12–09–91–DD
	Singapore	Lead–acid automotive batteries	06–14–91	10–10–91	12–09–91–DD
	Taiwan	Lead–acid automotive batteries	06–14–91	10–10–91	12–09–91–DD
	Thailand	Lead–acid automotive batteries	06–14–91		09–09–91–OT

See footnotes at end of table.

Table A-2–Continued
Antidumping actions reported by signatories to the GATT Committee on Anti–Dumping Practices, by reporting countries 1991

Reporting country	*Country of origin*	*Product*	*Initiation date*[1]	*Provisional measures implemented*[2]	*Date and final outcome*[3]
	Japan	Pneumatic radial ply tires	11–28–91		
	Korea	Pneumatic radial ply tires	11–28–91		
	Taiwan	Pneumatic radial ply tires	11–28–91		
Poland	Belgium	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Denmark	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	France	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Germany	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Greece	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Ireland	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Italy	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Luxembourg	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Netherlands	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Portugal	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Spain	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	United Kingdom	Animal and vegetable fats and oils	02–05–91		05–14–91–ND/NI
	Belgium	Beef meat	02–15–91		05–14–91–ND/NI
	Denmark	Beef meat	02–15–91		05–14–91–ND/NI
	France	Beef meat	02–15–91		05–14–91–ND/NI
	Germany	Beef meat	02–15–91		05–14–91–ND/NI
	Greece	Beef meat	02–15–91		05–14–91–ND/NI
	Ireland	Beef meat	02–15–91		05–14–91–ND/NI
	Italy	Beef meat	02–15–91		05–14–91–ND/NI
	Luxembourg	Beef meat	02–15–91		05–14–91–ND/NI
	Netherlands	Beef meat	02–15–91		05–14–91–ND/NI
	Portugal	Beef meat	02–15–91		05–14–91–ND/NI
	Spain	Beef meat	02–15–91		05–14–91–ND/NI
	United Kingdom	Beef meat	02–15–91		05–14–91–ND/NI
Sweden	Japan	Medical X–ray film	09–19–91		

[1] Initiation date codes: R = Review of existing antidumping measures.
[2] Provisional measures codes: DD = Definitive duty; NPF = Negative preliminary finding.
[3] Final outcome codes: CW = Case withdrawn; DD = Definitive duty; ND = Not dumping; NI = No injury; NS = No subsidy; OM = Other/minor market share; ON = Other/no major proportion; OR = Other/revision of final decision; OT = Other/terminated; PU = Price undertaking; (R) = Review of existing antidumping or countervailing measure; SU = Subsidy undertaking.

Table A-3
Leading items exported to Israel, by HS items, 1989–91

(*In thousands of dollars*)

HS Item no.	*Description*	*1989*	*1990*	*1991*
8803.30	Parts of airplanes or helicopters, nesi	215,737	183,393	240,819
9880.00	Estimated low value shipments	53,771	87,964	106,438
1201.00	Soybeans, whether or not broken	76,043	84,024	103,365
8710.00	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	77,715	78,468	87,633
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	–	48,762	79,809
8473.30	Parts and accessories of the machines of heading 8471	43,896	53,209	75,835
8716.10	Trailers and semi–trailers for housing or camping, not mechanically–propelled	–	5,110	70,192
8803.90	Parts of goods of heading 8801 to 8802, nesi	3,316	16,079	69,605
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	46,646	51,435	68,005
1001.90	Wheat and meslin, excluding durum wheat	85,167	71,223	66,362
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	57,470	58,630	66,067
8803.20	Under–carriages and parts thereof, of goods of heading 8801 or 8802	25,331	37,556	64,392
8802.12	Helicopters, of an unladen weight exceeding 2,000 kg	14,684	83,828	62,930
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	40,536	57,845	53,572
9406.00	Prefabricated buildings	2,081	2,228	53,105
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine over 1,500 but n/o 3,000 cc,	1,037	15,535	52,011
8409.10	Parts for aircraft engines	21,906	34,985	51,899
8402.90	Parts of steam– or other vapor–generating boilers	4,430	18,609	45,256
8542.11	Digital monolithic electronic integrated circuits	32,024	56,024	41,223
2402.20	Cigarettes containing tobacco	35,551	36,550	37,644
	Total	837,341	1,081,458	1,496,160
	Total U.S. exports to Israel	2,696,621	2,893,599	3,499,001

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-4
Leading items imported from Israel, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
7102.39	Nonindustrial diamonds, nesi	1,282,848	1,166,005	1,192,226
7113.19	Articles of jewelry and parts thereof, of precious metal, (excluding silver)	134,260	148,312	207,409
8542.11	Digital monolithic electronic integrated circuits	64,388	93,361	141,475
8803.30	Parts of airplanes or helicopters, nesi	64,171	82,975	132,275
8473.30	Parts and accessories of the machines of heading 8471	33,568	68,250	98,099
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	59,997	102,350	79,117
8411.91	Parts of turbojets or turbopropellers	36,564	53,737	55,584
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	50,239	70,638	54,331
8517.90	Parts of telephonic or telegraphic apparatus	47,502	38,618	53,540
8525.20	Transmission apparatus incorporating reception apparatus	57,519	50,346	47,770
6110.20	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of cotton	8,217	16,557	34,506
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	13,562	29,956	26,708
6104.62	Women's or girls' trousers, bib and brace overalls, breeches and shorts, of cotton	6,316	16,957	26,336
8803.90	Parts of goods of heading 8801 to 8802, nesi	12,246	3,269	25,605
9018.19	Electro–diagnostic apparatus, parts and accessories thereof, excluding electrocardiographs, parts and accessories thereof	15,834	13,961	23,158
7103.91	Rubies, sapphires and emeralds, worked but not strung, mounted or set	33,240	23,132	22,895
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	19,998	19,133	21,980
9015.80	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesi	17,417	21,704	19,917
8533.21	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity not exceeding 20 W	11,353	15,363	19,490
3104.20	Potassium chloride	25,671	29,777	18,044
	Total	1,994,911	2,064,401	2,300,466
	Total U.S. imports from Israel	3,235,744	3,308,258	3,495,127

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-5
Leading items exported to the European Community, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	5,406,160	7,191,458	8,630,185
8473.30	Parts and accessories of the machines of heading 8471	4,012,607	4,181,135	4,286,452
8803.30	Parts of airplanes or helicopters, nesi	2,831,544	3,219,192	3,166,927
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	1,920,901	2,284,385	2,477,535
8411.91	Parts of turbojets or turbopropellers	2,065,324	2,281,827	2,430,565
9880.00	No description for this HS no	1,316,155	2,078,694	2,209,631
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	1,599,367	1,578,958	1,562,354
1201.00	Soybeans, whether or not broken	1,639,321	1,465,122	1,497,964
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	1,150,263	1,265,322	1,329,790
2402.20	Cigarettes containing tobacco	963,473	1,754,253	1,237,823
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	1,149,555	1,113,056	1,201,281
8542.11	Digital monolithic electronic integrated circuits	1,043,186	1,115,430	1,154,467
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	308,724	906,222	971,389
8411.12	Turbojets of a thrust exceeding 25 kN	562,971	298,744	953,236
8471.20	Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit	1,107,514	1,087,273	857,584
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	458,185	643,491	768,410
2303.10	Residues of starch manufacture and similar residues	644,266	659,635	745,538
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood	810,646	781,276	690,961
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	576,299	669,750	681,811
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	509,909	579,707	674,227
	Total	30,076,369	35,154,929	37,528,133
	Total U.S. exports to the EC	82,524,708	93,059,526	97,597,591

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

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

Table A-6
Leading items imported from the European Community, by HS items, 1989–91
(In thousands of dollars)

HS item no.	Description	1989	1990	1991
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	5,182,101	5,293,155	3,442,540
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	2,315,892	2,943,893	2,885,281
8703.24	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, cylinder capacity over 3,000 cc	1,710,656	2,583,778	2,119,886
8411.12	Turbojets of a thrust exceeding 25 kN	1,435,395	1,972,372	1,974,259
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	2,194,927	2,696,104	1,846,479
8411.91	Parts of turbojets or turbopropellers	1,101,288	1,401,680	1,671,072
8803.30	Parts of airplanes or helicopters, nesi	1,057,756	1,193,493	1,475,231
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	1,301,446	814,909	1,404,898
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	1,227,008	1,579,909	1,172,992
7102.39	Nonindustrial diamonds, nesi	1,156,574	1,069,333	1,133,761
7113.19	Articles of jewelry and parts thereof, of precious metal, (excluding silver)	1,150,126	1,069,770	1,005,641
9999.95	Informal entries of shipments valued under $1,251	718,844	902,740	862,825
8473.30	Parts and accessories of the machines of heading 8471	635,040	718,409	830,584
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2000 kg but not exceeding 15,000 kg	621,282	856,332	796,102
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	945,695	961,100	773,700
9701.10	Paintings, drawings and pastels, executed entirely by hand, framed or not framed	726,941	967,133	730,583
8701.90	Tractors (other than tractors of heading 8709), nesi	619,945	904,805	682,337
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	297,286	558,758	598,199
6403.59	Footwear with outer soles and uppers of leather, not covering the ankle	526,876	642,081	594,088
2204.21	Wine (excluding sparkling wine); grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 liters or less	559,610	559,280	557,560
	Total	25,484,687	29,689,034	26,558,016
	Total U.S. imports from the EC	84,025,352	90,798,948	85,098,074

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-7
Leading items exported to Canada, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8703.24	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, cylinder capacity over 3,000 cc	1,643,770	3,077,938	3,743,020
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	2,534,412	3,111,597	2,544,825
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	4,291,924	2,815,797	2,521,153
8708.29	Parts and accessories nesi of bodies (including cabs) of the motor vehicles of headings 8701 to 8705	1,574,701	2,515,650	2,457,468
9880.00	Estimated low value shipments	4,010,043	2,097,667	2,198,576
8704.31	Motor vehicles for transporting goods, with spark–ignition internal–combustion piston engine, G.V.W. not exceeding 5 m tons	1,590,361	1,163,846	1,613,271
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	543,087	1,241,585	1,510,785
8473.30	Parts and accessories of the machines of heading 8471	908,604	980,142	1,127,021
8708.40	Gear boxes of the motor–vehicles of headings 8701 to 8705	1,133,572	1,129,982	1,080,444
8542.11	Digital monolithic electronic integrated circuits	932,680	1,088,650	1,065,852
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	573,632	896,093	920,549
8534.00	Printed circuits	177,659	1,303,045	790,942
8803.30	Parts of airplanes or helicopters, nesi	637,262	755,725	682,271
4901.99	Printed books, brochures, leaflets and similar printed matter, other than in single sheets	380,325	630,237	634,661
4902.90	Newspapers, journals and periodicals except those appearing at least four times a week	345,460	549,561	560,459
8409.91	Parts suitable for use solely or principally with spark–ignition internal combustion piston engines (including rotary engines)	481,531	612,831	551,176
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	542,231	372,002	527,064
7606.12	Rectangular plates, sheets and strips, of a thickness exceeding 0.2 mm, of aluminum alloys	121,966	562,631	489,849
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	243,663	421,624	485,064
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	452,107	641,403	469,070
	Total	23,118,991	25,968,005	25,973,519
	Total U.S. exports to Canada	74,977,469	78,217,958	78,711,789

