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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 a 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 40th in a series to be 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 a summary, an overview, five chapters, and appendices. The overview sketches the economic and international trade environment within which U.S. trade policy was conducted in 1988. Chapter 1 treats special topics that highlight developments in trade activities during the year. Chapter 2 focuses on activities in the General Agreement on Tariffs and Trade (GATT), the main area of multilateral trade-agreement activities. Such activities outside the GATT are reported in chapter 3. Chapter 4 discusses bilateral relations between the United States and its major trading partners. The administrative actions taken under U.S. laws, including decisions taken on remedial actions available to U.S. industry and labor, are discussed in chapter 5. The period covered in the report is calendar year 1988, although occasionally, to enable the reader to understand developments more fully, events in early 1989 are also mentioned.

¹ Sec. 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.

Summary Table Of Contents

	<i>Page</i>
Preface	i
Summary	xv
Overview: The International Economic Environment in 1988	xxi
Chapter I. Selected Issues in Trade Agreements Activities in 1988	
Introduction	1
The Omnibus Trade and Competitiveness Act of 1988	1
The Midterm review of the Uruguay Round	9
Chapter II. The General Agreement on Tariffs and Trade and the Tokyo Round Agreements	
Introduction	17
GATT Activities During 1988	17
Implementation of the Tokyo Round Agreements	37
Chapter III. Trade Activities Outside the GATT	
Introduction	49
Organization for Economic Cooperation and Development	49
Customs Cooperation Council	53
United Nations Conference on Trade and Development	54
Negotiation and Operation of International Commodity Agreements	58
Other Trade Agreements Activities	65
Chapter IV. Developments in Major U.S. Trading Partners	
Introduction	77
The European Community	78
Canada	90
Japan	100
Mexico	113
Taiwan	119
Republic of Korea	124
Brazil	130
Chapter V. Administration of U.S. Trade Laws and Regulations	
Introduction	137
Import Relief Laws	137
Laws Against Unfair Trade Practices	140
Other Import Administration Laws	150
Appendixes	
A. Provisions of the Omnibus Trade and Competitiveness Act of 1988 related to the operation of the trade agreements program	163
B. Statistical Tables	167

Analytical Table of Contents

Page

CHAPTER 1. Selected Issues in Trade Agreements Activities in 1988

Introduction	1
Omnibus Trade and Competitiveness Act of 1988	1
Introduction	1
Trade agreement negotiation issues	1
Negotiating objectives	1
Trade agreement negotiating authority	2
Enactment of the Harmonized Tariff Schedule	2
Other trade agreements issues	3
State trading enterprises	3
International financial policy	3
Agriculture	3
Responsibilities for trade functions	3
Trade Representative	3
Congressional advisors	3
Market Access	4
Section 301 of the Trade Act of 1974	4
Other provisions	4
Telecommunications products	4
Government purchases	5
Government securities	5
Import relief laws	5
Countervailing and antidumping duty investigations	5
Intellectual property rights	6
Section 337 of the Tariff Act of 1930	6
Process patents	6
Positive adjustment to import competition (section 201)	6
General	6
Provisional relief	7
Market disruption	7
Trade Adjustment Assistance	8
National security	8
Section 232 of the Trade Expansion Act of 1962	8
Export controls	8
The midterm review of the Uruguay Round	9
Overview	9
Areas of disagreement	10
Agriculture	10
Intellectual property	10
Safeguards	11
Textiles and clothing	11
Areas of agreement	12
Dispute settlement	12
Functioning of the GATT system	12
GATT articles	12
MTN agreements and arrangements	13
Natural resource-based products	13
Nontariff measures	13
Services	13
Subsidies and countervailing measures	14
Tariffs	14
Trade-related investment measures	14
Tropical products	14
Summary	14

Analytical Table of Contents—Continued

Page

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

Introduction	17
GATT activities during 1988	17
Uruguay Round negotiations	17
Trade Negotiations Committee	18
Surveillance Body	19
Group of Negotiations on Services	19
Group of Negotiations on Goods	20
Tariffs	20
Nontariff measures	21
Agriculture	21
Tropical products	22
Safeguards	22
MTN agreements and arrangements	22
Subsidies and countervailing measures	23
GATT articles	23
Dispute settlement	23
Functioning of the GATT system	24
Trade-related aspects of intellectual property rights	24
Trade-related investment measures	24
Natural resource-based products	24
Textiles and clothing	25
Regular GATT activities	25
Tariff Concessions	25
Trade and Development	26
Balance-of-Payments Restrictions	27
GATT Integrated Data Base	27
Exports of Domestically Prohibited Goods	28
Textiles	28
Actions Under Articles of the General Agreement	29
Emergency Actions on Imports (art. XIX)	29
Dispute Settlement (arts. XXII and XXIII)	29
Consultations	30
Panels requested by the United States	30
Panels examining U.S. measures	32
Cases among other countries	34
Customs Unions and Free-Trade Areas (art. XXIV)	36
Negotiations on Modification of Schedules (art. XXVIII)	36
Accessions to the GATT (arts. XXVI and XXXIII)	37
Implementation of the Tokyo Round Agreements	37
Code on Subsidies and Countervailing Duties	38
Dispute settlement	40
Notification and review	41
Group of Experts on the Calculation of a Subsidy	41
Government Procurement Code	41
Standards Code	42
Agreement on Import Licensing Procedures	43
Customs Valuation Code	44
Committee activities	44
Technical Committee	44
Antidumping Code	45
Committee activities	45
Dispute settlement	45
Notification and review	45
Ad Hoc Group on Implementation of the Code	46
Agreement on Trade in Civil Aircraft	46
International Dairy Arrangement	46
Arrangement Regarding Bovine Meat	47

Analytical Table of Contents—Continued

Page

CHAPTER 3: Trade Activities Outside the GATT

Introduction	49
Organization For Economic Cooperation And Development	49
Ministerial Declaration	49
Agricultural trade	50
Export Credits Arrangement	51
Investment	51
Protectionism and structural adjustment	52
Relations with newly industrializing economies	53
Customs Cooperation Council	53
United Nations Conference On Trade And Development	54
The Integrated Program for Commodities and the Common Fund	54
Protectionism and structural adjustment	55
The UNCTAD data base on trade measures	56
Trade relations among countries having different economic and social systems	56
Trade preference schemes	57
The Generalized System of Preferences	57
The Global System of Trade Preferences	58
Negotiation and operation of international commodity agreements	58
Coffee	59
Sugar	60
Wheat	61
Cocoa	62
Tin	62
Natural Rubber	63
Jute	64
Tropical Timber	65
Other trade agreements activities	65
The Bilateral Investment Treaty Program	65
United States-Israel Free-Trade Area Agreement	66
United States-U.S.S.R. Grain Agreement	67
Progress on services trade agreements in 1988	68
Services activities in the OECD and UNCTAD	68
Organization for Economic Cooperation and Development	69
United Nations Conference on Trade and Development	70
Trade developments in selected service industries	71
Insurance services	71
Telecommunications services	73
Architectural, engineering, and construction services	75

CHAPTER 4: Developments in Major U.S. Trading Partners

Introduction	77
The European Community	78
The economic situation in 1988	78
Merchandise trade with the United States	78
Major policy developments affecting trade	79
Agriculture	79
Steel	80
Internal market	81
Research and development	83
United States-EC bilateral trade issues	84
Overview	84
Hormone ban	85
Corn gluten feed	86
Apples	87
Soybeans	88
Third country meat directive	88
Airbus	89

Analytical Table of Contents—Continued

Page

CHAPTER 4: Developments in Major U.S. Trading Partners—Continued

Canada	90
The economic situation in 1988	90
Merchandise trade with the United States	91
Major policy developments affecting trade	92
U.S.-Canada Free Trade Agreement	92
Tax reform	93
Foreign investment and mergers	94
Operation of the Automotive Products Trade Agreement	95
Rules of origin	96
Duty remission	98
United States-Canada bilateral trade issues	98
Alcoholic beverages	98
Shakes and shingles	99
Japan	100
The economic situation in 1988	100
Merchandise trade with the United States	101
Major policy developments affecting trade	102
Tax reform	103
Distribution system	104
Science and Technology Agreement	105
United States-Japan bilateral trade issues	105
Overview	105
Agriculture	106
Beef and citrus	106
GATT-11	107
Rice	107
Major projects	107
Semiconductors	108
Supercomputers	109
Telecommunications	110
FSX	110
Intellectual property rights	111
Autos and auto parts	111
Medical/pharmaceutical MOSS	112
TRON	112
Mexico	113
The economic situation in 1988	113
Merchandise trade with the United States	114
Major policy developments affecting trade	116
United States-Mexico bilateral trade issues	118
Overview	118
Framework agreement	118
Foreign debt	118
Extension of the subsidy agreement	119
Taiwan	119
The economic situation in 1988	119
Merchandise trade with the United States	119
Major policy developments affecting trade	121
Tariffs	121
Foreign investment	121
New trade action plan	122
Indirect trade with China	122
Environmentalism	123
United States-Taiwan bilateral trade issues	123
Exchange rates	123
Import barriers to agricultural products	123
Insurance	124

Analytical Table of Contents—Continued

Page

CHAPTER 4: Developments in Major U.S. Trading Partners—Continued

Republic of Korea	124
The economic situation in 1988	124
Merchandise trade with the United States	125
Major policy developments affecting trade	126
Report of the Commission on Economic Restructuring	126
Trade plan for 1988	126
Automatic approval list	126
Surveillance system	127
Market diversification plan	127
Special law provisions	127
Increased trade with centralized economies	127
Tariffs	128
United States-Korea bilateral trade issues	128
Wine	128
Exchange rates	129
Beef	129
Motion pictures	129
Cigarettes	129
Brazil	130
The economic situation in 1988	130
Merchandise trade with the United States	130
Major policy developments affecting trade	132
United States-Brazil bilateral trade issues	133
Overview	133
Informatics	134
Pharmaceuticals	134

CHAPTER 5: Administration of U.S. Trade Laws and Regulations

Introduction	137
Import relief laws	137
Safeguard actions	137
Certain knives	137
Cedar shakes and shingles	138
Market disruption	138
Adjustment assistance	138
Assistance to workers	139
Assistance to firms and industries	139
Laws against unfair trade practices	140
Antidumping actions	140
Countervailing duty actions	141
Reviews of outstanding antidumping and countervailing duty orders	141
Section 337 investigations	142
Enforcement of trade agreements and responses to unfair foreign practices	142
Cases initiated in 1988	143
Korean cigarette monopoly practices	143
Korean beef licensing system	143
Japanese citrus quotas	145
Korean wine practices	145
Argentine patent protection for pharmaceuticals	146
Japanese construction-related services barriers	146
EC copper scrap restrictions	146
Other cases active in 1988	146
EC oilseed policies	146
EC animal hormone directive	146
Brazilian patent protection for pharmaceuticals	147
EC third country meat directive	147
Indian licensing requirements and tariffs on almonds	147

Analytical Table of Contents—Continued

Page

CHAPTER 5: Administration of U.S. Trade Laws and Regulations—Continued

Canadian ban on fish exports	147
Argentine differential export taxes on soybeans and soybean products	148
Brazilian informatics policies	148
Follow-up on cases settled prior to 1984	148
EC enlargement	148
Japanese barriers to the domestic sale of foreign semiconductors	149
EC citrus preferences	149
Cases inactive in 1988	150
Other import administration laws	150
Arrangement Regarding International Trade in Textiles	150
Agricultural Adjustment Act	150
Generalized System of Preferences	152
1988 changes in country eligibility	154
Product coverage changes resulting from 1987 annual review	154
1988 annual review	155
Caribbean Basin Economic Recovery Act (CBERA)	156
Meat Import Act of 1979	159
National security import restrictions	160
Antifriction bearings	160
Petroleum	160
Cases initiated in 1988	161
The Steel Import Program	161
Background of voluntary restraint arrangement program	161
Current status of the program	161
Specialty steel	162

Figure

1. Organizational structure of the GATT	18
---	----

Tables

1. Article XIX actions in effect as of Dec. 31, 1988	29
2. Signatories to the Tokyo Round agreements: Status as of Dec. 31, 1988	39
3. Minimum interest rates for officially supported export credits, by repayment periods, guidelines set on July 15, 1988, and Jan. 15, 1988	51
4. Green coffee: International Coffee Organization monthly average composite indicator prices, 1979 agreement, 1984-88	60
5. Raw sugar: Monthly world market prices, 1977 ISA basis, 1983-88	61
6. Leading-U.S. imports for consumption from Israel, under special-duty provisions of the U.S.-Israel FTA, customs value 1986-88	67
7. U.S. sales of wheat, corn, soybeans, and soybean meal to the Soviet Union under the 5-year, long-term U.S.-Soviet grain agreement	68
8. U.S. merchandise trade with the European Community, by SITC Nos. (Revision 2), 1986-88	79
9. U.S. merchandise trade with Canada, by SITC Nos. (Revision 2), 1986-88	91
10. U.S.-Canadian automotive trade, 1964-88	95
11. U.S.-Canadian automotive trade, by specified products, 1987 and 1988	97
12. U.S. merchandise trade with Japan, by SITC Nos. (Revision 2), 1986-88	102
13. U.S. merchandise trade with Mexico, by SITC Nos. (Revision 2), 1986-88	115
14. U.S. imports from Mexico entered under TSUS items 806.30 and 807.00, 1986-88	117

Analytical Table of Contents—Continued

Page

Tables—Continued

15.	U.S. merchandise trade with Taiwan, by SITC Nos. (Revision 2), 1986-88	120
16.	U.S. merchandise trade with the Republic of Korea, by SITC Nos. (Revision 2), 1986-88	125
17.	U.S. merchandise trade with Brazil, by SITC Nos. (Revision 2), 1986-88	131
18.	Summary of activity on sec. 301 investigations during 1988	144
19.	U.S. bilateral textile agreements or quotas in effect during 1988	151
20.	U.S. imports for consumption from GSP beneficiaries and the world, 1988	152
21.	U.S. imports for consumption under the GSP from leading beneficiaries, 1988	153
22.	U.S. imports for consumption from the world and from the Caribbean Basin, 1986-88	157
23.	Leading items in U.S. imports for consumption entered under CBERA provisions, by descending duty-free value, 1988	158
24.	Countries subject to VRAs and their respective limits, 1988	162

Appendix Tables

A-1.	Provisions of the Omnibus Trade and Competitiveness Act of 1988 related to the operation of the trade agreements program	164
B-1.	Countervailing duty actions reported by signatories to the GATT Committee on Subsidies and Countervailing Measures, 1988	168
B-2.	Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988	169
B-3.	Leading items exported to Israel, by Schedule B item numbers, 1986-88	175
B-4.	Leading items imported from Israel, by TSUS item numbers, 1986-88	176
B-5.	Leading items exported to the European Community, by Schedule B item numbers, 1986-88	177
B-6.	Leading items imported from the European Community, by TSUS item numbers, 1986-88	178
B-7.	Leading items exported to Canada, by Schedule B item numbers, 1986-88	179
B-8.	Leading items imported from Canada, by TSUS item numbers, 1986-88	180
B-9.	Leading items exported to Japan, by Schedule B item numbers, 1986-88	181
B-10.	Leading items imported from Japan, by TSUS item numbers, 1986-88	182
B-11.	Leading items exported to Mexico, by Schedule B item numbers, 1986-88	183
B-12.	Leading items imported from Mexico, by TSUS item numbers, 1986-88	184
B-13.	Leading items exported to Taiwan, by Schedule B item numbers, 1986-88	185
B-14.	Leading items imported from Taiwan, by TSUS item numbers, 1986-88	186
B-15.	Leading items exported to the Republic of Korea, by Schedule B item numbers, 1986-88	187
B-16.	Leading items imported from the Republic of Korea, by TSUS item numbers, 1986-88	188
B-17.	Leading items exported to Brazil, by Schedule B item numbers, 1986-88	189
B-18.	Leading items imported from Brazil, by TSUS item numbers, 1986-88	190

Analytical Table of Contents—Continued

Page

Appendix Tables—Continued

B-19.	Antidumping cases active in 1988, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number	191
B-20.	Antidumping orders and findings in effect as of Dec. 31, 1988	193
B-21.	Countervailing duty cases active in 1988, filed under authority of sec. 303 or title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number	196
B-22.	Countervailing duty orders and findings in effect as of Dec. 31, 1988	198
B-23.	Section 337 investigations completed by the U.S. International Trade Commission during 1988 and those pending on Dec. 31, 1988	200
B-24.	Outstanding sec. 337 exclusion orders as of Dec. 31, 1988	201
B-25.	U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP-duty-free imports, 1988	203
B-26.	U.S. imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard International Trade Classification (SITC), 1988	205
B-27.	U.S. imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard Industrial Classification (SIC), 1988	207
B-28.	U.S. imports for consumption from the Caribbean Basin, by countries, designated or nondesignated under the CBERA, 1984-88	208

List of Frequently Used Abbreviations and Acronyms

BIT	Bilateral Investment Treaty
CAP	Common Agricultural Policy
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CCC	Customs Cooperation Council
CFC	Common Fund for Commodities
CVD	Countervailing Duty
EC	European Community
ECU	European Currency Unit ¹
Eximbank	U.S. Export-Import Bank
FTA	Free-Trade Agreement
GATT	General Agreement on Tariffs and Trade
GNG	Group of Negotiations on Goods
GNP	Gross National Product
GNS	Group of Negotiations on Services
GSP	Generalized System of Preferences
HS	Harmonized System
LDC	Less Developed Country
MFA	Multifiber Arrangement
MOSS	Market-Oriented, Sector-Selective
MTN	Multilateral Trade Negotiations
NIEs	Newly Industrializing Economies
NTMs	Nontariff Measures
OECD	Organization for Economic Cooperation and Development
SDRs	Special Drawing Rights ²
SEA	Single European Act
SITC	Standard International Trade Classification
TAA	Trade Adjustment Assistance
TNC	Trade Negotiations Committee
TRIPs	Trade-Related Aspects of Intellectual Property Rights
TRIMs	Trade-Related Investment Measures
UNCTAD	United Nations Conference for Trade and Development
USITC	U.S. International Trade Commission
USTR	U.S. Trade Representative
VRA	Voluntary Restraint Agreement

¹ The annual average exchange rate of the ECU in 1988 was \$1.18 per ECU.

² The annual average exchange rate of the SDR in 1988 was \$1.34 per SDR. The value of an SDR is the weighted average of market rates of a fixed group of currencies against the dollar.

Summary

Selected Issues in Trade Agreements Activities in 1988

In 1988, the value of world merchandise trade increased by an estimated 14.1 percent, due in large part to growth in trade volume and the continued depression of the dollar's value. Cooperation among industrial powers stimulated global expansion, but significant imbalances in trade performances persisted—particularly for Japan, Germany, and the United States. Although several developing countries took steps to rationalize their economies, a solution to the debt problems in many less developed countries (LDCs) remained elusive in 1988. Interest in regional integration continued with the ratification of the United States-Canada Free Trade Agreement (FTA) and the EC's plans to integrate further by 1992. For the first time in seven years the U.S. merchandise trade deficit declined, dropping by 19.4 percent from an all-time high in 1987. In 1988, growth in U.S. exports outpaced imports by three-to-one bringing the merchandise trade deficit down to \$137.3 billion.

Chapter 1 of this report highlights two developments in 1988 that are of significance to U.S. trade: (1) passage of the Omnibus Trade and Competitiveness Act of 1988, and (2) the midterm review of the Uruguay Round of GATT trade negotiations.

After prolonged debate, the Omnibus Trade and Competitiveness Act of 1988 became law on August 23, 1988. The act is a major revision to U.S. trade laws, affecting a wide range of trade activities. Most notably the act provides the President with new authority to enter into trade agreements, approves the U.S. accession to the Harmonized System (HS), effective January 1, 1989, and strengthens the ability of the U.S. Government to act against unfair foreign trade practices. During the year numerous trading partners expressed concern about provisions in the act that allow, under certain circumstances, for mandatory retaliatory action by the United States against those partners with unfair trading practices. Some countries contend that this aspect of the act violates provisions of the GATT and cite it as evidence that the United States is becoming increasingly protectionist. The act also includes provisions affecting import relief, export enhancement, and education and training to enhance American competitiveness.

The general objectives of the Uruguay Round of Multilateral Trade Negotiations, which was launched in September 1986, are to resist protectionism, liberalize trade, strengthen existing GATT rules, and to extend coverage to new areas of trade. In December 1988, Contracting Parties met in Montreal, Canada for the midterm review of the Uruguay Round trade negotiations with the dual goals of sustaining momentum for the talks and defining a framework for the negotiations over the remaining 2 years. By the review's conclusion, agreements were reported in 11 of the 15 negotiating groups. One such agreement was a framework to guide future negotiations on services trade. Also, the tropical products negotiating group agreed to implement a set of tariff and nontariff trade concessions—due to its "fast track" status, it was the only group to negotiate any actual concessions by the midterm review. However, disagreement between the United States and the EC over the scope and timing of subsidy reforms prevented the agriculture group from reaching agreement. These differences eluded compromise and delayed continuation of Uruguay Round negotiations until April 1989. Other groups not reaching agreement until April were those covering intellectual property rights, textiles and clothing, and safeguards.

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

The General Agreement on Tariffs and Trade (GATT) is a multilateral agreement drafted 41 years ago that sets forth general rules of conduct for trade between signatory countries. GATT activities during 1988 are reviewed in chapter 2. The GATT is both a comprehensive set of rules governing most aspects of international trade, and provides a forum for multilateral trade negotiations and the resolution of disputes among the contracting parties. GATT membership continued to grow in 1988, reaching 96 members by yearend, with applications for accession from 9 other countries under consideration.

The organizational structure that administers the GATT Uruguay Round of trade negotiations consists of the Trade Negotiations Committee (TNC), plus three groups which report to it: the Group of Negotiations on Goods (GNG), the Group of Negotiations on Services (GNS), and the Surveillance Body, which oversees the ministers' commitment to standstill and rollback of protectionist measures. By the end of 1988, the Surveillance Body received a total of 20 notifications covering 25 measures, and 19 requests for rollback undertakings. The first formal rollback offer by a participant came from the EC in 1988, followed later in the year by Japan. During the year, the 15 negotiating groups, which report to the GNG and GNS, considered various proposals submitted by participants, and focused on producing agreements on work programs and timetables covering the remaining 2 years of negotiations. The GNG and GNS met at various times during 1988 to discuss the issues raised by the negotiating groups, and the TNC held its ministerial-level midterm review in December. Developments during 1988 in each of the issue-specific negotiating groups of the Uruguay Round are reported in chapter 2.

Aside from the Uruguay Round negotiations, work of the GATT committees and actions taken under the General Agreement continued, but with less intensity than in previous years because of the negotiations. One notable exception was the record number of trade disputes brought before the GATT Council. In 1988, 14 panels were established to consider complaints, compared with seven in 1987 and a previous average of 2-3 per year. Last year, the United States requested six panel reviews of trade practices, while two panels were requested to examine U.S. measures.

Chapter 2 reviews developments in each of the working groups of the Uruguay Round negotiations, as well as the regular activities of the committees and working groups of GATT, notifications and other activities taken under GATT articles, and GATT activities under the nine Tokyo Round agreements. Six of the Tokyo Round agreements establish rules of conduct governing the use of nontariff measures (codes on subsidies and countervailing duties, government procurement, standards, import licensing procedures, customs, valuation, and antidumping), and three are sectoral agreements covering trade in civil aircraft, bovine meat, and dairy products.

Trade Activities Outside the Gatt

In addition to the GATT, several other international organizations deal with international trade issues. The Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) provide forums for consultation and policy coordination on issues including, but not limited to, trade. Their work often complements the work done in GATT. Other bodies such as the Customs Cooperation Council (CCC) and the international commodity organizations coordinate and regulate specific aspects of international trade. Chapter 3 discusses 1988 activities in these organizations and also covers the U.S. bilateral investment treaty program, the United States-Israel FTA, the United States-Soviet Grain Agreement, and progress on trade agreements in the services sector.

At its May Ministerial meeting, the 24 member OECD agreed to support the Uruguay Round negotiations by developing a "framework approach" on all negotiating topics by the midterm review. The ministers also noted favorable trends in economic growth, expansion of world trade accompanied by a narrowing of major external imbalances, and the resilience of OECD economies following the October 1987 stock market crash.

The Agriculture and Trade Committees of the OECD presented a joint report at the meeting, citing only limited progress by member countries in reforming agricultural policies. During the year, the OECD Secretariat completed a work on protectionism and structural adjustment in agriculture, manufacturing, and services sectors. Noting the "heavy burden" imposed on consumers by these policies, the Secretariat urged member governments to refrain from assistance and strive for liberal trade policies. In another development, the OECD concluded in a July 1988 report that member countries and newly industrializing economies (NIEs) of East Asia (South Korea, Taiwan, Hong Kong, and Singapore) should strive to develop a more coherent form of interaction in the international economy. To initiate a dialogue, members of OECD and representatives from the NIEs met in January 1989.

The work of the CCC in 1988 centered on implementation of the Harmonized System Convention, which entered into force on January 1, 1988. Following the enactment of the Omnibus Trade and Competitiveness Act of 1988, the United States deposited its instrument of ratification to the Convention. The Tariff Schedules of the United States were replaced with the Harmonized Tariff Schedule (HTS), effective January 1, 1989.

The United Nations Conference on Trade and Development (UNCTAD) continued to focus on the problems of protectionism and structural adjustment, in 1988. The Secretariat cited little progress in decreasing trade restrictions and reiterated the need for governments to encourage structural adjustment by allowing competitive forces to play a greater role in certain sectors. At its spring 1988 meeting, the Trade and Development Board (TDB) considered a program for promoting trade among countries with different economic systems. In an April 1988 meeting, 48 developing countries adopted an agreement to establish the Global System of Trade Preferences (GSTP), a program to promote trade among developing countries.

Activities in eight international commodity agreements (ICAs) are also discussed in chapter 3. Four ICAs (coffee, natural rubber, tin, and cocoa) contain price-stabilization mechanisms. At the end of 1988, the United States was participating in six ICAs, those covering coffee, sugar, wheat, jute, natural rubber, and tropical timber, although U.S. voting rights under the agreement covering sugar were suspended in November for the failure to pay its 1988 budget assessment in full. New agreements for sugar and natural rubber entered into effect in March and November of 1988, respectively. The agreement covering tin has ceased to function for all practical purposes since the collapse of the price of tin in 1985.

The United States-Israel FTA concluded its third year of operation in 1988. In terms of dollar value, U.S. exports to Israel continued to grow, increasing by 18 percent last year. The value of U.S. imports that entered under special duty provisions of the FTA, however, declined to \$717 million from \$763 million in 1987. These imports accounted for 24 percent of total U.S. imports from Israel last year. The bilateral trade balance remained in Israel's favor for the third year.

After 9 months of negotiations, the United States and the Soviet Union failed to conclude a new long-term grain agreement, but agreed in November to extend the predecessor United States-Soviet 5-year Long-Term Grain Agreement (LTA), which expired on September 30. The extension covers the period October 1, 1988-December 31, 1990 during which time the two sides will resume negotiations. The extended agreement calls for purchases by the U.S.S.R. of at least 9 million metric tons (mmt) of U.S. grains during each agreement year. During the last agreement year (October 1987-September 1988), total U.S.S.R. purchases of U.S. grains amounted to 14.5 (mmt), well above the minimum required.

For several years, the United States has advocated liberalizing services trade. During 1988, the OECD and UNCTAD continued work programs in many areas of the services sector. The OECD released reports on tourism, transportation, communications, and maritime services. UNCTAD produced reports on maritime and information services, as well as a study considering general aspects of services trade. Activities in three major services sectors (insurance; telecommunications; and architectural, engineering, and construction) are also reported in chapter 3.

Developments in Major U.S. Trading Partners

In 1988, the U.S. merchandise trade deficit was \$137.3 billion, of which \$97.3 billion (71 percent) was with the countries under review in this report: the European Community (EC), Canada, Japan, Mexico, Taiwan, the Republic of Korea (Korea), and Brazil. The largest bilateral merchandise trade deficit in 1988 was with Japan (\$53.1 billion, or 39 percent of the total U.S. merchandise trade deficit), followed by Taiwan (\$14.0 billion, or 10 percent), and the EC (\$12.7 billion, or 9 percent). The U.S. merchandise trade deficit with the NIEs of Asia covered in this report totaled \$23.7 billion, or 17 percent of the total U.S. merchandise trade deficit.

U.S.-EC trade relations continued to be strained by disputes in 1988. The major conflict arose from the EC's ban of imports of meat from animals treated with hormones, which took effect January 1, 1988. Although the EC had granted a grace period of 1 year to the United States, last minute negotiations at the end of 1988 failed to resolve the dispute and the ban was implemented on January 1, 1989. The United States immediately executed retaliatory measures which were followed by a threat of counter-retaliatory measures by the EC before an interim agreement was reached on May 3, 1989. U.S.-EC relations were also marked by a sharp disagreement during the midterm review of the Uruguay Round of trade negotiations over the issue of agricultural subsidies.

Trade relations between the United States and Canada in 1988 continued to be dominated by the United States-Canada FTA, which was formally ratified during the year. The U.S. House of Representatives approved the FTA on August 9 followed by the Senate on September 23, 1988. Following a protracted debate that included calling a national election, the Canadian Parliament approved the pact on December 30, 1988. Bilateral disputes focused on discriminatory practices of some of Canada's Provincial boards toward U.S. alcoholic beverages, and on a decision by President Reagan to continue, albeit at a scaled down rate, a 5-year tariff on U.S. imports of shakes and shingles from Canada, that was originally levied in 1986.

Although in 1988 the U.S.-Japan bilateral trade deficit declined by 7.5 percent from its record level in 1987, trade relations were still strained due to a number of disputes that were unresolved from previous years. By the year end, however, the United States and Japan had reached accords to liberalize Japan's quotas on beef and citrus, to phase out quotas on a number of processed foods, and to give U.S. firms greater access to major Japanese construction projects. Japan also agreed to joint development of the FSX fighter plane, a plan which received final approval in the spring of 1989, following prolonged debate in the U.S. Congress. Despite continued confrontations, the two countries maintained a strong relationship, managed to exercise restraint, and continued to consult with each other to resolve trade disputes.

Bilateral relations between the United States and Mexico continued to improve in 1988. Both parties began to use the consultative mechanism provided in the 1987 "framework" agreement for discussing mutual trade and investment concerns, and Mexico began phasing out its system of prior import licensing. The debt issue continued to be a major aspect of bilateral relations.

In an effort to address its trade surplus with the United States, Taiwan adopted a large number of general trade liberalization measures in 1988. These measures included lowering tariffs, easing restrictions on foreign investment, and adoption of a trade action plan.

Trade relations between the United States and Korea were marked by numerous disputes. One of the most contentious issues was a disagreement over Korean exchange rate policies. Korea continued to have a trade surplus with the United States and has been criticized as being slow to liberalize its markets. A number of section 301 petitions involving market access in Korea were filed under U.S. law.

Brazil and the United States continued to disagree on several key trade issues in 1988. During the year, the United States imposed sanctions in reprisal for Brazil's lack of protection for pharmaceutical and chemical patents, while the country's informatics policies continued to be a source of major bilateral friction.

Administration of U.S. Trade Laws and Regulations

Chapter 5 reviews activities related to the administration of U.S. trade laws in 1988. Actions under import relief laws, unfair trade laws, and certain law provisions are included.

In 1988, the U.S. International Trade Commission undertook one investigation under section 201 of the Trade Act of 1974, the U.S. "escape clause" law. The Commission made a negative determination with respect to the domestic knife industry;

consequently, no import relief was provided. The Commission also conducted one investigation under section 203 of the Trade Act of 1974, to provide advice to the President with regard to import relief already in place under section 201 with respect to imports of red cedar shakes and shingles. Following receipt of the Commission's advice, the President decided to accelerate reductions of import relief for the shake and shingle industry. The Commission did not conduct any investigations under section 406 to determine whether imports of an article produced in a Communist country were causing market disruption.

The U.S. Department of Commerce and the Commission conducted numerous antidumping and countervailing duty (CVD) investigations, although the number completed declined from previous years. Commerce completed 18 final antidumping investigations in 1988, compared with 43 investigations in 1987. The Commission completed 38 preliminary and 11 final antidumping investigations, compared with 20 preliminary and 51 final investigations last year. In 1988, antidumping duty orders were issued as a result of 8 investigations on a total of 6 products from 4 countries. Commerce completed 11 final CVD investigations compared with 21 final CVD investigations in 1987. The Commission completed 10 preliminary and 2 final CVD investigations, compared with 3 preliminary and 19 final CVD investigations completed last year. In 1988, countervailing duty orders were issued on certain steel products from Malaysia and Argentina, and aluminum redraw rod from Venezuela.

The Commission completed 18 investigations under section 337 of the Tariff Act of 1930, compared with 21 in 1987. Five exclusion orders and one cease-and-desist order were issued.

In 1988, private parties filed six section 301 (of the Trade Act of 1974) petitions and the United States Trade Representative initiated one investigation. The investigations initiated in 1988 involved Korean practices regarding beef and wine, Argentine patent protection, EC scrap metal restrictions, and Japanese barriers to construction services. In two other new investigations, involving restrictions on cigarettes in Korea and citrus fruits in Japan, bilateral settlements were reached and the investigations were terminated. Retaliatory measures were invoked in connection with two section 301 actions initiated prior to 1988: the Animal Hormone Directive of the EC, and Brazil's lack of patent protection. Rulings under GATT or Tokyo Round Code dispute settlement mechanisms were being sought in seven of the cases active in 1988.

Duty-free imports entering the United States under the Generalized System of Preferences (GSP) program totaled almost \$18.4 billion in 1988, up from \$16.3 billion the previous year. Changes stemming from the 1987 annual review became effective July 1, 1988. As a result of the annual review, products accounting for a total of \$22.5 billion in 1987 imports from 16 countries were excluded from duty-free access under the statutory competitive-need provision. During the year, Bahrain, Bermuda, Brunei, Nauru, Panama, and Chile each lost GSP beneficiary status. On January 1, 1989, Taiwan, Korea, Hong Kong, and Singapore were removed from the list of GSP beneficiaries.

The Caribbean Basin Economic Recovery Act (CBERA) finished its fifth year of operation at the end of 1988. Imports entering the United States duty-free under CBERA provisions totaled \$800.8 million in 1988, or 13 percent of overall imports from the region. This figure is down slightly from \$802.6 million in 1987. As in 1987, beef continued to be the leading product imported free of duty under the CBERA.

Overview:

The International Economic Environment In 1988

Global economic performance was much stronger in 1988 than expected, owing largely to the successful defusion of the confidence crisis that gripped world financial markets during the fourth quarter of 1987. But progress in dismantling obstacles to trade and eliminating international payments imbalances lagged far behind the pace of output and trade.

Economic and Trade Policy

The cooperative reaction of the industrial countries to the worldwide drop in equity values during the closing quarter of 1987 made the continuation of global economic expansion possible in 1988 and beyond. Unlike during the aftermath of the 1929 stock market crash, central banks increased national money supplies following the 1987 crash, and expansionary monetary policy—supplemented by cautiously stimulative fiscal policies in Japan and West Germany—remained in force through 1988. Coordinated intervention by central banks in foreign exchange markets stabilized the U.S. dollar and helped restore confidence in the effectiveness of international economic cooperation. Confidence was further bolstered by renewed commitment of the U.S. Government to curb the Federal deficit, by the credible pledge of all industrialized countries to keep inflation under control, and by signs in early 1988 that the U.S. trade deficit had begun to subside. Low energy prices and profitable investment opportunities created by technological changes made the supply side responsive to stimulation, clinching the success of growth-promoting economic policies.¹

As a result of stronger domestic expansion in the rest of the industrialized world than in the United States, combined with the relatively low value of the dollar², U.S. exports grew faster than imports while both Japanese and West German imports grew faster than exports. Prosperity in the industrialized world generated demand for imports from the rest of the world, which in turn, allowed for increases in trade, further stimulating growth.

An intractable mixture of signs of progress and stagnation characterized trade relations in 1988. Although financial markets were further liberalized, and in principle most nations remained committed to preserving and strengthening the international trading system, tax distortions, subsidies and regulations hampering competition through nontariff barriers did not diminish. With the enactment of the Omnibus Trade and Competitiveness Act of 1988 fears of a nascent U.S. protectionism were largely dispelled. It became evident that the thrust of the new U.S. trade law is to pry open national markets hitherto closed to the United States, as well as to other exporters.

At the midterm review session of the Uruguay Round of multilateral trade negotiations, some tentative progress was made in concluding agreements, identifying obstacles to further agreements, and in providing political momentum for the successful completion of the round. The deadlock between the United States and the European Community (EC) over agricultural subsidy programs was the most serious obstacle to the midterm session's full success, and a compromise between the two sides was not reached until April 1989.

Initiatives towards regional economic integration figured prominently in 1988. The historic trade pact between the United States and Canada, and the 1987 comprehensive framework agreement between the United States and Mexico became operational.

¹ According to the Organization for Economic Cooperation and Development (OECD), real economic expansion was 3.8 percent in the United States in 1988, 3.5 percent in Western Europe, 6.0 percent in Japan, and 4.0 percent in the OECD as a whole. In 1988, real domestic demand increased by 3.0 percent in the United States, by 4.0 percent in Western Europe, and by 7.5 percent in Japan.

² The dollar's exchange rate value—nominal, trade weighted (effective)—depreciated by 6.0 percent during 1988 as the upshot of fluctuations and central bank interventions in currency markets to keep the dollar from falling during the first half of 1988 and from rising during the second half. From its peak in February 1985, the dollar depreciated by 37.0 percent by the end of 1988.

Work for the planned completion of the EC single market program by 1992 continued, as did efforts towards regional integration in other parts of the world. A significant improvement in East-West economic relations promised new business opportunities for the market economies.

An end to the debt problems of certain LDCs remained elusive. Total developing country debt increased by 3.0 percent to an estimated \$1.3 trillion in 1988—roughly one half of these countries' combined GNP.³ In a number of heavily indebted developing countries per capita income growth slowed and has declined in some others. In most others, the burden of adjustment fell increasingly on investment. The imbalance between the growth of population and output showed no signs of abating among LDCs. Nevertheless, several developing countries made steps to rationalize their economies in 1988 and some—such as Brazil, Chile, Colombia, and Mexico—succeeded in increasing their nontraditional exports. The international strategy to resolve debt problems over the long run inched closer to consensus. This strategy consists of voluntary debt reduction by the creditor countries, including debt-for-equity swaps and debt forgiveness, acceptance of sustained adjustment programs by the debtor countries, and an enhanced role by the international financial organizations to channel resources from the creditor to the debtor countries.⁴

World Trade in 1988

The value of world merchandise trade increased by an estimated 14.1 percent from \$2.49 trillion in 1987 to a record high \$2.84 trillion in 1988.⁵ Greater volume accounted for the bulk of the increase although inflation and the dollar's continued depreciation on foreign exchange markets also contributed to the rise. The volume of world merchandise trade grew by a robust 8.5 percent in 1988, 3.0 percentage points above both the 1987 rise in world trade and the 1988 rise in world output. In 1988, growth in the volume of trade accelerated for the fourth consecutive year and it exceeded growth in world output for the sixth consecutive year. Showing no change from 1987, developed countries as a group accounted for 71 percent of world trade in 1988, developing countries for 19 percent and the nonmarket economy countries (NME's) for 10 percent.⁶

The aggregate value of developed country exports grew by 15.6 percent and the volume of exports by 8.0 percent. The aggregate value of developed country imports increased by 13.8 percent and the volume of these imports by 9.0 percent. The U.S. share was 17.2 percent of world trade in 1988, followed by West Germany with 12.6 percent and Japan with 9.9 percent. The growth of U.S. exports—the largest among the Group 7 countries⁷ in 1988—exceeded the growth of U.S. imports by more than 3 times. As a result, the U.S. merchandise trade deficit declined by \$33 billion from 1987 to 1988. Japan's surplus declined from \$80 billion to \$78 billion, whereas West Germany's surplus increased from \$66 billion to \$72 billion. The deficit on the United Kingdom's merchandise trade account, however, doubled from \$23 billion in 1987 to \$46 billion in 1988. France's deficit declined by one half from \$10 billion to \$5 billion, whereas Italy's deficit edged up from \$9 billion to \$10 billion. Canada's surplus declined from \$5 billion to \$3 billion.

The aggregate value of developing country exports increased by 11.0 percent and the volume by 9.5 percent. The aggregate value of developing country imports grew by 16.4 percent and the volume of these imports by 10.0 percent. The combined trade surplus of the 15 heavily indebted countries⁸ increased for the second consecutive year,

³ World Bank News Release, No. 89/S17, p. 2.

⁴ Two international organizations to catalyze the transfer of resources from the developed to the developing countries were established in 1988: the Multilateral Investment Guaranty Agency under the aegis of the World Bank, and the Inter-American Investment Corporation under the aegis of the Inter-American Development Bank. Interview with World Bank, External Affairs Division, Apr. 18, 1989.

⁵ Unless otherwise noted, all numerical and analytical information in this section is based on preliminary GATT estimates, exports, f.o.b, imports, c.i.f. See *GATT Press Release* No. 1453, Feb. 21, 1989.

⁶ For details on the 1988 trade performance of these countries, see under appropriate sections of the *57th Quarterly Report to the Congress and Trade Policy Committee on Trade Between the United States and the Nonmarket Economy Countries During 1988*, USITC Publication 2176, April 1989.

⁷ The Group 7 countries are the United States, Canada, France, Italy, Japan, the United Kingdom, and West Germany.

⁸ The countries are Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Ivory Coast, Mexico, Morocco, Nigeria, Peru, Philippines, Uruguay, Venezuela, and Yugoslavia.

reaching nearly \$28 billion in 1988. The terms of trade deteriorated for members of the Organization for Petroleum Exporting Countries (OPEC) but increased for several non-fuel primary commodity exporting countries.⁹ The aggregate volume of exports by the OPEC members increased by 8.5 percent in 1988, but the volume of imports by the group declined by 1.5 percent.¹⁰ The aggregate volume of exports of non-OPEC developing countries increased by 10.0 percent in 1988 and imports by these countries 12.0 percent. Early estimates indicate that the combined volume of surplus of the Newly Industrialized Economies of Asia (NIEs) moderated from 1987 to 1988.

At 10.5 percent, the growth of world manufactures trade exceeded the average growth of total world trade in 1988. Trade in mining products (including oil production) grew by 7.0 percent and trade in agricultural products increased by 4.0 percent despite a decline in agricultural production. Trade within the East Asian region and Transpacific trade grew at the fastest rates and Transatlantic trade and trade within Western Europe at the slowest rates in 1988.

U.S. Trade Performance

U.S. merchandise exports grew 3 times faster than imports in 1988. As a net result, the U.S. merchandise trade deficit declined by 19.4 percent from its all-time high of \$170.3 billion in 1987 to \$137.3 billion in 1988.¹¹ This was the first decline in the deficit in 7 years. In manufactures trade, the U.S. deficit declined from \$137.7 billion in 1987 to \$119.1 billion in 1988. In agricultural trade, the U.S. surplus widened from \$6.5 billion to \$14.5 billion over the period, and in business service¹² trade, from \$3.1 billion to \$7.8 billion.

From 1987 to 1988, the U.S. deficit in merchandise trade with Japan declined from \$59.8 billion in 1987 to \$55.4 billion, with the East Asian NIEs¹³ from \$37.7 billion to \$31.6 billion, with the EC from \$24.3 billion to \$12.8 billion, with Canada from \$11.7 billion to \$10.6 billion, and with Mexico from \$5.9 billion to \$2.9 billion.

U.S. exports soared by 26.8 percent to \$322.2 billion in 1988.¹⁴ The volume of overall U.S. exports increased by 21.5 percent in 1988.¹⁵ Manufactures exports surged by 27.6 percent to \$255.3 billion. Major gains in manufactures exports were reported in autos (except to Canada), spacecraft and parts, iron and steel mill products, musical instruments and recording media, synthetic resins and plastics, and a wide variety of machinery. Major non-manufactures gainers were nonmonetary gold, wheat, corn, animal feeds and coal. U.S. exports to the East Asian NIEs expanded by 48.1 percent, to Mexico by 41.6 percent, to Japan by 33.6 percent, to the EC by 25.3 percent, and to Canada by 18.5 percent. Exports to the developing countries as a whole grew by 30.8 percent in 1988, the sharpest rise since the onset of the debt crisis in 1982. The exceptionally strong U.S. export performance was attributed mainly to strong foreign economic activity and the effects of the dollar's depreciation¹⁶ that substantially increased the international competitiveness of U.S. goods.¹⁷

⁹ Whereas the annual average of oil spot prices slid by 22.2 percent during 1988, non fuel primary commodity prices—the major export earners for many non-OPEC developing countries—increased by 25.0 percent. Since the dollar unit value of manufactured exports increased by 6.0 percent, it is apparent that oil prices declined in real as well as in nominal terms, whereas non fuel primary commodity prices recovered in real as well as in nominal terms.

¹⁰ Deceleration in the decline of the volume of OPEC imports from 13.5 percent in 1987 contributed to the acceleration of the overall growth in world merchandise trade volume from 1987 to 1988.

¹¹ U.S. trade data were obtained from official U.S. Department of Commerce statistics, exports, f.a.s. and imports, c.i.f. Beginning with the January 1989 data, the U.S. Department of Commerce has been reporting imports only on customs basis in its most comprehensive monthly compilation of trade statistics, *United States Department of Commerce News*, (FT900).

¹² Travel, passenger fares, other transportation, royalties and license fees, and other private services. U.S. Department of Commerce, *Survey of Current Business*, March 1989, table 1.2, p. 40.

¹³ East Asian NICs are Hong Kong, Korea, Singapore, and Taiwan.

¹⁴ Exports increased by 3.8 percent from 1985 to 1986, and by 11.2 percent from 1986 to 1987. Thus, the above reported increase from 1987 to 1988 was the third consecutive increase in the growth of exports since the 1.8 percent decline from 1984 to 1985.

¹⁵ Merchandise exports in 1982 constant dollars increased from \$280.1 billion in 1987 to \$340.4 billion in 1988.

¹⁶ U.S. Department of Commerce, *Business America*, Apr. 10, 1989, p. 2.

¹⁷ The delayed reaction of U.S. exports and imports to exchange rate changes has been generally explained by the so-called "J-curve effect." USITC *International Economic Review*, June 1986, pp. 5-6.

U.S. imports increased by 8.3 percent to \$459.6 billion in 1988.¹⁸ The volume of overall U.S. imports increased by 6.4 percent.¹⁹ Manufactures imports increased by 10.9 percent to \$374.4 billion. Major increases in manufactures imports were registered in autos from Canada, electrical machinery, chemicals, office machines, synthetic resins and plastics, and iron and steel mill products. However, the value of auto imports from Japan declined by 7.0 percent, and that of autos from other sources than Japan and Canada by 15.0 percent. Major nonmanufactures import gains occurred in crude rubber and petroleum products. However, the value of crude petroleum imports declined by 10.0 percent. U.S. imports from Mexico increased by 14.7 percent, from Canada by 13.9 percent, from the East Asian NICs by 8.5 percent, from Japan by 5.8 percent, and from the EC by 4.6 percent. Imports from the developing countries as a whole grew by 8.1 percent. The evolution of the U.S. import structure reflected a faster growth in investment than in personal consumption expenditures in 1988. U.S. capital goods imports (except autos) increased by 18.6 percent (22.3 percent in volume) in 1988, and consumer goods imports by 7.7 percent (0.3 percent in volume).

¹⁸ Imports swelled by 26.0 percent from 1983 to 1984. The rate of increase moderated to 6.3 percent from 1984 to 1985, but started to accelerate again. Imports increased by 7.2 percent from 1985 to 1986, and by 8.9 percent from 1986 to 1987. Thus the above reported rate represents an interruption in two consecutive years of acceleration.

¹⁹ U.S. imports in 1982 constant dollars increased from \$439.0 billion in 1987 to \$467.3 billion in 1988.

Chapter 1

Selected Issues in Trade Agreements Activities in 1988

Introduction

This chapter examines two developments in 1988 that are likely to be of significance to U.S. trade, the enactment of the Omnibus Trade and Competitiveness Act of 1988, and the Montreal midterm review of the Uruguay Round of trade negotiations. The Omnibus Trade and Competitiveness Act of 1988 became law in August 1988 after a lengthy period of drafting and compromising between both houses of Congress, and between Congress and the Administration. The Act, containing provisions affecting a wide variety of trade-related topics, revised numerous U.S. trade laws. The new Act, for example, seeks to strengthen U.S. efforts to fight unfair foreign trade practices, provides the President with new authority to enter into trade agreements, and approves U.S. accession to the Harmonized System. The major sections of the act deal with: trade, customs, and tariff laws; export enhancement; international financial policy; agricultural trade; foreign corrupt practices amendments, investment, and technology; education and training for American competitiveness; the Buy American Act of 1988; small business; patents; and ocean and air transportation.

In December, Contracting Parties to the General Agreement on Tariffs and Trade (GATT) held a ministerial meeting to review progress and chart the future direction of negotiations at the midpoint of a four-year round of multilateral trade negotiations. The ministers reached agreement on how to proceed with negotiations in 11 of 15 negotiating areas.¹ Further negotiations on those topics, however, were put on hold until April 1989, when frameworks for negotiations in the other four areas were agreed upon. The framework agreements included an agreement on negotiations to develop rules covering trade in services; agreement to begin eliminating import barriers in seven categories of tropical products; agreed that all measures affecting agricultural trade, directly or indirectly, will be subject to negotiation; agreed that future talks on trade-related aspects of intellectual property rights (TRIPs) will include discussion of applicability of GATT principles,

¹ The areas of agreement were tariffs, nontariff measures, tropical products, natural resource-based products, GATT articles, MTN agreements and arrangements, subsidies and countervailing measures, dispute settlement, trade-related investment measures, functioning of the GATT system, and services.

enforcement, and dispute settlement; agreed that a draft safeguards text which will serve as the basis for future negotiations in the round should be prepared by June 1989; and agreed to begin substantive negotiations on how to integrate trade in textiles and clothing into the GATT.

Omnibus Trade And Competitiveness Act Of 1988

Introduction

On August 23, 1988, President Reagan signed into law a bill² making numerous changes to U.S. laws pertaining to international trade and business. The Omnibus Trade and Competitiveness Act was the culmination of several years of debate in Congress. The bill signed by the President was identical to a bill he had vetoed earlier in the year, except that it deleted provisions from the first bill pertaining to advance notice of plant closings, and restrictions on exports of refined petroleum products produced from Alaskan crude oil. This section summarizes provisions in the act pertaining to trade agreement negotiation issues, market access, import relief, and national security. Special attention is paid to those provisions most relevant to the trade agreements program and to the work of the U.S. International Trade Commission (USITC).

Trade Agreement Negotiation Issues

Negotiating Objectives

Under prior law, the express overall objectives of the United States were: more open and equitable access to foreign markets, and the harmonization, reduction or elimination of trade distorting devices. Subtitle A of title I of the 1988 act expressly adds the objective of obtaining "a more effective system of international trading disciplines and procedures."

Several more narrow "principal" U.S. negotiating objectives are also added. Prior law contained objectives concerning a number of areas, such as services, foreign direct investment, high technology, safeguards, reciprocal access to foreign markets, and GATT revision. Among the new goals are:

- "transparency," through the observance of "open and equitable procedures in trade matters" by members of GATT;
- "rules to address large and persistent global current account surpluses of countries";
- greater coordination between international trade and monetary systems and institutions;

² Public Law 100-418. The Act incorporates as legislative history the conference report to H.R. 3 (100th Cong., 2nd Sess., (1988)), the bill vetoed by the President.

- international rules for agricultural trade; increases in U.S. agricultural exports though reductions in foreign barriers and subsidies; international agreements to reduce overall agricultural production by developed countries; and
- greater protection of intellectual property rights by foreign countries; inclusion within GATT of rules and enforcement procedures for protection of such rights.

Trade Agreement Negotiating Authority

The act also provides the President with new authority to enter into trade agreements with respect to both tariffs and nontariff barriers. Under the tariff authority, which runs until June 1, 1993, the President may conclude multilateral agreements concerning tariffs and, with certain restrictions, may implement such agreements by proclaiming changes in rates of tariffs.³ Reductions in tariffs must be made in stages unless the International Trade Commission advises the President that an article is not produced in the United States. The President must obtain congressional approval, under "fast-track" procedures described below, for any increases in tariffs or for reductions resulting in rates that are less than 50% of the rates prevailing on the date of enactment of the 1988 Act, unless those original rates are 5% ad valorem or less.

The act also authorizes the President to negotiate agreements pertaining to nontariff barriers, and to negotiate bilateral agreements regarding both tariff and nontariff barriers.⁴ Such agreements must "make progress" in meeting the negotiating objectives of the United States described above. The agreements require congressional approval through implementing legislation. For agreements entered into before June 1, 1991, Congress will consider the implementing legislation according to expedited "fast-track" procedures. Such procedures call for a straight up-or-down vote: no amendments are allowed.⁵

In determining whether to make a formal offer to enter into an agreement under these provisions, the President is required to take into account advice or information provided by, among others, the International Trade

³ See title I, subtitle A of the 1988 Act. Similar authority had been provided by the Trade Act of 1974 for the Tokyo Round of MTNs and had expired in 1980.

⁴ Similar authority for both such types of negotiations was provided in the Trade Act of 1974, as amended, and had expired in January of 1988.

⁵ "Fast-track" procedures are not to apply to any implementing bill where both houses pass "procedural disapproval resolutions" on grounds that the President has not sufficiently consulted with Congress on trade negotiations. If the President requests, the applicability of "fast-track" procedures will be extended by 2 years, unless either house adopts a disapproval resolution.

Commission and advisory committees established by the President, including the Advisory Committee for Trade Policy and Negotiations.

Under the Act, the President is to determine by June 1, 1993, whether any major industrial country that is a party to a multilateral agreement concluded under these provisions has failed to provide market access to United States firms equal to that provided under the agreement by the United States to the firms of that country. For such countries, the President is to recommend legislation preventing the application of the benefits of the agreement to some or all articles of that country.

Enactment of the Harmonized Tariff Schedule

Subtitle B of title I of the act contains formal approval for accession by the United States to the International Convention on the Harmonized Commodity Description and Coding System (Convention).⁶ The act provides for amendment of the tariff schedules of the United States so that the numbering and categories applicable to imported articles coincide with the nomenclature of the Harmonized System. The act set January 1, 1989 as the effective date for this new Harmonized Tariff Schedule (HTS) of the United States.⁷

The act provides that the U.S. Trade Representative (USTR) is to coordinate United States policy regarding the Convention. The Departments of Treasury and Commerce and the USITC are to develop proposals and represent the United States in regard to procedural and technical issues relating to the Convention in the Customs Cooperation Council.

The USITC is to keep the HTS continually under review and is to recommend rate-neutral revisions to the HTS to keep it up to date and consistent with the Convention. Based upon Commission recommendations, the President may proclaim modifications to the HTS. In 1990, the Commission is to submit a report to the President and to Congress on the first year of operation of the HTS.

⁶ For a discussion of the Harmonized Tariff System, see *Operation of the Trade Agreements Program, 39th Report, 1987*, pp. 1-12 to 1-16. The Harmonized System is technically known as the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol Thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987. See secs. 1202 and 1203 of the 1988 Act.

⁷ The Act also alters the rates of duties on a number of articles. Permanent changes are made for such items as broadwoven fabrics, work gloves and grapefruit. Temporary changes are made for frozen cranberries, certain bicycle parts, and a number of chemicals.

Other trade agreements issues

The act provides for the implementation of the Nairobi Protocol,⁸ retroactively to 1985. The Protocol calls for duty-free treatment for certain visual and auditory materials, printed matter, tools for maintenance or repair of scientific instruments, and articles for handicapped persons. The act provides authority for the President to proclaim tariff changes necessary to implement the 1987 United States-European Community Agreement on Citrus and Pasta. The act also extends the effectiveness of the International Coffee Agreement Act of 1980 from October 1, 1986, to October 1, 1989.

State trading enterprises

Subtitle A of title I of the act also provides that before the United States consents to the admission of any major foreign country to the GATT, the President is to determine whether "state trading enterprises" are major players in the economy of that country and whether such enterprises unduly burden or restrict United States trade. Where the President makes such a determination, the United States is only to consent to the admission if Congress enacts a law providing for admission, or if the country pledges that its enterprises will make purchases and sales according to commercial considerations and will afford U.S. companies opportunities to compete for such purchases and sales.

International financial policy

Subtitle A of title III of the act provides among other things that the President is to seek multilateral and bilateral agreements on better coordination of macroeconomic policies and stabilization of exchange rates at levels that would improve the current account balance of the United States. In addition, the Secretary of the Treasury is directed to analyze annually whether countries with significant global and bilateral trade surpluses manipulate exchange rates. Unless the Secretary finds that negotiations would "have a serious detrimental impact on vital national economic and security interests," the Treasury Secretary is to negotiate with such countries to ensure that their exchange rates are adjusted "regularly and promptly" to achieve a more favorable balance of payments for the United States.

Agriculture

Title IV, subtitle C of the act provides that if a law has not been enacted implementing a GATT agreement on agricultural trade and if the President does not certify by early 1990 that

⁸ Protocol to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (Florence Agreement). See title I, subtitle A of the 1988 Act.

farmers. If the President certifies that such a program would harm further negotiations, then substantial progress has been made in GATT agricultural negotiations, he is to implement a program of favorable loan repayment rates for the President must instead make available for export sale \$2 billion in excess commodities, to increase the U.S. presence in foreign markets. The President may block this release by certifying that it would create a "substantial impediment" to a GATT agreement.

Responsibilities for trade functions

Trade Representative

The act expands the responsibilities of the USTR.⁹ Under prior law, the Trade Representative was the chief U.S. representative for trade negotiations, chaired the executive branch interagency trade organization (the Trade Policy Committee), and was responsible for and reported to the President and Congress on the trade agreements program.

The act adds that the USTR is to "have primary responsibility for developing, and for coordinating the implementation of, U.S. trade policy," and to be the President's principal trade advisor and spokesman. The act expresses the sense of the Congress that the USTR is to be the senior representative on any body advising the President on trade matters, and is to be included in all international meetings at which international trade is a major topic. The act further expresses the sense of the Congress that the USTR should designate a special trade assistant for small business and should consult with the Director of the Small Business Administration on trade policy and negotiations.

The act adds new responsibilities for the USTR regarding unfair trade practices. The USTR is to coordinate the application of interagency resources to unfair trade cases and to provide information to responsible agencies and Congress on significant unfair trade practices. The USTR is to be assisted in carrying out these functions by an executive branch "interagency unfair trade practices advisory committee." The USTR may also seek the advice of the USITC.

Congressional advisors

The act provides for additional Congressional advisors on trade policy and negotiations.¹⁰ Under prior law, the Speaker of the House and the President pro tempore of the Senate could select up to 5 members of each House to serve as such advisors. Under the Act, the leader of each House may designate additional advisors from committees having jurisdiction over legislation likely to be affected by specific trade policy

⁹ See title I, subtitle F of the 1988 Act.

¹⁰ See title I, subtitle F of the 1988 Act.

matters or negotiations. No more than 3 members of any single committee may be so designated.

Market Access

Section 301 of the Trade Act of 1974

The act makes a number of significant changes to chapter 1 of title III of the Trade Act of 1974 (section 301).¹¹ Section 301 concerns investigations and actions concerning denial of United States rights under trade agreements and other "unjustifiable," "unreasonable" or "discriminatory" acts by foreign countries.¹² The act transfers the formal responsibilities for taking action under section 301 from the President to the USTR. The President retains power to direct the USTR in the exercise of these responsibilities.

The act provides for mandatory retaliatory action in certain circumstances. Under prior law, where the USTR found an offending practice by a foreign country, the President was directed to take action under section 301 if "appropriate." Under the Act, where the USTR finds that U.S. rights under trade agreements are being denied, or that acts of foreign countries are "unjustifiable" and burden or restrict commerce of the United States, the USTR "shall" take action. There are a number of exceptions to this requirement for mandatory action, including situations in which a dispute-resolution panel under a U.S. trade agreement (including the GATT) determines that United States rights are not being violated, the country has agreed to eliminate—or is making progress toward eliminating—the offending practice, or the USTR finds that taking action would cause serious harm to national security.

The USTR has discretion as to whether to take action when foreign acts or policies are found to be "unreasonable" or "discriminatory" and to burden or restrict U.S. commerce. The act adds export targeting and a persistent pattern of denial of workers' rights to the list of "unreasonable" acts.

A major provision added by the act concerns the identification of certain "priority" countries and practices which limit U.S. exports or investment abroad, and the subsequent initiation of investigations concerning them. This is the so-called "super 301" provision. In May 1989 and April 1990, the Trade Representative is to submit to Congress a list of "priority countries" and "priority practices."¹³ These designations

are to be based upon the pervasive nature of actions which limit U.S. foreign investment or exports, and the presumably enhanced potential for U.S. exports should those practices be eliminated. The act requires the USTR to initiate investigations concerning each priority practice of each priority country. The USTR has discretion as to whether to initiate investigations concerning other priority practices.

In addition, the USTR is required to produce annually a list of "priority countries" which fail to provide protection for intellectual property rights or market access for U.S. persons that rely on such rights. This is the so-called "special 301" provision.¹⁴ Such designations are to be based upon considerations similar to those mentioned above. The Trade Representative is to initiate investigations against each priority country identified.

The act expands the list of actions the USTR may take against countries found to engage in offending practices. Now included is the negotiation of an agreement in which the offending country agrees to end the offending practices or to provide compensatory benefits to the United States. The USTR is to monitor the compliance of foreign countries with agreements entered into under section 301. When unsatisfactory implementation is found, the USTR is to decide what further action to take.

The act gives the USTR the power to modify or terminate action under section 301 due to changed circumstances. In addition, the USTR is to terminate those actions which have been in operation for at least 4 years, unless the domestic industry concerned requests continuation and the Trade Representative decides that continuation is appropriate after considering certain factors.

Other provisions

Telecommunications products

The act sets up a scheme similar to super 301 in regard to telecommunications products. Under the Act, the USTR is to designate "priority countries" based on the extent of trade barriers to U.S. firms and the potential for U.S. exports of telecommunication products and services.¹⁵ The USTR is to add or delete countries from the list of

¹³—Continued

on wood products (Japan); import bans and other licensing restrictions (Brazil); and trade-related investment measures, and insurance market practices (India).

¹⁴ In May 1989, the USTR designated no countries as "priority countries" under special 301. However, USTR created a "priority watch list" of trading partners that "maintain intellectual property-related practices or barriers to market access that are of particular concern." Countries listed were Brazil, India, Mexico, People's Republic of China, Republic of Korea, Saudi Arabia, Taiwan, and Thailand. Seventeen additional countries were placed on a "watch list."

¹⁵ See title I, subtitle C of the 1988 Act. In February 1989, the USTR submitted to Congress a list designating Korea and the European Community as "priority countries" in regard to telecommunications trade.

¹¹ See title I, subtitle C of the 1988 Act.

¹² For a discussion of investigations and actions under section 301 in 1988, see ch. 5.

¹³ In May 1989, the USTR designated Japan, Brazil, and India as "priority countries" in regard to super 301.

Priority practices listed were ban on government procurement of foreign satellites, exclusionary procurement of supercomputers, and restrictive standards

"priority countries" as appropriate. The President is required to initiate negotiations with each priority country. If negotiations are unsuccessful, the President is to take appropriate action, which may include actions allowed under section 301, suspension or termination of trade agreements with respect to telecommunications products, or prohibition of U.S. Government purchases of telecommunications products of that country.

Government purchases

Title VII of the 1988 act amends the Buy American Act of 1933 in several significant respects. Regulations interpreting the 1933 act provided for certain price preferences for U.S. goods and services in Government procurement. The 1988 act provides that no agency of the Federal Government may contract for foreign goods or services from certain countries identified annually by the President. These countries are (1) those bound by and in violation of the GATT Agreement on Government Procurement (Agreement), and (2) those countries whose goods or services are acquired "in significant amounts" by the U.S. Government and which discriminate against U.S. products or services in Government purchases. Exceptions are for least-developed countries, for goods and services procured outside the United States, and where the ban would be contrary to the public interest or would result in insufficient competition.

Before imposing a ban, the President is to seek to negotiate the elimination of the discrimination. In the case of a country and products or services covered by the Agreement, this may include a request for formal dispute resolution procedures under the Agreement. The act provides that the President may limit the ban on procurement to coincide with the extent of the foreign discrimination. He may terminate the ban if the country makes improvement, or if a dispute resolution panel finds in favor of the foreign country. This provision of the act is to cease to be effective on April 30, 1996, unless Congress extends it.

Government securities

The act provides that persons of a foreign country are not to be allowed new or continued designation as "primary dealers" of Government debt instruments in the United States where that country discriminates against U.S. citizens regarding opportunities to underwrite and distribute Government debt instruments.¹⁶ Persons from Canada and Israel are excepted, as well as designations that were made before August, 1987.

¹⁶ See title III, subtitle F of the 1988 Act.

Import Relief Laws

Countervailing and antidumping duty investigations

The act made several changes to the laws relating to countervailing and antidumping duty investigations.¹⁷ Discussed here are the amendments pertaining to prevention of circumvention, short life cycle products, material injury and threat factors, and cumulation.

The act provides that in certain circumstances the Department of Commerce may include within the scope of an outstanding countervailing or antidumping duty order additional merchandise in order to prevent circumvention of the order. Such merchandise may include parts used to create a finished product that is subject to an order, merchandise assembled or completed in a third country, merchandise altered in minor respects, and similar merchandise developed after the initiation of the investigation. Except in the case of merchandise altered in minor respects, if the USITC has made a prior affirmative injury determination concerning the original merchandise, the statute provides for consultations between the Commission and Commerce over whether the proposed inclusion would be inconsistent with the prior Commission determination.

The act provides that certain domestic entities may petition the Commission to establish a product category for particular "short life cycle merchandise" that has become the subject of two or more affirmative anti-dumping determinations. Short life cycle merchandise is defined as merchandise that, due to technological advancements, is likely to become outmoded within four years from when it became commercially available. In an investigation involving merchandise in such a category, established by the Commission, Commerce is to make an expedited dumping determination in certain circumstances.

The act modifies the list of factors the Commission is to consider in its assessment of the effects of imports on the domestic industry. For both material injury and threat, the Commission is to consider, in addition to the factors already contained in prior laws, "the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product." As to material injury, the act directs the Commission to weigh effects of imports "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." The act also replaces price "undercutting" with price "underselling" by the imports in the list of factors to be considered by the Commission.

¹⁷ See title I, subtitle C of the 1988 Act.

Under prior law, in its consideration of material injury, the Commission was to assess cumulatively the impact of imports under investigation from more than one country if such imports competed with each other and with the domestic like product. The 1988 act provides that when similar conditions are met the Commission may also cumulatively assess imports in its consideration of threat of material injury. The Commission may forego cumulation if imports from a particular country are "negligible and have no discernible impact on the domestic industry."

In addition, the act provides that authorized representatives of parties are to be afforded expanded access under protective order to proprietary business information obtained by the Commission and Commerce in antidumping and countervailing duty investigations.

Intellectual property rights

Section 337 of the Tariff Act of 1930¹⁸

Section 337 of the Tariff Act of 1930 governs investigations by the USITC concerning infringement of patents, copyrights, and trademarks, and other unfair import practices. In investigations involving violations based on infringement of a valid and enforceable U.S. patent, or a registered trademark, copyright or mask work, the 1988 act eliminates the requirement that the Commission find injury to the domestic industry before finding a violation. The act also defines the term domestic "industry" for these investigations. An industry is defined to exist if there is "significant investment in plant and equipment, significant employment of labor or capital, or substantial investment in exploitation (of the patent, etc.), including engineering, research and development, or licensing."

The act retains the previous industry and injury test for investigations involving other unfair acts or methods of competition in import trade. For all investigations, the act eliminates the requirement that the Commission find that the domestic industry is "efficiently and economically operated" before ordering relief. In addition, the Commission is given explicit authority to terminate an investigation based upon a settlement agreement or by issuing a consent order, without making a determination of whether there is a violation of section 337.

The act adds a deadline for Commission decisions on whether to grant temporary exclusion or cease and desist orders. Prior to the 1988 Act, there was no statutory deadline for such determinations, although Commission rules provided for a deadline of 7 months. The act

¹⁸ See title I, subtitle C of the 1988 Act.

requires the Commission to decide on a request within 90 days from the publication of notice of institution of the investigation in the Federal Register, or within 150 days in a case that the Commission designates as "more complicated." The Commission may require the complainant to post a bond as a prerequisite to the granting of temporary relief.

The act provides for the issuance of exclusion orders and cease and desist orders in cases where respondents, after notice, do not make an appearance in an investigation. Where relief is requested against a respondent who fails to appear without good cause, the Commission is to presume the facts as alleged by complainant and, with certain exceptions, is to issue a remedial order limited to that respondent. The Commission may issue a general exclusion order, applicable to imports from all countries, where no respondent appears and a violation is shown by "substantial, reliable, and probative evidence."

The act provides that the Commission may direct that goods imported in violation of an exclusion order be seized and forfeited to the United States in certain circumstances. The goods may be seized and forfeited if the owner, importer, consignee, or the agent of any such person, had entry of the goods previously denied because of the exclusion order and was given a written warning that further attempts to import the goods would result in forfeiture.

Process patents

Subject to several procedural requirements and certain exceptions, title IX of the 1988 act makes it a violation of patent law to sell or use within the United States, or import into the United States, a product made in any country by means of a process patented in the United States. Under prior law, a process patent could generally be infringed only if the process was practiced in the United States. Thus, it would not be a violation to make a product in another country and import it into the United States. Such action could violate section 337, but that section, unlike district court patent infringement actions, does not provide for monetary damages. Thus, it will now be possible to recover monetary damages for the importation, sale, or use in the United States of a product made by means of a process patented in the United States.

Positive Adjustment to Import Competition (section 201)

General

Chapter 1 of title II of the Trade Act of 1974 (section 201), the so-called U.S. escape clause law, concerns investigations by the USITC to determine whether increased imports of an article have been a substantial cause of serious injury or threat to a domestic industry. The act does not

change the basic injury standard, which is based on that of article XIX of the GATT. However, the act places additional emphasis on industry adjustment during the relief period.¹⁹ The act provides that following an affirmative injury determination by the USITC, the President is to take action that will "facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs." The act states that such positive adjustment may include the transfer of labor and capital to other "productive pursuits." A petitioner may submit a "plan to facilitate positive adjustment to import competition."

Under prior law, the Commission was to report its findings to the President within 6 months from the initiation of the investigation. If the Commission found injury, it would include in the findings its recommendations for Presidential action in the form of duties, other import restrictions, or trade adjustment assistance. The act provides that the injury determination is to be made by the Commission within 120 days, and its recommendations as to action, if any, within 180 days of the filing of a petition or receipt of a request. The Commission is to hold a public hearing before making each of the two determinations. In addition, the Commission is to provide in any recommendations to the President its assessment of the short- and long-term effects of following and of not following its recommendations.

The act expands the types of action the Commission may recommend to the President, as well as the types of action the President is authorized to take. In addition to actions provided for in prior law, the Commission may now recommend that the President undertake negotiations to address the underlying cause of the injury, or that he implement any other action otherwise authorized under law. The President may take the additional actions of allocating import licenses, initiating international negotiations, submitting legislative proposals, and any actions otherwise authorized by law. In addition, the act authorizes follow-up action by the President "to eliminate any circumvention of any action previously taken."

The act expands the reporting requirements of the Commission. For each industry for whose benefit action is being taken, the Commission is to make biennial reports to Congress and the President on its monitoring of industry developments. In addition, the Commission must now conduct an evaluation, which is to include a public hearing, of the effectiveness of each concluded action or set of actions.

¹⁹ See title I, subtitle D of the 1988 Act.

Provisional relief

The act contains new provisions for the granting of provisional relief in an investigation under section 201 in the form of duties or quantitative restrictions, in two different sets of circumstances. A petitioner may allege the existence of "critical circumstances," defined to exist where delayed action would be ineffective because of a substantial increase in imports over a relatively short period. In general, the Commission makes a determination on whether critical circumstances exist at the same time as it makes its injury determination.

In addition, an entity producing a product that is like or directly competitive with an imported perishable agricultural product may request that the Trade Representative ask the Commission to monitor the imported product. After at least 90 days of monitoring by the Commission, the entity may request the Commission to determine within 21 days whether increased imports of the product are a substantial cause of serious injury that requires immediate action.

If the Commission makes an affirmative determination regarding critical circumstances or a perishable agricultural product, it reports to the President the amount or extent of provisional relief in the form of a tariff, quota, or both, necessary to address the injury. The President is to decide what provisional relief to provide, if any, within 7 days after receiving the Commission's report. Provisional relief terminates following a negative determination by the Commission at the conclusion of the normal 180-day investigation, Presidential action (or inaction) after the 180-day investigation, or when the President finds changed circumstances.

Market Disruption

Section 406 of the Trade Act of 1974 concerns investigations by the USITC into whether imports from a Communist country are causing "market disruption." Based upon an affirmative determination, the President may take actions similar to those permitted in the case of section 201 actions.²⁰

The act explains the terms "increasing rapidly" and "significant cause" of injury of section 406. The Conference Report expresses concern that the Commission had adopted an unduly restrictive interpretation of these terms. The act also provides several factors that the Commission is to consider in making its determination as to "market disruption." The factors include volume of imports, effects of

²⁰ The changes made by the Act in regard to the types of actions the President is authorized to take in investigations under section 201 are not extended to investigations under section 406. See title I, subtitle D of the 1988 Act.

imports on prices in the United States, effects on U.S. producers, and "evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns."