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-8
Leading items imported from Canada, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8703.24	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, cylinder capacity over 3,000 cc	3,392,485	8,489,162	8,859,400
8704.31	Motor vehicles for transporting goods, with spark–ignition internal–combustion piston engine, G.V.W. not exceeding 5 m tons	4,645,634	4,824,102	5,011,707
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	3,132,631	4,413,806	4,643,350
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	8,979,657	4,341,767	4,187,250
4801.00	Newsprint, in rolls or sheets	4,382,853	4,162,479	3,930,037
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	2,770,703	3,456,245	3,380,737
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	3,690,155	3,227,979	2,703,407
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm	2,839,023	2,494,067	2,445,095
2711.21	Natural gas, in gaseous state	1,576,062	1,974,833	2,334,057
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	1,555,961	1,990,417	1,860,331
8473.30	Parts and accessories of the machines of heading 8471	1,089,810	1,179,644	1,394,515
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood	1,972,811	1,902,993	1,372,707
8542.11	Digital monolithic electronic integrated circuits	835,596	919,944	1,300,012
7108.12	Nonmonetary gold (including gold plated with platinum) in unwrought forms (excluding powder)	868,033	409,147	1,131,237
8803.30	Parts of airplanes or helicopters, nesi	759,976	1,033,275	1,072,013
8534.00	Printed circuits	275,877	1,107,084	1,014,283
9999.95	Informal entries of shipments valued under $1,251	720,136	878,370	878,675
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	691,982	1,222,928	857,484
7601.20	Unwrought aluminum alloys	918,154	791,551	679,905
7601.10	Unwrought aluminum, not alloyed	733,235	583,376	653,199
	Total	45,830,775	49,403,169	49,709,401
	Total U.S. imports from Canada	87,987,651	91,198,308	90,923,823

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

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

Table A-9
Leading items exported to Japan, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	657,904	2,103,726	1,888,153
1005.90	Corn (maize) excluding seed	1,557,981	1,643,577	1,516,602
8473.30	Parts and accessories of the machines of heading 8471	1,083,340	1,369,300	1,387,790
2402.20	Cigarettes containing tobacco	871,155	1,312,380	1,348,899
4403.20	Coniferous wood in the rough, whether or not stripped of bark or sapwood or roughly squared, not treated with preservatives	1,619,167	1,587,943	1,333,694
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output unit	790,778	1,016,946	1,066,081
7601.10	Unwrought aluminum, not alloyed	855,746	752,082	916,878
8803.30	Parts of airplanes or helicopters, nesi	892,696	970,713	894,927
1201.00	Soybeans, whether or not broken	866,490	818,633	867,339
8542.11	Digital monolithic electronic integrated circuits	606,232	661,275	687,993
2844.20	Uranium enriched in U235 and plutonium and their compounds; alloys, dispersions, ceramic products and mixtures containing these products	542,845	599,623	680,646
9880.00	Estimated low value shipments	343,531	539,770	551,305
0202.30	Boneless meat of bovine animals, frozen	713,395	669,013	535,474
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	595,297	590,911	529,863
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm	560,743	501,421	492,348
5201.00	Cotton, not carded or combed	543,659	575,294	477,229
1001.90	Wheat and meslin, excluding durum wheat	468,634	420,045	422,071
0306.14	Crabs, frozen	228,431	331,584	390,877
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	212,255	404,875	374,670
8411.91	Parts of turbojets or turbopropellers	342,263	367,000	355,900
	Total	14,352,542	17,236,109	16,718,740
	Total U.S. exports to Japan	42,764,273	46,138,436	46,144,069

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-10
Leading items imported from Japan, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	20,859,320	19,419,358	18,929,273
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	2,980,465	3,073,198	3,624,681
8703.24	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, cylinder capacity over 3,000 cc	539,883	2,020,935	3,307,176
8473.30	Parts and accessories of the machines of heading 8471	3,001,977	2,650,993	2,552,493
8542.11	Digital monolithic electronic integrated circuits	2,925,390	2,332,534	2,534,363
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	1,901,216	2,277,390	2,400,067
8525.30	Television cameras	1,771,371	1,892,300	2,195,240
8703.22	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine over 1,000 but n/o 1,500 cc	1,527,596	1,370,789	1,691,845
8704.31	Motor vehicles for transporting goods, with spark–ignition internal–combustion piston engine, G.V.W. not exceeding 5 m tons	2,511,936	1,671,877	1,671,049
8521.10	Magnetic tape–type video recording or reproducing apparatus	2,014,598	1,781,981	1,407,650
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	1,323,837	1,389,003	1,232,453
9504.10	Video games of a kind used with a television receiver and parts and accessories thereof	1,585,654	1,804,096	1,196,403
9009.12	Electrostatic photocopying apparatus, operating by reproducing the original image via an intermediate onto the copy (indirect process)	974,480	1,000,257	1,033,288
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	548,630	747,669	793,929
8517.82	Electrical telegraphic apparatus, nesi	904,853	730,748	792,363
9009.90	Parts and accessories for photocopying apparatus incorporating an optical system or of the contact type, and thermocopying apparatus	698,945	629,190	754,746
8519.99	Sound reproducing apparatus nesi, not incorporating a sound recording device	535,478	575,081	673,468
8479.89	Machines and mechanical appliances having individual functions,	646,787	487,967	655,691
9999.95	Informal entries of shipments valued under $1,251	470,455	528,482	542,982
8803.30	Parts of airplanes or helicopters, nesi	318,125	423,075	535,128
	Total	48,040,998	46,806,924	48,524,289
	Total U.S. imports from Japan	91,841,766	88,834,279	90,468,823

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-11
Leading items exported to Mexico, by HS items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	918,806	1,510,498	1,400,095
9880.00	Estimated low value shipments	675,707	1,109,569	1,281,008
8708.29	Parts and accessories nesi of bodies (including cabs) of the motor vehicles of headings 8701 to 8705	454,108	662,230	919,511
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	557,668	592,706	683,629
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	439,174	537,197	626,205
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	474,954	344,191	409,651
8473.30	Parts and accessories of the machines of heading 8471	360,408	378,539	398,889
1007.00	Grain sorghum	320,044	346,950	389,001
9401.90	Parts of seats (other than those of heading 9402)	79,900	180,285	353,720
1201.00	Soybeans, whether or not broken	308,896	211,375	346,051
8538.90	Parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537	353,571	348,205	325,072
8504.90	Parts of electrical transformers, static converters and inductors	234,575	300,004	317,852
9032.90	Parts and accessories of automatic regulating or controlling instruments and apparatus	141,928	191,211	298,681
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	209,161	222,880	283,966
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesi	182,134	212,630	218,057
8503.00	Parts for use solely or principally with machines of heading 8501 (electric motors & generators) or 8502 (electric generator sets & rotary converters)	208,039	148,013	201,112
8409.99	Parts suitable for use solely or principally with the engines of heading 8407 or 8408, nesi	138,092	162,692	199,294
4819.10	Cartons, boxes and cases of corrugated paper or paperboard	156,607	169,594	196,316
8409.91	Parts suitable for use solely or principally with spark–ignition internal combustion piston engines (including rotary engines)	247,311	198,556	194,515
8540.11	Cathode–ray color television picture tubes, including video monitorcathode–ray tubes	102,260	142,359	189,538
	Total	6,563,344	7,969,682	9,232,164
	Total U.S. exports to Mexico	24,117,255	27,467,595	32,279,218

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-12
Leading Items Imported from Mexico, by HS Items, 1989–91

(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	3,999,140	4,821,484	4,340,803
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	1,334,279	2,279,610	2,656,728
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	1,051,798	1,089,926	1,197,471
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	942,251	977,118	1,014,974
8528.10	Color television receivers	768,240	882,809	947,626
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	625,335	643,708	736,635
8708.21	Safety seat belts for bodies (including cabs) of the motor vehicles of headings 8701 to 8705	363,714	433,184	529,130
8703.24	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, cylinder capacity over 3,000 cc	372,552	364,356	409,457
0102.90	Live bovine animals other than purebred breeding animals	284,226	419,153	360,959
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	330,381	307,083	328,368
9999.95	Informal entries of shipments valued under $1,251	213,273	291,535	301,928
8708.99	Parts and accessories, nesi, of the motor–vehicles of headings 8701 to 8705	329,992	282,731	297,320
0901.11	Coffee, not roasted, not decaffeinated	434,184	285,535	289,174
8473.30	Parts and accessories of the machines of heading 8471	276,522	264,754	278,619
8536.50	Switches nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V	175,845	225,336	257,388
0702.00	Tomatoes, fresh or chilled	222,316	370,556	249,882
9401.90	Parts of seats (other than those of heading 9402)	132,212	114,516	241,343
8544.51	Electric conductors, for a voltage exceeding 80 V but not exceeding 1,000 V, fitted with connectors	241,556	260,984	234,961
8527.21	Radio broadcast receivers not capable of operating without an external source of power combined with sound recording or reproducing apparatus	318,413	203,623	215,371
8501.40	Other AC motors single–phase, nesi	171,587	177,246	196,081
	Total	12,587,813	14,695,247	15,084,219
	Total U.S. imports from Mexico	26,556,570	29,505,962	30,445,131

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-13
Leading items exported to Korea, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	708,301	406,023	790,473
4101.21	Whole raw hides and skins of bovine animals nesi, fresh or wet–salted	612,881	624,356	529,148
8542.11	Digital monolithic electronic integrated circuits	393,948	511,517	466,012
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	90,260	453,623	445,702
8802.12	Helicopters, of an unladen weight exceeding 2,000 kg	56,317	175,643	391,628
5201.00	Cotton, not carded or combed	428,077	480,737	356,255
1201.00	Soybeans, whether or not broken	219,999	193,819	240,018
8803.30	Parts of airplanes or helicopters, nesi	314,733	298,443	233,119
4403.20	Coniferous wood in the rough, whether or not stripped of bark or sapwood or roughly squared, not treated with preservatives	257,584	271,783	230,476
7204.49	Ferrous waste and scrap, nesi	237,667	238,648	224,951
1001.90	Wheat and meslin, excluding durum wheat	297,903	216,230	209,458
8473.30	Parts and accessories of the machines of heading 8471	237,635	230,835	198,593
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	112,454	171,856	186,523
1005.90	Corn (maize) excluding seed	640,231	603,806	179,455
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	171,786	185,664	170,412
8479.90	Parts of machines and mechanical appliances having individual functions, nesi	83,890	58,740	168,713
8411.99	Parts of gas turbines except parts for turbojets or turbopropellers	1,620	23,760	155,119
0202.30	Boneless meat of bovine animals, frozen	39,616	91,673	139,838
8406.90	Parts for steam turbines and other vapor turbines	1,855	5,431	130,810
9801.10	Value of repairs or alterations to previously imported articles	7,779	21,991	128,605
	Total	4,914,536	5,264,578	5,575,309
	Total U.S. exports to Korea	13,207,742	14,073,883	15,211,098