Trade Adjustment Assistance

Chapter 2 of title II of the Trade Act of 1974 provides for trade adjustment assistance (TAA) to eligible workers in the form of trade readjustment allowances, training and other employment services, and relocation and job search allowances. Chapter 3 provides for TAA to firms in the form of technical assistance.

The act requires the President to seek the negotiation of an agreement altering GATT rules to allow countries to impose a uniform fee on imports of up to 0.15% for the purpose of funding trade adjustment assistance programs. If such an agreement is reached, the fee would go into effect in the United States.²¹ If negotiations prove unsuccessful, the fee is to go into effect two years from the date of passage of the Act, unless the President certifies that the fee is not in the national economic interest. Even with such a certification, the fee is to go into effect if Congress passes a joint resolution disapproving the President's certification. The act also extends the sunset date for authorization of trade adjustment assistance for workers and firms from September of 1991 to September of 1993.²²

National Security

Section 232 of the Trade Expansion Act of 1962

Section 232 of the Trade Expansion Act of 1962 concerns investigations by the Secretary of Commerce into whether articles are being imported into the United States in such quantities or under such circumstances as to threaten national security. Based upon the Secretary's report, the President may take actions against the imports.

Subtitle E of title I of the 1988 act shortens the time period for the Secretary of Commerce's investigation from one year to 270 days. The act also adds a deadline of 90 days for the President to decide upon what action to take in response to an affirmative determination by the Secretary. The deadline for reporting this decision to Congress is shortened from 60 to 30 days.

²¹ See title I, subtitle D of the 1988 Act. The United States would seek consent from parties with which the United States maintains a free-trade agreement before applying such a fee to goods from those countries.

²² The Act also authorizes nearly \$1 billion for fiscal year 1989 for programs under title III of the Job Training Partnership Act, and removes the requirement that states match some or all of the funds made available to them under title III. Title III provides funds for readjustment activities such as job search, training, relocation assistance and supportive services. See title VI, subtitle D of the 1988 Act.

Export Controls

The 1988 act reduces restrictions on U.S. exports. The act provides that all licensing requirements are to be rescinded for exports to those countries of the Coordinating Committee on Multilateral Export Controls (COCOM)²³, or equivalent countries, that maintain effective systems of export controls. In addition, for exports to other free world countries, export licenses are no longer to be required for exports of goods which, if exported to a "controlled" country, would require only notification but not approval of COCOM. These are so-called administration exception note-level goods. With certain exceptions, the act also eliminates the license requirement for re-exports among COCOM countries, and expands the exemption for licenses for re-export to other countries.

The act limits the list of items subject to control for national security reasons. Any control unilaterally maintained by the United States is to be ended within 6 months, except for items for which the Secretary of Commerce makes a finding of no foreign availability, or for which the President is "actively pursuing negotiations" with other countries to end foreign availability. The act eliminates controls over goods found to be less sophisticated than those for which foreign availability is found. Disputes between the Secretaries of Commerce and Defense over the inclusion of items on the control list are to be resolved within 40 days.

The act imposes sanctions upon two foreign firms found to have violated export control provisions, and establishes a new set of sanctions for future violations. The act declares that the sale of sophisticated milling machinery to the Soviet Union for use in manufacturing submarines had a "serious impact" upon Western security interests.²⁴ The act prohibits for 3 years the importation or Government procurement of or contracting for any product or service of the Toshiba Machine Company, the Kongsberg Trading Company, and any other entity found by the President to have knowingly facilitated the sale. The act also prohibits for 3 years U.S. Government procurement of or contracting for any product or service of the parent companies, Toshiba Corporation and Kongsberg Vaapenfabrikk. The act makes exceptions to the sanctions for certain defense-related contracts or goods, certain pre-existing contracts, spare parts, components essential to U.S. products, and routine servicing.

The act provides for mandatory and discretionary sanctions for future violations. The President is to apply sanctions where a

²³ See title II, subtitle D of the 1988 Act. COCOM member countries are the members of the North Atlantic Treaty Organization minus Iceland, plus Japan.

²⁴ For a discussion of export control violations, see *Operation of the Trade Agreements Program, 39th Report, 1987*, pp. 4-25 to 4-26.

government or firm violates COCOM rules and the export is found to have a "serious adverse impact on the strategic balance of forces." Sanctions include a prohibition on imports and government procurement and contracting for two to five years for the company involved and, with exceptions, for related companies. Sanctions would contain similar exceptions to those found in the sanctions against Toshiba.

The President is to seek compensation from the violating company through negotiations and, where appropriate, in Federal court. The President has discretion whether to impose sanctions for up to 5 years when he finds a violation of export control rules, but does not find a serious adverse impact on Western security interests.

The Midterm Review of the Uruguay Round

Overview

The end of 1988 marked the mid-point of the Uruguay Round of multilateral trade negotiations, which was launched in September 1986 by the trade ministers of GATT's member nations.²⁵ In December 1988, the trade ministers of nearly 100 participating countries assembled in Montreal, Canada for a midterm review of developments in the trade round.²⁶ As a formal ministerial-level session of the Trade Negotiations Committee (TNC), the body responsible for oversight of the round, the meeting was lead by the TNC chairman Ricardo Zerbinio, Uruguayan Minister of Finance. The goal of the Montreal Ministerial meeting was to provide the political momentum to keep the Uruguay Round on track and to define guidelines for negotiations over the remaining two years of the round.²⁷

At the meeting, agreement was reached in most areas. However, the United States and the European Community were unable to agree on a negotiating plan to liberalize trade in agriculture. Agriculture was not the only area on which participants were unable to reach agreement;

²⁵ At the close of a September 1986 meeting in Punta del Este, Uruguay, GATT trade ministers launched the Uruguay Round of Multilateral Trade Negotiations. The Ministerial Declaration agreed to at the meeting contained a standstill and rollback commitment to curb protectionist actions pending completion of negotiations; scheduled 4 years of talks during which participants will try to improve GATT rules, notably those covering agriculture, safeguards, dispute settlement, and nontariff measures; and committed participants to try to develop GATT rules covering trade in services, intellectual property rights, and investment. For a discussion of the Punta del Este GATT Ministerial, see *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, pp. 1-1 to 1-7.

²⁶ The formal name of the meeting was "Meeting of the Trade Negotiations Committee at the Ministerial Level."

²⁷ For further information on the Uruguay Round developments in 1988, see ch. 2 of this report.

others included trade-related aspects of intellectual property rights (TRIPs), safeguards, and textiles and clothing. As a result of the lack of agreement on the four outstanding issues, several Latin American countries refused to go forward and approve texts on which they had made compromises in view of benefits they hoped to gain in agriculture concessions.²⁸ Their stance was that concessions agreed to in other areas must be balanced with agreement in the agricultural talks, a critical area for their economies. Agreement on negotiations in agriculture is essential to these countries, as their economies rely heavily on agricultural exports.²⁹ These countries wanted to see commitments on specific agricultural products, not just a broad commitment to the reform of farm trade. These developing countries held fast to this position despite intensive consultations with the United States and other developed countries.³⁰

The meeting, which began on December 5, was extended an extra day to December 9, yet was adjourned without compromise on the four topics. As a result, final adoption of the entire package of negotiating plans was postponed. Trade ministers parted with an agreement to try to resolve their differences by April 1989, in time for a meeting of the TNC at the senior-official level in Geneva.

The agriculture dispute overshadowed successful results achieved in Montreal in many other areas. Ministers reviewed texts of guidelines, agreements, negotiating frameworks, and progress reports submitted by the 15 negotiating groups.³¹ They approved texts for 11 of the 15 groups.³² In tropical products, negotiators had successfully completed a package of trade concessions prior to the meeting. Some of the most notable agreed texts dealt with such topics as services, dispute settlement, and the functioning of the GATT system. Discussions on services resulted in a framework to guide further

²⁸ Among the countries that were not willing to support the approval of the package without agriculture were Uruguay, Colombia, Brazil, Argentina, Chile, and Peru, some of which are members of the Cairns group of agricultural exporting countries. See *International Trade Reporter*, Vol. 5, No. 49, Dec. 14, 1988, p. 1618. The Cairns Group includes Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay. The group's name comes from the Australian city where the members first met in August 1986 and called for "the removal of market access barriers, substantial reduction of agricultural subsidies and the elimination, within an agreed period, of subsidies affecting agricultural trade."

²⁹ *FOCUS: GATT Newsletter*, No. 59, January 1989, p. 2.

³⁰ See *International Trade Reporter*, Vol. 5, No. 49, Dec. 14, 1988, p. 1618.

³¹ For more details on the activities in each of the negotiating groups, see ch. 2.

³² This section presents highlights of the midterm review and its outcome. Greater detail on the progress of the Uruguay Round and each of the negotiating groups in 1988 is contained in ch. 2.

negotiations that aims to extend GATT principles such as transparency, national treatment, and nondiscrimination to trade in services. Ministers agreed to procedures that improve GATT's ability to settle trade disputes and to enhance the functioning of the GATT through more systematic surveillance of trade policies. Highlights of the areas of disagreement and of the agreed-upon texts from the Montreal meeting, and a summary of the April 1989 resolution of the 4 disputed topics, are provided below.³³

Areas of Disagreement

Agriculture³⁴

Agriculture was the most difficult subject to resolve. The U.S. and EC were unable to resolve differences in negotiating objectives related to the timing and the scale of reform to be undertaken or when and how far to go in eliminating farm subsidies and other trade distorting measures. The United States argued that negotiators should agree to eliminate all measures that distort trade in agriculture within a given time frame. The EC was willing to agree only to "substantial reduction," rather than elimination, of farm subsidies.³⁵

A compromise on agriculture was reached at the April 1989 resumption of the midterm review. The agreement on agriculture provides that the process for the negotiations will take place over the next 18 months. In the long term, the objective of the negotiations will be substantial progressive reductions in agricultural support and protection. Ministers agreed that implementation of the long-term reform measures would begin in 1991. The United States expects this commitment to lead to the correction and prevention of restrictions and distortions in global agricultural trade.³⁶ Negotiators agreed that all measures, with either direct or indirect effects, will be put on the table for final bargaining. They also agreed to submit all proposals on how to arrive at a market-oriented agricultural trading system and on possible changes in agriculture-related GATT

³³ The final text containing midterm review agreements can be found in GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release NUR 023, Dec. 14, 1988.

³⁴ The negotiating objectives of the Agriculture Group, as detailed in the Punta del Este Declaration, were to achieve greater liberalization of trade in agriculture through (1) improving market access by reducing import barriers, (2) improving the competitive environment by increased discipline in the use of subsidies and other measures affecting trade, and (3) minimizing the adverse trade effects of health and sanitary regulations.

³⁵ As pointed out by USTR Yeutter, the EC's position on agriculture stems in part from "powerful farm blocs, particularly in France, and the Community's extensive export subsidy policies." "U.S. Objectives in the New Round of MTN," Testimony of Ambassador Clayton Yeutter before the U.S. Senate Committee on Finance, May 14, 1986.

³⁶ *Financial Times*, Apr. 21, 1989, p. 12.

rules and disciplines by the end of 1989. Proposals to harmonize sanitary and phytosanitary regulations will also be submitted and considered. As for short-term measures, participants agreed to hold domestic and export support and protection at or below current levels during 1989. By October 1989, negotiators plan to reveal specifics regarding intended reductions in support and protection levels during 1990.

Intellectual Property³⁷

In intellectual property negotiations, some developing countries, such as Brazil and India, continue their longstanding opposition to conducting negotiations on intellectual property rights within the context of the GATT. This opposition predates the start of the Uruguay Round. The Indian delegation, with some support from other countries, maintained that the competent organization to deal with these matters is the World Intellectual Property Organization (WIPO). The Indian delegation blocked action on intellectual property rights at the Montreal meeting, as they did not want standards or enforcement provisions for intellectual property rights.³⁸ The group of developed and developing countries that are willing to negotiate, nevertheless, narrowed their differences substantially at the Montreal meeting, in spite of being unable to reach final agreement before its close.³⁹

The United States favors developing GATT rules on TRIPs. This effort grows from increasing concern by the U.S. private sector about trade in counterfeit goods in recent years, particularly in industries such as computer software and pharmaceuticals.⁴⁰

At the April meeting, members agreed that future GATT negotiations on TRIPs should include: the applicability of the basic principles of the GATT and of relevant international intellectual property agreements or conventions; the provision of adequate standards and principles concerning the availability, scope and use of TRIPs; the provision of "effective and appropriate" means to enforce TRIPs; and the provision of "effective and expeditious" procedures to prevent and settle disputes.

³⁷ The negotiating objective outlined at the Punta del Este meeting for intellectual property are to promote effective and adequate protection of intellectual property rights and to ensure that such protection is implemented in ways that do not obstruct legitimate trade.

³⁸ "Special Report, the GATT Negotiations: Mid-Term Review for the Uruguay Round." *Washington International Business Report*, vol. XVII, No. 88-13, p. 4, December 1988.

³⁹ "The Uruguay Round at Mid-Term," *Business America*, vol. 110, No. 1, Jan. 16, 1989, p. 5.

⁴⁰ "U.S. Objectives in the New Round of Multilateral Trade Negotiations," Testimony of Ambassador Clayton Yeutter before the U.S. Senate Committee on Finance, May 14, 1986.

Representatives also agreed that negotiations should include development of a "multilateral framework of principles, rules, and disciplines" dealing with trade in counterfeit goods, and that the negotiations "should be conducive to a mutually supportive relationship between GATT and WIPO."

Safeguards⁴¹

The two-part safeguards text that Ministers could not agree to approve, consisted of a work plan and a timetable for further negotiations in the group on safeguards. Although many elements of the text were not controversial, a few points of disagreement remained. India, with support from a few other developing countries, was unable to persuade other countries to agree to its position. They sought agreement that safeguard actions should have time limits; that they should be nondiscriminatory rather than selective;⁴² and that "grey area" measures, usually safeguard-like actions taken without following GATT safeguard rules and applied selectively, should be eliminated. These are some of the same stumbling blocks as have been encountered for years.⁴³

Although no consensus emerged in April on specific means to strengthen article XIX, negotiators reached a compromise that enables the work of this negotiating group to go forward. They set a June 1989 deadline for the preparation of a draft text that will serve as the basis for negotiations in the remainder of the round. Participants were encouraged to submit their proposals by the end of April. The April text stresses the importance of reaching a comprehensive agreement which establishes multilateral control over safeguard measures. Negotiators envision an agreement that will reinforce the disciplines of the General

⁴¹ Negotiators are working toward an agreement that will reinforce the discipline of article XIX of the General Agreement on "emergency" or "escape clause" import relief.

⁴² Some countries have long argued that GATT safeguards provisions would be more effective and better adhered to if the measures could be taken selectively against those countries mainly responsible for import surges. This concept, known as "selectivity" is not currently allowed under GATT article XIX, which requires nondiscriminatory, global restraints. GATT, *News of the Uruguay Round of Multilateral Trade Negotiations*, Press Release No. NUR 005, July 3, 1987.

⁴³ According to the 1982 Ministerial Declaration, a comprehensive understanding on proposed safeguards was to be presented by the Safeguards Committee of Contracting Parties in 1983. Despite universal agreement on the need for a safeguards code, wide disagreement persists over some of the fundamental concepts involved, i.e. selectivity and grey area measures. For further discussion on safeguard negotiations, see *Operation of the Trade Agreements Program, 34th Report, 1982*, pp. 74-75, *35th Report, 1983*, p. 59, *37th Report, 1985*, pp. 47-48.

Agreement and elaborate on transparency, criteria for action such as serious injury, digressivity (or the progressive reduction of measures), structural adjustment, compensation and retaliation, and procedures for notification, consultation, surveillance, and dispute settlement. The United States would like to see such an agreement deal with so-called grey area measures, or safeguard-type actions that are implemented without using GATT procedures and that are currently outside of multilateral control. GATT member countries differ in their aims in this regard. Some would like to see the negotiations allow grey area measures to be subject to multilateral scrutiny, while others would like to see them eliminated. Because of the remaining differences, approval for the plan for safeguard negotiations was gained only with the understanding that it did not bind participants to any specific positions regarding the final outcome on major negotiating issues.

Textiles and Clothing⁴⁴

In textiles and clothing negotiations, a number of countries have tabled proposals, but the group as a whole did not agree on a common negotiating plan in time for the Montreal meeting. Some of the proposals that have been made include (1) a phaseout of MFA restrictions beginning on the expiration of the present MFA protocol (July 31, 1991), (2) a freeze on further restrictions under the MFA, and (3) a commitment by all participants to contribute towards liberalization of textiles and clothing trade.⁴⁵ The United States opposes the suggestion of a freeze on existing textile restraints.⁴⁶ Some developing countries want liberalization of trade in textiles, including the application of GATT principles.

The text agreed to in April contained several points regarding future Uruguay Round negotiations on textiles and clothing. First, GATT members agreed on the importance of the textiles and clothing sector for the economies of many countries, notably many developing countries. Second, they agreed that textiles and clothing negotiations are "one of the key elements" of the Uruguay Round negotiations, and that negotiations in this sector should contribute to further trade liberalization. Third,

⁴⁴ Textiles and clothing negotiations are intended to develop a means to eventually eliminate the Multifiber Arrangement (MFA) and bring textiles under GATT rules. The MFA allows the signatories to it to establish quantitative limits on textile and apparel imports to prevent market disruption in the importing country. These restrictions are a departure from the GATT provision of MFN treatment. The only principal textile importing or exporting country that has not signed the MFA is Taiwan.

⁴⁵ "News of the Uruguay Round of Multilateral Trade Negotiations," Information and Media Relations of the General Agreement on Tariffs and Trade, NUR 023, Dec. 14, 1988.

⁴⁶ "Accord Sighted in 4 Key Areas," *The Journal of Commerce*, Apr. 5, 1989, p. 1.

the GATT representatives agreed on certain points for achieving "substantive results" in textiles and clothing, including: agreement to begin "substantive negotiations" in April 1989 to allow parties to reach agreement by December 1990 on modalities for the integration of the sector into the GATT; agreement that such modalities for the integration process of the sector into the GATT should include phasing out current restrictions on textiles and clothing under the MFA and other forms of restriction not consistent with GATT rules and disciplines; agreement to invite participants to table additional proposals by June 30, 1989 on how to meet these goals; and agreement that the least developed countries should be accorded special treatment.

Areas of Agreement

Ministers agreed to the direction of future negotiations and other aspects of the talks on the 11 other negotiating topics. This section summarizes the outcome of discussions in these areas. Agreement on negotiating plans were reached in a number of areas before the midterm review convened. A few groups made progress in discussions but did not reach substantive results at the Montreal meeting. Such groups were directed by the ministers to begin considering concrete proposals as soon as possible in 1989.⁴⁷ The only group that actually concluded a set of trade concessions by yearend is the tropical products negotiating group, whose work was slated for "fast track" treatment in the Punta del Este Ministerial Declaration.

Dispute Settlement⁴⁸

Consensus on measures to streamline GATT dispute settlement had been reached by the time of the midterm review. Ministers at Montreal agreed to reforms that include (1) time limits on the stages of the process, (2) provision of a timely and flexible arbitration mechanism as an alternative to normal dispute settlement procedures, (3) expedited selection of dispute settlement panel members, (4) use of standard terms of reference (the mandate of a panel), (5) harmonization of procedures where more than one country levels a complaint, and (6) improved surveillance of implementation of panel reports by the GATT Council once they are adopted.⁴⁹

⁴⁷ See write-ups on the individual negotiating groups in ch. 2.

⁴⁸ Negotiations on dispute settlement will aim to "ensure prompt and effective resolution of disputes . . . to improve and strengthen the rules and procedures of the dispute settlement process." "The Uruguay Round—Decisions of January 28, 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 22.

⁴⁹ GATT members intend to begin implementing the agreed upon improvements to the dispute settlement procedures after the meeting of the TNC in April 1989.

For the duration of the Uruguay Round, the group's negotiators will continue to work toward agreement on improvements in other aspects of the dispute settlement process.

The United States urged that the agreed upon procedures should take effect provisionally on January 1, 1989. Since the agreements of all committees were on hold, implementation was deferred until after the TNC meeting in early April 1989.⁵⁰

Functioning of the GATT System⁵¹

In Montreal, ministers agreed to authorize a Trade Policy Review Mechanism (TPRM) in which Contracting Parties would examine individual members' national policies that affect the international trading environment. Such examinations are to occur on a regular basis. Ministers also agreed to hold meetings of the Contracting Parties with ministerial-level involvement at least every two years. With regard to cooperation with international financial institutions, the ministers agreed only to call for continuing exchanges of information between senior officials of the GATT, the IMF, and the World Bank.

Participants generally agreed to the understanding that surveillance through TPRM, while promoting closer adherence to GATT principles through greater transparency and understanding, should not be a basis for the enforcement of specific obligations under GATT or a substitute for dispute settlement procedures.⁵² They agreed that the function of the review mechanism is to examine the impact of a Contracting Party's trade policies and practices on the multilateral trading system. This will be accomplished by the periodic filing and review of full reports which will describe each member's trade policies and practices. In the interim, contracting parties will provide brief reports noting any significant changes in their trade policies.

GATT Articles⁵³

The group had achieved no final agreement on changes in particular articles by the midterm

⁵⁰ In April, Contracting Parties agreed to implement the changes to dispute settlement procedures for all disputes brought to the GATT after May 1, 1989.

⁵¹ The objective of this negotiating group is to improve the institutional features of the GATT such as (1) surveillance and monitoring of trade policies and practices, (2) the effectiveness of its decision making, and (3) its relationship with other international organizations responsible for monetary and fiscal affairs.

⁵² GATT, *News of the Uruguay Round of Multilateral Trade Negotiations*, NUR 020, Nov. 4, 1988.

⁵³ GATT members plan on strengthening GATT by improving some of its rules. Certain articles, such as article XVII on state trading enterprises, XXIV on customs unions and free-trade areas, and XXVIII on modification of concessions, have been singled out for improvement of their effectiveness and observance.

review. Therefore, in Montreal, the trade ministers reviewed the work done thus far in the group and urged negotiators to submit any further proposals no later than December 1989.

MTN Agreements and Arrangements⁵⁴

At the midterm review, Ministers reviewed and summarized the progress of the group and the existing areas of agreement. The Ministers noted the importance of the group in promoting improvements and wider membership in the MTN agreements and the importance of the group's work in fostering the effectiveness of the GATT and the stability and predictability of trade. The Ministers directed the early submission of draft agreements to help expedite these negotiations.

Natural Resource-based Products⁵⁵

At the Montreal meeting, trade ministers agreed that the group should continue its examination of issues related to trade in natural resource-based products and to pursue a negotiating plan for these products. The group agreed that its discussions would cover products in three sectors: fisheries, forestry, and nonferrous metals and minerals. Because of the potential overlap with other negotiations, the ministers also agreed that the group must ensure that its negotiations are consistent with activities in other negotiating groups. Finally, the group's participants were directed to provide relevant data on trade and barriers in the agreed-upon product areas by the end of March 1989.

Nontariff Measures⁵⁶

The midterm review text on nontariff measures was drafted prior to the Montreal meeting and did not present any areas of disagreement at that time. The declaration worked out by the ministers developed a work plan for future efforts of the group and allowed for the use of a variety of negotiating techniques. The work plan envisions the start of detailed negotiations by June 1989.

⁵⁴ The Punta del Este declaration assigned this group the task of improving the operation of the codes negotiated during the Tokyo Round. These codes include antidumping, subsidies and countervailing duties, standards, government procurement, customs valuation, and import licensing.

⁵⁵ Tariffs, NTM's, and tariff escalation affecting trade in processed and semiprocessed natural resource products will be the focus of these negotiations. "The Uruguay Round—Decisions of January 28, 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 12.

⁵⁶ In negotiations on nontariff barriers, the central aim, like that in tariff negotiations, is to liberalize global market access. "The Uruguay Round—Decisions of January 28, 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 10.

Services⁵⁷

Discussions on services resulted in a framework agreement to guide further negotiations. The framework includes GATT principles of transparency in laws and regulations, national treatment for foreign suppliers, and nondiscrimination. Agreement on the services text, whose controversial history made it a prime candidate for discord, was no small achievement. Even before the launching of this round, Brazil and India had most strenuously opposed the inclusion of services. They saw disadvantages to opening up trade in a sector in which the United States and other developed countries have a distinct competitive lead.⁵⁸

An agreement in services was actively sought by the United States because the services industry accounts for about \$60 billion annually in U.S. exports. Prior to the launching of the Uruguay Round, USTR Yeutter stated that the United States needs "to act now to develop meaningful rules to discipline government actions that restrict or distort the movement of services internationally before protectionism in this sector curtails our access to foreign markets."⁵⁹

The ability to arrive at an agreement, therefore, was seen as one of the successes of the Montreal meeting.⁶⁰ The agreement on services reached at the midterm review established a work program and a timetable for progress over the next two years. It established fundamental principles to cover negotiations including national treatment, transparency, most-favored-nation treatment, and market access. It also paved the way for negotiations to begin on sectoral coverage of the framework agreement. Consistent with a longstanding U.S. position, the agreement does not expressly authorize sectoral reciprocity. Efforts by some developing countries to narrow the scope of the services negotiations and to include extensive language on special and differential treatment did not succeed. The United States had opposed these efforts.⁶¹

⁵⁷ The objectives of the services negotiations are to expand and liberalize services trade by establishing a multilateral framework of principles and rules and elaborating possible disciplines for individual service sectors.

⁵⁸ Diane C. Yu and Charles H. Blum, "The New GATT Round Preliminary Developments and Future Plans: A Report from the Administration," In U.S. Trade Law and Policy, Commercial Law and Practice Course Handbook Series, No. 408, Practising Law Institute: 1987, p. 412.

⁵⁹ "U.S. Objectives in the New Round of Multilateral Trade Negotiations," Testimony of Ambassador Clayton Yeutter before the U.S. Senate Committee on Finance, May 14, 1986.

⁶⁰ "The Uruguay Round at Mid-Term," *Business America*, Vol. 110, No. 1, Jan. 16, 1989, p. 1 and 6.

⁶¹ *Ibid.*, p. 6.

Subsidies and Countervailing Measures⁶²

A framework to guide negotiations for the duration of the trade round was approved by the trade ministers at Montreal. The framework includes elements of the so-called traffic light approach similar to that suggested earlier by the United States and Switzerland. The three subsidy categories outlined in the framework include prohibited (red), permitted but actionable or countervailable (yellow), and permitted (green). It also discussed areas for improvement in remedies, dispute settlement, and notification procedures. While the United States supported the framework as covering all issues raised in the U.S. proposal, it has reservations concerning certain aspects such as definitional issues, countervailing duty procedures, and permitted subsidies.⁶³

Tariffs⁶⁴

At Montreal, ministers established an ambitious target for overall tariff reductions. They agreed that substantive negotiations on tariffs would begin in July 1989. The agreed overall approach to negotiations is one which allows the flexibility to use request-offer or other approaches so long as the overall target is achieved. Until July, ministers directed negotiators to exchange trade and tariff data and finalize the procedures and approaches necessary to conduct negotiations.

Trade-related Investment Measures⁶⁵

At Montreal, trade ministers agreed that the group should continue to work toward identifying trade-distorting or restrictive measures and studying ways to avoid their adverse effects. Ministers urged participants to begin making detailed written proposals early in 1989.

Tropical Products⁶⁶

By the time of the midterm review, certain countries, both developed and developing, had agreed to a number of tariff and nontariff concessions in the tropical products negotiating

group.⁶⁷ The concessions are worth some \$25 billion.⁶⁸ Participants agreed that implementation of these concessions would begin as soon as possible. Although other midterm results were temporarily put on hold after the Montreal meeting, most countries, with the exception of the United States, indicated that they planned to begin implementing the tropical products concessions in early 1989. The planned U.S. concessions⁶⁹ consist of reducing tariffs on 49 tropical products by 25 percent.⁷⁰ The United States, which has consistently linked the agriculture and tropical products negotiating topics,⁷¹ stated that its implementation of the tropical products concessions would depend on progress made in the agriculture negotiations.⁷² Further efforts by all countries to eliminate measures affecting tropical products will continue throughout the round.

Summary

U.S. trade negotiators believed the midterm review did make important headway in forging agreement for the final phase of negotiations in new areas such as services and in strengthening the GATT as an institution through improved dispute settlement and surveillance procedures.⁷³ In spite of the delay in completing the midterm review, negotiators reaffirmed their determination to conclude the Round in 1990, as planned.⁷⁴ After the meeting, C. William Verity, Secretary of Commerce, reaffirmed the U.S. commitment to an open multilateral trading system. He said that "the free flow of goods and services around the world is key to the short- and long-term competitiveness of U.S. industry and improves the well-being of the American people." He also said that the "the meetings in Montreal demonstrated that negotiations will not be easy....but the eventual successful outcome of the Uruguay Round is the best hope we have for a healthier and more dynamic trading system."⁷⁵

⁶⁷ The agreement provides for elimination to begin in 1989 of import barriers on 100 of about 270 tariff lines included in the seven product groups. Both industrialized countries—the United States, the EC, Japan, Canada, Australia, Sweden, Norway, Finland, Switzerland, and Austria—and developing countries—Brazil, Columbia, Mexico, the Philippines, Thailand, Nicaragua, and Malaysia—offered concessions.

⁶⁸ FOCUS: GATT Newsletter, No. 59, January 1989, p. 1.

⁶⁹ The concessions were put into effect after the April 1989 TNC meeting.

⁷⁰ "The Uruguay Round at Mid-Term," *Business America*, Vol. 110, No. 1, Jan. 16, 1989, p. 6.

⁷¹ Many of the categories of tropical products under discussion are agricultural in nature.

⁷² "The Uruguay Round at Mid Term," *Business America*, Vol. 110, No. 1, Jan. 16, 1989, p. 6.

⁷³ *Ibid.*, p. 3.

⁷⁴ *Ibid.*, p. 2.

⁷⁵ *Ibid.*, pp. 3-4.

⁶² This group will examine the subsidies-related provisions of the General Agreement as well as the MTN code on subsidies and countervailing measures in order to improve all GATT rules and disciplines relating to the measures.

⁶³ "Uruguay Round Mid-Term Review," *Business America*, Jan. 16, 1989, p. 7.

⁶⁴ The agreed negotiating objectives for tariffs call for their reduction or elimination.

⁶⁵ The group will examine GATT articles that could apply to trade restrictive and distorting effects of investment measures and the means to avoid adverse effects on trade.

⁶⁶ The Tropical Products negotiations were slated for "fast-track" treatment, meaning the negotiations would be completed as soon as possible.

The United States hailed the four agreements of the April 1989 TNC meeting as potentially a major step for improvement in the world trading system. After the meeting, USTR Carla Hills declared that "If we can achieve final agreement in each of the 15 negotiating groups, the world trading system will be highly strengthened." Guy Legras, chief agriculture negotiator for the EC, described the outcome of the Geneva meeting as a "balanced agreement, and if you were to ask me who was the winner. . . , the winner was realism and the multilateral trading system."

Chapter 2

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

Introduction

In 1988, the General Agreement on Tariffs and Trade (GATT) reached the mid-point of the Uruguay Round, the eighth round of multilateral trade negotiations conducted since its inception. Negotiated in 1947 among 23 countries, the GATT had a membership of 96 countries at the end of 1988, with several more countries seeking to accede. The term GATT has come to refer to both a multilateral agreement and an organization.¹ Thus, the GATT is both a comprehensive set of rules governing most aspects of international trade and a forum sponsoring discussions and negotiations of any and all trade-related concerns members may raise.

Administration and governance of the GATT are conducted by the Contracting Parties² and the Council of Representatives (the Council). The Contracting Parties and the Council also oversee implementation of the Tokyo Round agreements. The Contracting Parties meet annually to oversee the operation and direction of GATT. The annual sessions provide a forum for review of GATT activities pursued during the preceding year and for decisions on work for the following year. In the interim, the Council usually meets monthly to oversee virtually all GATT activities and to act on behalf of the Contracting Parties on both routine and urgent matters. Proposals that are particularly controversial, as well as those in the formative stage, are debated at Council meetings until consensus on a course of action is reached. Work is then parceled out to committees or specially created bodies. Figure 1 presents the organizational structure of the GATT.

This chapter reports on 1988 developments in the Uruguay Round negotiations, activities of the GATT Contracting Parties, the Council, and the committees of the GATT, and actions taken under GATT articles. The final section reviews the activities of the bodies responsible for implementation of the Tokyo Round agreements covering nontariff measures and certain sectors.

GATT Activities During 1988

In 1988, the groups conducting the Uruguay Round negotiations worked under pressure to

achieve some concrete results which were presented at the yearend midterm review session attended by trade ministers of negotiating countries.³ Significant resources of the country delegations and the GATT Secretariat were denoted to the activities of these groups. Thus, the regular and routine activities of the GATT were fairly low key compared with those of previous years. One notable exception in the area of regular GATT activity in 1988 was dispute settlement. A record number of trade disputes were brought before the GATT Council and in 14 instances panels were established to consider the complaints. Even in 1987, the seven panels established far outpaced the prior average of the establishment of 2 to 3 new panels a year. Also, one country, Lesotho, acceded to the GATT in 1988, bringing to 96 the total number of contracting parties.

Uruguay Round Negotiations

A meeting of GATT trade ministers held in Punta del Este, Uruguay, on September 15–20, 1986, initiated the Uruguay Round of Multilateral Trade Negotiations (MTN). The resulting Ministerial Declaration scheduled 4 years of negotiations in which participants are expected to consider proposals to improve the GATT rules, notably those covering agriculture, subsidies, safeguards, dispute settlement, and nontariff measures (NTM's). New areas of negotiation on services, intellectual property rights, and investment measures were also included.⁴ In December 1988, the negotiators reported to the ministerial-level midterm review in Montreal, Canada.⁵ The following sections report on the progress of the negotiations throughout 1988 and summarize the positions which evolved at the ministerial session.

A special administrative structure was set up to administer the Uruguay Round negotiations. Its groups and subgroups set their own schedules of frequent meetings which national delegates must attend. The Punta del Este Ministerial Declaration established a Trade Negotiations Committee (TNC) that began meeting before the end of 1986 to initiate its task of coordinating negotiating activities. The TNC is responsible for oversight of every aspect of the negotiations. Also formed were a Group of Negotiations on Goods (GNG) and a Group of Negotiations on Services (GNS), and a Surveillance Body that oversees the Ministers' commitment to standstill and rollback protectionist measures. All three groups report to the TNC. Fourteen negotiating groups report to the GNG. The GNS and the Surveillance Body do not have subgroups.

¹ In this chapter, the acronym GATT, as commonly used, refers not only to the agreement but also to the secretariat and bodies administering it and to the whole of trade-related activities carried out under its auspices. The use of the term General Agreement refers solely to the actual legal document.

² In this report, the conventional practice is followed of using the term "Contracting Parties" (capitalized) to refer to the parties to the General Agreement acting formally

²—Continued

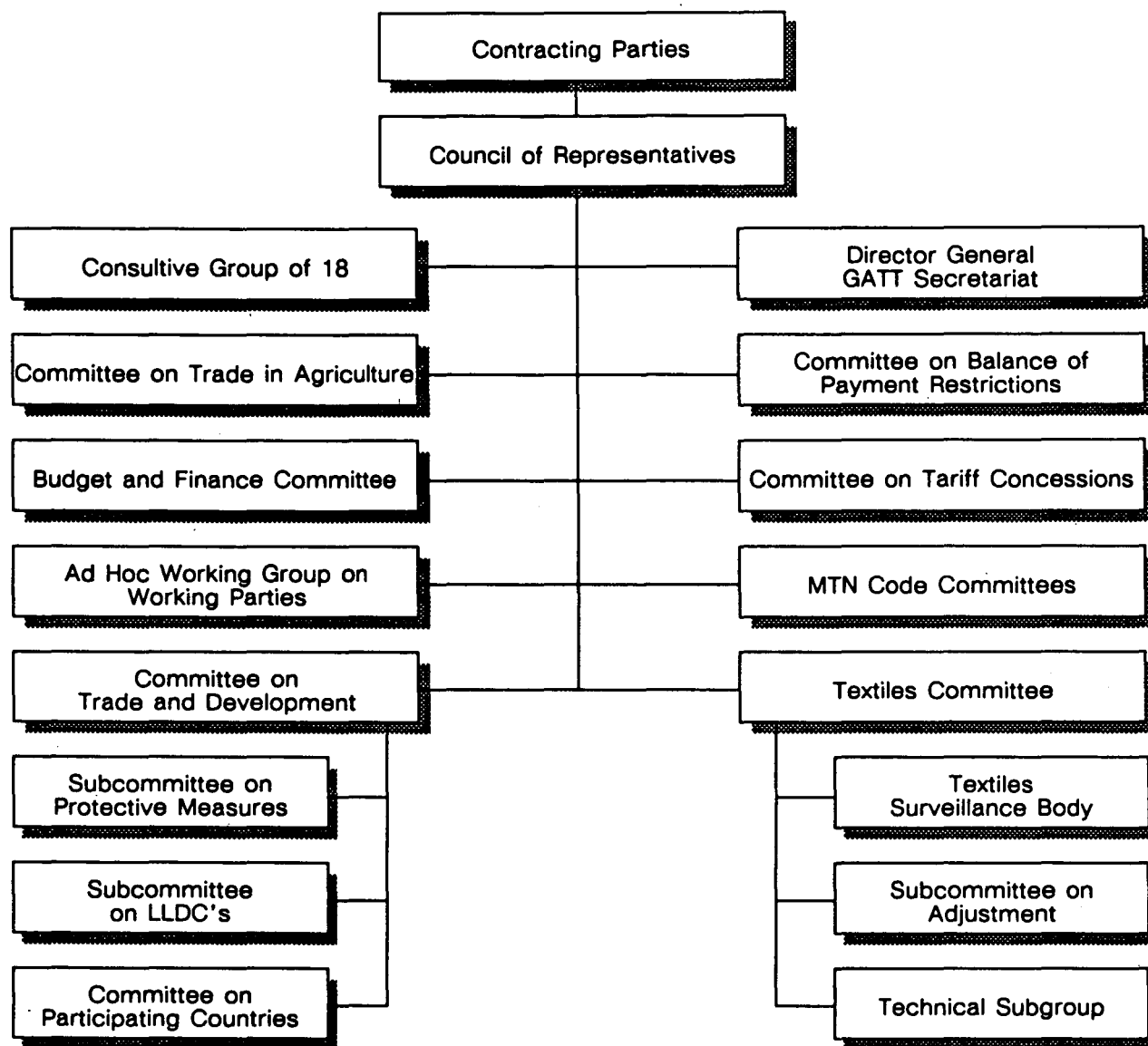
as a body. References to individual contracting parties, or to several contracting parties, are lowercase.

³ For a discussion of the midterm review, see ch. 1.

⁴ For full text of the Ministerial Declaration, see app. A of *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995.

⁵ For an account of the debate at the midterm review and its outcome, see ch. 1.

Figure 1
Organizational structure of the GATT



Trade Negotiations Committee

The TNC met in July 1988 to review progress reports on negotiations and to plan for the December ministerial-level session. Reports were presented by the GNG, the GNS, and the Surveillance Body. Regarding the ministerial, some delegations stressed its importance in terms of providing a positive signal on reform of the trading system, while others noted that the ministerial needed to be viewed as only one step in the conduct of the round with a final deadline

for results in 1990.⁶ The TNC selected Ricardo Zerbino, Minister of Economy and Finance of Uruguay, to chair the TNC Ministerial meeting. In December, the TNC met in ministerial-level session in Montreal, Canada to consider the progress reports and negotiating proposals of all of the Uruguay Round negotiating groups. Although trade ministers were in accord on most of the proposals put forth at the meeting, intractable differences on 4 items (agriculture, intellectual property, safeguards, and textiles)

⁶ GATT, "News of the Uruguay Round," Press Release No. NUR 018, pp. 2-3.

resulted in agreement to reconvene in April 1989 to finalize approval of negotiating results thus far.⁷

Surveillance Body

GATT members viewed the development of protectionism since the end of the 1970's as necessitating the adoption of firm standstill and rollback commitments that would go beyond simple efforts by governments to do their best to avoid introducing or maintaining protectionist measures.⁸ The Surveillance Body is responsible for overseeing the standstill and rollback commitment. Participants may bring actions or measures taken by their own governments or by other members to the attention of this body through a process of written notifications.⁹

In early 1988, the body continued to consider notification regarding breach of standstill commitments and received its first formal rollback offer from a participant. At the March meeting, Chile reported the U.S. suspension of GSP benefits to its products as an action that both violated non-discrimination principles of the General Agreement and the standstill commitment.¹⁰ A number of delegations also complained of new EC import restraints on apples. Australia noted a recent increase in EC restrictions on manufactured beef. Also, the EC complained of several U.S. measures, including "buy America" provisions, domestic paper procurement for banknotes, and sourcing of motor vehicles for the U.S. Defense Department.

The first rollback offer was received from the EC in March. The offer proposed the elimination of over 100 of the EC's quantitative restrictions covering a variety of industrial and agricultural products. Although the move was welcomed, several countries noted that products of interest to them were not included on the list so that the offer might have a discriminatory effect.¹¹

By June 1988, a large number of notifications of standstill violations were considered by the committee. Participants also debated the lack of progress on rollback undertakings and stressed

the importance of achieving some results by the midterm review.¹² By the end of the year, the Surveillance Body had received a total of 20 notifications of standstill violations covering nearly 25 different measures. Many of the notifications concerned U.S. and EC measures, but measures of Indonesia, Brazil, Canada, Switzerland, and Sweden were also named. Also, 19 requests for rollback undertakings were on file regarding measures of the United States, Japan, the EC, Canada, Finland, Norway, Sweden, and Brazil. Two offers of rollback undertakings had been presented, one by Japan and one by the EC. Although consultations regarding these notification had been conducted, no actual rollback actions had as yet been taken.

Group of Negotiations on Services

At the September 1986 GATT ministerial meeting in Punta del Este, the participants agreed to include trade in services on the agenda of the Uruguay Round Negotiations. The objectives of the GNS are to expand and liberalize services trade by establishing a multilateral framework of principles and rules and elaborating possible disciplines for individual service sectors.

The Uruguay Round Group of Negotiations on Services (GNS) met several times in 1988. In 1988, several contracting parties tabled proposals in the GNS. In March, Argentina made the first proposal by a developing country in the GNS. The proposal stated that any agreement on services trade produced by the Uruguay Round must ensure that the interests of LDC service industries are fully taken into account. The proposal stated that a services agreement should emerge in tandem with a commitment to transfer technology. The Argentine paper also said that an international services agreement should not erode or overrule national laws.

At the May meeting of the GNS, the United States, Canada, and Japan presented various proposals regarding trade in services. The U.S. proposal sought to break a negotiating stalemate in the GNS, and conclude an agreement by the scheduled end of the negotiations in 1990 (a U.S. proposal for a framework agreement on services had been tabled in November 1987). The United States suggested a three phase approach to proceeding with the negotiations; (1) a general rules drafting phase, (2) a sectoral coverage phase, and (3) a further liberalization phase. Canada also called on the group to develop a "working hypothesis" for services negotiations, which would consider issues that negotiations must deal with, and take into account the factors an agreement would have to include. In addition, Japan tabled a paper which detailed the Japanese Government's views on regulation of trade in services.

¹² GATT, "News of the Uruguay Round," Press Release No. NUR 017, June 30, 1988.

⁷ At the April 1989 meeting, negotiators achieved agreement on negotiating plans for the four areas of disagreement left outstanding at the December 1988 meeting. See a detailed report on the ministerial meeting and the points of debate in ch. 1 of this report.

⁸ GATT Ministerial Session—Background Notes, GATT Press Release No. 1395, Sept. 10, 1986, pp. 2-3.

⁹ Notifications so addressed to the Surveillance Body are then circulated to all participants, along with any comments or other factual information received.

Procedures on rollback commitments operate in a similar fashion except that consultations concerning a possible rollback commitment are undertaken by interested parties and the results reported to the Surveillance Body. "The Uruguay Round—Decisions of 28 January 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 4.

¹⁰ GATT, "News of the Uruguay Round," Press Release No. NUR 015, Mar. 31, 1988.

¹¹ GATT, "News of the Uruguay Round," Press Release No. NUR 015, Mar. 31, 1988, p. 6.

At a July meeting of the GNS, Australia tabled a detailed plan to liberalize international trade in services, including banking, insurance, consulting, and transportation. The proposal envisions an international accord on a set of principles, such as nondiscrimination and national treatment, with which each country can bring its relevant national laws and regulations into conformity. To improve transparency of laws and regulations, the proposal also stated that all laws and regulations relevant to a particular service sector in any country should be made available at the request of any signatory.

Mexico also tabled a proposal at the July GNS meeting. The proposal called for "relative reciprocity," meaning special consideration for LDCs in a services pact. Mexico stated that labor flows should be included in the GNS talks, because many LDCs have a comparative advantage in labor-intensive services. The Mexican proposal stated that there should be no automatic right of establishment by foreign companies in service sectors abroad. They also advocated accelerated transfer of technology from developed to developing countries.

The GNS met again in November, prior to the midterm review. The Group approved a report on the various opinions within the GNS, but did not address specific issues. The report was prepared for the Montreal Ministerial meeting. Prior to the midterm review, several delegates described the work of the group over the preceding two years as having made no progress toward reaching an international services agreement.

Group of Negotiations on Goods

During 1988 the Group of Negotiations on Goods (GNG) discussed issues raised by the 14 topical negotiating groups whose activities it oversees. In February, the group completed its review of 1987 developments and, though generally satisfied with progress at that time, discussed the importance of further momentum and of observing standstill and rollback commitments. In the group's July meetings some developing country delegations expressed concern about the seeming lack of progress in some areas.¹³ However, some industrial country delegations observed that while not all negotiations were progressing at the same rate, overall, "remarkable" progress was being made.¹⁴ In its November meeting, the GNG reviewed the progress reports and proposals submitted by the 14 negotiating groups. Certain proposals were accepted while others required further consultations. The group agreed to present the TNC with the full set of proposals, most of which

were agreed upon, while a few would require further negotiations at the Ministerial-level session.¹⁵

The 14 issue-specific negotiating groups that report to the GNG serve as the negotiating forums for the various Uruguay Round agenda topics related to trade in goods. The 14 subgroups held several rounds of meetings in 1988, with a view to achieving progress by the December ministerial. Highlights of the groups' activities throughout 1988 are described below.¹⁶

Tariffs¹⁷

The negotiating objectives for this group call for the reduction or elimination of tariffs. In the initial phase in 1987, participants submitted proposals on possible tariff-cutting approaches. Since 1987, the group has held 10 formal meetings and numerous informal consultations. In the early stages, the common view emerged that some form of tariff cutting formula, perhaps combined with request-offer negotiating procedures could be effective.¹⁸ Although delegates differed somewhat on which approach to emphasize, the idea of combining the two approaches still prevailed at yearend. The group also discussed possible ways in which the negotiations could apply "special and differential treatment" to developing countries.¹⁹

In 1988, several more proposals were introduced. A group of countries submitted a proposal for a comprehensive negotiating approach taking into account a broad range of

¹³ GATT, "News of the Uruguay Round," Press release No. NUR 022, Nov. 30, 1988.

¹⁴ Future negotiating plans agreed upon at the midterm review are described in ch. 1. All but four of the negotiating proposals of these 14 groups were agreed upon at the Montreal Meeting. Areas of continued debate were agriculture, intellectual property rights, safeguards, and textiles. Formal approval of the other proposals was postponed until agreement could be reached in April 1989 on these outstanding issues.

¹⁵ Tariff-cutting exercises, traditionally the focus of trade rounds, have substantially reduced tariff levels over the last 40 years. At times, an across-the-board, tariff-cutting formula was used, with general rules for departures from the formula. Tariff negotiations entail binding commitments not to impose tariffs that are above agreed-upon levels on specific products.

¹⁶ Request-offer negotiations entail, for example, the tabling by negotiators of requests to particular countries for the elimination of specific measures or barriers in return for offers to eliminate a barrier of concern to the country concerned. This method is quite different than the use of a formula approach that effects reductions on an across-the-board basis.

¹⁷ One proposal suggested that developed countries bind all their tariffs at zero levels but apply these on a preferential basis only to developing countries for 10 years and apply these to all contracting parties after that period. In exchange, it proposed that developing countries would bind most tariffs (currently only small portions of developing countries' tariffs are bound), and agree to begin reducing tariff levels at the end of the ten year period. Another proposal suggested that tariff-cutting formulas applied to developed countries should differ from those applied to developing countries.

¹³ GATT, "News of the Uruguay Round," Press Release No. NUR 018, Aug. 2, 1988, pp. 2-3.

¹⁴ GATT, "News of the Uruguay Round," Press Release No. NUR 018, Aug. 2, 1988, p. 4.

issues.²⁰ Another proposal urged that an overall target for tariff reductions should be established and that such targets would offer added momentum to negotiations. Another proposal addressed several concerns attributed to developing-country trade: seeking ways to lower high tariffs that particularly affect developing country products, improvements in rules of origin, and linkage to nontariff measures that could impair the value of tariff concessions. One delegation also proposed the use of an automatic system that would improve transparency by efficiently disseminating information on tariffs.

Nontariff measures

In negotiations on nontariff measures, the central aim, like that in tariff negotiations, is to liberalize global market access. Part of the group's main preliminary task was to develop an adequate data base for negotiations.

In February, the group adopted a decision on agreed steps to move the negotiations forward. The decision established a timetable of submitting proposals for negotiating approaches, requests and offers, and procedural issues by June 1988. Also, the Australian delegation introduced a suggestion on using an industry measurement system called the "effective rate of assistance" (ERA). This was discussed as a possible way of assessing offers on these measures as well as tariffs.²¹ The group also discussed proposals submitted by Japan, the United States, the EC, Poland, Australia, New Zealand, Canada, and Czechoslovakia, as well as a joint submission from a group of 15 countries. By the end of 1988 an inventory of nontariff measures was drawn up that will facilitate the bilateral request-offer negotiating approach. Rule-making in certain problem areas was another proposed negotiating approach. In this vein, further submissions proposed rule-making negotiations in the areas of preshipment inspection, rules of origin, import deposit systems, charges for services and other import taxes, signature of existing codes, and consular formalities. A third proposed negotiating technique is to liberalize certain areas using a formula approach that would, for example, entail agreed levels of reductions in quotas or reductions in other kinds of nontariff barriers through use of some form of comparative measurement technique. Options suggested for the formula approach included licensing, price support, import prohibitions, quantitative restrictions, tariff quotas, voluntary restraint

²⁰ For example, the proposal addressed tariff reduction or elimination through formulas and special criteria for dealing with tariff peaks and tariff escalation. It also addressed options such as binding a greater proportion of tariff schedules, and the determination of base rates and dates upon which to negotiate.

²¹ GATT, *GATT FOCUS*, Vol. No. 54, April-May 1988, p. 6.

arrangements, and export subsidies and levies, although some of these are also under consideration in proposals that entail a request-offer approach.

Agriculture²²

Under the negotiating plan adopted in January 1987, the negotiators worked toward identifying major problems, drawing on the work accomplished since 1983 in the Committee on Trade in Agriculture, and on gathering further information on agricultural measures and policies. During 1988, the group continued to examine proposals tabled in 1987 and also considered new proposals submitted by participants. The main issues discussed included short-term action, strengthening GATT rules for long-term changes, sanitary and phytosanitary regulations, aggregate measurement of support AMS, food security, and special and differential treatment.

In February, a technical sub-group was established to conduct further examination of issues such as the development of an AMS to aid negotiations. The negotiating group agreed on procedures for submission of AMS data and estimates. Work of the technical group was authorized in spite of lack of final consensus on whether or how any AMS would be used in negotiations. By yearend, six participants had submitted data to the technical group. The technical group also reported back to the agriculture group suggesting various options for using AMS in negotiations.

In September a working group on sanitary and phytosanitary regulations was established to examine technical issues on this aspect of negotiations. The working group invited experts from related international organizations to attend meetings and provide assistance.

During the fall, further submissions had been received from the Cairns Group of agricultural exporters,²³ Egypt, Jamaica, Mexico, Morocco, Peru, the EC, the Nordic countries, Switzerland, and the United States. The group was able to arrive at a checklist of important issues to be addressed in further consultations.²⁴

²² The negotiating objectives of the Agriculture Group are to achieve greater liberalization of trade in agriculture through (1) improving market access, (2) improving the competitive environment, and (3) minimizing the adverse trade effects of health and sanitary regulations.

²³ The Cairns Group includes Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay. The group's name derives from the Australian city where the members first met in August 1986 and called for the removal of market access barriers, substantial reduction of agricultural subsidies, and the elimination, within an agreed period, of subsidies affecting agricultural trade.

²⁴ In the April 1989 meeting of the TNC at the senior-official level, a compromise was reached on the language of negotiating guidelines for agriculture. See section on the midterm review in ch. 1 of this report for a description of the debate regarding agriculture.

Tropical products

Negotiations on tropical products were included on the negotiating agenda of the Uruguay Round in recognition of the importance of trade in this sector to developing countries. Since the start of the round, negotiators in this group have compiled background material and considered proposals for negotiating techniques.²⁵ Negotiations on tropical products were slated to receive "fast track" treatment, i.e., to be completed ahead of some other issues.²⁶ During 1988, the group achieved a package of concessions—the first negotiating group to reach this point in the negotiating process.

In January meetings, the group agreed on procedures for negotiations in order to obtain results by the end of 1988. Participants agreed to first submit indicative lists to elaborate on general approaches, formulas, or measures and to include product or country specific negotiating requests. The group scheduled rounds of multilateral consultations for June to be followed by a review of progress in the fall. A proposal was received that suggested a formula approach for reducing or eliminating tariffs on these products. Also, one participant tabled an offer to further improve GSP and MFN treatment for tropical products. By September, five initial offers or elaborations—involving leading markets and hundreds of tropical products—were tabled. Japan tabled an initial offer covering some 144 tropical products: 123 proposed for tariff reduction or elimination, and others for the removal of certain nontariff measures. The United States, while reiterating a previous proposal based on its submission to the Agriculture Committee²⁷, stated it was prepared to negotiate the elimination of all market-access barriers on some 128 agricultural tropical

²⁵ Defining which products are "tropical" products and which are to be covered in negotiations has wrought disagreement among developed and developing countries. In general, developing countries favor a definition with broad coverage, whereas developed countries favor a definition that is narrower in scope. Seven groups that have been identified under the narrow definition include (1) tropical beverages, (2) spices, cut flowers, and plants, (3) certain oil seeds and vegetable oils, (4) tobacco, tobacco products, rice, manioc, and tropical roots, (5) tropical fruits, (6) tropical wood and wood products and natural rubber and rubber products, and (7) jute and hard fibers. Even within these categories, however, there is disagreement over the product coverage for negotiations. For more information see Vincent Cable, "Tropical Products," in *The Uruguay Round: A Handbook on the Multilateral Trade Negotiations*, J. Michael Finger and Andrzej Olechowski, eds., The World Bank (Washington, DC, November 1987).

²⁶ "The Uruguay Round - Decisions of 28 January 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 11.

²⁷ The United States presented a proposal in November 1987 referring participants to its proposal put forth in the agriculture group, noting that the majority of tropical products are agricultural. Also, the United States offered a faster track for the phaseout of restrictions on tropical agricultural products than for other agricultural products. Regarding nonagricultural tropical products, the United States suggested negotiations employing the request-offer procedure.

products, which make up over 75 per cent of the value of its imports of such products.²⁸ With the several significant offers, including previous ones from the EC²⁹ and other participants, the committee was able to proceed into the next stage—consultations and negotiations.

Safeguards³⁰

Negotiations on safeguards seek a comprehensive agreement that will reinforce the disciplines of the General Agreement, and elaborate on other issues such as transparency, criteria for action such as serious injury, digressivity,³¹ structural adjustment, compensation and retaliation, and means for notification, consultation, surveillance, and dispute settlement. These basic elements have been the focus of inconclusive safeguards discussions in the past.³² Participation in this group has been active. Since the beginning of the trade round, the negotiating group has considered proposals submitted by Australia, Hong Kong, Korea, New Zealand, Singapore, Egypt, Switzerland, Japan, India, the Nordic countries, Mexico and Yugoslavia. Discussion papers were circulated by the United States, China, Argentina, and India.

By September 1988, the group had agreed to authorize its chairman to begin drafting a comprehensive agreement on safeguards. The group urged that any further proposals for consideration as part of the agreement should be submitted by March 1989, and that negotiations of the draft text would begin in midyear 1989.

MTN agreements and arrangements³³

This group's mandate is to work on improving the operation of the codes negotiated during the

²⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. NUR 019, Oct. 1988, p. 7.

²⁹ In October 1987, the EC tabled an offer to reduce progressively or eliminate tariffs and quantitative restrictions on a wide range of tropical products. This proposal was seen as a significant advance in negotiations of the Group on Tropical Products. The EC was the first major importer to make such a sweeping offer. Several conditions were linked to the EC offer, however. The EC called for multilateral burden-sharing, reciprocity by the main beneficiaries, and a reduction of export restrictions by the dominant suppliers of tropical raw materials. GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. NUR 010, Nov. 3, 1987.

³⁰ Safeguards are emergency actions by governments, sometimes covered by GATT art. XIX, to temporarily restrain imports to protect domestic industries from an influx of the imported product, thereby allowing the domestic industry time to adjust to import competition.

³¹ Digressivity refers to the principle that safeguards measures should be enacted so as to be progressively reduced over time.

³² See *Operation of the Trade Agreements Program, 31st Report, 1979*, USITC Publication 1121, p. 54, and *34th Report, 1982*, USITC Publication 1414, p. 17.

³³ The MTN agreements and arrangements, also known as "codes," were negotiated during the Tokyo Round. For descriptions of these instruments and accounts of recent activities under their auspices, see section on "Implementation of the Tokyo Round Agreements" later in this chapter.

Tokyo Round.³⁴ During the past two years the group has focused most of its attention on the Standards Code, the Import Licensing Agreement and the Antidumping Code. Some issues related to the Customs Valuation Code, the Subsidies Code, and the Government Procurement Code have also been raised.

The negotiating group met four times in 1988 to examine proposals and clarify outstanding issues. Some draft texts of agreements were proposed. During 1989 the group plans to revise these texts and consider others that are submitted. The group recognized the degree to which the administrative committees of the respective codes had made contributions to the work of the negotiating group.

Subsidies and countervailing measures

Distinct from the group on MTN agreements and arrangements, this group is examining the subsidies-related provisions of the General Agreement as well as the MTN code on subsidies and countervailing measures in order to improve all GATT rules and disciplines relating to the measures. In 1988, the group held five formal meetings and several informal sessions. In February, the group began the year with general discussions on the fundamental objectives of GATT provisions covering subsidies and countervailing measures (articles XVI and VI respectively) and agreed to begin discussing specific proposals on improving GATT discipline over subsidies and countervailing duties at the ensuing meetings.³⁵ By yearend 1988, the group had agreed on a proposed framework for negotiations. The group indicated that the framework was not intended to prejudice any specific outcome of the negotiations or to restrict flexibility.

GATT articles

While the work of other negotiating groups covers issues relevant to numerous articles of the GATT, this negotiating group has singled out certain articles for particular attention to improving their effectiveness and observance. In 1988 meetings, the group discussed proposals on the reform of 12 different GATT articles. A major topic of discussion has been article XXVIII that provides for the modification of schedules of tariff concessions. Among the concerns were an increasing tendency for negotiating rights to become concentrated in the hands of large suppliers accompanied by an inability of small suppliers to protect their interests in tariff negotiations due to a lack of such rights.

³⁴ Some of the codes cover NTMs such as antidumping, subsidies and countervailing duties (CVDs), standards, government procurement, customs valuation, and import licensing. Three other agreements cover sector trade in bovine meat, dairy products, and civil aircraft.

³⁵ GATT, *GATT FOCUS*, Vol. No. 53, February-March 1988, p. 5.

Negotiators have also discussed refining the terms "principal supplying interest" and "substantial interest."³⁶ Others argued that article XXVIII worked well and had been used with restraint. The problem of coverage of new (often high-technology) products and possible pre-emptive increases in tariffs on such products was raised with respect to difficulties in determining compensation due under article XXVIII. Submissions were also introduced regarding the terms of succession of de facto countries under article XXVI:5 and regarding the security exceptions to the General Agreement contained in article XXI.

Among other articles discussed are those on customs unions and free-trade areas—criticized for causing unintended discrimination among contracting parties without adequate examination and clearance in the GATT (art. XXIV); state trading (art. XVII)—in which some delegations believe clarification of obligations is necessary; GATT waivers (art. XXV:5)—with some delegations proposing that they be subject to fixed time limits; balance-of-payments (article XII) and exchange rates (article XV) provisions³⁷—with questions raised about the relationship of these articles to developments in the international monetary system; nonapplication of the agreement between particular parties (art. XXXV); and accession to the GATT under procedures designed for former territories (art. XXVI:5)—suggesting that such accessions be subject to more thorough review. Of particular interest to the United States are reform of the provisions on balance of payments and state trading.³⁸

Dispute settlement

Negotiations on dispute settlement aim to "ensure prompt and effective resolution of disputes . . . to improve and strengthen the rules and procedures of the dispute settlement process."³⁹ Improved dispute settlement procedures is one of the topics of high priority for the United States, a country that makes frequent use of the process.

In the first two years of negotiations, the group had received twenty-five written proposals submitted on behalf of thirty-eight participants.

³⁶ These terms are used to indicate which suppliers have the right to participate in the tariff renegotiations.

³⁷ Some delegations expressed their continued doubts about the need for negotiations on articles pertaining to balance-of-payments restrictions (arts. XII, XIV, and XVIII) and exchange controls (art. XV). GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. NUR 009, Oct. 27, 1987.

³⁸ "Uruguay Round Mid-Term Review," *Business America*, Jan. 16, 1989, p. 7.

³⁹ "The Uruguay Round - Decisions of 28 January 1987," GATT Press Release No. 1405, Feb. 5, 1987, p. 20.

The group also asked the Secretariat to prepare a number of "non-papers", including two "check-lists of main issues for discussion." These were circulated to all participants in 1988 at April and July meetings. The very large number of proposals, submissions, and Secretariat notes have enabled the group, in the course of its deliberations, to hold extensive discussions on the existing GATT dispute settlement procedures, practices, and the proposals for improvement. As a result of the work carried out, and in spite of the fact that certain issues still require further consideration in the future work of the group, a consensus developed that a number of specific improvements in the field of dispute settlement in GATT were both desirable and attainable.

Functioning of the GATT system

The objective of this negotiating group is to improve institutional features of the GATT such as (1) surveillance and monitoring of trade policies and practices, (2) the effectiveness of its decisionmaking, and (3) its relationship with other international organizations responsible for monetary and financial affairs. In pursuing these objectives the central aim is to enhance the integrity and credibility of GATT as an institution.

In January meetings of the group, proposals on closer Ministerial involvement in GATT through regular Ministerial-level sessions of the Contracting Parties met with broad support. The need for improved transparency in trade policies through annual reporting by all Contracting Parties and regular trade policy reviews was also widely accepted. They agreed to begin discussing a formal outline for trade policy reports.⁴⁰

A proposal considered in September suggested the establishment of a small Ministerial group. Such a group could, in the view of those proposing it, be consultative in nature but not a decision-making body. However, concerns were expressed by other participants regarding the restricted nature (i.e. restricting membership to a select number of GATT members) of such a group and its proposed functions. Strong views, both for and against, were expressed concerning the appropriateness and desirability of establishing such a group. The negotiating group was unable to arrive at a consensus on this question.

Trade-related aspects of intellectual property rights

The objective of the negotiations on intellectual property rights is to promote effective and adequate protection of intellectual property rights and to ensure that such protection is not implemented in ways that may obstruct legitimate

⁴⁰ GATT, *GATT FOCUS*, Vol. No. 53, February-March 1988, p. 5.

trade. Negotiators plan to develop a framework of principles, rules, and disciplines covering trade in counterfeit goods. During its two years of discussions thus far, the group has focused on four tasks: hosting discussions on the manner in which intellectual property issues can distort or impede trade; reviewing ways to clarify the meaning of GATT provisions that are intended to ensure that measures related to intellectual property rights do not cause restrictions or discrimination between GATT members; considering numerous proposals and suggestions of participants; and developing a broad approach to creating a multilateral framework of principles, rules, and disciplines to address problems of trade in counterfeit goods. A number of differences in views experienced over the period of negotiations in this group remained unresolved at yearend. For example, because of the lack of GATT rules covering many of the issues raised, some delegations have called for new rules, and others have argued that this lack of rules confirms that some issues are not appropriate for the group to address.

Trade-related investment measures

This group's mandate is to examine GATT articles that could apply to trade restrictive and distorting effects of investment measures and to develop means to avoid their adverse effects on trade. During 1988 meetings, the group continued to discuss the trade effects of investment measures and their effect on the operation of GATT articles. A few participants presented empirical studies on these effects. While some participants argued that the studies showed that such measures have significant trade-restrictive effects, others described the studies as insufficient to alter their views that most such measures do not affect trade and should be addressed on a case-by-case basis rather than through new GATT disciplines. Participants also discussed how to differentiate the direct and indirect effects of these measures as well as how to distinguish which effects should be considered to be trade restrictive and distorting.⁴¹

Natural resource-based products

Tariffs, NTMs, and tariff escalation affecting trade in processed and semiprocessed natural resource products is the focus of this negotiating group. Since formed, the group has held nine formal meetings as well as several informal sessions. Some delegations supported expanding the number of products under consideration in the group. Since other delegations feared that an expansion of coverage would slow progress of its group, they agreed that the proposal would require further discussion.⁴² The group also

⁴¹ GATT, *GATT FOCUS*, Vol. No. 54, April-May 1988, p. 6.

⁴² GATT, *GATT FOCUS*, Vol. No. 53, February-March 1988, p. 6.

discussed a negotiating proposal concerning tariff and nontariff measures on these products. The group has recognized the extent to which natural resource-based products are simultaneously affected by work in other negotiating groups.

Textiles and clothing

Textiles and clothing negotiations in the Uruguay Round are intended to develop a means to eventually integrate this sector into the GATT. The textiles and clothing negotiating group held six meetings in 1988. The group began to consider proposals to establish "techniques and modalities" which would permit such integration to take place. On the question of modalities, the group discussed the merits of a transitional phase for switching from the MFA to GATT rules in textiles and clothing trade.

Indonesia submitted a comprehensive proposal on behalf of developing countries. The proposal was drafted by the 19 members of the International Textiles and Clothing Bureau (ITCB), whose members are LDC exporters of textiles and clothing.⁴³ The proposal envisioned a multiple process of removal of MFA restrictions, elimination of MFA concepts and practices that are incompatible with the GATT, effective application of GATT principles that relate to LDC trade in textiles and clothing, and termination of the MFA and all its associated bilateral agreements.

The ITCB members also advanced several proposals at the September meeting of the group. They suggested to ministers scheduled to meet at the December midterm review, that a selective, discriminatory regime for textiles has no place under strengthened GATT rules, and that negotiating results in the textiles and clothing group are crucial. They suggested that examination of modalities by the group is finished, and that the ministers should adopt the previous ITCB proposal as a framework for substantive negotiations. Also at the September meeting, Canada advanced a proposal that outlined a range of options for modalities to integrate the textiles and clothing sector into the GATT. The proposal presented modalities which fit into two categories, one focused exclusively on phasing out the MFA, and the other pertained to phasing out the MFA in the context of provisions which would permit integration of textiles and clothing into the GATT.

Regular GATT Activities

Standing committees of the GATT attended to their regular responsibilities in 1988, as described below. Some committees continued to

⁴³ The ITCB members are Argentina, Bangladesh, Brazil, Colombia, China, Egypt, India, Indonesia, Jamaica, Republic of Korea, Mexico, Pakistan, Peru, Hong Kong, Sri Lanka, Turkey, Uruguay, Yugoslavia, and Macao.

be less active this year because of the demands of Uruguay Round activities on the resources of the secretariat and country delegations. In some instances, activities that certain standing committees would normally undertake are being addressed within the context of the Uruguay Round negotiating groups. For example, since the work of the Committee on Trade and Agriculture is subsumed by the Uruguay Round negotiating group on agriculture, it did not meet in 1987 or 1988. Also, the Consultative Group of 18 (CG-18),⁴⁴ which operates like a steering committee of the GATT, did not meet in 1988 because its function is presently supplanted by Uruguay Round negotiations, and it will continue to suspend its meetings in 1989.

The Annual Session of the Contracting Parties, held on November 7-8, was brief, with most delegations commenting on the progress of the Uruguay Round. In his opening statement, the Chairman of the Contracting Parties noted that the "Uruguay Round has already enhanced the international authority" of the GATT as evidenced by the "extraordinary increase in resort to the dispute settlement procedures." "Governments do not use institutions like this one, unless they believe in them," he said.⁴⁵ Routine business was also conducted at the meeting with the adoption of the annual reports of the Committee on Trade and Development and of the Tokyo Round Code Committees and Councils, and the election of officers for 1989.

Tariff Concessions

The Committee on Tariff Concessions, mandated by the Tokyo Round of Multilateral Trade Negotiations, was established in 1980. The Committee manages the gradual reduction of tariffs and oversees maintenance of GATT tariff schedules.⁴⁶ It also provides a forum for discussion on any tariff-related concerns. As part of this mandate, the Committee is overseeing the GATT article XXVIII (amendment of tariff schedules) negotiations associated with the implementation of the new tariff nomenclature known as the Harmonized Commodity Description and Coding System (the Harmonized System).⁴⁷

⁴⁴ The group discusses formative issues and assists the Contracting Parties in assessing formulation and implementation of GATT policies. The CG-18 was established on a temporary basis in 1975 and was made permanent in 1979. Its membership, consisting of both developed and developing country members, rotates annually.

⁴⁵ Forty-fourth session of the GATT Contracting Parties, opening statement by the Chairman, Australian Ambassador Alan Oxley, GATT Press Release, No. GATT/1455, Nov. 7, 1988.

⁴⁶ *GATT Activities 1986*, Geneva, June 1986, pp. 23-24.

⁴⁷ Developed by the Customs Cooperation Council in Brussels, the Harmonized System unifies and standardizes the nomenclature used in the classification of traded goods for duty and statistical purposes.

On January 1, 1988, the Harmonized System (HS) officially entered into force. The following countries have introduced the system: Australia, Austria, Canada, the EC, Finland, Hong Kong, Japan, Korea, New Zealand, Norway, Sweden, Switzerland, and Zimbabwe. As noted by the GATT secretariat, the HS "has replaced a variety of different customs classification systems which, for many years, have complicated trade and frontier formalities. . . . It allows a far greater degree of detail in trade statistics than was possible previously—a matter of considerable importance in trade negotiations as well as to the conduct of trade itself."⁴⁸ The United States had not implemented the HS as of the end of 1988.⁴⁹

In the wake of HS implementation, the committee approved the text of a decision concerning the treatment of floating initial negotiating rights. Initial negotiators are those countries that, under the request-offer negotiations, were the primary country negotiating a given concession. Formula based tariff negotiations, carried out during the Kennedy and Tokyo Rounds, obscured who the initial negotiating country was. Since the HS requires renegotiation under article XXVIII, this decision was adopted so countries who were the initial negotiators would still be considered as such.

Contracting parties may obtain a waiver from their tariff concession obligations under article II of the General Agreement in order to implement the HS pending the completion of the required article XXVIII renegotiations.⁵⁰ Several waivers have also been accepted as a result of the HS. In addition, the Committee continued its ongoing efforts related to the Harmonized System data base and the compilation of looseleaf schedules of GATT tariff concessions.⁵¹ As of the end of 1988, sixty-one contracting parties (the EC is counted as one member), had looseleaf schedules, with forty-two being circulated and fourteen approved.

Trade and Development

The Committee on Trade and Development (CTD) is responsible for examining issues of interest to developing countries in the area of international trade. Under this mandate, the Committee monitors developments in international trade and reports on the effects of these developments on developing countries' economies. Also, the Committee oversees implementation of the provisions of part IV of

GATT and monitors the operation of the "enabling clause."⁵²

During 1988, the Committee met in April, July, and October to discuss several issues regarding the trade of developing countries. Members reviewed developments in the Uruguay Round as well as recent developments in international trade. The implementation of part IV and the enabling clause were also reviewed. Other items of the Committee's agenda included an assessment of the work of its subcommittees, the expansion of trade among developing countries, and technical assistance to developing countries. Another subject of discussion was the trade agreements between Brazil, Argentina, and Uruguay under the auspices of the Latin American Integration Association.

Issues that were raised at CTD meetings in reference to the Uruguay Round were special and differential treatment, fuller participation, and reciprocity. Some representatives were concerned that the developing countries were making unilateral concessions without indications that their contributions would lead to improved market access in the developed world.