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-14
Leading items imported from Korea, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
8542.11	Digital monolithic electronic integrated circuits	1,530,950	1,429,559	1,492,930
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	725,049	1,040,371	740,510
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	834,200	935,482	723,542
4203.10	Articles of apparel of leather or of composition leather	839,342	850,895	704,784
8703.22	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine over 1,000 but n/o 1,500 cc	608,213	813,169	697,935
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	533,607	706,113	623,004
8521.10	Magnetic tape–type video recording or reproducing apparatus	551,535	383,717	510,897
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	974,009	280,445	350,958
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man–made fibers	504,843	362,599	274,739
6404.11	Sports footwear; tennis, basketball, gym, training shoes and the like, with outer soles of rubber or plastics and uppers of textile materials	238,325	220,120	261,465
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	413,719	210,332	259,080
8523.13	Prepared unrecorded magnetic tapes for sound recording or similar recording of other phenomena, of a width exceeding 6.5 mm	150,440	180,954	236,948
8516.50	Microwave ovens of a kind used for domestic purposes	376,305	287,772	226,854
8473.30	Parts and accessories of the machines of heading 8471	182,998	197,226	185,246
8542.19	Monolithic electronic integrated circuits, other than digital	149,301	194,804	166,968
9503.41	Stuffed toys representing animals or non–human creatures and parts and accessories thereof	297,545	241,836	165,896
8528.10	Color television receivers	194,377	133,413	157,109
8527.21	Radio broadcast receivers not capable of operating without an external source of power combined with sound recording or reproducing apparatus	191,283	175,972	157,086
7306.30	Tubes, pipes and hollow profiles, nesi, welded, of circular cross section, of iron or nonalloy steel	149,508	145,080	153,492
8527.11	Reception apparatus for radiotelephony, radio–telegraphy or radio broadcasting combined with sound recording or reproducing apparatus	145,907	105,226	149,491
	Total	9,591,457	8,895,084	8,238,935
	Total U.S. imports from Korea	19,566,725	18,336,960	16,862,383

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-15
Leading items exported to Taiwan, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
1005.90	Corn (maize) excluding seed	540,457	542,621	633,721
8542.11	Digital monolithic electronic integrated circuits	406,930	499,972	556,341
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	529,092	524,371	537,014
8803.30	Parts of airplanes or helicopters, nesi	90,967	139,369	501,044
1201.00	Soybeans, whether or not broken	447,177	411,327	466,862
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	109,217	249,169	453,179
7403.11	Cathodes and sections of cathodes of refined copper	90,111	175,790	205,211
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	300,348	263,233	203,995
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	169,950	177,896	189,627
8542.19	Monolithic electronic integrated circuits, other than digital	96,192	132,706	162,963
9880.00	Estimated low value shipments	92,580	143,884	158,927
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	107,568	123,735	152,631
8473.30	Parts and accessories of the machines of heading 8471	162,226	122,211	129,862
2902.50	Styrene	109,435	72,803	129,090
4101.21	Whole raw hides and skins of bovine animals nesi, fresh or wet–salted	114,813	107,122	117,799
1001.90	Wheat and meslin, excluding durum wheat	130,877	110,379	109,002
2917.36	Terephthalic acid and its salts	177,655	144,636	106,745
5201.00	Cotton, not carded or combed	68,022	114,828	100,897
8517.90	Parts of telephonic or telegraphic apparatus	26,119	195,735	97,517
8479.89	Machines and mechanical appliances having individual functions, nesi	82,598	61,898	86,010
	Total	3,852,335	4,313,685	5,098,439
	Total U.S. exports to Taiwan	10,974,696	11,141,956	12,718,074

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-16
Leading items imported from Taiwan, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	895,302	1,020,973	1,208,679
8473.30	Parts and accessories of the machines of heading 8471	660,638	936,368	1,100,472
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	452,471	510,123	674,577
8542.11	Digital monolithic electronic integrated circuits	350,346	389,743	420,832
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	485,468	442,559	374,888
8712.00	Bicycles and other cycles (including delivery tricycles), not motorized	379,808	404,498	365,247
9403.60	Wooden furniture, other than of a kind used in the bedroom	401,048	354,342	356,227
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man–made fibers	545,515	334,791	338,296
8414.51	Table, floor, wall, window, ceiling or roof fans, with a self–contained electric motor of an output not exceeding 125 W	350,657	273,235	298,489
8471.20	Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit	71,932	93,558	258,296
6402.99	Footwear with outer soles and uppers of rubber or plastics, nesi	699,951	421,204	247,764
8471.99	Units of automatic data processing machines, nesi	198,496	229,661	212,019
9506.91	Gymnasium, playground or other exercise articles and equipment; parts and accessories thereof	240,882	188,432	207,740
4202.92	Trunks, cases, bags and similar containers, with outer surface of plastic sheeting or of textile materials	172,287	197,336	201,360
9403.20	Metal furniture, other than of a kind used in offices	175,109	165,967	200,774
3925.30	Shutters, blinds (including venetian blinds) and similar articles and parts thereof, of plastics, nesi	223,532	233,298	200,352
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesi	260,760	203,829	193,626
9405.20	Electric table, desk, bedside or floor–standing lamps	158,039	177,866	192,123
7318.15	Threaded screws and bolts, of iron or steel, nesi, whether or not with their nuts or washers	174,898	162,369	173,433
9505.10	Articles for Christmas festivities and parts and accessories thereof	183,086	169,042	172,550
	Total	7,080,224	6,909,194	7,397,744
	Total U.S. imports from Taiwan	24,203,285	22,566,115	22,941,568

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

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

Table A-17
Leading items exported to Brazil, by HS items, 1989–91

(In thousands of dollars)

HS Item no	Description	1989	1990	1991
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	304,812	345,597	1,080,864
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	259,054	273,609	327,282
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	258,410	195,675	173,943
8473.30	Parts and accessories of the machines of heading 8471	171,157	161,986	147,006
8803.30	Parts of airplanes or helicopters, nesi	188,194	208,034	125,125
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	23,669	13,215	114,974
3100.00	Fertilizers	52,173	71,006	104,367
9880.00	Estimated low value shipments	54,652	88,137	103,360
8411.91	Parts of turbojets or turbopropellers	87,130	126,394	80,959
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	113,073	109,580	75,234
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	95,964	45,196	73,059
1001.90	Wheat and meslin, excluding durum wheat	22,600	–	72,040
8542.11	Digital monolithic electronic integrated circuits	59,822	60,677	69,724
2603.00	Copper ores and concentrates	42,367	31,834	60,449
8431.43	Parts for boring or sinking machinery of subheading 8430.41 or 8430.49	33,509	28,912	48,820
8704.10	Dumpers designed for off–highway use, for the transport of goods	9,416	11,180	47,490
8431.41	Parts suitable for use solely or principally with the buckets, shovels, grabs and grips of headings 8426, 8429, 8430	60,358	48,869	45,849
2207.20	Ethyl alcohol and other spirits, denatured, of any strength	5,863	146,270	45,403
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	12,844	16,866	41,803
9009.90	Parts and accessories for photocopying apparatus incorporating an optical system or of the contact type, and thermocopying apparatus	19,879	35,871	41,159
	Total	1,874,946	2,018,907	2,878,911
	Total U.S. exports to Brazil	4,636,110	4,876,461	5,945,134

Note.—Because of rounding, figures may not add to the totals shown.
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-18
Leading items imported from Brazil, by HS items, 1989–91
(In thousands of dollars)

HS Item no.	Description	1989	1990	1991
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	764,404	790,162	784,025
0901.11	Coffee, not roasted, not decaffeinated	385,126	284,943	395,983
2009.11	Orange juice, frozen, unfermented and not containing added spirit	242,959	524,306	240,366
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	680,301	485,171	234,709
8408.20	Compression–ignition internal combustion piston engines of a kind used for the propulsion of vehicles of chapter 87	151,175	171,218	184,413
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	178,932	342,971	157,373
4703.29	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached nonconiferous wood	153,322	171,289	152,021
7207.12	Semi-finished products of iron or nonalloy steel, by weight less than 0.25% of carbon, of rectangular cross section (not square)	109,797	139,860	145,012
2401.20	Tobacco, partly or wholly stemmed/stripped	93,198	98,029	135,371
8703.23	Passenger motor vehicles with spark–ignition internal–combustion reciprocating piston engine, over 1,500 but n/o 3,000 cc	492,364	139,850	125,170
7108.12	Nonmonetary gold (including gold plated with platinum) in unwrought forms (excluding powder)	6,024	6,174	115,390
1804.00	Cocoa butter, fat and oil	67,267	76,756	96,536
6403.59	Footwear with outer soles and uppers of leather, not covering the ankle	152,300	123,190	96,493
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	76,400	59,050	94,395
0801.30	Cashew nuts, shelled or in shell, fresh or dried	69,770	83,550	91,466
8414.30	Compressors of a kind used in refrigerating equipment (including air conditioning)	81,966	86,480	83,197
8409.99	Parts suitable for use solely or principally with the engines of heading 8407 or 8408, nesi	87,762	97,750	77,076
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	55,337	79,276	61,849
2606.00	Aluminum ores and concentrates	43,122	59,270	61,787
1701.11	Cane sugar, raw, not containing added flavoring or coloring matter, in solid form	22,511	137,545	61,323
	Total	3,914,038	3,956,842	3,393,956
	Total U.S. imports from Brazil	8,483,765	7,762,112	6,760,533

Note.—Because of rounding, figures may not add to the totals shown
Source: Compiled from official statistics of the U. S. Department of Commerce.

Table A-19

Antidumping cases active in 1991, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)

Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination: Commission	Preliminary determination: ITA[1]	Final determination: ITA[1]	Final determination: Commission	Date of final action[2]
			Affirmative:					
731-TA-454	Atlantic salmon	Norway	2/28/90	A	A	A	A	4/1/91
731-TA-457	Forged handtools	China	4/4/90	A	A	A	A	2/11/91
731-TA-458	Polyethylene terephthalate film	Japan	4/27/90	A	A	A	A	5/29/91
731-TA-459	Polyethylene terephthatate film	Korea	4/27/90	A	A	A	A	5/29/91
731-TA-461	Portland cement	Japan	5/18/90	A	A	A	A	4/29/91
731-TA-462	Benzyl paraben	Japan	6/29/90	A	A	A	A	2/5/91
731-TA-464	Sparklers	China	7/2/90	A	A	A	A	6/10/91
731-TA-465	Sodium sulfur compounds	Germany	7/9/90	P	P	P	P	2/12/91
731-TA-466	Sodium sulfur compounds	China	7/9/90	P	P	P	P	2/12/91
731-TA-468	Sodium sulfur compounds	United Kingdom	7/9/90	P	P	P	P	2/12/91
731-TA-469	High-information content flat panel displays	Japan	7/18/90	A	A	P	A	8/21/91
731-TA-470	Silicon metal	Argentina	8/24/90	A	A	A	A	7/23/91
731-TA-471	Silicon metal	Brazil	8/24/90	A	A	A	A	7/23/91
731-TA-472	Silicon metal	China	8/24/90	A	A	A	A	6/3/91
731-TA-473	Electric fans	China	10/31/90	A	A	A	A	12/2/91
731-TA-474	Chrome plated lug nuts	China	11/1/90	A	A	A	A	9/13/91
731-TA-475	Chrome plated lug nuts	Taiwan	11/1/90	A	A	A	A	9/13/91
731-TA-483	Personal word processors	Japan	11/6/90	A	A	A	A	8/19/91
731-TA-497	Tungsten ore concentrates	China	1/23/91	A	A	A	A	11/5/91
			Negative:					
731-TA-52[3]	Steel sheet piling	Canada	11/24/81	A	A	A	N	6/5/91
731-TA-167[5]	Table wine	France	1/27/84	N	([4])	([4])	([4])	10/29/91
731-TA-168[5]	Table wine	Italy	1/27/84	N	([4])	([4])	([4])	10/29/91
731-TA-476	Steel wire rope	Argentina	11/5/90	A	A	A	N	8/21/91
731-TA-478	Steel wire rope	India	11/5/90	A	A	A	N	10/28/91
731-TA-479	Steel wire rope	Mexico	11/5/90	A	A	A	N	8/21/91
731-TA-480	Steel wire rope	China	11/5/90	A	A	A	N	10/28/91
731-TA-481	Steel wire rope	Taiwan	11/5/90	A	A	A	N	10/28/91
731-TA-482	Steel wire rope	Thailand	11/5/90	A	A	A	N	10/28/91
731-TA-485	Gene amplification thermal cyclers	United Kingdom	11/14/90	A	A	A	N	8/23/91
731-TA-486	Coated groundwood paper	Austria	12/28/90	N	([4])	([4])	([4])	2/6/91
731-TA-487	Coated groundwood paper	Belgium	12/28/90	A	A	A	N	12/11/91

See footnotes at end of table.