At the October meeting, the Committee discussed developments in international trade based on the Secretariat's draft report covering the period April-August 1988. Brazil thought that the Secretariat's appraisal of the world economic and financial situation "was overly optimistic; even the modest recovery in the industrialized countries was endangered by the persistence of some pervasive trends negatively affecting the world economy as a whole." Brazil also noted that the rise in LDC debt (40 percent of their GNP), the fall in the terms of trade (20 percent from 1982 to 1987), and the plummeting of commercial bank financing were "major negative factors."⁵³

As part of its review of the implementation of part IV and the enabling clause, the Committee considered notifications made by various governments. One notification concerned the U.S. withdrawal of Chile from the Generalized System of Preferences (GSP) schedule due to allegations that Chile was not granting its workers their internationally recognized rights. Chile has

⁵² Pt. IV, added in 1969, and the "enabling clause," negotiated during the Tokyo Round, allow special consideration of interests of developing countries. The enabling clause allows developing countries to receive differential and more favorable treatment from other GATT members with regard to the following (1) tariffs accorded under the Generalized System of Preferences; (2) nontariff measures (NTMs) governed by GATT codes; (3) tariffs and, under certain conditions, NTM's among developing countries under regional or global trade arrangements; and (4) measures applied to the least developed countries in particular. The enabling clause also provides for adherence by developing countries to the obligations of GATT membership that is commensurate with each country's level of economic development.

⁵³ GATT, *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 5.

⁴⁸ *GATT Press Release*, No. 1436, June 29, 1988.

⁴⁹ As a result of the passage of the Omnibus Trade and Competitiveness Act of 1988, the U.S. was able to implement the HS on Jan. 1, 1989.

⁵⁰ The countries granted a waiver were Indonesia, Bangladesh, Israel, Malaysia, Mexico, Sri Lanka, and Yugoslavia.

⁵¹ GATT members view the data base, in conjunction with the tariff study file, as an important asset in the Uruguay Round negotiations.

subsequently requested consultations under article XXII.⁵⁴ Another issue covered was the U.S. removal of GSP benefits to Hong Kong, Korea, and Singapore. Japan notified the committee of the addition of New Caledonia and Burma to its GSP scheme.

The Committee examined the role of the Subcommittee on Trade of the Least Developed Countries in 1988.⁵⁵ The Committee Chairman noted that the subcommittee will be expected to review Uruguay Round issues relevant to least developed countries on a continuing basis. The Subcommittee met in February 1988.

In reviewing technical assistance activities, representatives of developing countries noted the usefulness of technical assistance activities in helping to improve their participation in negotiations. The possibility of establishing a trust fund which would be financed by voluntary contributions to support technical activities over the next few years was discussed. Questions were raised on how the trust fund would operate, what projects would be involved, and how the technical assistance activities would be monitored. The Committee took note of the points made and the questions addressed.

The United States, at the September meeting, requested that the trade provisions of the agreements between Brazil, Argentina, and Uruguay be notified to GATT so that they can be examined.⁵⁶ The United States said that it was "disappointed at the unsatisfactory response to its request for transparency, which showed that these countries did not recognize their obligations to notify the agreements and have a review of the provisions and effects."⁵⁷ The United States believed that it was justified in seeking the establishment of a working party. By the end of 1988, the issue of establishing a working party on this issue had not been resolved.

Balance-of-Payments Restrictions

Under certain articles of the General Agreement, countries may erect temporary import barriers when experiencing payments imbalances. Although quantitative restrictions are generally prohibited by GATT, exemptions under

articles XII and XVIII⁵⁸ can be applied in conjunction with consultations with the Committee on Balance of Payments Import Restrictions. In accordance with procedures and decisions adopted by the Contracting Parties, the Committee regularly holds consultations with countries invoking such restrictions for the duration of the measures.⁵⁹ The Committee monitors the restrictions and the country's progress in moving toward liberalization. All countries whose trade may be affected by import restrictions may participate in the consultations.

Several countries have notified such restrictions since 1979 and engaged in regular consultations concerning their application. Over the past ten years consultations have been conducted with Argentina, Bangladesh, Brazil, Colombia, Egypt, Ghana, Greece, Hungary, India, Israel, Italy, Korea, Nigeria, Pakistan, Peru, the Philippines, Portugal, Sri Lanka, Tunisia, Turkey, and Yugoslavia. Greece, Hungary, Italy, and Portugal have succeeded in phasing out their balance-of-payments measures and are no longer subject to committee consultation.

Both full consultations and consultations under simplified procedures, known as miniconsultations, may be undertaken. In 1988, the Committee conducted full consultations with Egypt and Turkey. Miniconsultations were held with Argentina, Bangladesh, Nigeria, the Philippines, Tunisia, and Yugoslavia. In 1989, the Committee plans to have full consultations with India, Israel, Korea, and Pakistan. Miniconsultations are scheduled with Brazil, Colombia, Ghana, Peru, and Sri Lanka for 1989.

GATT Integrated Data Base

The Director-General gave the Council the progress report on the GATT Integrated Data Base (IDB) in May 1988. In November 1987, the Council authorized the Secretariat to begin work on the IDB. The design of the system has been adopted in reference to the precise nature of the trade, tariff, and quantitative restrictions data to be maintained by the Secretariat. In the Council meeting, the Director-General reported that there

⁵⁴ Art. XII provides for the implementation of import restrictions by contracting parties in order to safeguard the balance-of-payments position. Such measures taken by them to "forestall . . . or to stop a serious decline in its monetary reserves" or in the case of low monetary reserves "to achieve a reasonable rate of increase in its reserves" are to be maintained only to the extent that the conditions justify their application and are to be progressively relaxed. In addition, unnecessary damage to the interest of other contracting parties is to be avoided. Art. XVIII provides for the terms under which developing countries may take these and other measures for the purposes of development in exception to normal obligations under the General Agreement.

⁵⁵ The Committee's work is based on the Declaration on Trade Measures Taken for Balance-of-Payments Purposes, adopted by the Contracting Parties on Nov. 28, 1979. GATT, *Basic Instruments and Selected Documents*, Supp. 26th, p. 205.

⁵⁶ See the subsequent section on Dispute Settlement for more information.

⁵⁷ The term "least developed countries" refers to those countries that are the least developed of the developing countries. The Subcommittee on Trade of the Least Developed Countries concentrates primarily on the following three issues: (1) expansion and diversification of the trade of least developed countries, (2) strengthening of technical cooperation regarding trade, and (3) integration of these countries into the GATT trading system. The Subcommittee has also hosted a series of consultations between the interested least developed countries and their trading partners.

⁵⁸ GATT, *GATT FOCUS*, Vol. No. 57, September-October 1988, p. 4.

⁵⁹ GATT, *GATT FOCUS*, Vol. No. 57, September-October 1988, p. 8.

were 25 countries⁶⁰ (counting the EC as one member) that have indicated their intention to participate in the system. Five more countries⁶¹ have indicated they will participate. At this point, the percentage of trade covered by the IDB would represent 91.2 per cent of total trade of GATT contracting parties.

Exports of Domestically Prohibited Goods

At the Punta Del Este Ministerial meeting, several countries requested that the exports of domestically prohibited goods should be included in the Uruguay Round. Other countries believed that the issue should be addressed in regular GATT activities. The latter view was adopted. Two informal consultations with the Secretariat were held in 1988 concerning the exportation of domestically prohibited goods. At issue is whether countries should be allowed to export goods that are domestically prohibited because they are harmful to the public or the environment. For example, pharmaceuticals with possible serious side effects or at the experimental stage have been exported to developing countries. Examples of other products deemed unsafe under domestic laws but still exported can include certain chemicals, pesticides, and insecticides. Another consideration is the disposal of industrial, toxic and other wastes. Some countries have bans on the disposal of these materials yet export them to other countries.

Some developing countries believe that the GATT should address these issues. Other countries pointed out that there are other organizations that have prepared guidelines and procedures for notification and exchange of information. However, since these guidelines are voluntary, certain developing countries believe "that GATT could draw up rules to strengthen the implementation of these arrangements."⁶²

During the course of the consultations, some developing countries explained why there was a need for some type of GATT rules. In some of these countries, "customs services [do] not have sufficient control facilities to check the validity of the certificates of exporting firms."⁶³

Also, they argued that these countries simply do not know which products are prohibited in the exporting country's domestic market.

⁶⁰ The countries are: Argentina, Australia, Brazil, Canada, Chile, Colombia, Czechoslovakia, EC (12 countries), Finland, Hong Kong, Hungary, Iceland, India, Jamaica, Japan, Korea, Mexico, New Zealand, Norway, Poland, Sweden, Switzerland, Turkey, United States, and Uruguay.

⁶¹ These countries are: Austria, Egypt, Morocco, Malaysia, and Pakistan.

⁶² GATT, *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 2.

⁶³ GATT, *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 2.

In the November meeting of the Contracting Parties, the Secretariat reported the results of the two informal rounds of talks. The Contracting Parties "agreed that the consultations should be pursued so as to identify more accurately the role GATT could play and the work it could undertake."⁶⁴

Textiles

Much of the work related to trade in textiles in the GATT during 1988 focused on reviewing proposals in the textiles and clothing negotiating group⁶⁵ for integrating the sector into the GATT, plus the required annual review of textiles and clothing by the Textiles Committee.⁶⁶

The Textiles Committee undertook its annual review of the MFA, as required under articles 10:4 and 11:12 of the arrangement, in late 1988. As part of the review, the Committee considered reports by the Textiles Surveillance Body (TSB), the Subcommittee on Adjustment⁶⁷, and a statistical report prepared by the GATT Secretariat.⁶⁸ The report by the TSB covered developments in textiles trade between October 1, 1987 and September 23, 1988.⁶⁹ The report notes the status on acceptances of the MFA as of September 23, 1988; reports on the membership of the TSB and the range of its work during the period under review; discusses notifications received by the TSB of various measures taken by members, including bilateral agreements; presents recommendations and observations by the TSB based on its review of those notifications; and concludes with an appreciation of the application of the MFA during the first two years of the 1986 extension. The Committee also considered two other reports. One report, prepared by the GATT Secretariat, dealt with recent changes in demand, production, employment, and trade in textiles and clothing. The report described short-term changes in these indicators for 1987 and the first half of 1988. The other report was prepared by the Subcommittee on Adjustment of the Textiles Committee. This report focused on developments

⁶⁴ GATT, *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 2.

⁶⁵ For a discussion of the work of the Textiles and Clothing Negotiating Group, see the section "Uruguay Round negotiations."

⁶⁶ For a description of the Textiles Committee, see the *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, pp. 46-48.

⁶⁷ The Subcommittee on Adjustment, established under the 1981 extension of the MFA, is empowered to review periodically autonomous and government-created policies and measures that are designed to facilitate adjustment to changing market conditions in textiles and clothing.

⁶⁸ The TSB's role is to supervise the implementation of the MFA.

⁶⁹ For a discussion of the extension of the MFA, see *Operation of the Trade Agreements Program, 38th Report 1986*, USITC Publication 1995, pp. 1-7 to 1-12. This was the second report by the TSB transmitted to the Textiles Committee under the 1986 extension of the MFA. The first report covered the period Aug. 1, 1986 to Sept. 30, 1987.

in the textiles and clothing industries of exporting and importing member countries during 1978-86/87, developments in trade in textiles and clothing in the same two groups of countries, the adjustment process by textile and clothing industries to changing conditions in the sector during the period under review, government measures to facilitate adjustment, and a general review of market access conditions in textiles and clothing.

Actions Under Articles of the General Agreement

Emergency Actions on Imports (art. XIX)

Article XIX of the General Agreement, also known as the "escape clause," allows GATT members to escape temporarily from their negotiated GATT commitments and impose emergency, restrictive trade measures when actual or threatened serious injury to a domestic industry is demonstrated.⁷⁰ A country exercising article XIX is required to notify the GATT and consult with affected exporting countries to arrange compensation. The incentive to negotiate stems from the right of affected countries to suspend unilaterally "substantially equivalent concessions or other obligations."

⁷⁰ Since art. XIX provides that a concession may be suspended, withdrawn, or modified only "to the extent and for such time as may be necessary to prevent or remedy" the injury, the suspensions are of a temporary nature.

In 1988 a number of article XIX actions were notified or in effect as a result of previous notifications (see table 1). During 1988, South Africa extended its suspension of tariff bindings on footwear. The revised rate of duty is 30 percent or an established duty per pair. The EC (Portugal) will limit imports of refrigerators and freezers from third countries to not less than 15,000 units. This limitation was in effect until December 31, 1988. The EC (Spain) extended its import limitations of certain steel products until the end of 1988. Spain also included tin plate under the extension.

Dispute Settlement (arts. XXII and XXIII)

When a member country fails to respect a tariff concession or other obligation, or engages in a trade practice inconsistent with GATT provisions, the General Agreement allows affected members to seek redress through the dispute settlement procedures of articles XXII and XXIII. More general in nature, article XXII provides for bilateral consultations on any matter affecting the operation of the General Agreement. If article XXII discussions do not resolve an issue, use of article XXIII:1 elevates the dispute to a more advanced stage of consultations.⁷¹

⁷¹ Under art. XXIII:1, the affected country makes "written representation or proposals to the other contracting party or parties" concerned. When thus approached, a GATT member is required to give "sympathetic consideration to the representations or proposals made to it."

Table 1
Article XIX actions in effect as of Dec. 31, 1988

<i>Implementing Country</i>	<i>Type of Product</i>	<i>Date Notified¹</i>
Australia	Filament lamps	July 1983
Canada	Leather footwear	July 1982
Canada	Nonleather footwear	November 1981
Canada	Yellow onions	October 1982
Canada	Beef and veal	January 1985
Chile	Edible vegetable oils	December 1985
Chile	Sugar	August 1984
Chile	Wheat	September 1985
Chile	Vegetable and oilseed oils	December 1985
European Community	Dried grapes	November 1982
European Community	Morello cherries	July 1985
European Community	Sweet potatoes	May 1986
European Community	Digital quartz watches	May 1984
European Community	Squid	July 1987
European Community	Urea	January 1987
European Community	Steel	January 1988
European Community	Refrigerators and freezers	May 1988
South Africa	Optical fiber and bundles	October 1987
South Africa	Footwear	March 1988
United States	Specialty steel	July 1983

¹ Date of distribution of notification.

Source: GATT.

If bilateral consultations fail to yield a mutually satisfactory solution, the matter may be referred to the GATT under article XXIII:2. At this point, the usual procedure is to refer the dispute to a panel.⁷² The panel reports its findings to the GATT Council where the decision is made, on behalf of the Contracting Parties, whether or not to adopt the report and its recommendations.⁷³ If an adopted recommendation calling for elimination of a GATT-inconsistent practice is ignored, the complaining country may request the Contracting Parties to authorize it to suspend "appropriate" concessions vis-a-vis the offending country. However, such authorization is rarely requested.⁷⁴

A determination to improve the dispute settlement process formed part of the 1982 Ministerial Declaration and is now a subject of the Uruguay Round negotiations. Some progress on modifications has resulted from the 1982 initiative; there is widespread sentiment that the process is cumbersome and time consuming.⁷⁵ For example, a roster of nongovernmental experts to serve on dispute settlement panels was developed. In 1988, experts from the roster were called upon to serve on panels and contracting parties continued to nominate new names to be added to the list.⁷⁶ Also in 1988, the Council agreed that all panel reports would be automatically derestricted, and therefore publicly available, once adopted by the Council. This move would improve transparency in the dissemination of panel findings and recommendations.

Consultations

During 1988, GATT members held article XXII consultations, which are relatively informal, on a variety of issues. Article XXIII:1 consultations are the next and more formal step

⁷² The panel is composed of persons selected from the delegations of contracting parties not engaged in the dispute and sometimes of another individual chosen from a roster of candidates compiled by GATT members. The panel members are expected to act as disinterested mediators and not as representatives of their governments.

⁷³ Panel reports normally contain suggested remedies that the Contracting Parties may choose to adopt as recommendations to the disputing parties. Bilateral settlement among parties to a dispute is possible at every phase of the process, up until final adoption of a panel report by the Council.

⁷⁴ According to the final paragraph of art. XXIII, after such suspension by the complainant, the offending country also has the right (within 60 days) to withdraw from the GATT.

⁷⁵ For further details on proposals to improve the dispute settlement process, see *Review of the Effectiveness of Trade Dispute Settlement Under the GATT and Tokyo Round Agreements*, (Investigation No. 332-212), USITC Publication 1793, December 1985.

⁷⁶ The Contracting Parties adopted the roster proposal at the end of 1984. In November 1985, they approved a list of candidates for this roster and since that time have continued to maintain the list and have called upon individuals from the list to participate in panels.

in the dispute settlement process. Some of the article XXIII:1 consultations, which had not reached the panel (art. XXIII:2) stage by the end of 1988 concerned complaints by Chile, Canada, and the United States.

Chile engaged in article XXIII:1 consultations with the EC in April 1988 about the EC's suspension of licenses to import apples from Chile. Chile later requested a panel. Chile argued that the measure not only nullified the benefit of tariff concessions but also was contrary to the Uruguay Round standstill commitment.

Canada entered into article XXII consultations with the United States regarding U.S. quotas on ice cream established in 1970 under the Agricultural Adjustment Act.⁷⁷ In December, Canada requested article XXIII:1 consultations on the matter.

In March 1988, the United States informed the Council that it was requesting consultations with the EC under article XXIII:1 on a ban Greece had been imposing since November 1987 on almond imports. The United States requested a panel on the matter in May, but a panel was not established at that time. Bilateral consultations continued and the request for a panel was not renewed during 1988.

Panels requested by the United States

Canadian restrictions on ice cream and yogurt.—In December 1988, the United States requested a panel regarding certain quantitative restrictions imposed by Canada on imports of ice cream and yogurt. During 1988, Canada introduced a measure that required import permits for these products. Although Canada had not announced a level of imports to be granted permits, the United States alleged that Canada was only granting permits based on past performance.⁷⁸ The United States argued that the Canadian measures were inconsistent with GATT article XI's general prohibition against quotas. The Council agreed to establish a panel and designated the terms of reference. The Council Chairman agreed to begin consultations with the parties to determine the composition of the panel.

Norwegian restrictions on apple and pear imports.—In March 1988, the United States requested a panel on Norway's restrictions on the imports of apples and pears. The United States argued that the restrictions, implemented through seasonal import licensing, violate GATT article

⁷⁷ Although Canada recognized that the United States was granted a GATT waiver for implementation of the Act in 1955, it argued that changed conditions no longer require the U.S. measure, thus the United States is not abiding with the conditions of the waiver.

⁷⁸ GATT, *GATT FOCUS*, Vol. No. 59, January-February 1989, p. 3.

XI that prohibits the imposition of quotas.⁷⁹ The Council agreed to establish the panel. By June the terms of reference and composition of the panel were decided, and the panel began meeting in July.

Swedish restrictions on apple and pear imports.—In May 1988 the United States requested the establishment of a panel on Sweden's restrictions on the import of apples and pears. The Council deferred the matter and in June the United States reported that bilateral consultations had been resumed. In October the United States informed the Council that it intended to renew its request for a panel. At the November Annual Session of the Contracting Parties, Sweden informed GATT members that consultations had arrived at a draft agreement involving modifications to Sweden's restrictions on these imports. The United States suspended its request for a panel.⁸⁰

Korean restrictions on beef imports.—The Council considered a U.S. request for a panel regarding Korea's import restrictions on bovine meat⁸¹ in March and April 1988, and in May agreed to establish the panel concurrent with the setting up of a panel requested by Australia on the same matter (see below). The United States argued that the Korean restrictions violate GATT article XI (banning quotas) and nullify and impair the benefit of tariff concessions. The composition of the two panels was agreed upon by September 1988. Also in September, a third panel was established at the request of New Zealand regarding the Korean measures. The work of the panel was continuing at yearend.

EC subsidies on oilseeds and related animal-feed proteins.—In May 1988, the United States requested the Council to establish a panel on EC payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins. The United States argued that the EC program was inconsistent with GATT article III provisions for national treatment and that the measures nullify and impair trade concessions in violation of GATT article II. In June, the Council agreed to establish a panel. By September, the composition and terms of reference were still subject to negotiation among the parties.⁸²

⁷⁹ The Norwegian restrictions generally took effect from the beginning of the domestic harvest season and remained in effect until domestic supplies were sold.

⁸⁰ GATT, *GATT FOCUS*, Vol. No. 58, November–December 1988, p. 2.

⁸¹ The United States alleged that under Korea's beef import licensing system no import licenses had been granted since 1984 except for certain types of beef for use in hotels and that in 1985 even the hotel-related imports were denied. See also "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

⁸² See also "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

EC restrictions on apple imports.—In July 1988, the United States first requested the Council to set up a panel on EC apple import restrictions but asked that the decision be deferred while bilateral consultations were in progress. The EC regulation took effect in April 1988 and provided that no licenses for import of U.S. apples would be issued until August 1988.⁸³ The United States argued that the action was inconsistent with GATT article XI that prohibits quotas and that it nullified the benefit of tariff concessions on apples. The EC argued that the measure conforms to article XI. In September 1988, the Council agreed to establish a panel and by October the composition and terms of reference were determined. During 1988, Chile also requested and obtained a panel on the EC apple restrictions (see below).

Canadian measures on exports of unprocessed salmon and herring.—The Council agreed to establish a panel in April 1987 to consider the U.S. complaint about Canada's ban on the export of unprocessed herring and salmon.⁸⁴ The report of the panel was presented to the Annual Session of the Contracting Parties in December 1987. The Contracting Parties referred the report to the Council for consideration. At the March 1988 Council meeting, Canada agreed to adopt the panel report. The report concluded that Canada's prohibitions were contrary to article XI:1 and were without justification under the exceptions provided in articles XI:2 or XX(g). The report urged the Contracting Parties to recommend that Canada bring its measures into conformity with GATT rules.⁸⁵ The report also noted that the Canadian measures were not necessary for the application of quality-control standards, since Canada prohibited the export of such products regardless of whether or not they met Canadian standards.⁸⁶ At the Council meeting in May 1988, the Council conducted follow-up discussions of Canada's progress in implementing the adopted recommendations of the panel.

EC Third-Country Meat Directive.—In October 1987, the Council considered a request by the United States to establish a panel on the EC's directive setting regulations for meat-handling facilities. The United States argued that the regulation was inconsistent with article III (on discrimination against imported products) and nullified or impaired U.S. benefits under the

⁸³ EC Regulation No. 1040, Apr. 20, 1988. The action established a fixed total quota of 521,731 metric tons, mostly allocated among 5 countries (Argentina, Chile, South Africa, New Zealand, and Australia) with a small portion of the quota left for all other countries.

⁸⁴ See also the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

⁸⁵ GATT, Report of the Panel, "Canada—Measures Affecting Exports of Unprocessed Herring and Salmon," Doc. no. L/6268, Nov. 20, 1987, Adopted March 1988.

⁸⁶ GATT, *GATT FOCUS*, Vol. no. 54, April–May 1988, p. 2.

GATT. At the December 1987 Annual Session of the Contracting Parties, the establishment of a panel was authorized. Consultations on the composition and terms of reference of the panel were suspended in 1988 due to bilateral discussions between the United States and the EC on the matter.⁸⁷

Indian import restrictions on almonds.—In June 1987, the United States informed the Council that it was holding article XXIII:1 consultations as well as consultations under the dispute settlement provisions (article 4.2) of the Import Licensing Agreement concerning India's licensing regime and tariffs affecting U.S. almond exports. In July, the United States requested that a panel be established on the issue. In November 1987, the Council agreed to establish a panel. Although by April 1988 the United States and India had agreed to the terms of reference and composition of the panel, in June, the two parties informed the GATT that they had reached a bilateral solution to the dispute, and the United States withdrew its complaint.⁸⁸

Japanese restrictions on imports of certain agricultural products.—In October 1986, a panel was established at the request of the United States to examine Japanese restrictions on imports of certain agricultural products. The United States argued, among other things, that the Japanese restrictions, in effect since 1963, on 12 categories of agricultural products,⁸⁹ are administered contrary to GATT article XI, which deals with quantitative restrictions. In December 1987, the report of the panel was completed and in February 1988, the report was considered and adopted at a GATT Council meeting. The panel found Japan's measures to be inconsistent with GATT rules and suggested the Contracting Parties recommend that Japan eliminate or bring into GATT conformity its quotas on the products.⁹⁰

Follow up discussion was held over the ensuing three months.⁹¹ Japan agreed to end quotas on seven categories of products by April 1, 1990. On four other product categories, Japan will partially lift quotas, provide substantial

⁸⁷ For further details see the "European Community" section of ch. 4 and the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

⁸⁸ See also the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

⁸⁹ The products involved are preserved, concentrated, or sweetened milk and cream; processed cheese; dried leguminous vegetables; starch and inulin; groundnuts; prepared or preserved meat of bovine animals; certain other sugars and syrups; fruit puree and pastes; fruit pulp and pineapple; fruit and vegetable juices; tomato ketchup and sauce; and certain food preparations. See GATT, *GATT Activities 1986*, Geneva: June 1987, p. 56.

⁹⁰ GATT, Report of the Panel, "Japan-Restrictions on imports of Certain Agricultural Products," Doc. No. L/6253, Nov. 18, 1987, Adopted February 1988.

⁹¹ For further details see the "Japan" section of ch. 4.

access, or offer compensation.⁹² In September, Japan provided written notification to the GATT of its market-opening measures relevant to the disputed agricultural products.

Follow-up on EC tariff preferences on citrus products.—In 1984, the report of the panel examining this U.S. complaint was completed.⁹³ However, the report was unable to achieve adoption by the GATT Council. Frustrated with EC blockage of the Council's adoption of the panel report, the U.S. President instituted unilateral action under section 301 of the Trade Act of 1974. Through these means, the dispute was finally resolved in August 1986 with an agreement between the United States and the EC on a package of compensatory tariff adjustments. However, final implementation of the terms of this agreement required passage of certain provisions of the U.S. trade bill under consideration in Congress during 1988. The provisions, which granted the U.S. President authority to effect the agreed upon tariff adjustments, were included in the new trade law that passed in August 1988.⁹⁴

Panels examining U.S. measures

Complaint by Brazil on retaliatory U.S. tariff increases.—In October 1988, the United States increased rates of duty on imports from Brazil of several products.⁹⁵ In December, Brazil requested the Council to establish a panel to examine its allegation that the U.S. measures nullified and impaired Brazilian rights under GATT articles I (most-favored-nation treatment) and II (maintenance of tariff concessions). Brazil claimed the unilateral action (taken by the United States under the authority of section 301 of U.S. trade laws) lacked any legal foundation in GATT rules. The United States argued that the action

⁹² The United States had also requested and obtained a panel regarding Japanese restrictions on additional agricultural products, namely beef and citrus products, in May 1988. Following the resolution of the main case on Japanese agriculture restrictions, the United States withdrew its complaint on beef and citrus in July 1988.

⁹³ The United States contended that EC tariff preferences on imports of citrus products from Mediterranean countries violated MFN obligations and thus nullified and impaired benefits to the United States of negotiated tariff concessions. The panel concluded that the EC preferences would be inconsistent with art. I:1 of the General Agreement unless the preferences were otherwise permitted under provisions of the GATT or under a decision of the Contracting Parties. To redress the adverse effects the United States had suffered as a result of the preferences, the panel suggested that the EC reduce the MFN tariff rates on fresh oranges and lemons, or extend the period of application of lower MFN tariff rates on fresh oranges and reduce the MFN tariff rates on fresh lemons. See GATT, *GATT Activities 1984*, Geneva, June 1985, p. 37.

⁹⁴ For more details on this subject, see the section of ch. 5 on the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices."

⁹⁵ These products included non-benzenoid drugs, paper products, and consumer electronics. See also "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

followed two years of "fruitless" discussions with Brazil regarding inadequate protection of intellectual property rights for pharmaceutical and chemical products. Although GATT delegates representing 37 member countries supported the panel request, the United States indicated that it was not prepared to respond to the request at that time.⁹⁶ The Council agreed to revert to the matter at subsequent meetings.

Complaint by Australia on the sugar import regime.—In September 1988 the Council agreed to Australia's request for a panel to examine U.S. restrictions on sugar imports. Australia argued that the U.S. sugar import restrictions were not consistent with GATT article XI which prohibits the use of quotas. Australia also alleged that the quotas, in effect since 1982, have become increasingly restrictive. Subsequently, consultations were initiated to determine the panel's composition and terms of reference.

Complaint by the EC on Section 337 action.—In June 1987, the EC informed the Council that it had requested consultations under article XXIII:1 with the United States in April and May with little response. In July, the EC requested the Council to establish a panel to examine the U.S. section 337 (patent infringement) case on aramid fibers. The EC argued that section 337 procedures violated national treatment provisions of the GATT because imported goods were subjected to different procedures and standards than domestically produced goods. In October 1987, the Council established a panel which began meeting in February 1988.⁹⁷

Complaints by Canada and the EC on the customs user fee.—In November 1986, Canada requested article XXIII:1 consultations on U.S. customs user fees, which became effective on December 1, 1986, as part of the Omnibus Budget Reconciliation Act of 1986.⁹⁸ In March 1987, the Council considered requests by the EC and Canada to establish a panel. The parties had agreed to the panel members and its terms of reference by May 1987. In November, the report of the panel was completed and circulated to the parties. The report was adopted at the February 1988 Council meeting. The panel found that the U.S. fee caused amounts to be levied that were in excess of the "cost of services rendered" which is

required on under GATT articles II:2(c) and VIII:1(a). The panel recommended that the United States bring the fee into conformity with GATT obligations.⁹⁹ During 1988, the EC and Canada encouraged the United States to comply with the ruling but no further action was taken by the U.S. during 1988.

EC complaint against Japan on the U.S.-Japan semiconductor arrangement.—In March 1987, the EC requested that the Council establish a panel to examine the arrangement between the United States and Japan on trade in semiconductors.¹⁰⁰ The United States is not a party to the case, but was, however, given special third-party status. The Chairman of the Council was authorized to hold consultations between the parties. In April, the Chairman reported on the consultations and the Council agreed to establish a panel. Negotiations on the terms of reference and members of the panel were completed in June 1987.

In April 1988, the panel report was presented to the Council and in May the Council agreed to adopt the report. The panel found that certain aspects of Japanese implementation of the semiconductor agreement were inconsistent with article XI:1 but did not find evidence of discrimination in favor of U.S. products. The panel recommended that Japan amend its measures relating to semiconductor exports to bring them into conformity with the GATT, while noting that Japan had already changed certain of its export procedures.¹⁰¹ Follow-up on implementation of the panel report was discussed in the Council in October, and in December the EC informed the Council that Japan had not yet completed steps to modify its practices.¹⁰²

*Canadian complaint against U.S. restrictions on imports of products containing sugar*¹⁰³.—At the request of Canada, the Council agreed to establish a panel in March 1985 to examine a U.S. action imposing quotas on certain articles containing sugar. Formation of the panel was

⁹⁶ GATT, *GATT FOCUS*, Vol. No. 59, January-February 1989, p. 3.

⁹⁷ In January 1989, the panel report was circulated to the contracting parties. According to newspaper articles, the panel report ruled in favor of the EC position, and was completed but not presented to the Contracting Parties by the end of 1988 (see *Inside U.S. Trade*, Apr. 14, 1989, p. 7.)

⁹⁸ Canada argued that the imposition of the fees on an ad valorem basis does not correspond to the cost of providing the service of processing the import of a product.

⁹⁹ GATT, Report of the Panel, "United States Customs User Fee," Doc. No. 6264, Nov. 25, 1987, Adopted February 1988.

¹⁰⁰ In August 1987, the EC and the United States held consultations under art. XXIII:1 concerning certain aspects of the U.S.-Japan semiconductor agreement. No panel has been requested.

¹⁰¹ GATT, Report of the Panel, "Japan—Trade in Semiconductors," Doc. No. 6309, Mar. 24, 1988, adopted April 1988.

¹⁰² See also the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

¹⁰³ During 1988, the EC requested the establishment of a panel regarding these U.S. measures that are subject to a GATT waiver regarding agricultural programs and implemented under the headnote to chapter 10 of the U.S. Tariff Schedule. The United States blocked a panel, however, arguing that the EC had not satisfactorily explained the legal basis for the claim. See GATT, *GATT FOCUS*, Vol. No. 59, January-February 1989, p. 4.

deferred, however, because of bilateral discussions between the United States and Canada on the issue. No further progress on bilateral discussions was reported in 1988.¹⁰⁴

Follow-up on complaints by Canada, the EC, and Mexico regarding U.S. Superfund Reauthorization.—In November 1986, the EC requested article XXII:1 consultations with the United States on internal taxes on petroleum, petroleum products, and chemical derivatives.¹⁰⁵ In November, Canada also requested article XXIII:1 consultations with the United States on the superfund measure, and Mexico requested further information on the legislation.

In February 1987, the Council agreed to establish a panel on the matter and by June 1987 it adopted the panel report. The panel concluded that the tax on petroleum was inconsistent with article III:2 and that the Contracting Parties should recommend that the United States bring the measure into conformity with GATT obligations. However, the panel did not find that the tax on "certain imported substances" was inconsistent with GATT rules.¹⁰⁶ The Council also took note of the U.S. statement that the penalty rate was not likely to be applied. In December 1987, several contracting parties urged the United States to take measures to comply with the recommendations of the panel report.

In February 1988, the matter was again discussed in meetings of the GATT Council. In March, the EC requested authorization to retaliate by suspending the application of concessions vis-a-vis the United States. The EC request was considered but not acted upon in any succeeding Council meeting throughout 1988. In December the EC informed the Council that consultations were underway with the United States regarding compensation.¹⁰⁷

¹⁰⁴ On May 19, 1985, the President modified the original proclamation that was the subject of Canada's complaint by deleting several products that contain only small amounts of sugar from the quota list. Quotas on the remaining products are to remain in effect until the President has acted on a report by the USITC on the matter. Canada postponed further action in the GATT to await the outcome of any further Presidential action. As of April 1989, the President had not acted on the USITC's report submitted in September 1985, nor had he released the report to the public.

¹⁰⁵ The complaint concerned the "Superfund Reauthorization and Amendments Act of 1986," particularly the increased tax on petroleum with a differential between 8.2 cents per barrel for domestic oil and 11.7 cents per barrel on imported petroleum products. The EC argued that the tax differential discriminates against imported products and is therefore contrary to GATT art. III, which deals with national treatment.

¹⁰⁶ GATT, Report of the Panel, "United States — Taxes on Petroleum and certain Imported Substances," Doc. No. L/6175, June 5, 1987, adopted June 1987.

¹⁰⁷ GATT, *GATT FOCUS*, Vol. No. 59, January–February 1989, p. 4.

*Follow-up on the Nicaraguan complaint against the U.S. trade embargo.*¹⁰⁸—In July 1985, Nicaragua requested the formation of a panel on the U.S. imposition of a trade embargo against Nicaragua.¹⁰⁹ The panel report was considered at the Council meeting in early November 1986 and the Council chairman agreed to discuss the report with the parties, but the discussions yielded no positive results. Nicaragua continued to raise the issue in the Council throughout 1987, and the Chairman continued to attempt to hold consultations among the parties. In November 1987, Nicaragua complained to the Council of the continued imposition of the trade embargo for an additional six months. With no change in the U.S. position forthcoming, Nicaragua continued to raise the issue from time to time in Council meetings during 1988.

Cases among other countries

Australia/New Zealand complaints on Japanese beef import restrictions.—In May 1988 Australia requested and obtained a dispute settlement panel regarding Japanese restrictions on imports of beef. In June, New Zealand also requested a panel on the matter. Among the allegations made by the two countries were that Japan's beef imports, controlled by quotas and licensing, were complex and lacked transparency, and violated GATT prohibitions on the use of quotas (article XI). The United States and Japan were at the same time engaged in dispute settlement discussions regarding this and other Japanese agricultural restrictions (see above). Following Japanese market-opening measures, Australia and New Zealand both withdrew their complaints in July 1988.

Australian complaint on Korean beef import restrictions.—In April 1988, Australia requested a dispute settlement panel regarding Korea's import ban on beef that was implemented through a restrictive import licensing system.¹¹⁰ Australia noted that in 1983, the year preceding the institution of the ban, Korea had been its third largest market for beef exports. The Council agreed to establish a panel in May. By September, the panel has been formed.

New Zealand complaint on Korean beef import restrictions.—New Zealand requested the establishment of a panel on Korea's beef import restrictions in June 1988.¹¹¹ New Zealand reported that prior to the institution of the import ban, Korea had been its second largest export

¹⁰⁸ Effective May 7, 1985, the President banned all trade with Nicaragua (Executive Order No. 12513, May 1, 1985) and justified this measure under art. XXI (national security exemption) of the GATT.

¹⁰⁹ The Council agreed in October 1985 to establish a panel with the U.S. understanding that the role of the panel would not entail any judgment on the validity of the use of national security exceptions (art. XXI).

¹¹⁰ See the previously mentioned case brought by the United States on the same matter.

¹¹¹ See the above-mentioned cases brought by the United States and Australia on the same matter.

market for beef. New Zealand argued that the measures violated GATT provisions regarding the use of quotas and import licensing. The Council agreed to establish a panel in September and authorized the Council Chairman to begin consultations on the composition of the panel.

Canadian complaint on Japanese tariffs on lumber.—In March 1988, Canada requested a panel on Japan's restrictions on the importation of spruce-pine-fir dimension lumber. Canada argued that the eight percent tariff Japan was applying to this lumber was inconsistent with GATT article I because imports of other types of wood that constitute "like products"¹¹² enter Japan at a zero rate of duty. The Council agreed to establish a panel and by June the disputing parties had agreed upon the terms of reference and composition of the panel. Panel meetings commenced in July.

Japanese complaint on EC regulations on imports of parts and components.—In May 1988, Japan raised concern about the adoption by the EC in June 1987 of antidumping regulations applied against local EC production that made use of imported parts.¹¹³ Japan argued that the EC measures did not fulfill the requirements of GATT Article VI and that they were aimed at "obliging firms to use parts originating in the EC" thus resulting in discrimination against imports.¹¹⁴ In September, Japan informed the Council that consultations under article XXIII:1 with the EC were ongoing. In October the Council agreed to Japan's request to establish a panel.

Chilean complaint on the EC's import licensing of apples.—In March 1988, Chile raised its concern at the Council regarding the EC's establishment of a system to grant import licenses for dessert apples.¹¹⁵ Chile argued that the EC measure violated, among other things, GATT articles I, II, XI, and XIII as well as Part IV and provisions on import licensing. Chile's complaint was considered again in April. In May, Chile requested the establishment of a panel. The Council agreed, and by August 1988 the panel's members and terms of reference were completed and the panel began meeting.

Follow-up on EC complaint on Japanese measures affecting imported wines and alcoholic beverages.—In July 1986, the EC requested consultations with Japan about the level of customs duties, structure of the liquor tax system, and labeling practices affecting wines and

alcoholic beverages. Canada also joined in the consultations. In February 1987, the Council agreed to establish a panel.

The panel concluded that Japanese taxes on certain imported alcoholic beverages were inconsistent with article III:1 and 2 regarding discrimination against imported products. Further, the panel found that taxes on certain liquors were applied in a manner that afforded protection to domestic producers. At the same time, the panel did not find that Japanese labeling practices on liquor bottles were inconsistent with its GATT obligations. The panel recommendation, adopted by the Contracting Parties, suggested that Japan bring its taxes on certain alcoholic beverages into conformity with GATT obligations. During 1988, the Council conducted a followup on the implementation by Japan of the panel report. Japan reported that revision of the liquor tax would require a decision by the Diet, and that the legislative process would take time.

EC complaint on certain practices of a Canadian Provincial (Quebec) liquor board.—In March 1985, the Council established a panel under article XXIII:2 at the request of the EC. The EC alleged certain practices of the Quebec liquor board, in particular a markup on the sale price of certain alcoholic beverages, as well as other forms of restriction and discrimination, are inconsistent with the GATT.¹¹⁶ As a result, the EC claimed the Quebec liquor board actions resulted in imports receiving less favorable treatment than domestic products. The panel report, finding Canadian practices inconsistent with GATT article II and XI, was completed and circulated to the parties in November 1987. In March 1988, the report was adopted by the Council.¹¹⁷

Follow-up on South African complaint on Canadian (Ontario) sales tax.—The dispute between South Africa and Canada began in May 1983 when the Provincial Government of Ontario exempted the Canadian Maple Leaf gold coin from the 7 percent Ontario retail sales tax, but did not exempt imported gold coins from the tax. The Council established a panel in November 1984. The panel report was considered by the Council in September and November 1985 but was not adopted.¹¹⁸ Although Canada reported to the Council in February 1986 that the

¹¹⁶ The importation, distribution, and sale of alcoholic beverages in Canada is controlled by Provincial liquor boards.

¹¹⁷ GATT, Report of the Panel, "Panel on Import, Distribution and Sale of Alcoholic Drinks by Canadian Provincial Marketing Agencies," Doc. No. L/6304, Feb. 5, 1988, Adopted March 1988.

¹¹⁸ The report concluded that the Ontario retail sales tax was not consistent with the national treatment provisions of art. III:2 that require equal treatment of domestic and imported products. It further suggested that the Contracting Parties call on Canada to ensure that the actions of the Ontario Province conform to those obligations. GATT, *GATT FOCUS*, Vol. No. 57, February-March 1986, pp. 1-2.

¹¹² Under the meaning of GATT article I:1.

¹¹³ The measure is intended to ensure that imports of parts and components do not become a means to circumvent antidumping duties on finished products. The measure was implemented under EC Council Regulation No. 1761/87, June 22, 1987 and later incorporated in Council Regulation No. 2423/88, July 11, 1988.

¹¹⁴ See *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 9.

¹¹⁵ See above for details of the U.S. dispute regarding the EC import licensing system for apples.

Provincial tax measure had been rescinded, it will not agree to adoption of the report. Canada and some other delegations remain opposed to certain rulings of the panel.¹¹⁹

Customs Unions and Free-trade Areas (art. XXIV)

The GATT permits regional trading arrangements among countries that agree to abolish trade barriers between each other under article XXIV of the General Agreement as an exception to the general rule of MFN treatment. This exception recognizes the value of "closer integration of national economies through freer trade." These country groupings must meet certain rules that are meant to ensure that the arrangements facilitate trade without causing harm to trade with outside countries.¹²⁰ Therefore, the GATT normally sets up working parties to examine trade aspects of newly formed customs unions or free-trade areas and requires the members of such arrangements to report on its functioning on a biannual basis.

In March 1987, the Council agreed to establish a working party to examine the Third ACP-EEC Convention signed at Lome. In September 1988, the working party introduced its report. The working party had reviewed such matters as the presentation of statistical information, the scope of the MFN treatment to the ACP States, the application of the safeguard clause, and the purchases of goods and services from third countries. The Council adopted the working party's report.

In October 1987, Canada and the United States informed the Council of the free-trade arrangement concluded between them on October 3, 1987. The agreement was signed on January 2, 1988. In the February meeting, the United States and Canada notified GATT that the text of the agreement was not available for circulation until the representative governments had approved the agreement.¹²¹

In February 1986, the GATT Council agreed to set up a working party under article XXIV:5 to examine the effect of the accession of Spain and Portugal to the EC. The working party, whose membership consisted of all interested parties, also examined the information on the accession package with a view to determining whether or not tariff and other trade-related changes resulting from enlargement conformed to the GATT. In the October 1988 meeting, the GATT Council adopted the report of the working party.

¹¹⁹ For example, Canada agreed with the panel finding that the measure violated national treatment provisions of the GATT but not with the finding that the measure violated MFN principles since only the Canadian Maple Leaf, and no other gold coin, whether produced in Canada or any country abroad, were exempted from the tax. GATT, *GATT FOCUS*, *ibid.*

¹²⁰ GATT, *GATT Activities 1986*, Geneva, June 1987, p. 64.

¹²¹ The Canada-U.S. Free Trade Agreement took effect on Jan. 2, 1989.

The working party was unable to reach an agreed upon conclusion as to whether the accession was consistent with the General Agreement. The report therefore only summarized the discussions.

Several countries expressed concern over the accession of Spain and Portugal to the EC. The United States was "disappointed" with the report's conclusion. It considered that the inconsistency with article XXIV:5 had been clearly demonstrated: the trade restrictions, both tariff and nontariff, imposed at the time of enlargement were on the whole higher and more restrictive than the general incidence of such barriers prior to Spain's and Portugal's accession to the Community.¹²² Due to the inconclusive working party report, several countries reserved their full rights pending the completion of their negotiations with the Community under article XXIV:6. These included Canada, New Zealand, and Japan.

Negotiations on Modification of Schedules (art. XXVIII)

Article XXVIII provides the mechanism by which a contracting party may modify or withdraw tariff concessions. The contracting party wishing to take this action must enter into negotiations not only with the contracting parties primarily concerned, but also with other contracting parties having a substantial interest in the concession. The article is based on the principle of balanced compensation through compensatory adjustment in the tariffs on other products.¹²³ Its provisions are also used when a tariff rate is adjusted, or a product is reclassified for administrative or judicial reasons. Contracting parties wishing to take recourse to the provisions of article XXVIII must notify the GATT and submit a request to the Council for authorization to enter into negotiations.

In recent years a number of negotiations on the adjustments to GATT tariff schedules are being undertaken in conjunction with adoption of the Harmonized System tariff nomenclature. Article XXVIII is the vehicle for negotiations on compensation due as a result of changes in GATT bound tariff rates affected by conversion to the Harmonized System. The Harmonized System was adopted in January 1988.¹²⁴ Among the countries completing HS renegotiation under article XXVIII are Brazil, Turkey, Indonesia, Bangladesh, Israel, Malaysia, Mexico, Sri Lanka, and Yugoslavia.

¹²² GATT, *GATT FOCUS*, Vol. No. 58, November-December 1988, p. 3.

¹²³ Art. XXVIII states that "in such negotiations and agreement, which may include provision for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavor to maintain a general level of reciprocal and mutually advantageous concessions not less favorable to trade than that provided for in this Agreement prior to such negotiations."

¹²⁴ See the section of this chapter on Committee on Tariff Concessions for more information concerning the HS.

The frequent use of article XXVIII by GATT members has prompted an examination of the article and possible revision. Issues that have been raised concerning article XXVIII within the context of the Uruguay Round include the determination of suppliers' right, calculation of compensation and new products, and instability of concessions. In a joint communication to the Negotiating Group on GATT Articles, fifteen countries urged that the present situation be improved. They reasoned that "because trade in many products is concentrated in favor of larger countries, they [GATT members] have lost suppliers' rights they originally possessed."¹²⁵ As for calculation of compensation, the present rules are based on the value of trade during a reference period. Many countries believe that the calculation should be based on the growth potential for exports of the product. The stability of concessions is being undermined by the increasing recourse to article XXVIII:5 which allows a country to renegotiate without authorization all or some of a schedule.¹²⁶ Various countries pointed out that this provision was being used more and more as a safeguard measure, and should therefore be subject to stricter conditions.¹²⁷

During 1988 Morocco was granted the authority to renegotiate its concessions under article XXVIII. The country has recently enacted a temporary fiscal levy of 12.5 percent on imports to help alleviate its budget deficit. The levy replaces the special import tax and the customs stamp duty. The Moroccan Government has sought to ensure that the total amount of bound duties was not affected; however, four products will need to be renegotiated.¹²⁸

Accessions to the GATT (arts. XXVI and XXXIII)

Article XXXIII contains the normal procedures for accession under which the Contracting Parties may accept the accession of a new member by a two-thirds majority vote.¹²⁹ Article XXVI provides for accession under simple procedures for former territories applying the

¹²⁵ GATT, *GATT FOCUS*, Vol. No. 54, April-May 1988, p. 4.

¹²⁶ GATT, *GATT FOCUS*, Vol. No. 54, April-May 1988, p. 5.

¹²⁷ GATT, *GATT FOCUS*, Vol. No. 54, April-May 1988, p. 5.

¹²⁸ These four products are sulphur, asbestos, coal, and newsprint.

¹²⁹ The process of accession under art. XXXIII can be complex and time consuming. Application sets off a series of negotiations in which the applicant offers trade concessions to existing contracting parties as an "entry price" for joining the GATT. Normally, a working party is established to study the country's request and information on its trade patterns and the administration of its trade regime. Although unilateral tariff concessions have been the most traditional form of entry concessions, countries joining the GATT in recent years

GATT rules on a de facto basis.¹³⁰ In 1988, several applications to the GATT filed in 1986 or 1987 were still under consideration.¹³¹

In 1988, Lesotho became the 96th GATT Contracting Party under the procedures of article XXVI requiring a simple declaration to that effect. Working parties set up to examine accession requests received information on the foreign trade regimes of Bolivia, Bulgaria, and El Salvador during 1988. Consultations regarding the terms of reference for the working party to examine the accession of Bulgaria, initiated in November 1986, are continuing. The working party on the accession of Tunisia completed its report in February, but by yearend the Council had not completed consideration of the report. Other applications for full accession that are under consideration include those from China, Costa Rica, and Algeria. Honduras, El Salvador, and Guatemala have each applied for provisional membership.

The total number of Contracting Parties in 1988 was 96. A full list of GATT members, as of December 31, 1988 is presented in the tabulation at the top of the next page.

Implementation of the Tokyo Round Agreements

The following section describes the implementation and operation of the nine Tokyo Round agreements and arrangements (informally referred to as the Tokyo Round codes) during 1988,¹³² as carried out by their respective

¹²⁹—Continued

have frequently been asked to make nontariff concessions such as paring down export subsidies, or refraining from dumping practices. Once accepted, however, new members would be on equal footing with other members in negotiating new agreements and mutual tariff reductions in the Uruguay Round.

¹³⁰ Art. XXVI states that "if any of the customs territories . . . possesses or acquires full autonomy in the conduct of its external relations . . . such territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the fact, be deemed a contracting party." Nations not in this category must accede under the procedures of art. XXXIII.

¹³¹ The Uruguay Round sparked significant interest in seeking accession to the GATT by nonmember countries. For example, during 1987, Botswana, Antigua and Barbuda, and Morocco acceded to the GATT. During the Tokyo Round, a number of countries that were not contracting parties were allowed to participate fully in negotiations. For this round, however, the rules on participation are more restrictive.

In the Tokyo Round, allowance was made for countries that were not contracting parties to participate in negotiations. However, part 1, section F of the Ministerial Declaration of the Uruguay Round essentially limits participation in these negotiations to contracting parties or countries that have applied for accession to the GATT as of a certain date. A copy of the Ministerial Declaration is contained in app. A of *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995.

¹³² The Tokyo Round agreements, published in GATT, *Basic Instruments and Selected Documents*, Supp. 26,

Contracting Parties to the GATT (96, plus 1 provisional accession)

Antigua and Barbuda	Denmark	Korea, Republic of	Sierra Leone
Argentina	Dominican Republic	Kuwait	Singapore
Australia	Egypt	Lesotho ¹	South Africa
Austria	Finland	Madagascar	Luxembourg
Bangladesh	France	Malawi	Spain
Barbados	Gabon	Malaysia	Sri Lanka
Belgium	Gambia	Maldives	Suriname
Belize	Germany, Federal Republic of	Malta	Sweden
Benin	Ghana	Mauritania	Switzerland
Botswana	Greece	Mauritius	Tanzania
Brazil	Guyana	Mexico	Thailand
Burkina Faso	Haiti	Morocco	Togo
Burma	Hong Kong	Netherlands	Trinidad and Tobago
Burundi	Hungary	New Zealand	Tunisia ²
Cameroon	Iceland	Nicaragua	Turkey
Canada	India	Niger	Uganda
Central African Republic	Indonesia	Nigeria	United Kingdom
Chad	Ireland	Norway	United States of America
Chile	Italy	Pakistan	Uruguay
Colombia	Israel	Peru	Yugoslavia
Congo	Ivory Coast	Philippines	Zaire
Cuba	Jamaica	Poland	Zambia
Cyprus	Japan	Portugal	Zimbabwe
Czechoslovakia	Kenya	Romania	
		Rwanda	
		Senegal	

¹ New member in 1988.

² Provisional accession.

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 (28)

Algeria	Grenada	St. Christopher and Nevis	Tonga
Angola	Guinea-Bissau	St. Lucia	Tuvalu
Bahamas	Kampuchea	St. Vincent	United Arab Emirates
Bahrain	Kiribati	Sao Tome and Principe	Yemen, People's Democratic Republic of
Brunei	Mali	Seychelles	
Cape Verde	Mozambique	Solomon Islands	
Dominica	Papua New Guinea	Swaziland	
Equatorial Guinea	Qatar		
Fiji			

administrative committees or councils.¹³³ Six of these agreements establish rules of conduct governing the use of NTM's (subsidies and countervailing duties, government procurement, standards, import licensing procedures, customs valuation and antidumping), and three are sectoral agreements (civil aircraft, bovine meat, and dairy products). GATT members are not required to join the codes, and not all have chosen to do so. For this reason, code signatories have assessed the record of operation of the agreements since their entry into force and focused on ways to improve their operation and encourage more GATT members to accede. The current status of participation in each of the agreements, as of year end, is shown in table 2.

¹³²—Continued

pp. 8-188, entered into force on Jan. 1, 1980, except for those on government procurement and on customs valuation, which entered into force on Jan. 1, 1981. The Customs Valuation Agreement, however, was implemented on July 1, 1980, by the United States and the EC.

¹³³ The Committees or Councils, composed of the signatories of each code, are charged with overseeing implementation of code provisions and meet two or more times a year on a regular basis. Meetings may also be convened in special sessions to address a particular problem raised by a member. The Committees address questions on interpretation of code provisions and code-related disputes among signatories.

Code on Subsidies and Countervailing Duties

The Code on Subsidies and Countervailing Duties, also referred to as the Subsidies Code, elaborates upon provisions of the General Agreement concerning the use of subsidies and countervailing duties. It sets guidelines for resort to these measures and establishes agreed upon rights and obligations to ensure that subsidy practices of one party to the agreement do not injure the trading interests of another party and that countervailing measures do not unjustifiably impede trade.¹³⁴ During 1988, no new signatories acceded to the code, thus membership stands at 24 signatories.¹³⁵

¹³⁴ If one signatory's subsidized exports cause material injury to another signatory's domestic industry, the injured party may either impose countervailing duties to offset the margin of subsidy or request that the exporting country eliminate or limit the effect of the subsidy. The Code also allows a signatory to seek redress for cases in which another signatory's subsidized exports displace its exports in third-country markets.

¹³⁵ See table 2 for a full listing of this Code's membership. In 1987, Spain and Portugal withdrew as individual members and are now members under the auspices of the EC.

Table 2

Signatories to the Tokyo Round agreements: Status as of Dec. 31, 1988

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P); new member 1988(*))

Countries	Standards	Gov't procurement	Subsidies	Bovine meats	Dairy products	Customs valuation	Import licensing	Civil aircraft	Anti-dumping
Contracting Parties:									
Argentina	A ¹			A	A	A ¹	S		
Australia			A ¹	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 ¹			A
Canada	A	A	A	A		A ¹	A	A	A
Chile	A		A				A		
Colombia				A					
Czechoslovakia	A ¹					A	A		A
Denmark	A ¹							A ¹	
Egypt	A		A	A	S		A	S	A
EC@	A	A	A	A	A	A	A	A	A
Finland	A	A	A	A	A	A	A		A
France	A							A	
Greece	S							S	
Hong Kong#	A	A	A			A	A		A
Hungary	A ¹			A	A		A		A
India	A		A			A ¹	A		A
Indonesia			A ¹						
Ireland	A							A	
Israel		A	A ¹						
Italy	A							A	
Japan	A	A		A	A		A	A	A
Korea	A		A			A ¹			A
Lesotho						A			
Luxembourg	A							A	
Malawi						A ¹			
Mexico	A					A	A		A
Netherlands	A							A	
New Zealand	A		A ¹	A	A	A ¹	A		A*
Nigeria				A			A		
Norway	A	A	A	A	A	A	A	A	A
Pakistan	A		A				A		A
Philippines	A		A ¹				A ¹		
Poland				A	A		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 ¹			
United Kingdom	A ¹							A ¹	
United States	A	A	A	A		A	A	A	A
Uruguay			A	A	A				
West Germany	A ¹							A ¹	
Yugoslavia	A		S	A		A	A		A
Zimbabwe						A			
Noncontracting Parties:									
Bulgaria				A	A				
Guatemala				A ¹					
Paraguay				P					
Total signatories	39	12	24	27	16	27	27	22	25

¹ Reservation, condition, declaration, or any combination.² The EC is a signatory to all the agreements. Because the Standards Agreement and the Civil Aircraft Agreement cover matters that go beyond the authority of the EC, each of the EC Member States is also a signatory to these Agreements.³ 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.⁴ Provisional accession to the GATT.

Source: The GATT.

Each year, the Committee on Subsidies and Countervailing Measures reviews national legislation, reports on countervail actions, and notifications on subsidy programs submitted by signatories. In 1988, the Committee also addressed some dispute settlement matters raised by signatories. It discussed, but was still unable to adopt, several outstanding reports of dispute settlement panels and engaged in conciliation of a complaint by Brazil concerning a U.S. countervailing duty action. Activities of the Code's Group of Experts on the Calculation of a Subsidy remained suspended this year.

Dispute Settlement¹³⁶

During 1988, the Committee discussed dispute settlement matters at several of its meetings and also engaged in conciliation efforts. It continued to review the four as yet unadopted reports of dispute settlement panels. Two outstanding reports, one on EC wheat flour subsidies and one on EC pasta subsidies, were submitted to the Committee in 1983.¹³⁷ The other two reports concern the U.S. definition of industry for wine and grape products,¹³⁸ submitted in 1986, and Canadian countervailing duties on beef imports, submitted in late 1987. None of the outstanding panel reports were adopted by the Committee during 1988.

The panel report concerning Canadian countervailing duties on beef imports from the EC

¹³⁶ A dispute may be brought for settlement under the Subsidies Code when the issues involved are covered by the Code and when parties to the dispute are Code signatories. Under Code dispute settlement procedures, a signatory whose exports are affected may request consultations with the exporting country. If consultations do not yield a mutually acceptable solution, conciliation by the Code Committee is available. If conciliation also fails, the Committee sets up a panel upon the request of either party, and draws on the panel's findings to make recommendations to the disputing parties. Finally, if the Committee determines that its recommendations have not been implemented within a reasonable period of time, it may authorize the injured party to take countermeasures.

¹³⁷ These panel reports are still pending. The United States indirectly addressed the issue of pasta subsidies by raising the tariffs on certain pasta products in retaliation for EC blockage of adoption of the panel report on citrus preferences in July 1985. See the discussion of the EC citrus preferences in *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, p. 243. For a detailed discussion of wheat flour and pasta disputes, see the *Operation of the Trade Agreements Program*, 34th Report, 1982, pp. 23-25.

¹³⁸ A panel report on the U.S. definition of industry concerning wine and grape products, completed in March 1986, also awaits adoption. In February 1985, the Committee established a panel to investigate the dispute concerning an EC complaint that certain provisions of the U.S. Trade and Tariff Act of 1984 contravened the Code. The complaint questioned the U.S. definition of industry for wine and grape products under which grape growers were temporarily granted standing, as part of the wine-producing industry, to file petitions with the USITC alleging injury or threat of injury resulting from dumped or subsidized wine imports.

was considered twice in 1987 and again in February and May 1988. In August 1986, the EC first raised its complaint about the Canadian action on imports of boneless manufactured or processed beef from the EC. In October 1986, the Committee established a panel on the subject. During 1988, Canada continued to express reservations about the implications of the panel ruling for the certain principles that underlie the functioning of the agreement. Canada argued that injury to cattle producers, not only beef processors, must be taken into consideration in arriving at the countervailing duty determination. The panel disagreed with this view, referring to the use of "objective criteria" as called for in the code to arrive at a definition of industry in this and other instances. Canada argued that this interpretation resulted in a narrow definition of industry and denied certain producers protection intended by countervailing duty laws. The EC responded that the panel's conclusions were well founded based upon the agreement's existing definition of "domestic industry." While countries are obligated to comply with existing provisions, the EC added, they need to address perceived deficiencies within the context of Uruguay Round negotiations.¹³⁹ No solution to the impasse was achieved in 1988.

In May the Chairman of the Committee assessed the operation of the code's dispute settlement mechanisms and offered some suggestions for resolving problems related to the four outstanding reports. Noting that the dispute settlement mechanism was deteriorating due to divergent interpretations of the rules on both subsidies and countervailing measures, he offered a few suggestions to try to alleviate the impasse. He proposed that some of the questions of interpretation could be examined by relevant Uruguay Round negotiating groups. He also suggested that some form of recognition of the reports could be undertaken, including adopting some and "taking note" of others, accompanied by "understandings" regarding the most controversial issues. One country pointed out that such recognition of the reports would still leave unresolved whether to implement recommendations of the panels. The suggestions were not further considered by yearend.

In July 1988, a special meeting was held to consider a request by Brazil for conciliation under the procedures of article 17:1 of the Code. The subject of Brazil's complaint was the collection of countervailing duties by the United States on nonrubber footwear imported from Brazil. Since conciliation efforts were unable to resolve the matter, the Committee agreed in October to establish a dispute settlement panel.¹⁴⁰

¹³⁹ The question of defining "domestic industry" was also a key issue in the wine dispute mentioned above.

¹⁴⁰ Selection of the panel members was completed by January 1989.

Notification and Review

Through Committee review of notifications, signatories can examine each others' subsidy programs and raise questions regarding consistency with the agreement.¹⁴¹ Under the exercise, in which signatories submit national CVD laws for examination by the Committee, 22 of the 24 members have thus far presented their legislation. During 1988, the Committee examined the legislation of Brazil,¹⁴² Korea,¹⁴³ Japan,¹⁴⁴ the Philippines,¹⁴⁵ and Pakistan.¹⁴⁶ The Committee received notifications of amendments in countervailing duty laws and regulations from the EC,¹⁴⁷ Australia,¹⁴⁸ and New Zealand.¹⁴⁹ It undertook an examination of the EC notification, and agreed to discuss the notifications of Australia and New Zealand at subsequent meetings.

Signatories are also required to submit semiannual reports on all CVD actions. These reports were discussed by the Committee, and members exchanged information on cases of particular interest. For the first half of 1988, several signatories notified that they had taken no countervailing duty actions. These consisted of Austria, Brazil, Canada, Chile, EC, Egypt, Finland, Hong Kong, India, Israel, Japan, Korea, Norway, Sweden, Switzerland, and Uruguay. During the second half of 1988, countries reporting that no countervailing duty actions were taken included Brazil, Chile, EC, Egypt, Finland, Hong Kong, India, Israel, Japan, Korea, Norway, Pakistan, Philippines, Sweden, Turkey, and Yugoslavia. Actions under countervailing duty proceedings during 1988 were notified by Australia, Canada, the EC, New Zealand and the United States. A summary of semiannual reports on CVD actions taken in 1988 appears in appendix table B-1, except for the report of the United States.¹⁵⁰

¹⁴¹ GATT art. XVI:1 requires all GATT members to respond once every 3 years to a questionnaire regarding the host country's subsidy programs and to update these notifications in the intervening years.

¹⁴² Decree No. 93.962 of Jan. 22, 1987.

¹⁴³ Article 13 of the Customs Act and Article 4 13 of the Presidential Decree of the Customs Act.

¹⁴⁴ Guidelines for the Conduct of Countervailing Duty Investigations.

¹⁴⁵ Section 302 of Presidential Decree No. 1464 and Department of Finance Order no. 300.

¹⁴⁶ Ordinance No. III of 1983.

¹⁴⁷ EC Council Regulation No. 2423/88, July 11, 1988 on protection against dumped or subsidized imports from non-EC countries. Commission Decision No. 2424/88, July 29, 1988 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community.

¹⁴⁸ Antidumping Authority Act 1988, Customs Legislation Amendment Act 1988, and Customs Tariff Amendment Act 1988.

¹⁴⁹ Part VA (revised) of the Customs Act 1966.

¹⁵⁰ U.S. CVD actions are discussed and listed separately in ch. 5.

Group of Experts on the Calculation of a Subsidy

The Group of Experts is charged with resolving signatories' differing interpretations on the calculation of the amount of a subsidy. The Group of Experts remained inactive in 1988 due to the demands of the Uruguay Round on several of its members.¹⁵¹ Thus, no new draft guidelines were produced during the year. The code Committee continued to discuss draft guidelines submitted by the Group in 1985 on application of the concept of specificity. Although the Committee remained unable to adopt the draft guidelines, even countries raising objections to certain aspects of the draft indicated that they were applying the principles contained therein. The Committee urged other signatories to do likewise.

Government Procurement Code

The Government Procurement Code entered its eighth year of operation in 1988.¹⁵² The Code was designed to eliminate one of several nontariff barriers to market access for companies competing abroad. The Code requires governments to provide national treatment regarding government procurement for covered procurement and to establish common and more transparent procedures for providing information on proposed purchases, opening and awarding bids, and settling disputes.¹⁵³

The Committee on Government Procurement, which administers the Code, met in formal session twice in 1988 and four times in its Informal Working Group on Negotiations.¹⁵⁴ As in 1987, the primary focus of the Committee's work was on phase two of the renegotiations of the Agreement as required in article IX:6(b).¹⁵⁵

¹⁵¹ In June 1987, the Committee agreed to suspend the activities of the Group. The Committee agreed that the Group would reconvene as necessary.

¹⁵² The 12 signatories to the agreement are listed in table 2.

¹⁵³ Most Governments employ procurement practices that limit foreign competition. Art. III of the GATT specifically states that GATT rules restricting the use of internal regulations as barriers to trade do not apply to "procurements by governmental agencies of products purchased for government purposes." This exclusion allows GATT signatories to discriminate against foreign suppliers or products in buying products for their own use. Countries that sign the Agreement on Government Procurement agree not to discriminate against other signatories in procurements by specific government agencies (referred to as code covered entities) under certain conditions. Each signatory selects which of its agencies it will submit to code coverage. For further detail see the *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, p. 71.

¹⁵⁴ The Informal Working Group was established in 1985 to redraft proposals to the Code. Its mandate was expanded in 1987 to include all issues under negotiation. The group met in March, May, July, and October 1988.

¹⁵⁵ Article IX:6(b) provides that no later than 3 years after the Code enters into force, negotiations must be

The Committee also reviewed statistical reports, discussed problems in implementation and administrative matters, and cases brought under article I:1(c) and article VIII:4.

As previously agreed to in 1986, upon completion of the first phase of renegotiations, the Protocol Amending the Agreement entered into force on February 14, 1988. The Protocol contains a number of amendments, the majority of which stem from U.S. proposals and will bring Code obligations more into line with U.S. practices. The major amendments include: the lowering of the threshold level (minimum value of government contracts) from 150,000 Special Drawing Rights (SDRs) to 130,000 SDRs; the inclusion of leasing contracts under coverage of the Agreement; extending the minimum thirty-day period for submitting bids to forty days; a requirement that signatories publish within sixty days after the award of a Code-covered contract certain information on contracts awarded; publishing all contracts awarded through non-competitive bidding, single tendering, and identify the Code exception; extending the application of the principle of national treatment to locally-established suppliers; prohibiting entities from seeking or accepting advice from a firm that may have a commercial interest in the procurement when preparing technical specifications; easing the qualification of foreign firms by ensuring that all parties follow the same qualification procedures; setting increasing discipline over the use of options clauses; and ensuring "reasonable" dates for delivery of goods. These amendments will serve to improve the monitoring of compliance with the Code by signatories, increase transparency, and prevent discrimination against locally established suppliers with foreign affiliation or ownership. These new disciplines bring the Agreement more into line with current U.S. procurement practices.¹⁵⁶

¹⁵⁶—Continued

undertaken to broaden and improve the Agreement. The renegotiations, formally launched at the Committee's November 1983 meeting, had three main aims: (1) improving the Code's operation; (2) exploring the possibility of applying the Agreement to service and leasing contracts; and (3) broadening the Code, by covering additional entities, and/or by lowering the minimum contract amount, below which purchases are exempt (the threshold level).

The Committee completed the first phase of renegotiations on Nov. 21, 1986. The Committee made formal decisions on three important areas: (1) adopt a series of amendments to improve the functioning of the Code; (2) continue to work towards the coverage of service contracts under the Code; and (3) continue negotiations on increasing the number of entities and procurements covered by the Code, particularly in the sectors of telecommunications, heavy electrical, and transportation equipment. See also *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 2-21 to 2-22.

¹⁵⁶ "Latest Amendments To The Agreement on Government Procurement Now Incorporated In Revised GATT Text", GATT Press Release No. 1435, May 24, 1988. See also *Operation of the Trade Agreements*

During 1988, Committee work continued on the second phase of renegotiations, focusing on expanding the Code's coverage to procurements in the sectors of energy, telecommunications, transportation, water, and to service contracts. Work in the second phase is proceeding along two tracks, one dealing with goods contracts and the second with services contracts. At the March meeting the Committee received a report from the Informal Working Group on Negotiations. The report noted that in the area of broadening the Agreement, discussions on what might constitute appropriate criteria and relevant considerations in order to determine the possible coverage were held. As a result of the discussions, a number of issues were identified which might be relevant and it was agreed that these issues would be more fully discussed at future meetings.

In the area of service contracts, a number of delegations submitted information on the procurement of services to clarify the applicability of the Agreement to such contracts, and to identify any potential problems that might exist with application of the current procedures to procurement of services contracts. Discussions on these issues are continuing. The Committee reviewed 1986 statistical reports at both meetings and discussed proposals to improve government procurement statistics. It was decided to examine the possibility of agreeing on classifications for statistical reporting purposes based on 2-digit, or possibly 4-digit level of the Harmonized system. The question of uniform application of definition of origin was also taken up. As a first step, it was decided that members would explain, preferably in writing, what rules of origin were currently being used by each signatory in (1) the implementation of Code obligations and (2) the statistical reports. The Committee also examined national implementing legislation and practices at both its meetings. With regard to U.S. practices, several Parties expressed concern with the possible extension of United States buy-national legislation which could have a negative impact on their ability and willingness to conclude Article IX:6(b) negotiations.

Standards Code

The Standards Code, formally known as the Agreement on Technical Barriers to Trade, entered into force on January 1, 1980. The Code establishes international principles by which signatories (currently 39) are to conduct their standards-related activities, and establishes a Committee composed of the signatories to oversee implementation and administration of the Agreement.¹⁵⁷ Its aim is to ensure that technical

¹⁵⁶—Continued

Program, 38th Report, 1986, USITC Publication 1995, pp. 2-18 to 2-19.

¹⁵⁷ The 39 signatories to the Code are listed in table 2. Two non-contracting parties, Bulgaria and Ecuador were granted observer status in 1988.

regulations and product standards¹⁵⁸ do not create unnecessary obstacles to trade.¹⁵⁹

The Committee on Technical Barriers to Trade (TBT), which administers the Code, met three times in 1988 to discuss proposed improvements to the Code, problems in its implementation, to exchange information, and to take care of administrative matters. The Committee continued its discussions of the negotiating proposals on standards to support work being done for the Uruguay Round. The (TBT) Committee is submitting specific proposals for consideration to the Uruguay Round Negotiating Group on MTN Agreements and Arrangements. Of the 13 proposals under discussion in the Committee and submitted in the context of Uruguay Round negotiations, the United States has submitted four negotiating proposals for consideration.¹⁶⁰ The Committee agreed to a Nordic proposal to review the definitions annexed to the Agreement in light of the revised International Organization for Standardization Guide 2 on definitions. The EC's animal hormone directive came under fire from the United States again in 1988 when the United States expressed its concern with the EC's blockage of the formation of a technical experts group.¹⁶¹ In the fall, the Committee held its annual review of the operation and implementation of the Agreement. At its September meeting it also held the required third three year review of the Agreement's operation.

Of the four U.S. proposals, two included procedures and processes under the Code and two dealt with improving transparency. In February, 1988, the United States circulated a proposal on "Procedures for Issuing Product

¹⁵⁸ Compliance with a technical regulation is mandatory, and compliance with product standards is voluntary. Both technical regulation and standard are terms referring to a technical specification for a product, which includes any of the following: (a) the specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety or dimensions; (b) specifications related to the terminology, symbols, testing and test methods, packaging, or marking or labeling requirements applicable to a product; or, (c) administrative procedures related to the application of (a) or (b).

¹⁵⁹ 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 foreign parties time to comment on proposed standards, technical regulations and certifications systems that may affect trade.

¹⁶⁰ Office of the U.S. Trade Representative, 1989, *Draft-Third Triennial Report To The U.S. Congress On The Agreement On Technical Barriers To Trade and see Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 2-23.

¹⁶¹ *Ibid.*, and see also the ch. 4 section on the EC for further details on this issue.

Approval." This proposal partially elaborates on the U.S. suggestion in 1985 that the Agreement be made more explicit in the areas of testing, inspection and approval. The U.S. proposal builds on the principles of the Agreement, extending most-favored-nation and national treatment to product approval procedures. Responses to date have been generally positive and discussions are continuing.¹⁶² During 1988, the United States once again expressed its concern with the lack of transparency in regional standards activities. Of particular concern are two European standards bodies, the European Committee for Electrotechnical Standardization and the European Committee for Standardization. Regional standards organizations frequently have requirements or procedures that prevent non-members from effectively participating in the organizations' standardization and certification activities or limit the ability of non-members to comment or otherwise provide input in their activities. As a result, the United States believes that standards or rules for certification adopted by such bodies undermine the Agreement by discriminating in favor of technologies used by their members. The United States has highlighted this issue in both the second and third three-year reviews and in Uruguay Round discussions. At the July meeting the United States introduced a proposal which would provide for increased transparency in the activities of regional bodies or systems. Discussion of this issue will continue in the Committee.¹⁶³

Agreement on Import Licensing Procedures

In 1988, the Committee on Import Licensing held 2 meetings in April and September. The Committee has held 22 regular meetings overall since the Agreement entered into force.¹⁶⁴ At the end of the year, there were 27 signatories, the same number as in 1987.¹⁶⁵ At the April meeting, Mexico, which became a signatory in July 1987 subject to ratification, notified the Committee that the Agreement had been accepted by its authorities and entered into force on March 10, 1988. Mexico gave details of its latest measures in liberalizing import permits and quotas and promised to continue its policy of eliminating prior import permits.¹⁶⁶ At the same

¹⁶² Office of the U.S. Trade Representative, 1989, *Draft-Third Triennial Report To The U.S. Congress On The Agreement On Technical Barriers To Trade*.