Table A-19—Continued
Antidumping cases active in 1991, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)

Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination: Commission	Preliminary determination: ITA[1]	Final determination: ITA[1]	Final determination: Commission	Date of final action[2]
			Negative—Continued:					
731–TA–488	Coated groundwood paper	Finland	12/28/90	A	A	A	N	12/11/91
731–TA–489	Coated groundwood paper	France	12/28/90	A	A	A	N	12/11/91
731–TA–490	Coated groundwood paper	Germany	12/28/90	A	A	A	N	12/11/91
731–TA–491	Coated groundwood paper	Italy	12/28/90	N	(4)	(4)	(4)	2/6/91
731–TA–492	Coated groundwood paper	Netherlands	12/28/90	N	(4)	(4)	(4)	2/6/91
731–TA–493	Coated groundwood paper	Sweden	12/28/90	N	(4)	(4)	(4)	2/6/91
731–TA–494	Coated groundwood paper	United Kingdom	12/28/90	A	A	A	N	12/11/91
731–TA–498	Ball bearings	Argentina	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–499	Ball bearings	Austria	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–500	Ball bearings	Brazil	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–501	Ball bearings	Canada	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–502	Ball bearings	Hong Kong	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–503	Ball bearings	Hungary	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–504	Ball bearings	Mexico	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–505	Ball bearings	China	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–506	Ball bearings	Poland	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–507	Ball bearings	Korea	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–508	Ball bearings	Spain	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–509	Ball bearings	Taiwan	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–510	Ball bearings	Turkey	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–511	Ball bearings	Yugoslavia	2/13/91	N	(4)	(4)	(4)	4/1/91
731–TA–512	Tart cherry juice	Germany	3/19/91	N	(4)	(4)	(4)	5/3/91
731–TA–513	Tart cherry juice	Yugoslavia	3/19/91	N	(4)	(4)	(4)	5/3/91
731–TA–523	Microwave ovens	Japan	6/10/91	N	(4)	(4)	(4)	8/7/91
731–TA–524	Steel wire rope	Canada	6/28/91	N	(4)	(4)	(4)	8/21/91
			Terminated:					
731–TA–495	Shopping carts	China	1/10/91	T	(4)	(4)	(4)	1/30/91
731–TA–496	Shopping carts	Taiwan	1/10/91	T	(4)	(4)	(4)	1/30/91
731–TA–515	Portable electric typewriters	Singapore	4/18/91	A	T	(4)	(4)	10/2/91
			In Progress:[6]					
731–TA–335[7]	Steel disc wheels	Brazil	5/23/86	A	A	A	(4)	(4)
731–TA–514	Shop towels	Bangladesh	4/19/91	A	A	(4)	(4)	(4)
731–TA–516	Kiwifruit	New Zealand	4/25/91	A	A	(4)	(4)	(4)
731–TA–517	Refined antimony trioxide	China	3/16/91	A	A	(4)	(4)	(4)

See footnotes at end of table.

Table A-19—Continued

Antidumping cases active in 1991, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)

Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination: Commission	Preliminary determination: ITA[1]	Final determination: ITA[1]	Final determination: Commission	Date of final action[2]
		In Progress—Continued:[6]						
731–TA–518	Aspherical ophthalmoscopy lenses	Japan	5/16/91	A	A	(4)	(4)	(4)
731–TA–519	Portland cement	Venezuela	6/10/91	A	A	(4)	(4)	(4)
731–TA–520	Steel butt–weld pipe fittings	China	6/11/91	A	A	(4)	(4)	(4)
731–TA–521	Steel butt–weld pipe fittings	Thailand	6/11/91	A	A	(4)	(4)	(4)
731–TA–522	Minivans	Japan	5/31/91	A	A	(4)	(4)	(4)
731–TA–525	Nepheline syenite	Canada	7/12/91	A	A	(4)	(4)	(4)
731–TA–526	Ibuprofen	India	8/20/91	A	(4)	(4)	(4)	(4)
731–TA–527	Extruded rubber thread	Malaysia	9/19/91	A	(4)	(4)	(4)	(4)
731–TA–528	Magnesium	Canada	9/5/91	A	(4)	(4)	(4)	(4)
731–TA–529	Magnesium	Norway	9/5/91	A	(4)	(4)	(4)	(4)
731–TA–530	High–tenacity rayon filament yarn	Germany	9/6/91	A	(4)	(4)	(4)	(4)
731–TA–531	High–tenacity rayon filament yarn	Netherlands	9/6/91	A	(4)	(4)	(4)	(4)
731–TA–532	Circular welded steel pipe and tube	Brazil	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–533	Circular welded steel pipe and tube	Korea	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–534	Circular welded steel pipe and tube	Mexico	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–535	Circular welded steel pipe and tube	Romania	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–536	Circular welded steel pipe and tube	Taiwan	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–537	Circular welded steel pipe and tube	Venezuela	9/24/91	A	(4)	(4)	(4)	(4)
731–TA–538	Sulfanilic acid	China	10/3/91	A	(4)	(4)	(4)	(4)
731–TA–539	Uranium	USSR	11/8/91	A	(4)	(4)	(4)	(4)
731–TA–540	Welded stainless steel pipe	Korea	11/18/91	(4)	(4)	(4)	(4)	(4)
731–TA–541	Welded stainless steel pipe	Taiwan	11/18/91	(4)	(4)	(4)	(4)	(4)

[1] U.S. Department of Commerce, International Trade Administration (ITA).
[2] For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.
[3] The above–referenced case was suspended in 1981 and at the request of the petitioner reinitiated in 1990.
[4] Not applicable.
[5] Original injury determination reinstated effective Dec. 11, 1991.
[6] Four investigations covering a variety of products remained suspended in 1991 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1991, see the table immediately following.
[7] Court remand.

Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table A-20
Antidumping orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Argentina:	
Silicon metal	Sept. 26, 1991
Rectangular pipes and tubes	May 26, 1989
Carbon steel wire rod	Nov. 23, 1984
Barbed wire	Nov. 13, 1983
Australia: Canned Bartlett pears	Mar. 23, 1973
Austria: Railway track equipment	Feb. 17, 1978
Belgium:	
Phosphoric acid	Aug. 20, 1987
Sugar	June 13, 1979
Brazil:	
Silicon metal	July 31, 1991
Nitrocellulose	July 10, 1990
Disk wheels	May 28, 1987
Orange juice	May 5, 1987
Brass sheet and strip	Jan. 12, 1987
Butt-weld pipe fittings	Dec. 11, 1986
Pipe fittings	May 21, 1986
Construction castings	May 9, 1986
Canada:	
Steel rail	Sept. 15, 1989
Color picture tubes	Jan. 7, 1988
Fresh cut flowers	Mar. 18, 1987
Brass sheet and strip	Jan. 12, 1987
Oil country tubular goods	June 16, 1986
Construction castings	Mar. 5, 1986
Raspberries	June 24, 1985
Sugar and syrups	Apr. 9, 1980
Paving equipment	Sept. 7, 1977
Racing plate	Feb. 27, 1974
Elemental sulphur	Dec. 17, 1973
Pig iron	July 24, 1971
Steel jacks	Sept. 13, 1966
Steel bars and shapes	Sept. 25, 1964
Steel reinforcing bars	Apr. 21, 1964
Chile:	
Standard carnations	Mar. 20, 1987
Sodium nitrate	Mar. 25, 1983
Colombia: Fresh cut flowers	Mar. 18, 1987
Dominican Republic: Portland cement	May 4, 1963
Ecuador: Fresh cut flowers	Mar. 18, 1987
Finland: Rayon staple fiber	Mar. 21, 1979
France:	
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical Plain Bearings	May 15, 1989
Brass sheet and strip	Mar. 6, 1987
Nitrocellulose	Aug. 10, 1983
Sorbitol	Apr. 9, 1982
Anhydrous sodium metasilicate	Jan. 7, 1981
Sugar	June 13, 1979
Large power transformers	June 14, 1972
Germany:	
Sodium thiosulfate	Feb. 19, 1991
Nitrocellulose	July 10, 1990
Industrial belts (except synchronous and V-belts)	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical plain bearings	May 15, 1989
Crankshafts	Sept. 23, 1987
Urea	July 14, 1987
Brass sheet and strip	Mar. 6, 1977

See footnote at end of table

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Germany—*Continued*:	
Barium carbonate	June 25, 1981
Sugar	June 13, 1979
Animal glue	Dec. 22, 1977
Drycleaning machinery	Nov. 2, 1972
Greece: Electrolytic manganese dioxide	April 17, 1989
Hong Kong:	
Manmade-fiber sweaters	Sept. 24, 1990
Photo albums	Dec. 16, 1985
Hungary: Tapered roller bearings	June 19, 1987
India: Pipes and tubes	May 12, 1986
Iran: Pistachio nuts	July 17, 1986
Israel:	
Phosphoric acid	Aug. 19, 1987
Oil country tubular goods	Mar. 6, 1987
Italy:	
Synchronous industrial belts and V-belts	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Granular polytetrafluoroethylene resin	Aug. 30, 1988
Tapered roller bearings	Aug. 14, 1987
Brass sheet and strip	Mar. 6, 1987
Brass fire protection equipment	Mar. 1, 1985
Woodwind pads	Sept. 21, 1984
Spun acrylic yarn	Apr. 8, 1980
Pressure sensitive tape	Oct. 21, 1977
Large power transformers	June 14, 1972
Japan:	
Active matrix LCD flat-panel displays	Sept. 4, 1991
Electroluminescent flat-panel displays	Sept. 4, 1991
Personal word processors	Aug. 28, 1991
PET film	June 5, 1991
Cement	May 10, 1991
Benzyl paraben	Feb. 13, 1991
Laser light-scattering instruments	Nov. 19, 1990
Nitrocellulose	July 10, 1990
Mechanical transfer presses	Feb. 16, 1990
Drafting Machines	Dec. 29, 1989
Small business telephone systems	Dec. 11, 1989
Industrial belts	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical plain bearings	May 15, 1989
Electrolytic manganese dioxide	April 17, 1989
Microdisks	April 3, 1989
Granular polytetrafluoroethylene resin	Aug. 28, 1988
Brass sheet and strip	Aug. 12, 1988
Nitrile rubber	June 16, 1988
Forklift trucks	June 7, 1988
Stainless steel butt-weld pipe fittings	March 25, 1988
Color picture tubes	Jan. 7, 1988
Filament fabric	Sept. 23, 1987
Cast-iron pipe fittings	July 6, 1987
Butt-weld pipe fittings	Feb. 10, 1987
64K dynamic random access memory chips	June 16, 1986
Cellular mobile telephones	Dec. 19, 1985
Neoprene laminate	July 19, 1985
Calcium hypochlorite	Apr. 18, 1985
Titanium sponge	Nov. 30, 1984
Cyanuric acid	Apr. 27, 1984
Dichloroisocyanurates	Apr. 27, 1984
Pagers	Aug. 16, 1983