¹⁶³ *Ibid.*

¹⁶⁴ The Agreement on Import Licensing Procedures entered into force on Jan. 1, 1980, committing signatory governments to simplify procedures importers must follow to obtain licenses. Products traded internationally are sometimes subject to bureaucratic delays and additional costs as a result of cumbersome import licensing systems. Such systems act therefore as barriers to international trade.

¹⁶⁵ For a full listing of the signatories, see table 2.

¹⁶⁶ See also the Mexico section in ch. 4 of this report.

meeting, Poland, which became a signatory in 1986, presented information concerning its own new import regulations which also aim at liberalizing and simplifying import procedures. Discussions on compliance with the Agreement on Import Licensing Procedures (the Agreement) and on the work program continued during the year under review. Signatories communicated to the Committee changes in their laws, regulations, and administrative developments relevant to the Agreement, and 10 more signatories updated their responses on the GATT questionnaire on import licensing procedures. The Committee also continued the discussion it started in 1987 of its work relationship with the Uruguay Round. Signatories generally accepted that the Committee should be kept informed of proposals introduced into the Negotiating Group; in turn, the Committee should be informing the Negotiating Group of relevant work done in the Committee. However, one Party warned against using the Committee as an "alternative forum for negotiations."

The work program on the appropriate definition of import licensing, and some other terms in the Agreement to be distinguished from this definition, also continued in 1988.

Customs Valuation Code

The Customs Valuation Code establishes a uniform system of rules to determine the customs value for imported goods.¹⁶⁷ The Code provides detailed rules for determining the value of imported goods used as a basis for assessing ad valorem customs duties. The rules are designed to promote a fair, uniform, and neutral system of valuation and to preclude the use of arbitrary or fictitious values.¹⁶⁸ With greater uniformity of practices applied by signatories, exporters and importers are able to estimate more reliably how their goods will be valued by customs authorities. The total number of signatories to the code in 1988 was 27.¹⁶⁹

¹⁶⁷ The Customs Valuation Code, formally titled the Agreement on Implementation of Article VII, entered into force internationally on Jan. 1, 1981, although the United States and the EC agreed to implement the agreement on July 1, 1980.

¹⁶⁸ The Code establishes a primary method of valuation and a series of alternative methods to be applied in a prescribed sequence. First, the transaction value method is applied when the duty is levied on the price actually paid or payable for the goods with a limited number of adjustments. If the primary method is not feasible, the second alternative is to use the transaction value of an "identical" good sold to the same importing country. The third method uses the transaction value of a "similar" good that is sold. If none of these methods are possible, other reasonable means consistent with the agreement may be used. A signatory to the agreement is permitted to determine customs value on either an f.o.b. (free-on-board) or c.i.f. (cost, insurance, and freight) basis. The United States uses f.o.b., and most other countries use c.i.f.

¹⁶⁹ See table 2 for a full listing of this Code's membership.

In 1988, several countries effected changes in the status of their membership. Spain's withdrawal from the Code in its individual capacity to be represented under the auspices of the EC took effect on January 25, 1988. India, which had been granted extensions of its date for ending delayed implementation of the Code, reported that implementing legislation was finally brought into force in August.¹⁷⁰ Mexico, having joined the Code in 1987, ratified its acceptance in February.¹⁷¹

Committee Activities

During 1988, the Committee on Customs Valuation discussed various topics relating to the Code's operation. To promote transparency, the signatories must inform the Committee of changes in customs laws and regulations and in their administration. During 1988, the Committee examined the national implementing legislation of Argentina, Australia, Brazil, and Zimbabwe. Technical assistance, to aid developing countries as they join and prepare for application of the Agreement, is also a priority activity.

The Committee completed a review of information on the status of the application of two decisions adopted in 1984—one on the treatment of interest charges and the other on the valuation of computer software. The Committee agreed that the items could be discussed upon request at any future meetings.

Preshipment inspection practices carried out by some countries had been a topic of discussion in 1987. This year, the Committee noted that the practices were now under consideration in certain negotiating groups of the Uruguay Round and agreed to suspend the topic from the agenda at present and revert again to it at a later date if requested.¹⁷²

Technical Committee

During 1988, the Technical Committee of the Customs Valuation Code Committee adopted

¹⁷⁰ Of the Code's 27 signatories, 21 (counting the EC member countries as one unit) are currently applying the agreement and the remainder have delayed application under the provisions of art. 21:1 of the agreement. Those now applying the Agreement include Australia, Austria, Botswana, Brazil, Canada, Czechoslovakia, the EC, Finland, Hong Kong, Hungary, India, Japan, Korea, New Zealand, Norway, Romania, South Africa, Sweden, Switzerland, the United States, and Yugoslavia.

¹⁷¹ Mexico is among the countries who have delayed the application of the Agreement under the provisions of art. 21:1.

¹⁷² At 1987 meetings, the Committee discussed the activities of private inspection companies involved in the valuation of goods on behalf of Governments (a practice known as preshipment inspection). The issue, raised by the United States, also elicited concern from other signatories. The United States' tabling of the issue in the Committee followed a sec. 301 petition filed by the Florida Exporters' Association. The petition was withdrawn after a commitment made by the USTR to pursue the matter on several fronts, including this Committee. See also, *Preshipment Inspection Programs and their Effects on U.S. Commerce*, USITC Publication 2003, August 1987.

several advisory opinions on technical matters. One of the adopted texts clarified the treatment of situations where the sale or price of a good being valued is subject to some condition or consideration for which a value can be determined. Two of the opinions regarded quota charges, one addressed charges paid by the buyer to the seller and the other addressed charges paid by the buyer to a third person. The final three opinions that were adopted concerned the application or implications of certain articles of the Agreement and the Protocol (article 11, article 13, and article 17 of the Agreement and paragraph 7 of the Protocol).

Antidumping Code

The Antidumping Code prescribes the proper conduct for antidumping investigations and the imposition of antidumping duties based on provisions of the General Agreement.¹⁷³ It sets guidelines for the use of these measures and related practices such as retroactive application of antidumping duties and price undertakings.¹⁷⁴ The Code also obligates developed countries to give special consideration to the developing countries before applying antidumping duties. Mexico, having signed the code in July 1987, completed acceptance in February 1988. New Zealand became a new member of the agreement in May 1988, bringing the total number of signatories to 25.¹⁷⁵

Committee Activities

Regular activities of the Committee on Antidumping Practices include reviewing national antidumping legislation and antidumping actions reported by signatories. The Committee has charged an ad hoc group with drafting recommendations on the interpretation and implementation of various aspects of the Code. The results of the group's work are then reviewed by the Committee. The Committee is also responsible for conciliation and settlement of disputes among signatories regarding application of the Code's provisions.

¹⁷³ The agreement, formally called The Agreement on Implementation of Article VI of the GATT, was negotiated during the Tokyo Round in 1973-79 as a replacement to the original Antidumping Agreement. The renegotiation was conducted to bring certain provisions, especially those concerning determination of injury, price undertakings, and the collection of antidumping duties, into line with similar provisions in the Agreement on Subsidies and Countervailing Duties also concluded in the Tokyo Round.

¹⁷⁴ In price undertakings, the exporter volunteers ". . . to revise its prices or to cease . . . [dumping] . . . so that the authorities are satisfied that the injurious effect of the dumping is eliminated."

¹⁷⁵ See table 2 for a full listing of the Code members.

Dispute Settlement

During 1988, the Committee considered two requests for conciliation under article 15:3 of the code. One request, from Sweden, concerned U.S. antidumping duties on imports of seamless, stainless steel pipes from Sweden. In response to Sweden's request, the Committee held a special committee meeting in early October to review information on the complaint. At the next regular Committee meeting Sweden requested the establishment of a panel.

Since the United States urged continued efforts to arrive at a bilateral solution, the Committee declined to establish a panel at that time.

In late October, Japan requested the Committee to consider conciliation of certain regulations being implemented by the EC.¹⁷⁶ Japan noted that it had requested the EC to amend the regulation that provides for antidumping duties on imported parts and components used for assembly in the EC to ensure its consistency with the Code and General Agreement. Japan pointed out that the EC had imposed duties on Japanese imports of electronic typewriters, electronic weighing scales, and photocopiers assembled or produced by Japanese-related companies in the EC. Although a number of members supported Japan's request for conciliation, the EC rejected the idea.¹⁷⁷ The EC argued that it did not cover matters relevant to the Code and, moreover, was already under consideration by a GATT panel.¹⁷⁸

Notification and Review

The Committee discusses questions raised by members regarding the consistency of national legislation with the Code's provisions and questions members raise regarding antidumping actions taken against their exports. During 1988, the Committee received notification of amendments to antidumping laws or regulations from Australia,¹⁷⁹ the EC,¹⁸⁰ Mexico,¹⁸¹ and

¹⁷⁶ EC Council Regulation No. 1761/87, June 22, 1987.

¹⁷⁷ Japan had successfully requested consultations regarding the EC regulation earlier in the year. These consultations were conducted at a special meeting in May 1988.

¹⁷⁸ See the "Dispute Settlement" section of "Actions Under the Articles of the General Agreement" earlier in this chapter.

¹⁷⁹ Antidumping Authority Act 1988, Customs Legislation (Antidumping) Amendment Act 1988, and Customs Tariff (Antidumping) Amendment Act 1988.

¹⁸⁰ Council Regulation No. 2423/88, July 11, 1988 on protection against dumped or subsidized imports from countries not members of the EC and Commission Decision No 2424/88/ECSC, July 29, 1988 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community.

¹⁸¹ Foreign Trade Regulation Act Implementing Article 131 of the Constitution of the United Mexican States, Regulations Against Unfair International Trade Practices, and Decree Amending and Supplementing the Regulations Against Unfair International Trade Practices.

New Zealand.¹⁸² It also concluded discussions on the antidumping laws of Australia,¹⁸³ Japan,¹⁸⁴ Korea,¹⁸⁵ India,¹⁸⁶ Brazil,¹⁸⁷ the EC,¹⁸⁸ and Pakistan.¹⁸⁹

Parties to the Code report antidumping actions to the Committee on a semiannual basis. During the first half of 1988, countries reporting that no antidumping actions were taken included Austria, Czechoslovakia, Egypt, Hong Kong, Hungary, Japan, Norway, Pakistan, Poland, Romania, Singapore, Sweden, Switzerland, and Yugoslavia. Antidumping actions were reported by Australia, Brazil, Canada, the EC, Finland, Korea, Mexico, and New Zealand for the first half of 1988 and by Australia, Canada, the EC, Finland, Korea, Mexico, and the United States for the second half of 1988. Details of these actions are contained in appendix table B-2.¹⁹⁰

Ad Hoc Group on Implementation of the Code

During 1988, the Ad Hoc Group continued to discuss proposed recommendations on price undertaking in various contexts: (1) price undertakings in antidumping proceedings involving imports from developing countries, (2) revision of price undertakings, and (3) termination of price undertakings.¹⁹¹ The Group had not yet been able to arrive at a consensus on draft recommendations but the Group's Chairman noted that the Group would seek to complete its discussions on price undertakings in upcoming meetings. The Code Committee also referred a matter to the Ad Hoc Group raised by Finland regarding translation problems in antidumping duty investigations.

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

¹⁸² Customs Act of 1966, as amended, part VA.

¹⁸³ Customs Notice No. 87/169.

¹⁸⁴ Guidelines for the conduct of antidumping and countervailing duty investigations.

¹⁸⁵ Article 10 of the Korean Customs Act and the related Presidential Decree.

¹⁸⁶ Indian Customs Tariff (Second Amendment) Act of 1982 and the Customs Tariff Rules of 1985.

¹⁸⁷ Resolution No. 00-1227 of the Brazilian Customs Policy Commission.

¹⁸⁸ EC Commission Notice on reimbursement of antidumping duties.

¹⁸⁹ Pakistani Ordinance No. III of 1983.

¹⁹⁰ Actions undertaken by the United States are also reported to the Code Committee; however, these are discussed and listed separately in ch. 5.

¹⁹¹ An "undertaking" normally occurs when the investigating country accepts an offer by the exporter concerned to take unilateral price-related action so as to eliminate the injury caused by the imports. When an undertaking is accepted, the investigation is terminated without duties being imposed.

NTMs, such as the use of official export credits and certain government purchase policies. No new countries joined the Code in 1988, leaving at 22 the total number of signatories.¹⁹²

The Committee on Trade in Civil Aircraft held two regular meetings and one special meeting in 1988. In 1986, the Committee finalized work on the transposition into the Harmonized System nomenclature of the Annex to the Agreement, which enumerates the products covered by the Code. In December 1986, the Committee adopted the Protocol Amending the Annex to the Agreement. The Protocol was open for signature until December 31, 1987 and entered into force on January 1, 1988 for those signatories who had accepted it. Two signatories—the United States and Romania—were unable to accept the Protocol because they did not have the legal basis to adopt the Harmonized System. In order to accommodate these outstanding acceptances, the Committee drafted a second Protocol (1988), equivalent to the first Protocol (1986). However, at a special meeting on November 9, the Committee decided against opening a new Protocol (1988) and instead agreed to extend the date for the acceptance of the original Protocol (1986) indefinitely.

The Committee also exchanged views on U.S. aircraft maintenance regulations, possible government mandated offsets in civil aircraft sales in Spain and Greece, and bilateral consultations under way on the interpretation of articles 4 and 6 of the Civil Aircraft Code. These latter discussions on articles 4 and 6 are taking place as a result of the U.S.-EC dispute over subsidization of Airbus Industries.¹⁹³ The United States alleges that the Airbus project is contrary to the obligations of the Airbus partner governments under the Civil Aircraft Code, specifically articles 4 and 6, which prohibit unfair inducements for potential purchasers and trade distorting subsidies, respectively. In 1987, the Committee agreed that clarification of these articles would be discussed in regular ongoing sessions, as long as the discussion related to civil aviation in general rather than Airbus in particular. In 1988, no breakthroughs were achieved, but the United States remained committed to a negotiated solution. U.S. officials also suggested that any progress achieved with the EC and the four Airbus partner governments should be extended multilaterally as quickly as possible.

International Dairy Arrangement

The primary objectives of the GATT International Dairy Arrangement (IDA) are to

¹⁹² See table 2 for a full listing of this Code's membership.

¹⁹³ For a full discussion of the Airbus dispute, see ch. 4 section on the EC.

expand and liberalize world trade in dairy products by improving international cooperation.¹⁹⁴ Activities under the Arrangement, which also includes Protocols on certain milk powders, milk fat (including butter), and certain cheeses, are coordinated by the International Dairy Products Council.¹⁹⁵ With no new members joining in 1988, 16 signatories (including the EC representing its member states) constituted the total membership of the IDA.¹⁹⁶ The United States is no longer a member.¹⁹⁷ During the Council's two meetings in 1988, it undertook its tasks of evaluating the world market for dairy products,¹⁹⁸ assessing minimum export price levels, and reviewing the functioning of the Arrangement.

As a result of suggestions made in 1987 on the working methods of the Council, improvements in 1988 meetings and procedures were noted. The Council was able to reduce the duration of meetings and the amount of documentation required. Its statistical material was also improved. The Council agreed to continue considering further improvements in its methods and procedures. In light of the implementation of the Harmonized System by most signatories, the Council also agreed to update relevant provisions of the Arrangement and Protocols to reflect the new commodity description and coding system. The old provisions would remain valid for any signatory that had not yet implemented the new system.

With respect to market conditions the Council observed that the world market for dairy products had improved in 1988 with world milk production returning to its 1986 level following a 1 percent drop in 1987 and a firming of prices for cheese and milk powder as international trade in these products recovered. It also noted a decline in milk deliveries and a reduction in intervention stocks of butter and skimmed milk powder. More stable prices and improved trade in butter were noted and foreseen to continue in view of expected improvement in the balance between supply and demand in 1988-89.

During 1988 price reviews, the Council decided that the improved market situation

¹⁹⁴ GATT, *Basic Instruments and Selected Documents*, Supp. 26, p. 91.

¹⁹⁵ The three Protocols annexed to the Arrangement are the Protocol Regarding Certain Milk Powders, the Protocol Regarding Milk Fat, and the Protocol Regarding Certain Cheeses.

¹⁹⁶ See table 2 for a full list of members.

¹⁹⁷ For a discussion of the controversy over reduced-price sales of surplus butter stocks that led to U.S. withdrawal from the arrangement, effective Feb. 14, 1985, see *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, p. 72.

¹⁹⁸ To accomplish this task, the Council normally considers such items as national policies, food aid, data regarding products, and reports of the Committees that oversee the three protocols.

warranted raising minimum export prices for certain dairy products in March and again in September. Effective September 21, 1988, minimum prices per ton were raised to \$1,050 for skimmed milk powder and buttermilk powder, to \$1,150 for whole milk powder, to \$1,350 for certain cheeses, to \$1,250 for butter, and to \$1,500 for anhydrous milk fat.

Arrangement Regarding Bovine Meat

The Arrangement Regarding Bovine Meat (the Arrangement) promotes international cooperation towards expansion, liberalization, and stabilization of trade in meat and livestock.¹⁹⁹ Total membership of the Arrangement is 27 signatories representing 38 countries.²⁰⁰ The signatories include all major beef exporting and importing countries, except the U.S.S.R. Under the Arrangement, the signatories collect and distribute data on production and trade. They also consult on market conditions and discuss problems raised by members. The International Meat Council (IMC) is responsible for administration of the Arrangement. The Meat Market Analysis Group (MMAG) is a subsidiary body of the IMC that is responsible for reviewing the situation and outlook for the bovine meat market.

During 1988 the IMC met twice to consider ways to improve its effectiveness, the meat market conditions, and policy questions. Two proposals that had been under discussion since they were tabled in December 1985 were withdrawn by reason of the efforts underway in the Uruguay Round, particularly negotiations within the Group on Agriculture.²⁰¹ The IMC approved two proposals on procedural issues, one on the distribution of statistical questionnaires and another on the circulation of written statements at meetings of the MMAG. Members also engaged in discussions of the implications of the new Harmonized System for commodity descriptions and coding for trade in bovine meat. At one meeting, the EC shared information regarding some changes in its Common Agricultural Policy (CAP)²⁰² that were related to the meat sector.

¹⁹⁹ GATT, *Basic Instruments and Selected Documents*, Supp. 26, p. 84.

²⁰⁰ The EC is counted as one signatory representing its 12 member countries. See table 2 for a full listing of Code members.

²⁰¹ The proposals suggested the use of objective criteria or indicators for facilitating the IMC's responsibility for early detection of imbalances within world meat markets. The proposals stemmed from discussions of complaints by members, such as Argentina, New Zealand, and Uruguay, about perceived imbalances in the international meat market. In particular, these members claimed that EC subsidies, contrary to art. I of the Arrangement, had boosted the EC's market share, making it a major world supplier, and destabilized the world meat market. For further details, see the *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725 p. 73.

²⁰² For further information on the CAP, see the section on the EC of ch. 4 of this report.

The MMAG also convened twice in 1988 in meetings that preceded those of the IMC. The MMAG observed that the mid-1986 meat price recovery in some markets had continued through 1987-88 and had expanded to cover most international and domestic markets. Key factors perceived as contributing to this price trend were noted. Such factors included the end of cattle herd liquidation as well as herd rebuilding, declining production levels, stronger import demand, and low export availabilities in some areas. However, the MMAG noted that a trend of decreasing beef and veal consumption is occurring in an increasing number of countries. At the same time, concern was expressed about the possible future impact of factors such as high stock levels in some regions during a period of declining meat consumption trends in a number of countries.

Chapter 3

Trade Activities Outside the GATT

Introduction

Although the General Agreement on Tariffs and Trade (GATT) provides the broad international framework for conducting international trade, several other organizations also deal with international trade issues, notably the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference for Trade and Development (UNCTAD). The OECD and the UNCTAD provide forums for consultation and policy coordination on issues including, but not limited to, trade. They cover a wider range of subjects than the GATT, and do not aim for the same degree of specific international obligation required of GATT members. Nevertheless, the work of these organizations often complements the work done in the GATT. Other bodies such as the Customs Cooperation Council (CCC) and the international commodity organizations cover a narrower purview than the GATT and provide a basis for coordinating and regulating certain specific aspects of international trade.

This chapter discusses U.S. participation in the OECD, the UNCTAD, the CCC, and international commodity organizations. It also covers the U.S. bilateral investment treaty program, the United States-Israel Free-Trade Area Agreement, the United States-Soviet Grain Agreement, and progress on trade agreements in the services sector.

Organization for Economic Cooperation and Development

The OECD is a forum for industrialized countries to consult and coordinate on a broad range of economic issues facing them.¹ Its objectives are to (1) promote the financial stability and economic growth of members, (2) promote sound economic development of nonmembers, and (3) expand world trade on a multilateral, nondiscriminatory basis. Its decisions are not binding on individual members. The following section discusses the organization's main trade-related activities.

¹ Current members of the OECD are Australia, Austria, Belgium, Canada, Denmark, Finland, France, West Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States. The Commission of the EC and Yugoslavia, under special status, also take part in activities of the organization.

Ministerial Declaration

On May 18 and 19, 1988, ministers from OECD member countries met in Paris for their annual conference. Highlights of the conference were: an agreement to develop a "framework approach" for all the Uruguay Round negotiating topics by yearend; the observation that there were encouraging features in the current economic situation; a reaffirmation of international cooperation as an important element of both macro- and microeconomic policies; and an assessment that management of developing country debt should continue on a case-by-case basis. The ministers also discussed general economic policy goals of specific member countries.

In their declaration, the ministers acknowledged that work in the Uruguay Round negotiations had been proceeding at a satisfactory pace. The ministers sought to ensure momentum of the talks by urging the "greatest possible advance" on the negotiations in the coming months. To that end, the ministers agreed to develop a "framework approach" on all negotiating topics by the December midterm review of the Uruguay Round to allow successful completion of the negotiations within the following two years.

The ministers agreed that there were several "encouraging features" of the world economic situation. For example, they noted that growth in OECD countries quickened in the second half of 1987, with expansion entering its sixth year. The ministers also pointed out that world trade was "growing robustly," and that major external imbalances were narrowing gradually. In addition, the ministers observed that OECD economies proved "more resilient" to the October stock market crisis than expected. OECD governments agreed to build upon these and other recent economic developments to enhance job-creating, noninflationary growth.

In the declaration, the OECD ministers identified international cooperation as "an important ingredient" of both macro- and microeconomic policies. They agreed that their respective governments would contribute to cooperation by pursuing monetary and fiscal policies aimed at supporting job-creating, noninflationary growth, correcting external imbalances, containing budget deficits, striking appropriate balances between domestic saving and investment, maintaining orderly financial markets, and achieving greater exchange-rate stability. The ministers also agreed to intensify action, both domestic and international, to reform structural policies, particularly in trade, agriculture, industrial subsidies, tax systems, financial markets, and international investment.

On the subject of developing country debt, the ministers agreed that management of debt

issues should proceed on a case-by-case basis. They noted that while most developing countries still face debt difficulties, growing world trade, firmer commodity prices, adjustment policies followed by many debtor countries, and a widening menu of techniques to deal with debt problems have eased some of the debt difficulties. They concluded that generalized approaches or across-the-board measures are inappropriate to counteract the differing problems of indebted developing countries.

Consensus among the ministers was also reached on the general economic policy goals for certain member countries. The ministers identified cutting the federal budget deficit as "the essential requirement" for the U.S. economy. The economy of Japan, they said, needs to sustain economic growth led by strong domestic demand and rising imports. For Europe, the ministers cited continued structural reforms and flexible implementation of macroeconomic policies as essential for sustained growth in demand and production.

Agricultural Trade

The question of how to reform world agricultural trade has been a subject of OECD work for several years.² At the 1988 ministerial meeting, the Agriculture and Trade Committees of the OECD presented the ministers with a joint report which summarized recent developments in main commodity markets,³ estimated the cost to consumers and taxpayers of national agricultural support programs, and speculated about the prospects for agricultural reform. The ministers endorsed the conclusions of the report. The study stated that during 1987-88 the balance between supply and demand in the main commodity markets was slightly better than in previous years. Also, world agricultural trade rose by an estimated 1 percent in 1987, the report said, compared with 4 percent in 1986 and no growth in 1985. The OECD projected a rise in cereals trade by about 6.5 percent during 1987-88, but a fall in sugar imports by about 3 percent during the same period. It characterized trade in livestock as "stagnant," largely due to reduced dairy production. The OECD projected these trends to continue in the medium term.

In recent years, the OECD has used producer subsidy equivalents (PSEs) and consumer subsidy equivalents (CSEs) to measure the share of assistance in the value of each country's agricultural output on a commodity-by-

commodity basis.⁴ As cited in their joint report, the Agriculture and Trade Committees found that in recent years the PSEs of many member countries have been rising: from 16 percent in 1979-81 to 35 percent in 1986 for the United States; from 37 percent in 1979-81 to 50 percent in 1988 for the EC; from 57 percent in 1979-81 to 75 percent in 1986 for Japan; from 24 percent in 1979-81 to 45 percent in 1986 for Canada; from 18 percent in 1979-81 to 20 percent in 1985 for New Zealand; and from 9 percent in 1979-81 to 15 percent in 1986 for Australia. In terms of types of assistance, the OECD identified a "sharp jump" in direct payment assistance, particularly in the United States, which was largely in the form of deficiency payments. CSE trends were largely similar to PSE trends, the OECD reported, except in countries where PSE increases were caused by direct payments or other nonmarket means of support.

In the joint report, the Agriculture and Trade Committees also discussed the prospects for reform of agricultural trade policies. They stated that policy changes of member countries thus far have been short-term reactions to current conditions, and not fundamental structural reform. The Committees noted that member governments are reluctant to rely only on price cuts for creating a balance between supply and demand and that they instead use various administrative measures to regulate production. Although most member governments have pegged or reduced support prices, the Committees found these cuts to be insufficient in lowering output to a level that would allow balance to prevail in agricultural markets. The Committees concluded that "it is imperative that policy reform efforts that are beginning in OECD countries be strengthened, both at the domestic and international levels. Effective reform is more than ever a matter of urgency."

Echoing the findings of the joint report, the OECD ministers declared that there had been "only limited progress overall" in agricultural policy reform by member governments since their last annual meeting. They implored that "policy reform efforts be strengthened by all member countries as a matter of urgency." In addition,

⁴ Both of the subsidy equivalents are designed to measure all policies that assist producers and consumers of agricultural commodities. The producer subsidy equivalent is defined as the payment that would be required to compensate farmers for the loss of income resulting from the removal of a given policy measure. The consumer subsidy equivalent corresponds to the implicit tax on consumption resulting from a given policy measure and to any subsidies to consumption. They are broader measures of assistance than nominal or effective rates of protection. See OECD, *National Policies and Agricultural Trade*, 1987. For a discussion of previous work by the OECD estimating PSEs and CSEs of member countries, see USITC, *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 3-2.

² For a recent, comprehensive OECD study of the estimated costs of government intervention in the agricultural sector, see OECD, *National Policies and Agricultural Trade* (Paris, 1987).

³ The OECD examined the grain, meat and dairy products, fruit and vegetables, and sugar markets.

they stated that reform measures already introduced need to be "underpinned by further positive actions" to contribute to "much-needed structural adjustment" and to the success of the Uruguay Round. They also urged member countries to develop a framework approach to agricultural trade at the Uruguay Round midterm review.

The ministers also agreed on action regarding specific ongoing work of the OECD on agricultural issues. They agreed to pursue work on monitoring agricultural reform and structural adjustment, analyze the effects of reform measures planned or taken, and to update estimates of member countries' PSEs and CSEs. They also agreed that the Organization should study the "possible contribution to agricultural reform" that use of certain measures by member governments might make. These measures include quantitative limitation of production or resources used in agriculture, direct income support, other measures aimed at facilitating structural adjustment, and policies for rural development including environmental aspects.

Export Credits Arrangement

The Arrangement on Guidelines for Officially Supported Export Credits (the Arrangement) was designed to regulate government-sponsored subsidies on export credits. Every 6 months (in January and July) the minimum interest rates chargeable by official export finance agencies of member governments are subject to automatic revision to reflect changes in the market interest rates.⁵ In July 1988, the final element of a 1987 agreement to reform the use of mixed credits, requiring a larger portion of mixed credits to be made up of a grant element, came into effect.⁶ The reforms—which also included a revised method for calculating the grant element of

⁵ For a discussion of the automatic adjustment mechanism, see the *Operation of the Trade Agreements Program, 35th Report, 1983*, USITC Publication 1535, pp. 118-119.

⁶ For a discussion of the reform package, see the *Operation of the Trade Agreements Program, 39th report, 1987*, USITC Publication 2095, p. 3-3.

mixed credits, and increased the minimum interest rates on commercial loans that benefit from subsidies on official export credits—were designed to make mixed credits more expensive for lending countries, thereby limiting their use.

Minimum interest rates that member countries may charge on officially supported export credit offers are set by an automatic adjustment mechanism and fall into three categories depending on the economic status of the recipient country (relatively rich, intermediate, and relatively poor) and on the term of the financing (2 to 5 years and over 5 years).⁷ Interest rates set on July 15, 1988, are shown in table 3 along with changes made on January 15, 1988.⁸

On July 15, the minimum rate on credits to "relatively rich" countries was discontinued.⁹ Both the short- and long-term interest rates for the remaining groups of countries rose by 0.3 percentage points. The short-term interest rate for intermediate countries rose to 9.15 percent, and to 8.30 percent for relatively poor countries. The long-term rate for intermediate countries rose to 9.65 percent, and to 8.30 percent for relatively poor countries.

Investment

When the OECD was formed in 1960 the free international movement of private capital flows was cited as a generally desirable objective, with members agreeing to "pursue their efforts to extend the liberalization of capital movements." In 1961, this principle of liberalization was

⁷ A movement of one-half of 1 percent in the weighted-average bond rates denominated in U.S. dollars, West German marks, British pounds sterling, French francs, and Japanese yen induces automatic adjustment of the minimum interest rates.

⁸ The OECD-authorized minimum interest rates are typically reviewed each January and July. No review was conducted in January, 1989.

⁹ Credits for this category of countries are now governed by commercial interest reference rates (CIRR). The CIRRs are adjusted for each lender country currency based on market rates, and are subject to revision on the 15th of each month. The switch to the CIRRs is in line with the March 1987 agreement to reform export financing.

Table 3
Minimum interest rates, for officially supported export credits, by repayment periods,¹ guidelines set on July 15, 1988 and Jan. 15, 1988

Country type ²	(In percent)			
	2 to 5 years		Over 5 years	
	Present	Former	Present	Former
Relatively rich	—	10.15	—	10.40
Intermediate	9.15	8.85	9.65	9.35
Relatively poor ³	8.30	8.00	8.30	8.00

¹ The rates adopted in Jan. 1988 are shown in the "Former" column.

² Relatively rich countries are defined as having a per capita Gross National Product (GNP) over \$4,000; intermediate countries, per capita GNP between \$681 and \$4,000; and relatively poor countries, per capita GNP below \$681.

³ Countries in this category are eligible for financing from the International Development Association, which provides interest-free loans to the least developed countries.

Source: OECD.

embodied in the Code of Liberalization of Capital Movements (the Code), to which all members adhere. The Committee on Capital Movements and Invisible Transactions (CMIT) oversees application of the Code. Its oversight functions include scrutinizing restrictions and recommending their relaxation or removal.

In their 1988 communique, OECD ministers expressed concern about "emerging protectionist pressures" in international investment. They committed themselves to (1) resisting such pressures, (2) maintaining an open investment climate, (3) fulfilling their commitments in that respect, particularly in the OECD codes, and (4) strengthening the OECD National Treatment instrument.

In 1976, member governments adopted the Guidelines for Multinational Enterprises, which present their expectations regarding the behavior and activities of multinational enterprises (MNEs). These guidelines, designed to provide greater transparency for MNE activities, included a list of items for publication in MNE financial reports. In March 1988, the Committee on International Investment and Multinational Enterprises and the OECD Council released clarifications of the guidelines.¹⁰ The clarifications offer general explanations of the guidelines as well as detailed insight into specific aspects of accounting and reporting of banks and insurance companies covered under the guidelines. The clarifications do not modify the guidelines, but rather try to explain the meaning of the existing provisions to those preparing and using published reports of MNEs.

In 1979 the OECD Committee on Investments and Multinational Enterprises (CIME) established a Working Group on Accounting Standards. The group developed the original set of clarifications in 1983 as well as those mentioned above. The Working Group has also been exploring ways to promote increased comparability of financial information and harmonization of accounting standards in member countries. To meet this objective, the Working Group adopted several goals, it (1) tries to promote exchange of views and information on recent developments in the accounting field, (2) seeks to identify major problem areas for comparability and harmonization of accounting concepts, (3) works to give those problems national and international attention, and (4) considers future efforts to harmonize international accounting standards. In 1988, the Working Group published a survey of accounting practices utilized by insurance companies in member countries.¹¹ The survey revealed "wide

divergencies in accounting practices" creating incomparability of financial statements, sometimes even within the same country. The Working Group stated that harmonization of accounting practices is necessary to improve comparability of financial statements. It said that if such harmonization is not feasible in the near future, then explanations of accounting practices used and their effects on operating results should accompany financial statements.

Protectionism and Structural Adjustment

In 1988, the OECD Secretariat presented a program of structural reform for member countries.¹² The program identified measures which must be taken "to allow the full play of competition" in agricultural, manufacturing, and services sectors. The Secretariat characterized OECD countries' agricultural policies as "quite simply unsustainable." The Secretariat said that protection and subsidies in agriculture, imposed with a high and increasing cost to consumers, encourage "massive overproduction," and can lead to goods being dumped at artificially low prices. Agriculture must be exposed to market forces, the Secretariat said, to solve these problems. It added, however, that income support to poorer farmers may be justified, particularly for those working in regionally, environmentally, or strategically important areas.

The OECD said that industrial policies have often retarded structural adjustment in smokestack industries and other sectors facing increased international competition. Textiles, shipbuilding, steel, energy-intensive industries such as base chemicals, nonferrous metals, and transport were identified as examples of sectors that have received direct and indirect assistance resulting in a "heavy burden" on consumers and taxpayers. However, the Secretariat observed that such assistance has not necessarily meant greater economic viability for the affected sectors. On the other hand, promotion of high-technology industries has often produced "disappointing" results, according to the Secretariat. This has been particularly true, the OECD said, when policies try to create comparative advantage in a sector considered strategically important.

The OECD stated that exposure to international competition is "the most effective means" to stimulate adaption to change and maximize efficiency. Liberal trade is not simply a means to promote economic efficiency, the OECD said, but the "key" to advancing the consumer's interest in the economy. It predicted that future increases in the standard of living will be derived from greater economic integration of

¹⁰ See OECD, "Multinational Enterprises and Disclosure of Information: Clarification of the OECD Guidelines," Paris, 1988.

¹¹ OECD, "Operating Results of Insurance Companies: Current Practices in OECD countries," Paris, 1988.

¹² OECD, "Structural Adjustment and Economic Performance," Paris, 1988. See also *OECD Observer*, No. 149 December 1987/January 1988. The entire issue is devoted to the subject of structural adjustment and economic performance.

economies. The Secretariat declared that reversing protectionist actions of recent years and strengthening and expanding the multilateral trading system are of "vital interest" to OECD members and developing countries alike.

In the December issue of its biannual *Economic Outlook*,¹³ the OECD commented upon the need for structural reform in member countries. The report said that "all member countries have important structural problems to address." It said that two structural problems shared by the economies of member states, the EC, and the world are distortions in the agricultural sector, and trade protection. The Secretariat concluded that the needed structural adjustments would be more productive and less difficult to achieve if pursued in the context of international cooperative action.

Relations with Newly Industrializing Economies

The role of the newly industrializing economies (NIEs) of East Asia (South Korea, Taiwan, Hong Kong, and Singapore) in the world economy has been the subject of increasing activity by the OECD. In the OECD ministerial communique, the ministers declared that the development of the NIEs provided those economies "with the opportunity to play an increased role in the cooperative effort to manage the open world economy." They added that economic advancement by the NIEs also confers upon the NIEs greater responsibility to participate in the international adjustment process "commensurate with their capacity." The OECD ministers concluded that discussions with the NIEs could lead to better mutual understanding and the convergence of views on international economic policy cooperation.

In the June 1988 *Economic Outlook*,¹⁴ the OECD said that the economic performance of these four economies, and the current-account surpluses of Taiwan and South Korea "raised questions and concerns about their role in the international economy." In a July study,¹⁵ the OECD examined the development of the NIEs and their effect on the international economy in general, and the implications for OECD countries in particular. The report stated that "more coherent interaction into the international economy" for these economies is a problem facing both the NIEs and OECD members. It concluded that this problem requires adjustment by both sides.