See footnote at end of table

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Japan—*Continued*:	
High powered amplifiers	July 20, 1982
Large electric motors	Dec. 24, 1980
Portable electric typewriters	May 9, 1980
Spun acrylic yarn	Apr. 8, 1980
Steel wire strand	Dec. 8, 1978
Impression fabric	May 25, 1978
Melamine	Feb. 2, 1977
Acrylic sheet	Aug. 30, 1976
Tapered roller bearings 4 inches and under	Aug. 17, 1976
Steel wire rope	Oct. 15, 1973
Synthetic methionine	July 23, 1973
Roller chain	Apr. 12, 1973
Bicycle speedometers	Nov. 22, 1972
Cadmium	Aug. 4, 1972
Large power transformers	June 14, 1972
Fishnetting	June 9, 1972
Polychloroprene rubber	Dec. 9, 1971
Ferrite cores	Mar. 13, 1971
Television receiving sets	Mar. 10, 1971
Tuners	Dec. 12, 1970
Kenya: Standard carnations	Apr. 23, 1987
Korea:	
PET film	June 5, 1991
Manmade-fiber sweaters	Sept. 24, 1990
Nitrocellulose	July 10, 1990
Small business telephone systems	Feb. 7, 1990
Color picture tubes	Jan. 7, 1988
Stainless steel cookware	Jan. 20, 1987
Brass sheet and strip	Jan. 12, 1987
Pipe fittings	May 23, 1986
Photo albums	Dec. 16, 1985
Television receiving sets	Apr. 30, 1984
Mexico:	
Cement	Aug. 30, 1990
Fresh cut flowers	Apr. 23, 1987
Cookware	Dec. 2, 1986
Netherlands:	
Brass sheet and strip	Aug. 12, 1988
New Zealand: Brazing copper wire and rod	Dec. 4, 1985
Norway: Atlantic salmon	Apr. 12, 1991
People's Republic of China:	
Ceiling fans	Dec. 9, 1991
Oscillating fans	Dec. 9, 1991
Tungsten ore concentrates	Nov. 21, 1991
Lug nuts	Sept. 20, 1991
Sparklers	June 18, 1991
Silicon metal	June 10, 1991
Sodium thiosulfate	Feb. 19, 1991
Hammers/sledges	Feb. 19, 1991
Picks/mattocks	Feb. 19, 1991
Axes/adzes	Feb. 19, 1991
Nitrocellulose	July 10, 1990
Tapered roller bearings	June 15, 1987
Cookware	Dec. 2, 1986
Candles	Aug. 28, 1986
Construction castings	May 9, 1986
Paint brushes	Feb. 14, 1986
Barium chloride	Oct. 17, 1984
Chloropicrin	Mar. 22, 1984
Potassium permanganate	Jan. 31, 1984

See footnote at end of table

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Peoples' Republic of China—*Continued:*	
Shop towels	Oct. 4, 1983
Printcloth	Sept. 16, 1983
Romania:	
Ball bearings	May 15, 1989
Urea	July 14, 1987
Tapered roller bearings	June 19, 1987
Singapore:	
V-belts	June 14, 1989
Ball bearings	May 15, 1989
Color picture tubes	Jan. 7, 1988
Rectangular pipes and tubes	Nov. 13, 1987
South Africa: Brazing copper wire rod	Jan. 29, 1986
Spain: Potassium permanganate	Jan. 17, 1984
Sweden:	
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Seamless stainless steel hollow products	Dec. 13, 1987
Brass sheet and strip	Mar. 6, 1987
Staples	Dec. 20, 1983
Staplers	Dec. 20, 1983
Stainless steel plate	June 8, 1973
Taiwan:	
Lug nuts	Sept. 20, 1991
Manmade-fiber sweaters	Sept. 24, 1990
Small business telephone systems	Dec. 11, 1989
Rectangular tubing	Mar. 27, 1989
Stainless steel cookware	Jan. 20, 1987
Butt-weld pipe fittings	Dec. 17, 1986
Cookware	Dec. 2, 1986
Oil country tubular goods	June 18, 1986
Pipe fittings	May 23, 1986
Circular pipes and tubes	May 7, 1984
Television receiving sets	Apr. 30, 1984
Fireplace mesh panels	June 7, 1982
Carbon steel plate	June 13, 1979
Clear sheet glass	Aug. 21, 1971
Thailand:	
Ball bearings	May 15, 1989
Pipe fittings	Aug. 20, 1987
Circular welded pipes and tubes	Mar. 11, 1986
Turkey:	
Aspirin	Aug. 25, 1987
Pipes and tubes	May 15, 1986
United Kingdom:	
Sodium thiosulfate	Feb. 19, 1991
Nitrocellulose	July 10, 1990
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Crankshafts	Sept. 21, 1987
USSR:	
Urea	July 14, 1987
Titanium sponge	Aug. 28, 1968
Venezuela:	
Aluminum sulfate	Dec. 15, 1989
Electrical conductor redraw rods	Aug. 22, 1988
Yugoslavia:	
Nitrocellulose	Oct. 16, 1990
Tapered roller bearings	Aug. 14, 1987

See footnote at end of table

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Revocations in 1991:	
India: Construction castings	May 9, 1986
Italy: Clear sheet glass	Dec. 9, 1971
Japan: Trichloroisocyanuric acid	Apr. 27, 1984
Japan: Swimming pools	Sept. 2, 1977
Netherlands: Animal glue	Dec. 22, 1977
Sweden: Animal glue	Dec. 22, 1977
Yugoslavia: Animal glue	Dec. 22, 1977
Suspension agreements in effect:	
Canada: Potassium chloride	Jan. 19, 1988
Hungary: Truck trailer axles	Jan. 4, 1982
Japan:	
Erasable programmable read-only memory chips	Aug. 1, 1986
Small motors	Nov. 6, 1980

[1] The US. Department of Commerce conducts a periodic review of outstanding antidumping duty orders and suspension agreements, upon request, to determine if the amount of the net margin of underselling has changed. If a change has occurred, the imposed antidumping duties are adjusted accordingly. The results of the periodic review must be published together with a formal notice of any antidumping duty to be assessed, estimated duty to be deposited, or investigation to be resumed

Source: US. Department of Commerce, International Trade Administration

Table A-21
Countervailing cases active in 1991, filed under authority of sec. 303 or title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number[1]

USITC Investigation No.	Product	Country of origin	Date original petition filed[2]	Preliminary determination: Commission	Preliminary determination: ITA[3]	Final determination: ITA[3]	Final determination: Commission	Date of final action[4]
			Affirmative:					
(5)	Steel wire rope	Thailand	12/10/90	(6)	N	A	(6)	9/11/91
701-TA-302	Atlantic salmon	Norway	2/28/90	A	A	A	A	4/1/91
			Negative:					
(5)	Shop towels	Bangladesh	1/8/91	(6)	N	N	(6)	7/1/91
701-TA-210[7]	Table wine	France	1/27/84	N	(6)	(6)	(6)	10/29/91
701-TA-211[7]	Table wine	Italy	1/27/84	N	(6)	(6)	(6)	10/29/91
701-TA-298[7]	Pork products	Canada	1/5/89	A	A	A	N	6/12/91
701-TA-304[8]	Silicon metal	Brazil	8/24/90	A	N	N	(6)	7/23/91
701-TA-305	Steel wire rope	India	11/5/90	A	A	A	N	10/28/91
701-TA-307	Ball bearings	Turkey	2/13/91	N	(6)	(6)	(6)	4/1/91
			Terminated:					
(5)	Leather wearing apparel	Colombia	11/12/80	(6)	A	T	(6)	5/24/91
(5)	Red raspberries	Canada	4/19/80	(6)	A	T	(6)	5/24/91
701-TA-310	Magnesium	Norway	9/5/91	T	T	(6)	(6)	10/23/91
			In Progress:[9]					
(5)	Electric fans	China	11/7/91	(6)	(6)	(6)	(6)	(6)
701-TA-308	Ibuprofen	India	8/20/91	A	(6)	(6)	(6)	(6)
701-TA-309	Magnesium	Canada	9/5/91	A	A	(6)	(6)	(6)
701-TA-311	Circular welded pipe and tube	Brazil	11/5/91	A	(6)	(6)	(6)	(6)
701-TA-312	Softwood lumber	Canada	10/31/91	A	(6)	(6)	(6)	(6)
303-TA-21[10]	Portland cement	Venezuela	11/4/91	A	A	(6)	(6)	(6)
303-TA-22[10]	Extruded rubber thread	Malaysia	9/19/91	A	A	(6)	(6)	(6)

[1] Code used for outcome: A = Affirmative; P = Partial affirmative; N = Negative; S = Suspension Agreement; T = Terminated.
[2] The date of the Federal Register notice announcing the initiation of the investigation by the Department of Commerce is listed for cases in which no petition is filed with the Commission.
[3] U.S. Department of Commerce, International Trade Administration (ITA).
[4] For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.
[5] Cases involving imports from countries not entitled to a material injury test under U.S. countervailing duty statutes do not come before the Commission and therefore have no Commission case numbers or determinations.
[6] Not applicable.
[7] Original injury determination reinstated effective Dec. 11, 1992.
[8] Redetermination.
[9] Ten investigations covering a variety of products remained suspended in 1991 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1991, see the table immediately following.

Table A-21–Continued
Footnotes–Continued

[10] The Commission does conduct an injury test on imports from countries not otherwise entitled to this test if the subject imports enter the United States duty free. The legislative basis for these determinations is contained in certain provisions under sec. 303 (19 U.S.C. 1303).

Note.–The International Trade Commission conducts preliminary and final investigations under sec. 701 if the imports originate in a country that has signed the International Subsidies Code or that has undertaken comparable obligations. Similarly, it conducts preliminary and final investigations under sec. 303 if the imports enter the United States free of duty and the international obligations of the United States so require. Most of the major free–world trading nations have signed the code. With respect to dutiable imports from those countries that have neither signed the code nor undertaken substantially equivalent obligations, countervailing duties may be imposed after an affirmative finding by the Department of Commerce under sec. 303 of the Tariff Act of 1930 without an injury investigation by the International Trade Commission. Exceptions are granted in instances in which the exporting country becomes a signatory to the code or to an equivalent agreement during the pendency of the investigation.

Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table A-22
Countervailing-duty orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Argentina:	
Leather	Oct. 2, 1990
Welded carbon steel pipe and tube products	Sept. 27, 1988
Textiles and apparel	Mar. 12, 1985
Oil country tubular goods	Nov. 22, 1984
Cold-rolled steel sheet	Apr. 26, 1984
Wool	Apr. 4, 1983
Leather wearing apparel	Mar. 18, 1983
Footwear	Jan. 17, 1979
Woolen garments	Nov. 16, 1978
Brazil:	
Brass sheet and strip	Jan. 8, 1987
Castings	May 15, 1986
Agricultural tillage tools	Oct. 22, 1985
Pig iron	Apr. 4, 1980
Cotton yarn	Mar. 15, 1977
Certain castor oil products	Mar. 16, 1976
Canada:	
Steel rail	Sept. 22, 1989
Standard carnations	Mar. 12, 1987
Live swine	Aug. 15, 1985
Chile: Standard carnations	Mar. 19, 1987
Ecuador: Fresh cut flowers	Jan. 13, 1987
European Community:[2] Sugar	July 31, 1978
France: Brass sheet and strip	Mar. 6, 1987
India: Certain iron-metal castings	Oct. 6, 1980
Iran:	
Roasted pistachios	Oct. 7, 1986
Nonroasted pistachios	Mar. 11, 1986
Israel:	
Industrial phosphoric acid	Aug. 19, 1987
Oil country tubular goods	Mar. 6, 1987
Fresh cut roses	Sept. 4, 1980
Korea: Stainless steel cookware	Jan. 20, 1987
Malaysia: Carbon steel wire rod	Apr. 22, 1988
Mexico:	
Porcelain cookware	Dec. 12, 1986
Textile mill products	Mar. 18, 1985
Portland hydraulic cement and cement clinker	Sept. 21, 1983
Leather wearing apparel	Apr. 10, 1981
Netherlands: Standard chrysanthemums	Mar. 12, 1987
New Zealand:	
Steel wire nails	Oct. 5, 1987
Steel wire	Sept. 2, 1986
Carbon steel wire rod	Mar. 7, 1986
Lamb meat	Sept. 17, 1985
Copper rod and wire	Aug. 5, 1985
Norway: Atlantic salmon	Apr. 12, 1991
Pakistan: Cotton shop towels	Mar. 9, 1984
Peru:	
Pompom chrysanthemums	Apr. 23, 1987
Rebars	Nov. 27, 1985
Cotton sheeting and sateen	Feb. 1, 1983
Cotton yarn	Feb. 1, 1983
Saudi Arabia: Carbon steel wire rod	Feb. 3, 1986
Singapore: Antifriction bearings	May 3, 1989
South Africa: Ferrochrome	Mar. 11, 1981
Spain: Stainless steel wire rod	Jan. 3, 1983
Sweden:	
Certain carbon steel	Oct. 11, 1985
Viscose rayon staple fiber	May 15, 1979
Taiwan: Stainless steel cookware	Jan. 20, 1987

See footnotes at end of table

Table A-22–Continued
Countervailing-duty orders and findings in effect as of Dec. 31, 1991

Country and commodity	*Effective date of original action*[1]
Thailand:	
Butt-weld pipe fittings	Jan. 18, 1990
Ball bearings	May 3, 1989
Pipe fittings	Feb. 10, 1989
Steel wire nails	Oct. 2, 1987
Rice	Apr. 10, 1986
Pipes and tubes	Aug. 14, 1985
Certain apparel	Mar. 12, 1985
Turkey:	
Acetylsalicylic acid (aspirin)	Aug. 26, 1987
Pipe and tube	Mar. 7, 1986
Uruguay: Leather wearing apparel	July 17, 1982
Venezuela:	
Aluminum sulfate	Dec. 19, 1989
Electrical conductor redraw rods	Aug. 22, 1988
Zimbabwe: Wire rod	Aug. 15, 1986
Revocations in 1991:	
Brazil: Scissors and shears	Feb. 11, 1977
Canada:	
Pork products	Sept. 22, 1989
Oil country tubular goods	Jun. 16, 1986
Groundfish	May 15, 1986
Mexico:	
Auto glass	Jan. 14, 1985
Portland hydraulic cement and clinker	Sept. 21, 1983
Litharge, red lead, and lead stabilizers	Dec. 6, 1982
Ceramic tile	May 10, 1982
Suspension agreements in effect:	
Argentina: Carbon steel wire rod	Sept. 27, 1982
Brazil:	
Forged crankshafts	July 28, 1987
Orange juice	Mar. 2, 1983
Canada: Red raspberries	Jan. 9, 1986
Colombia:	
Miniature carnations	Jan. 13, 1987
Cut flowers	Jan. 12, 1983
Costa Rica: Fresh cut flowers	Jan. 3, 1987
Peru: Shop towels	Sept. 12, 1984
Singapore: Compressors	Nov. 7, 1983
Thailand: Textiles	Mar. 12, 1985

[1] The US. Department of Commerce conducts a periodic review of outstanding countervailing duty orders and suspension agreements, upon request, to determine if the amount of the net subsidy has changed. If a change has occurred, the imposed countervailing duties are adjusted accordingly

[2] Includes Belgium, Denmark, France, Ireland, Italy, the United Kingdom, Germany, Luxembourg, the Netherlands, and Greece

Source: US. D --rtment of Commerce, International Trade Administration

Table A-23
Sec. 337 investigations completed by the U.S. International Trade Commission during 1991 and those pending on Dec. 31, 1991

Status of Investigation	*Article*	*Country*[1]	*Commission Determination*
Completed:			
337–TA–276	Erasable Programmable Read Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories	Korea	Enforcement proceeding terminated with a finding of violation of cease and desist order; imposed penalties in the amount of $2,600,000; modified cease and desist order.
337–TA–290	Wire Electrical Discharge Machining Apparatus and Components	Japan	Terminated modification proceeding; rescinded limited exclusion order and cease and desist order.
337–TA–303	Polymer Geogrid Products and Processes Thereof	Italy	Dismissed investigation for mootness and vacated ALJ's initial determination.
337–TA–311	Air Impact Wrenches	Taiwan	No violation.
337–TA–314	Battery–Powered Ride–On Toy Vehicles and Components Thereof	Taiwan	Issued a limited exclusion order and a general exclusion order.
337–TA–316	Power Transmission Chain, Chain Assemblies, Components Thereof, and Products Containing the Same	Canada	Terminated on basis of a settlement agreement.
337–TA–319	Automotive Fuel Caps and Radiator Caps and Related Packaging and Promotional Materials	Taiwan	Issued a limited exclusion order and a cease and desist order.
337–TA–321	Soft Drinks and Their Containers	Colombia	Issued a limited exclusion order and a cease and desist order.
337–TA–322	Microporous Nylon Membrane and Products Containing Same	Germany	Terminated on basis of a settlement agreement.

See footnotes at end of table.

Table A-23–Continued
Sec. 337 Investigations completed by the U.S. International Trade Commission during 1991 and those pending on Dec. 31, 1991

Status of Investigation	*Article*	*Country*[1]	*Commission Determination*
Completed:			
337–TA–325	Static Random Access Memories and Integrated Circuit Devices Containing Same, Processes For Making Same, Components Thereof, and Products Containing Same	Japan	Terminated on basis of a settlement agreement.
337–TA–326	Scanning Multiple–Beam Equalization Systems For Chest Radiography and Components Thereof	The Netherlands	Terminated on basis of a settlement agreement.
337–TA–327	Food Trays With Lockable Lids	Canada	Terminated on basis of a settlement agreement.
337–TA–329	Vacuum Cleaners	Canada	Terminated on basis of a settlement agreement.
Pending:			
337–TA–228	Fans with Brushless DC Motors	Japan	Advisory opinion proceeding suspended pending final judgment of U.S. district court.
337–TA–302	Self–Inflating Mattresses	Taiwan	Ancillary proceeding pending before Commission.
337–TA–315	Plastic Encapsulated Integrated Circuits	No foreign respondents	Pending before Commission.
337–TA–320	Rotary Printing Apparatus Using Heated Ink Composition, Components Thereof, and Systems Containing Said Apparatus and Components	France, Spain	Pending before Commission.

See footnotes at end of table.

Table A-23–Continued
Sec. 337 Investigations completed by the U.S. International Trade Commission during 1991 and those pending on Dec. 31, 1991

Status of Investigation	*Article*	*Country*[1]	*Commission Determination*
Pending: (continued)			
337–TA–323	Monoclonal Antibodies Used for Therapeutically Treating Humans Having Gram Negative Bacterial Infections	The Netherlands	Suspended until after posttrial briefing in parallel U.S. district court action.
337–TA–324	Acid–Washed Demin Garments and Accessories	Brazil, Chile, Hong Kong, Taiwan	Pending before ALJ.
337–TA–328	Bathtubs and Other Bathing Vessels and Materials Used Therein	Germany	Pending before Commission.
337–TA–330	Computer System State Save/Restore Software and Associated Backup Power Supplies For Use In Power Outages	Hong Kong	Pending before ALJ.
337–TA–331	Microcomputer Memory Controllers, Components Thereof and Products Containing Same	Japan	Pending before ALJ.
337–TA–332	Translucent Ceramic Orthodontic Brackets	Germany, Japan	Pending before ALJ.

[1] This column lists the countries of the foreign respondents named in the investigation.
Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-24
Outstanding Sec. 337 exclusion orders as of Dec. 31, 1991

Investigation No.	*Article*	*Country*[1]	*Date patent expires*
337-TA-42	Certain Electric Slow Cookers	Japan, Hong Kong	Apr. 29, 1992
337-TA-44	Certain Roller Units	No foreign respondents	May 24, 1994
337-TA-47	Certain Flexible Foam Sandals	Taiwan	Sept. 7, 1993
337-TA-55	Certain Novelty Glasses	Hong Kong	Non-patent
337-TA-59	Certain Pump-Top Insulated Containers	Korea, Taiwan	Sept. 12, 1995
337-TA-62	Certain Rotary Scraping Tools	Taiwan	May 25, 1993
337-TA-69	Certain Airtight Cast-Iron Stoves	Taiwan, Korea	Non-patent
337-TA-74	Certain Rotatable Photograph and Card Display Units and Components Thereof	Hong Kong	Non-patent
337-TA-83	Certain Adjustable Window Shades and Components Thereof	Taiwan	Feb. 7, 1994
337-TA-87	Certain Coin-Operated Audio-Visual Games and Components Thereof	Japan, Taiwan	Non-patent
337-TA-88	Certain Spring Assemblies and Components Thereof, and Methods of Their Manufacture	Canada	Feb. 18, 1992
337-TA-105	Certain Coin-Operated Audio Visual Games and Components Thereof	Japan, Taiwan	Non-patent
337-TA-112	Certain Cube Puzzles	Taiwan, Japan, Canada	Non-patent
337-TA-114	Certain Miniature Plug-In Blade Fuses	Taiwan	Non-patent Sept. 30, 1992 Aug. 9, 1994 Nov. 8, 1994 Dec. 26, 1995
337-TA-118	Certain Sneakers With Fabric Uppers and Rubber Soles	Korea	Non-patent
337-TA-137	Certain Heavy-Duty Staple Gun Tackers	Taiwan, Hong Kong, Korea	Non-patent
337-TA-139	Certain Caulking Guns	Taiwan, Korea	Mar. 28, 1995
337-TA-140	Certain Personal Computers and Components Thereof	Taiwan, Hong Kong, Singapore, Switzerland	Jan. 23, 1996 July 14, 1998
337-TA-143	Certain Amorphous Metal Alloys and Amorphous Metal Articles	Japan, West Germany	Sept. 9, 1997
337-TA-146	Certain Canape Makers	No foreign respondents	Mar. 22, 1997

See footnotes at end of table.

Table A-24–Continued
Outstanding Sec. 337 exclusion orders as of Dec. 31, 1991

Investigation No.	*Article*	*Country*[1]	*Date patent expires*
337–TA–148 /169	Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Products	Spain	Non–patent (Order expires Nov. 26, 1994.)
337–TA–152	Certain Plastic Food Storage Containers	Hong Kong, Taiwan	Non–patent
337–TA–161	Certain Trolley Wheel Assemblies	Korea	Aug. 29, 1995
337–TA–167	Certain Single Handle Faucets	Taiwan	Non–patent
337–TA–170	Certain Bag Closure Clips	Israel	Nov. 2, 1999 July 26, 2000
337–TA–171	Certain Glass Tempering Systems	Finland	Nov. 30, 1993
337–TA–174	Certain Woodworking Machines	Taiwan, South Africa	Non–patent Nov. 13, 1996 Mar. 13, 2001
337–TA–190	Certain Softballs and Polyurethane Cores Therefor	Taiwan	Sept. 24, 1993
337–TA–195	Certain Cloisonne Jewelry	Taiwan	Non–patent
337–TA–197	Certain Compound Action Metal Cutting Snips and Components Thereof	Taiwan	Non–patent
337–TA–228	Certain Fans With Brushless DC Motors	Japan	Jan. 15, 2002
337–TA–229	Certain Nut Jewelry and Parts Thereof	Philippines, Taiwan	Non–patent
337–TA–231	Certain Soft Sculpture Dolls, Popularly Known as "Cabbage Patch Kids," Related Literature, and Packaging Therefor	No foreign respondents	Non–patent
337–TA–240	Certain Laser Inscribed Diamonds and the Method of Inscription Thereof	Israel	July 12, 2000
337–TA–242	Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same	Japan, Korea	Aug. 23, 1994 Mar. 28, 1995 Aug. 6, 2002 Sept. 24, 2002
337–TA–254	Certain Small Aluminum Flashlights and Components Thereof	Hong Kong, Taiwan	Mar. 18, 2003
337–TA–266	Certain Reclosable Plastic Bags and Tubing	Singapore, Taiwan, Korea, Thailand, Hong Kong	Non–patent Mar. 23, 1993
337–TA–267	Certain Minoxidil Powder, Salts and Compositions for Use in Hair Treatment	Austria, Canada, Finland, Italy, Mexico, Switzerland	Feb. 13, 1996 Feb. 13, 1996

See footnotes at end of table.

Table A-24–Continued
Outstanding Sec. 337 exclusion orders as of Dec. 31, 1991

Investigation No.	*Article*	*Country*[1]	*Date patent expires*
337–TA–268	Certain High Intensity Retroreflective Sheeting	Japan	May 24, 1994
337–TA–275	Certain Nonwoven Gas Filter Elements	The Netherlands	Nov. 1, 1994
337–TA–276	Certain Erasable Programmable Read Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories	Republic of Korea	Sept. 16, 1997 July 25, 1995 July 12, 2000 May 21, 2002 Aug. 4, 2004
337–TA–279	Certain Plastic Light Duty Screw Anchors	Taiwan	Non–patent
337–TA–285	Certain Chemiluminescent Compositions and Components Thereof and Methods of Using, and Products Incorporating, the Same	France	Non–patent June 10, 1992 Feb. 28, 1999 Feb. 2, 1999
337–TA–287	Certain Strip Lights	Taiwan	Non–patent Mar. 15, 2000
337–TA–293	Certain Crystalline Cefadroxil Monohydrate	Italy, Spain, Switzerland	Mar. 12, 2002
337–TA–295	Certain Novelty Teleidoscopes	Hong Kong	Non–patent
337–TA–308	Certain Key Blanks For Keys of High Security Cylinder Locks	Korea	Jan. 13, 2004
337–TA–314	Certain Battery–Powered Ride–On Toy Vehicles and Components Thereof	Taiwan	Sept. 22, 2001 Dec. 10, 2002 Jan. 31, 2003 Dec. 1, 2004 Jan. 27, 2004
337–TA–319	Certain Automotive Fuel Caps and Radiator Caps and Related Packaging and Promotional Materials	Taiwan	Non–patent Apr. 22, 1992 Apr. 11, 1995 Dec. 11, 1996 June 30, 2004 Aug. 23, 2005 May 30, 1995
337–TA–321	Certain Soft Drinks and Their Containers	Colombia	Non–patent

[1] This column lists the countries of the foreign respondents named in the investigation.
Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-25

U.S. imports for consumption, designated and nondesignated countries under the CBERA, 1987–91

(In thousands of dollars, customs–value basis)

Country	*1987*	*1988*	*1989*	*1990*	*1991*
Designated:					
Antigua	8,621	6,893	12,274	4,120	3,895
Aruba	2,452	647	1,156	967	100,246
Bahamas	377,881	268,328	460,723	506,772	465,324
Barbados	59,110	51,413	38,725	30,899	31,457
Belize	42,906	52,049	43,056	43,978	35,623
British Virgin Islands	11,162	684	1,112	1,999	2,567
Costa Rica	670,953	777,797	967,901	1,006,473	1,143,982
Dominica	10,307	8,530	7,664	8,346	5,877
Dominican Republic	1,144,211	1,425,371	1,636,931	1,725,430	1,976,624
El Salvador	272,881	282,584	243,922	237,538	302,449
Grenada	3,632	7,349	7,862	7,783	8,086
Guatemala	487,308	436,979	608,280	790,900	892,280
Guyana[1]	([2])	50,432	55,858	52,261	73,733
Haiti	393,660	382,466	371,875	339,177	284,264
Honduras	483,096	439,504	456,790	486,330	552,238
Jamaica	393,912	440,934	526,726	563,723	561,206
Montserrat	2,413	2,393	2,285	562	2,179
Netherlands Antilles	478,836	408,100	374,358	421,789	620,784
Nicaragua[3]	([2])	([2])	([2])	15,254	59,528
Panama[4]	342,700	256,046	([2])	226,555	242,580
St. Kitts and Nevis	23,793	20,822	21,447	16,100	15,553
St. Lucia	17,866	26,044	23,985	26,920	21,731
St. Vincent and Grenadines	8,493	13,950	9,244	8,672	7,507
Trinidad and Tobago	802,838	701,738	765,265	1,002,661	819,653
Total	6,039,030	6,061,054	6,637,440	7,525,208	8,229,366
Nondesignated:					
Anguilla	168	497	348	227	1,407
Cayman Islands	27,670	18,195	48,041	21,387	17,615
Guyana[1]	58,828	([2])	([2])	([2])	([2])
Nicaragua	1,231	1,121	31	([2])	([2])
Panama[4]	([2])	([2])	258,319	([2])	([2])
Suriname	46,445	87,894	73,892	50,901	51,679
Turks and Caicos Islands	4,680	3,517	2,507	3,547	4,210
Total	139,022	111,224	383,137	76,062	74,911
Grand total	6,178,052	6,172,278	7,020,577	7,601,270	8,304,278

[1] Guyana was designated as a CBERA beneficiary effective Nov. 24, 1988.
[2] Not applicable.
[3] Nicaragua was designated as a CBERA beneficiary effective Nov. 13, 1990.
[4] Panama lost its designation as a beneficiary effective Apr. 9, 1988, and was reinstated on March 17, 1990.

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

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

Table A-26
U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1991

HTS Rank	HTS item No.	Description	Total U.S. imports for consumption	GSP-eligible: Value	GSP-eligible: Share of total U.S. imports	Duty-free GSP: GSP Value	Duty-free GSP: Share of eligible U.S. imports	Leading source	Competitive need exclusions
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		1,000 dollars
1	8517.10.00	Telephone sets	864,694	319,807	37.0	291,745	91.2	Malaysia	0
2	1701.11.01	Raw cane sugar not flavored or colored, pursuant to provisions	508,034	424,283	83.5	272,201	64.2	Philippines	108,976
3	7113.19.50	Articles of jewelry and parts thereof of precious metal	1,455,558	547,798	37.6	234,505	42.8	India	262,459
4	9403.60.80	Wooden (except bent-wood) furniture other than seats	928,898	224,744	24.2	154,958	68.9	Mexico	44,139
5	8521.10.00	Magnetic tape-type video recording or reproducing apparatus	2,572,658	540,201	21.0	149,807	27.7	Malaysia	233,519
6	8525.20.30	Transceivers nesi, for radiotelephony, radiotelegraph	455,989	159,655	35.0	147,957	92.7	Malaysia	0
7	8525.20.50	Cordless handset telephones	805,623	147,405	18.3	130,293	88.4	Malaysia	0
8	8520.20.00	Telephone answering machines	296,099	129,965	43.9	127,390	98.0	Malaysia	0
9	9401.90.10	Parts of seats of a kind used for motor vehicles	726,603	217,562	29.9	121,940	56.0	Mexico	52,646
10	9503.90.60	Toys, nesi, not having a spring mechanism	721,505	141,368	19.6	117,611	83.2	Mexico	0
11	1602.50.10	Corned beef in airtight containers	105,038	103,446	98.5	98,082	94.8	Argentina	0
12	7113.19.10	Rope, curb, etc. in continuous lengths, of precious metal	131,876	129,603	98.3	97,943	75.6	Dominican Republic	0
13	7321.11.30	Stoves or ranges (other than portable) of iron or steel	102,226	96,699	94.6	96,699	100.0	Mexico	0
14	8708.29.00	Parts and accessories nesi of bodies (including cabs)	1,183,863	131,372	11.1	94,246	71.7	Mexico	0
15	8708.99.50	Accessories, of motor vehicles of headings 8701 to 8705	5,050,595	372,213	7.4	90,412	24.3	Mexico	95,590
16	8527.39.00	Radiobroadcast receivers nesi, including apparatus or clock	441,173	119,690	27.1	86,072	71.9	Malaysia	0
17	7103.99.10	Precious or semiprecious stones, cut but not set	133,099	94,308	70.9	85,661	90.8	Thailand	0
18	8418.21.00	Refrigerators, household compression-type, electric	110,193	86,297	78.3	84,912	98.4	Mexico	0
19	6406.10.65	Footwear uppers, other than formed, of leather	220,141	204,023	92.7	84,352	41.3	Dominican Republic	77,256
20	8544.30.00	Insulated ignition wiring sets and other wiring sets	1,567,192	1,382,268	88.2	82,752	6.0	Thailand	593,668
21	8527.31.40	Radiobroadcast receiver combinations incorporating tape players	320,914	99,619	31.0	81,609	81.9	Malaysia	0

See note at end of table.

Table A-26—Continued
U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1991

				GSP-eligible		Duty-free GSP			
HTS Rank	HTS item No.	Description	Total U.S. imports for consumption	Value	Share of total U.S. imports	GSP Value	Share of eligible U.S. imports	Leading source	Competitive need exclusions
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		1,000 dollars
22	8527.11.60	Radiobroadcast receivers capable of operating without external source	395,840	112,755	28.5	74,857	66.4	Malaysia	0
23	8471.92.40	Display units, nesi for automatic data processing machines	2,668,807	91,198	3.4	74,326	81.5	Malaysia	0
24	8708.39.50	Brakes and servo-brakes and parts thereof	1,037,649	104,209	10.0	74,004	71.0	Brazil	0
25	8415.10.00	Window or wall type air conditioning machines, self-contained	131,312	78,972	60.1	73,784	93.4	Malaysia	0
26	4015.19.10	Seamless gloves of vulcanized rubber, other than surgical	87,457	75,200	86.0	71,859	95.6	Malaysia	0
27	9502.10.40	Dolls, except stuffed, not over 33 cm in height	346,954	73,023	21.0	71,486	97.9	Malaysia	0
28	8516.50.00	Microwave ovens of a kind used for domestic purposes	400,429	77,600	19.4	68,544	88.3	Thailand	0
29	8544.59.20	Insulated electric conductors nesi, of copper, for a voltage > 80 <1000	135,474	75,791	55.9	66,713	88.0	Mexico	0
30	8414.30.40	Compressors of a kind used in refrigerating equipment	173,676	66,099	38.1	63,832	96.6	Brazil	0
31	3926.90.90	Articles of plastics and other materials of headings 3901 to 3914	955,048	121,667	12.7	63,830	52.5	Mexico	0
32	7007.21.10	Windshields of laminated safety glass, of size and shape suitable for vehicles	162,527	65,323	40.2	62,348	95.4	Mexico	0
33	7403.11.00	Cathodes and sections of cathodes of refined copper	644,153	156,931	24.4	61,927	39.5	Brazil	90,936
34	9403.50.90	Wooden furniture other than seats of a kind used in the bedroom	275,582	68,471	24.8	59,595	87.0	Mexico	2,269
35	0302.69.40	Fish, nesi, excl. fillets, livers and roes, fresh or chilled	100,499	85,969	85.5	59,558	69.3	Ecuador	0
36	9503.90.70	Toys and models, nesi	228,971	66,226	28.9	59,188	89.4	Macao	0
37	7113.19.29	Necklaces and neck chains of gold, nesi	356,546	60,706	17.0	57,866	95.3	Israel	0
38	2905.31.00	Ethylene glycol (Ethanediol)	95,410	58,863	61.7	57,738	98.1	Mexico	0
39	9405.30.00	Lighting sets used for Christmas trees	277,501	147,386	53.1	57,058	38.7	Philippines	84,887
40	8527.90.80	Reception apparatus for radiotelephony, radiotelegraph	163,946	68,710	41.9	56,972	82.9	Philippines	0
41	9403.20.00	Metal furniture, of a kind not used in offices	434,277	57,887	13.3	55,031	95.1	Mexico	0

See note at end of table.

Table A-26—Continued
U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1991

HTS Rank	HTS item No.	Description	Total U.S. imports for consumption	GSP-eligible: Value	GSP-eligible: Share of total U.S. imports	Duty-free GSP: GSP Value	Duty-free GSP: Share of eligible U.S. imports	Leading source	Competitive need exclusions
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		1,000 dollars
42	4414.00.00	Wooden frames for paintings, photographs, mirrors	86,724	53,956	62.2	53,424	99.0	Mexico	0
43	9001.50.00	Spectacle lenses of other materials	92,367	52,303	56.6	51,875	99.2	Mexico	0
44	8520.31.00	Cassette type magnetic tape recorders incorporating sound reproduction device	411,884	77,425	18.8	51,501	66.5	Malaysia	0
45	8531.80.00	Electric sound or visual signaling apparatus	317,717	75,111	23.6	50,604	67.4	Philippines	0
46	4421.90.90	Articles of wood nesi	247,853	56,045	22.6	50,494	90.1	Mexico	0
47	9503.49.00	Toys representing animals or non-human creatures	344,062	55,854	16.2	50,197	89.9	Macao	0
48	4203.21.80	Gloves, mittens, and mitts specially designed for use in sports	95,673	51,070	53.4	50,080	98.1	Indonesia	0
49	8708.10.00	Bumpers and parts thereof, for the motor vehicles of 8701 to 8705	425,416	65,479	15.4	49,958	76.3	Mexico	0
50	4412.11.20	Plywood of wood sheets n/o 6 mm thick each, with tropical wood	277,767	270,465	97.4	49,900	18.4	Malaysia	218,560
		Total, above items	30,073,492	8,143,020	27.1	4,478,573	55.0	Malaysia	1,864,905
		Total, all GSP items	181,051,414	29,315,147	16.2	13,662,883	46.6		7,386,400

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

Source: Compiled from official statistics of the U.S. Department of Commerce, as adjusted by the USITC.

Table A-27
U.S. imports for consumption and imports eligible for GSP treatment by import categories, based on the Harmonized Tariff System (HTS), 1991

HTS Sect.	Description	Total U.S. imports for consumption	GSP-eligible: Value	GSP-eligible: Share of total U.S. imports	Duty-free GSP: Value	Duty-free GSP: Share of eligible U.S. imports	Leading country	Mandatory competitive need exclusions
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent		Millions of dollars
I	Live animals; animal products	8,867	142	1.6	102	71.9	Mexico	0
II	Vegetable products	7,496	1,088	14.5	292	26.9	Mexico	616
III	Animals or vegetable fats, and waxes	818	74	9.1	72	97.0	India	0
IV	Prepared foodstuffs, beverages, and tobacco	11,325	1,612	14.2	1,041	64.5	Mexico	340
V	Mineral products	55,187	142	0.3	54	38.3	Mexico	54
VI	Products of the chemical and allied industries	22,960	1,390	6.1	775	55.7	Mexico	366
VII	Plastics and rubber, and articles thereof	11,612	1,159	10.0	770	66.4	Mexico	210
VIII	Hides and skins; leather and articles thereof; travel goods, handbags, and similar containers	4,949	476	9.6	384	80.6	Argentina	70
IX	Articles of wood, cork, or plaiting materials	5,238	821	15.7	458	55.8	Mexico	313
X	Wood pulp; paper, paperboard, and articles thereof	11,882	183	1.5	138	75.3	Mexico	7
XI	Textiles and textile articles	30,952	376	1.2	117	31.0	India	97
XII	Footwear, headgear, and artificial flowers	10,684	338	3.2	196	57.9	Thailand	84
XIII	Articles of stone or ceramics; glass and glassware	4,807	576	12.0	470	81.6	Mexico	43
XIV	Pearls; precious stones and metals; jewelry; coin	12,131	1,163	9.6	692	59.5	India	349
XV	Base metals and articles of base metal	25,233	1,779	7.0	1,192	67.0	Mexico	254
XVI	Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	124,603	12,020	9.6	4,205	35.0	Malaysia	3,335
XVII	Vehicles, aircraft, and other transport equipment	82,199	1,854	2.3	593	32.0	Mexico	782
XVIII	Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	16,976	1,491	8.8	416	27.9	Mexico	87
XIX	Arms and ammunition; parts and accessories	515	39	7.6	19	47.5	Mexico	0
XX	Miscellaneous manufactured articles	15,940	2,592	16.3	1,679	64.8	Mexico	379
XXI	Works of art, collectors' pieces and antiques	1,970	0	([1])	0	([1])	([1])	0
XXII	Special classification provisions	15,003	0	([1])	0	([1])	([1])	0
	Total, above items	481,349	29,315	6.1	13,663	46.6		7,386

[1] Not applicable.

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

Source: Compiled from official statistics of the U.S. Department of Commerce, as adjusted by the USITC.

Table A–28
U.S. imports for consumption and imports eligible for GSP treatment by import categories, based on the Standard Industrial Classification (SIC), 1991

			GSP–eligible		Duty–free GSP			
SIC	*Description*	*Total U.S. imports for consumption*	*Value*	*Share of total U.S. imports*	*Value*	*Share of eligible U. imports*	*Leading country*	*Mandatory/ competitive need exclusions*
01	Agricultural products	6,107	948	15.5	219	23.1	Mexico	569
02	Livestock and livestock products	1,501	5	0.3	4	87.8	Indonesia	0
08	Forestry products, nspf	978	24	2.4	21	88.3	Chile	0
09	Fish, fresh, chilled, or frozen	4,562	115	2.5	84	72.6	Mexico	0
10	Metallic ores and concentrates	1,212	99	8.2	19	19.5	Bolivia	54
12	Coal and lignite	106	([1])	([1])	([1])	([1])	([1])	([1])
13	Crude petroleum and natural gas	41,008	([1])	([1])	([1])	([1])	([1])	([1])
14	Nonmetallic minerals, except fuels	808	17	2.1	15	89.6	Mexico	0
20	Food and kindred products	16,278	1,788	11.0	1,178	65.9	Mexico	365
21	Tobacco manufactures	199	39	19.4	5	13.1	Mexico	23
22	Textile mill products	7,129	57	0.8	50	87.4	India	0
23	Apparel and related products	25,487	864	3.4	148	17.1	Mexico	589
24	Lumber and wood products	5,227	821	15.7	458	55.8	Mexico	313
25	Furniture and fixtures	5,129	1,195	23.3	771	64.5	Mexico	285
26	Paper and allied products	10,430	178	1.7	143	80.4	Mexico	7
27	Printing, publishing products	1,878	85	4.5	63	74.1	Malaysia	0
28	Chemicals and allied products	22,984	1,396	6.1	783	56.1	Mexico	364
29	Petroleum refining and related products	11,091	11	0.1	7	65.7	Mexico	0
30	Rubber and miscellaneous plastics	9,854	1,021	10.4	654	64.1	Mexico	210
31	Leather and leather products	10,708	524	4.9	316	60.2	Argentina	151
32	Stone, clay, glass, and concrete	5,529	640	11.6	510	79.8	Mexico	48
33	Primary metal products	22,259	2,668	12.0	695	26.1	Mexico	1,066
34	Fabricated metal products	11,395	1,105	9.7	719	65.1	Mexico	15
35	Machinery, except electrical	55,562	2,171	3.9	1,099	50.6	Mexico	408
36	Electrical machinery, equipment	58,605	7,230	12.3	2,858	39.4	Malaysia	1,673
37	Transportation equipment	87,999	2,055	2.3	615	29.9	Mexico	798
38	Scientific and professional instruments	18,640	1,648	8.8	497	30.1	Mexico	84
39	Miscellaneous manufactured products	19,936	2,596	13.0	1,722	66.3	Thailand	366
99	Other imports	18,747	17	0.1	10	60.8	Mexico	0
	Total, above items	481,349	29,315	6.1	13,663	46.6	Mexico	7,386

[1] Not applicable.

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

Source: Compiled from official statistics of the U.S. Department of Commerce, as adjusted by the USITC.

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