¹³ OECD, *Economic Outlook*, No. 44, Paris, 1988.

¹⁴ OECD, *Economic Outlook*, No. 43, Paris, 1988.

¹⁵ OECD, "Newly Industrializing Countries: Challenge and Opportunity for OECD Industries," Paris, 1988.

The first effort at developing a relationship between OECD members and the NIEs occurred in January 1989. At that time, the OECD cosponsored an informal seminar which brought together representatives from member countries and the East Asian NIEs. The meeting was designed to launch informal discussions in areas of common economic interest to OECD members and the NIEs, and to help promote better understanding between the two groups. Officials, academics, and businesspersons from OECD countries met with their counterparts from the NIEs during two days of meetings to discuss world economic issues and ways to ease trade tensions.

The Paris meeting was co-sponsored by the Institut Francais des Relations Internationales, an independent research organization. The meeting was dubbed an "informal seminar," with participants acting in their personal capacity, to avoid a discussion of particular trade imbalances and disputes, and also to allow attendees to talk with the delegation from Taiwan (no OECD country has formal diplomatic relations with Taiwan).

The meeting was not a forum for the NIEs to discuss membership in the OECD, but rather a general session concerned with the international economy. One participant characterized the meeting as primarily an opportunity for participants to talk about the desirability or necessity of having closer policy coordination, "particularly in the macro-economic field." He said that an institutional link between the OECD and the NIEs might develop at some point in the future, "but that's a totally other thing and many OECD countries have considerable doubts about this." In general, OECD members must adhere to codes on capital and currency movement, direct investment and trade which generally require more liberal flows of capital and currency than some of the NIEs currently allow.

Customs Cooperation Council

The work of the Council during 1988 revolved around the newly effective Harmonized System Convention, which entered into force on January 1, 1988. The Harmonized System Committee undertook its responsibility to administer the nomenclature, included in the Convention as the basis for tariff, statistical and transport documentation programs of the Contracting Parties. A major effort that began early in the year was the resolution of all previously submitted questions, requests for classification opinions, and issues relating to the Explanatory Notes to the nomenclature. During the period in which the Convention was open for signature, a considerable volume of such inquiries accumulated; however, to avoid complicating the ratification process, it had been previously agreed that they would be left for the Committee to

handle after the Convention had entered into force.

The Council's funding situation, a significant obstacle during 1987, has improved somewhat with the payment by the United States of a portion of its budget assessment and arrearages. In its role as a full participant in the Harmonized System Convention, the United States has an interest in ensuring the Council's ability to function.

Following the enactment of the Omnibus Trade and Competitiveness Act of 1988, the United States deposited its instrument of ratification to the Convention. At the close of December 31, 1988, the Tariff Schedule of the United States was replaced with the Harmonized Tariff Schedule (HTS), in the format of the Harmonized System. Its implementation has created some confusion for importers but, with a small number of exceptions, the change over has proceeded quietly. The most publicized of these exceptions has involved the classification of sport utility vehicles under the HTS, an issue clarified by the Department of the Treasury in the Spring of 1989.

United Nations Conference on Trade and Development

UNCTAD was created as an organ of the United Nations General Assembly in 1974 for the purpose of promoting international trade, especially with a view to 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 and have different economic systems.¹⁶

UNCTAD convenes in conference once every 4 years. The most recent conference was UNCTAD VII, held in July-August 1987. Between conferences, the Trade and Development Board (TDB), UNCTAD's governing body, oversees UNCTAD's functions.¹⁷ The TDB holds two or more regular sessions per year and an occasional special session. In 1988, the TDB convened its 34th session (second part) in April, and its 35th session (first part) in September. The following sections discuss the topics that have been the focus of ongoing trade-related work at UNCTAD.

¹⁶ UNCTAD's membership is open to all countries that are members of the United Nations or of any of the agencies related to the organization.

¹⁷ The TDB implements conference decisions, initiates research studies on trade and related development problems, and carries out preparatory work for the conferences. Seven committees aid the TDB with its work: the Committees on (1) Commodities, (2) Manufactures, (3) Invisibles and Financing Related to Trade, (4) Shipping, (5) Preferences, (6) Transfer of Technology, and (7) Economic Cooperation Among Developing Countries. These committees meet every 2 years.

The Integrated Program for Commodities and the Common Fund

The integrated commodity program proposed by developing countries and unanimously adopted at UNCTAD's fourth session in 1976 calls for a series of commodity-pricing agreements within a general framework, and a common fund to be used primarily for buffer-stock financing.¹⁸ The purpose of the Integrated Program for Commodities (IPC) is to "expand and diversify the trade of developing countries, improve and diversify their productive capacity, and improve their productivity and increase their export earnings. . . ." ¹⁹ Eighteen commodities were initially identified for IPC action. To date, agreements covering natural rubber, jute, and tropical timber have been concluded within the framework of the IPC.²⁰

In 1980, the Common Fund for Commodities (CFC) was conceived as a mechanism to assist LDC commodity exporters. The CFC was designed to operate with three accounts. The First Account is to provide financing on attractive terms for price stabilization activities through international buffer stock operations. The Second Account is to provide concessional loans or grants to developing country producers for such activities as productivity improvements, research, market promotion, and vertical diversification. The Third Account within the Fund was proposed in 1985 by the Group of Experts on Compensatory Financing of Export Earnings Shortfalls. The purpose of this compensatory financing facility would be to even out the earnings developing countries obtain from their export commodities.

The CFC, designed to finance commodity buffer stock operations for price stabilization, requires ratification by 90 member states accounting for at least two-thirds of the Fund's directly contributed capital of \$470 million to become operational. By the end of 1988, the CFC had received over 100 ratifications accounting for more than two-thirds of the Fund's directly contributed capital, more than

¹⁸ Most international commodity agreements use buffer stocks as their price controlling mechanism. As commodity prices fall to a predetermined floor, the buffer stock manager begins buying to halt the price decline and build up stocks. Conversely, when prices rise to a predetermined ceiling, the manager begins selling to restrain increases in market prices.

¹⁹ *Proceedings of the United Nations Conference on Trade and Development*, vol. 1, Report and Annexes, p. 7.

²⁰ In addition to the agreements on natural rubber, jute and tropical timber negotiated within the IPC framework, there is provision for international commodity agreements covering coffee, sugar, wheat, cocoa, and tin. For a detailed discussion of U.S. participation in all international commodity agreements, see the section that follows, entitled "Negotiation and Operation of International Commodity Agreements."

enough to bring the agreement into force. A formal launch of the agreement, which may take place in 1989, will require member states to start financing the first account. The Netherlands, Indonesia, Ghana, and Denmark have been mentioned as possible sites for the Fund's headquarters. The United States does not participate in the Common Fund or buffer-stock operations, preferring to rely on market forces to determine commodity prices.

In December 1988, the UNCTAD Committee on Commodities held its 13th session. The meeting included a review of the overall world commodity situation, and of consultations between producers and consumers of individual commodities not covered by international commodity agreements. The committee agreed to continue both its review of the wide variety of factors that affect world commodity markets, and its monitoring of the outcome of intergovernmental discussions on commodities not covered by international commodity agreements.

Protectionism and Structural Adjustment

Resolution 159 (VI), adopted at UNCTAD's sixth conference in 1983, calls upon the TDB to undertake an annual review of the problems of protectionism and structural adjustment, to formulate appropriate recommendations concerning protectionism, to review and monitor trade developments; and, when appropriate, to make general policy recommendations concerning structural adjustment. In addition, a new work program mandated by the 28th TDB session in March 1984, invited governments to provide information on factors relevant to the issues of protectionism and structural adjustment in the course of the TDB annual review.²¹

The main documentation prepared by the UNCTAD Secretariat for the annual review of protectionism and structural adjustment was "Problems of Protectionism and Structural Adjustment, Part I: Restrictions on Trade, and Part II: Trends in Production and Trade in All Sectors and Their Underlying Factors."²² Part I of the report, "Restrictions on Trade," summarizes developments in trade actions and trade legislation in 1987. In this section the Secretariat stated that despite (1) efforts by developed countries to reinforce economic policy coordination, (2) an increased awareness of the necessity to review domestic agricultural policies,

²¹ See the *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, p. 85, for a discussion of this work program.

²² UNCTAD, "Protectionism and Structural Adjustment, Problems of Protectionism and Structural Adjustment: Part 1, Introduction and Restrictions on Trade; and Part 2, Trends in Production and Trade in All Sectors and Their Underlying Factors." TD/B/1160 Parts I and II, Feb. 3, 1988.

and (3) commitments to multilateral trade negotiations, "there has been no significant improvement in the fundamental conditions" that have given rise to the "current crisis in the international trading system." The Secretariat also acknowledged that pressures for legislated protectionism have "remained very strong," with governments resorting to bilateral deals to reduce trade frictions, sometimes imposing retaliatory measures against the allegedly unfair trade practices of other trading partners. The Secretariat concluded that economic conditions call for increased macroeconomic policy coordination, "a determined resistance" to protectionist appeals, a need for greater transparency in national policies, and a heightened awareness of the national and international effects of domestic policies.

On the standstill and rollback of protectionist measures, the Secretariat observed that there had not been "a visible decrease" in the range of trade restrictions in place. In its report, the Secretariat stated that pressure for import relief "continues unabated" with the frequent application of many so-called "grey-area" measures. The Secretariat did report, however, a decrease in the number of antidumping procedures instituted between July 1986-June 1987 compared with the previous 12-month period. The Secretariat also identified what it called "a clear complementarity between tariffs and nontariff measures (NTMs)," stating that developing countries could benefit fully only from liberalization of both tariffs and NTMs. According to the UNCTAD report, a relatively large share of imports from developing countries is outside GSP product coverage and is subject to high tariffs, while LDC exports that do qualify for GSP programs encounter "relatively less favorable" preference margins as MFN tariff rates continue to decline.

Finally, the Secretariat suggested that greater "economy-wide awareness" of the effects of trade restrictions for certain industries should help governments withstand protectionist pressures, thereby contributing to the strengthening of the international trading system. To that end, the Secretariat suggested that a need exists for closer public scrutiny of proposed domestic protectionist measures. Such examination, it said, could be carried out through the creation of "national bodies" to evaluate proposed trade measures on the basis of their likely domestic and international economic effects.

The second part of the Secretariat's report to the TDB for the review of protectionism and structural adjustment was called "Trends in Production and Trade in All Sectors and Their Underlying Factors." This part of the report analyzes changing patterns of production and trade in agricultural, industrial, and service sectors, and highlights economic policies and

structural adjustment in pursuit of international competitiveness. The Secretariat said that agricultural production in the 1980s has maintained a similar rate of growth compared with that of the 1970s, but that the growth of manufacturing output was slower during 1980-84 than 1975-80. World trade in both sectors, the Secretariat pointed out, has experienced a "marked slowdown" in recent years. Trade in manufactured goods grew at an annual rate of 1.4 percent per year between 1980-85, while developing countries experienced a 5.4 percent decline of manufactured exports in 1985, the Secretariat observed. The Secretariat went on to state that only about 1.5 percent of apparent consumption of manufactured goods in developed countries comes from developing countries. It also noted that dependence of developed countries on developing countries for food and processed and manufactured goods has declined in recent years.

The Secretariat summarized certain economic conditions and needed policy adjustments in developed and developing countries. In developed countries it identified (1) a continued need for policies enhancing competitiveness in product markets and efficiency in factor markets, (2) a need for greater adjustment of agricultural policies in response to changes in agricultural markets, and (3) an existing reluctance of governments to allow competitive forces to play a greater role in certain industrial sectors. In developing countries, the Secretariat said that greater efficiency depends on "domestic supply side measures" to stimulate investment, output, and productivity. However, the Secretariat said that although developing countries may attempt to adjust the structure of their economies to improve productive efficiency, it is "difficult to see" how LDCs can export enough to service their debts and achieve "adjustment with growth" without a reasonably favorable external economic environment and adequate external financing.

The UNCTAD Data Base on Trade Measures

The second session of UNCTAD's Intergovernmental Group of Experts (IGE) on Definitions and Methodology Employed in the UNCTAD Data Base on Trade Measures was held in Geneva during May 16-20, 1988. The data base, available on request from the UNCTAD Secretariat, is an inventory of nontariff measures (NTMs) imposed by member countries.²³ This database records trade

²³ At the Spring 1988 meeting of the Trade and Development Board, the TDB decided that the UNCTAD Secretariat would provide, on request, the information contained in the data base (TDB decision 354 XXXIV). See UNCTAD "Report of the Trade and Development Board on the Second Part of its Thirty-Fourth Session," Aug. 1, 1988, TD/B/1174 (Vol. II), p. 15.

measures of the United States, Japan, the European Community, and about 70 developing countries.

The IGE agreed to encourage the Secretariat to expand the country coverage and scope of trade measures in the data base, allow member states to make both general and tariff-line-specific comments on measures associated with their country (all such measures will be considered an integral part of the data base at all times, including dissemination), encourage updating of the data base by the Secretariat, and begin transition to the Harmonized System as countries adopt the nomenclature. Member states were invited to verify the data.

Regarding use of the data base material, the IGE recommended that the Secretariat encourage users of the data to take into account the fact that the information has been collected and made available by the UNCTAD Secretariat, and that any comments constitute an integral part of the data base. The Group also urged the Secretariat to continue refining its methodology and to examine the comparability of data for improving its assessment of measures. When aggregating measures, the Secretariat is to make clear which measures were included or not included for the analysis. The Secretariat was also urged "to continue its efforts to refine its methodology and improve its assessment of measures" in the data base. This statement reflects the concern shared by several member countries regarding the practice of the Secretariat of counting measures with little or no trade effect equally with measures that may be very restrictive.

Trade Relations Among Countries Having Different Economic and Social Systems

Promoting trade and economic cooperation among countries having different economic and social systems²⁴ has been a subject of particular interest to UNCTAD.²⁵ The Final Act of UNCTAD VII directed the TDB to consider the development of a program aimed at promoting intersystems trade, in particular East-South trade.²⁶ At its Spring 1988 meeting, the TDB

²⁴ The subject "Trade Relations Among Countries Having Different Economic and Social Systems" can refer to either East-West trade or East-South trade, the latter being trade between centrally planned economy countries of Eastern Europe and the developing countries. "Intersystems trade" is another term for the same concept.

²⁵ For a discussion of recent UNCTAD work on this subject, see *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, pp. 3-7 to 3-8. See also a report by the UNCTAD Secretariat, "Promotion of trade and economic co-operation among countries having different economic and social systems, with particular consideration given to the interests of developing countries," TD/B/1104, June 25, 1986.

²⁶ In the area of intersystems trade, the Secretariat stated that the Final Act of UNCTAD VII "contemplates" several measures which, if fully implemented would

considered such a program. Elements of the program address East-West-South cooperation, the strengthening of existing East-South relations, the possibility of a multilateral framework to enhance East-South relations, the needs of least developed countries, technical cooperation, actions in support of the program, and other issues. The TDB decided that additional comment on its program should be transmitted to the Spring 1989 session of the TDB.

The Secretariat prepared a report for the 1988 Spring TDB detailing recent developments in trade relations among countries having different economic and social systems.²⁷ The report focused on major trends in the economic developments of Eastern European countries and their foreign trading systems, intersystems trade and economic cooperation, and actions arising from the Final Act of UNCTAD VII related to intersystems trade.

On the subject of economic developments in Eastern Europe, the Secretariat stated that economic restructuring in many Eastern European countries created short-term pressures on their economies. This pressure, the Secretariat said, inhibited Eastern European Governments from taking advantage of the new economic mechanisms and regulations created by their restructuring. In addition, the report noted that the economic activity of most Eastern European countries slowed during 1986 and 1987.

The Secretariat made several observations regarding intersystems trade. The Secretariat said that East-South trade increased moderately in value terms in 1986 and 1987, despite "unfavorable factors" influencing the trade of Eastern European and developing countries. This East-South trade, the Secretariat stated, largely continued between traditional trading partners, with trade between the Soviet Union and developing countries accounting for about two-thirds of East-South trade. The Secretariat hailed economic and technical cooperation

²⁶—Continued

promote intersystems trade, particularly East-South trade and economic relations. These measures would aim for implementation of national and international policies to accelerate and sustain growth and provide a greater role for nonmarket economies in the development process of LDCs. The relevant provisions of the Final Act on these issues are paragraphs 30 (c) and 105 (28). For a discussion of the Final Act of UNCTAD VII, see USITC, *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 3-6 to 3-7. For the East-South program, see UNCTAD, "Report of the Trade and Development Board on the Second Part of its Thirty-Fourth Session," Aug. 1, 1988, TD/B/1174 (Vol. II), pp. 15-20.

²⁷ UNCTAD, "Trade relations among countries having different economic and social systems and all trade flows resulting therefrom: Trends and policies in trade and economic cooperation among countries having different economic and social systems," TD/B/1164, Feb. 9, 1988.

programs and some improvements in GSP benefits offered by nonmarket economy countries as "important features" in East-South trade. East-West trade, the Secretariat said, has been plagued with "sluggish overall development" since 1980.

The Secretariat advanced several suggestions regarding intersystems trade pursuant to the Final Act of UNCTAD VII. The Secretariat suggested that an exchange of ideas on how intersystems trade could be strengthened, and identification of "modalities appropriate for trade expansion" could be useful starting points. The results of a follow-up discussion might be reported to the spring 1989 session of the TDB. The Secretariat also suggested that UNCTAD's technical assistance program could be expanded to "make it more responsive to requirements emerging from recent evolutions" in Eastern Europe and the world economy.

Trade Preference Schemes

The Generalized System of Preferences

The GSP is a framework under which developed countries provide preferential tariff treatment to certain goods exported by developing countries.²⁸ The system was designed to facilitate the industrialization of developing countries by giving them preferential tariff rates in developed-country markets, thus accelerating their economic growth. The UNCTAD Special Committee on Preferences is responsible for overseeing the GSP.

The Committee on Preferences held its 15th session in May, 1988. The meeting concluded without any conclusions or recommendations. Prior to the meeting, the UNCTAD Secretariat provided the committee with an update of its annual report on the implementation, maintenance, improvement and utilization of the GSP.²⁹ The main changes in GSP schemes worldwide described in the update included modifications by the EC, the United States, and Norway to their respective GSP programs. Changes noted in the U.S. GSP program were the U.S. decisions to drop goods from Chile for GSP eligibility due to that country's alleged failure to uphold workers' rights, and graduation of South Korea, Taiwan, Singapore, and Hong Kong from

²⁸ For a discussion of the operation of the U.S. GSP system in 1988, see ch. 5.

²⁹ The 11th annual report on the implementation of the GSP had been prepared for the 15th session of the Committee on Preferences, which was originally scheduled for October 1987. In light of the postponement of the meeting to May 1988, the Secretariat provided an update of the annual review in the document "Review of the Implementation, Maintenance, Improvement and Utilization of the Generalized System of Preferences," TD/B/C.5/111 Add. 1, Feb. 29, 1988. For a discussion of the 11th annual review of the GSP, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 3-10 to 3-11.

the program.³⁰ The update also reported on recent research under the auspices of the Committee on Preferences which assessed the effects of GSP. The research focused on the effects on exports from LDCs of quantitative limitations on preferential treatment under the schemes of the EC, the United States, and Japan. The studies found that the limitations on preferences had, in general, lowered the import shares of affected beneficiaries, but not increased the import shares of less competitive beneficiaries.

The Global System of Trade Preferences

In 1988, developing countries agreed to establish the Global System of Trade Preferences (GSTP), which is a mechanism designed to boost significantly trade among developing countries. Increased trade is envisioned through creation of a preferential trading system for LDCs that would reduce tariffs, para-tariffs (e.g., seasonal tariffs), and nontariff measures—equally among participating countries—for all types of products, for direct trade measures including medium- and long-term contracts, and for sectoral agreements.

At an April meeting in Belgrade, 48 countries agreed to adopt the GSTP agreement.³¹ The first round of negotiations for the GSTP began in Brasilia in May 1986. At the April 1988 meeting, the participating countries exchanged bilateral trade concessions, which were extended to all GSTP countries on an MFN basis. The agreement will allow member countries to take safeguard measures in the event of serious injury, or the threat thereof, to domestic producers of like or similar products arising due to increased imports under GSTP preferences. The agreement also contains provisions regarding serious balance of payments difficulties, rules of origin, preferences for the least developed countries, and dispute settlement. The UNCTAD Secretariat provided support to participating countries within the framework of its program for economic cooperation among developing countries. The agreement becomes operational 30 days after 15 participants which have exchanged concessions formally approve the agreement, and deposit their instruments of ratification with the Government of Yugoslavia.

³⁰ A further discussion of these modifications is contained in the ch. 5 section on the U.S. GSP program.

³¹ Participants in the GSTP are Algeria, Angola, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic People's Republic of Korea, Egypt, Ecuador, Ghana, Guinea, Guyana, Haiti, India, Indonesia, Iran, Iraq, Libya, Malaysia, Mexico, Morocco, Mozambique, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Romania, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Uruguay, Venezuela, Vietnam, Yugoslavia, Zaire, and Zimbabwe.

Negotiation and Operation of International Commodity Agreements

The negotiation of international commodity agreements grew out of the concern of both commodity producing and consuming nations over the disruptive effects of wide fluctuations in commodity prices. During the mid-1970s, international commodity agreements became an issue of particular interest, reflecting the importance of commodities trade to the developing countries. Since then, commodities policy has been in the forefront of North-South dialogue. UNCTAD is the most active forum for discussion of this issue.

The following sections summarize the 1988 operation of international commodity agreements covering coffee, sugar, wheat, cocoa, and tin³², as well as the IPC agreements on natural rubber, jute, and tropical timber. Four of these agreements (coffee, natural rubber, tin, and cocoa) contain specific price-stabilization mechanisms designed to reduce fluctuations in prices, improve long-run producer earnings, and deliver a steady, adequate, and reasonably priced supply of the commodity to consumers. These agreements provide for market intervention by a variety of means. Buying and selling of buffer stocks to moderate price swings is one prominent method. Assigning production and export quotas is another. In price-stabilization arrangements, the proposed price range must be compatible with the long-term market trend. In addition, the price-affecting mechanism must be sufficiently flexible to cause prices to move in both upward and downward directions. In contrast, the agreements covering sugar, wheat, jute, and tropical timber are not specifically designed to minimize price fluctuations. Instead, they seek to promote research and market development of the respective commodities.

At the end of 1988, the United States was participating in six of the eight international commodity agreements, those covering coffee, sugar, wheat, jute, natural rubber, and tropical timber. The United States may enter into international commodity agreements through executive agreements, treaties requiring ratification by a two-thirds majority of the Senate, or specifically enacted legislation. A treaty is the customary route. In general, the U.S. Government has reservations concerning international price-stabilization schemes on the grounds that they might create long-term market distortions. In the U.S. view, world markets should be allowed to operate freely and without government interference. U.S. policy is generally to promote research and development funding

³² The agreement covering tin has ceased to function for all practical purposes since the collapse of the price of tin in 1985. However, this section examines activities of the Association of Tin Producing Countries, which tries to impose tin export controls on member nations.

rather than market intervention. The United States is willing, however, to consider participating in commodity agreements if there is a demonstrated need in the market, if they are economically sound and market oriented, and if they offer a balance between producer and consumer interests.

In 1988 there were several developments affecting various commodity agreements. In March, a new International Sugar Agreement (ISA) came into effect. The United States signed the ISA as an executive agreement on March 23, 1988. A new International Natural Rubber Agreement (INRA) came into effect during the last week of December, 1988. The new INRA will remain in effect for 5 years, with the option of a 2 year extension. The United States signed the new INRA in November 1988. The first International Jute Agreement (IJA), which had been set to expire in January 1989 after 5 years of operation, was extended for two additional years. During this period, member countries will negotiate on a second IJA.

Dramatically higher prices in 1988 for certain metals and agricultural raw materials resulted in an overall rise in the IMF's index of non-oil commodity prices over the previous year's level. The index marked an increase for the second year in a row, rising by 23.4 percent in 1988. Agricultural raw materials, on average, were priced 9.4 percent above average 1987 levels, reflecting higher prices for fine wool (63.3 percent), natural rubber (20.4 percent), jute (15.3 percent), and hides (9.8 percent). Metal prices on average went up by 48.2 percent in 1988, weighted heavily by nickel and aluminum price rises. Nickel prices increased by 183.0 percent, largely in response to an export-levy dispute in the Dominican Republic coinciding with low inventories and strong demand for stainless steel. Aluminum prices increased by 62.7 percent, due to increased demand in the automobile industry, low inventories, and strikes.

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, including 50 producing countries that account for more than 99 percent of the coffee entering world trade. The agreement covers a 6-year period that may be extended for an additional 2 years under the present terms. The International Coffee Organization (ICO) administers the ICA under rules and regulations established by the International Coffee Council (ICC).

In 1988, the terms of the ICA remained essentially unchanged from those of the previous year. The agreement has no provision for a buffer stock, but does provide for export quotas to stabilize prices. Each exporting member country is assigned an annual coffee export quota, and is required to affix a certificate of origin to coffee exports. Importing member countries are required to refuse any shipments from exporting countries not accompanied by valid ICA certificates. The ICC set the 1987-88 quota at 58 million 60-kilogram bags (a bag is about 132 pounds), of which 54.4 million were allocated to the larger producers entitled to a "basic" quota. The remaining 3.6 million bags were assigned to the smaller producers which are exempt from quota cuts. As a result of low prices, quotas were cut five times in the 1987-88 crop year resulting in a final global quota of 51.5 million bags.

U.S. Department of Agriculture (USDA) officials report that in return for the consumer countries' acceptance of the quota setting formula for the 1987-88 crop year that the producers favored, producers accepted the consumers' formula for 1988-89. The consumers' formula moved quota distribution marginally closer to quotas based on current levels of production, stocks, and trade, and was favored by the United States. The global quota for coffee year 1988-89 was set at 56 million bags and was evenly allocated over the four quarters of the coffee year. Each quarter was allocated 10.4 million bags of Arabicas (a coffee type) and 3.6 million bags of Robustas (a coffee type). Quota distribution between large and small producers was left unchanged from 1987-88. Under the rules of the ICA, quotas can be reduced a maximum of 3 million bags, to a minimum of 53 million bags for the 1988-89 crop year compared with 51.5 million bags in 1987-88. Eighty-four percent of the global quota for 1988-89 is "fixed," based on exportable production (production less domestic consumption), and a percentage for exports to member countries for crop years 1981-82 to 1987-88, excluding the lowest year. Sixteen percent is "variable," based on verified stocks at the end of crop years 1987-88 or 1988-89. Quotas were adjustable by coffee type (Arabica or Robusta) in 1988-89. Two quota increases took place in the first quarter of the 1988-89 year for Arabica coffees, as rising prices reflected a shortage of this type.

Table 4 indicates that during 1984-88, the average annual ICO composite indicator price (1979 basis) ranged from \$1.08 to \$1.71 per pound. In 1988, the monthly average composite indicator price ranged from a low of \$1.07 per pound in August to a high of \$1.24 per pound in December, and averaged \$1.16 per pound for the year.

Table 4

Green coffee: International Coffee Organization monthly average composite indicator prices, 1979 basis, 1984-88

Period	(Per pound)				
	1984	1985	1986	1987	1988
January	\$1.38	\$1.35	\$2.04	\$1.18	\$1.15
February	1.41	1.33	1.91	1.16	1.21
March	1.43	1.32	2.04	1.01	1.18
April	1.44	1.32	1.92	1.04	1.16
May	1.48	1.32	1.77	1.11	1.16
June	1.45	1.31	1.54	1.02	1.19
July	1.41	1.21	1.49	.96	1.14
August	1.43	1.20	1.54	.98	1.07
September	1.42	1.19	1.81	1.05	1.14
October	1.36	1.26	1.63	1.11	1.14
November	1.38	1.41	1.49	1.16	1.14
December	1.34	1.75	1.31	1.15	1.24
Average	1.41	1.33	1.71	1.08	1.16

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

The current coffee pact expires in September 1989. Preliminary discussions on a new agreement were held in April 1988. The United States and the European Community indicated that they would not agree to an extension of the current ICA without modifications. Their main concerns were that the current agreement did not provide enough quality mild coffees within the global quota and that discount sales were being made to nonmember countries.³³ A first round of talks to negotiate a new agreement was held in November 1988, but resulted in a deadlock over framework changes.

Sugar

The 1987 International Sugar Agreement (ISA) entered into force on January 1, 1988, following expiration of the 1984 ISA. The International Sugar Organization (ISO), located in London, administers the agreement. Concluded on September 11, 1987, the current ISA is scheduled to operate for 3 years, but may be renewed for 2 additional years. Like its predecessor agreement, the 1987 ISA is merely an administrative agreement—it does not contain economic provisions to control prices through a system of buffer stocks.³⁴ The only change the

1987 ISA makes with regard to previous agreements 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, with exporters accountable for the remaining 57.5 percent. This change was primarily made to more equitably distribute the burden of payment between the two groups as more exporters than importers are signatories to the ISA.

As of October 1988, the Organization consisted of 43 members, including nine importing countries—Canada, Finland, East Germany, Japan, Korea, Norway, Sweden, the Soviet Union, and the United States—and 34 exporting countries. Voting rights are assessed in proportion to each member's contribution to the administrative budget. In November 1988, U.S. voting rights were suspended for failure to pay its 1988 budget assessment in full. The United States participated in the 1984 ISA and its predecessor agreements.

During 1982-84, the target price range in the ISA was 13 to 23 cents per pound. The use of target prices was discontinued after 1984. Actual prices have been below the 1982-84 target range since February 1982. Table 5 presents the world market prices for 1983-88.

³³ Some producers are willing to sell coffee to nonmembers at a lower price once their export quotas to members have been exhausted. As a result, a two tier market has developed, which undermines the ability of the coffee agreement to successfully defend the market.

³⁴ The 1977 ISA, predecessor to the 1984 ISA, contained a market stabilization mechanism which 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 price of sugar. This ineffectiveness was in large part the result of sugar's unique characteristics. Sugar is one of the most widely grown crops in the world, owing to the fact that identical refined sugar is obtained from tropically grown sugarcane and from temperately grown sugarbeets. Individual countries also heavily regulate their

³⁴—Continued

production and trade in sugar. Relatively little sugar is traded on the so-called free market. The free market thus bears a disproportionate share of sugar shortages and surpluses, with price instability being the result. When crop failures reduce supplies, producing countries supply their domestic needs first, preferential arrangements second, and free-market demand last. The free-market world price often soars as a result. Similarly, when there are bumper harvests, the free market becomes a distress market and prices plummet. Furthermore, since sugarcane is a perennial crop that requires about 20 months from planting to reach full production (which then is continued for several years), the price swings are usually extended (especially those on the down side).

Table 5
Raw sugar: Monthly world market prices, 1977 ISA basis,¹ 1983-88

(In cents per pound)

Period	1983	1984	1985	1986	1987	1988
January	6.03	6.97	3.62	4.86	6.49	9.66
February	6.43	6.64	3.70	5.57	7.38	8.53
March	6.20	6.42	3.83	6.95	7.56	8.53
April	9.58	5.99	3.42	8.33	6.68	8.54
May	9.45	5.61	2.82	7.63	6.73	8.90
June	10.74	5.53	2.78	6.33	6.44	10.56
July	10.53	4.54	3.18	5.55	6.10	14.02
August	10.56	4.05	4.39	5.57	5.62	11.15
September	9.43	4.10	5.12	4.68	6.10	10.15
October	9.69	4.64	5.01	5.39	6.65	10.28
November	8.33	4.36	5.48	5.95	7.26	10.84
December	7.67	3.55	5.32	5.73	8.25	11.34
Average ..	8.72	5.20	4.06	6.04	6.77	10.21

¹ International Sugar Agreement, monthly average prices (f.o.b., Caribbean ports, bulk basis) calculated in accordance with art. 61 of the 1977 agreement.

Source: Compiled from UNCTAD data.

Wheat

The International Wheat Agreement (IWA), unlike many international commodity agreements, has no provisions for buffer stocks, intervention price ranges, or export quotas. The IWA consists of a Wheat Trade Convention and a Food Aid Convention. As part of its responsibilities, the IWA provides technical studies, food aid pledges by exporters and rich importers to needy developing countries, and information collection. The various functions of the IWA have been administered by the International Wheat Council, the only commodity organization in which the United States has had membership as an exporting nation.

The original agreement for the IWA, negotiated in 1971, was extended eight times; the last extension ended June 30, 1986. A new IWA was negotiated in 1986, with signatures affixed in June 1986, and expires June 30, 1989. While continuing all the functions and organizational structure of predecessor agreements, the present mandate for the IWA expands the scope of research and reporting to include information on other grains, but maintains an emphasis on wheat. It also increases the pledges under the Food Aid Convention. The new agreement remains without the power to intervene in the market to regulate supplies and prices. The principal difference between past and present IWAs is that the new current arrangement down-plays the language of the preceding IWAs concerning eventual price intervention.

In marketing year 1987-88,³⁵ world utilization of wheat rose to 534 million metric tons from 522 million tons the previous year.³⁶ Total world production in 1987-88 was 504.3 million tons, down from 529.7 million tons the previous

year. During the same period, world wheat exports rose from 90.7 million tons to 104.7 million tons.

U.S. exports of wheat in 1987-88 increased over the previous period, rising from 27.3 million tons to 43.3 million tons. Increased import demand, particularly for China, the USSR, and Iran, and an accelerated level of wheat sales and shipments from the United States and Canada, have resulted in an increased level of world wheat trade. Global demand is particularly strong for quality bread wheat and durum, as supplies are down in a number of exporting and importing countries. The U.S. decision to free up Commodity Credit Corporation (CCC) stocks is another indication of stronger world demand.³⁷ A further indication is the sharp drop in the feed usage of wheat in the United States, from 11.2 million tons in 1986-87 to 7.6 million tons in 1987-88.

Significantly smaller exportable supplies of high-quality bread wheat and durum may cause a number of countries either to increase their use of domestically produced wheat or to reduce wheat consumption in 1988 and beyond. A significant drawdown in world wheat stocks is imminent with utilization expected to exceed production for the second consecutive year. In 1986-87, world ending stocks were 175.3 million tons, or 33.6 percent of world utilization. It is anticipated that for 1987-88, stocks will be drawn down to 145.6 million metric tons, or 27.3 percent of world utilization.³⁸ The drop in stocks is expected to continue through 1988-89.

³⁷ *World Grain Situation and Outlook*, USDA-FAS, FG-13-87, November 1987.

³⁸ Stock data are based on an aggregate of differing local marketing years and should not be construed as representing world stock levels at a fixed point in time. Stock data are not available for all countries and exclude parts of Eastern Europe and Asia. Stock levels have been adjusted by the U.S. Department of Agriculture for estimated year-to-year changes in USSR grain stocks, but do not purport to include the entire absolute level of USSR stocks.

³⁵ July 1987 to June 1988.

³⁶ U.S. Department of Agriculture projections as published in *World Grain Situation and Outlook*, USDA-FAS, FG-9-88, September 1988. Utilization data are based on an aggregate of differing local marketing years. For countries for which stocks are not available (excluding the USSR), utilization is estimated.

Cocoa

The 1986 International Cocoa Agreement (ICCA),³⁹ concluded in July 1986, replaced the 1980 agreement, which expired on September 30, 1986.⁴⁰ In January 1987, the 1986 ICCA went into effect as the requisite number of cocoa producing and consuming member countries provisionally ratified the accord.⁴¹ Unlike the previous agreement, the world's largest producer of cocoa—the Ivory Coast—is a member of the 1986 ICCA. The agreement is scheduled to be in effect for 3 years; after that time it can be extended for an additional 3 years if a new agreement has not been developed. 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 generally do not work, that the agreements have been inadequately funded, and that unrealistic price ranges are specified in the agreements.

The basic mechanism of the ICCA is a 250,000-ton buffer stock (which includes 100,000 tons 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. Prices in the new ICCA are based on Special Drawing Rights (SDRs) to moderate currency fluctuations.⁴² Prices are reviewed annually and are adjusted automatically by 115 SDRs/ton, up or down, if they are not within the mandatory intervention levels and if the buffer stock manager has bought or sold 75,000 tons of cocoa within a 6-month period. The price ranges⁴³ of the ICCA follow:

	SDRs/ton	Approx. cents/lb.
Upper intervention		
price (must sell)	2,155	127
May sell price	2,100	124
Median price	1,820	107
May buy price	1,540	91
Lower intervention		
price (must buy)	1,485	88

Cocoa prices under the agreement are determined by reference to a daily price and an indicator price expressed in SDRs per ton. The

³⁹ The two Cs in the initials for the International Cocoa Agreement (ICCA) are used to distinguish it from the International Coffee Agreement (ICA).

⁴⁰ The 1980 ICCA replaced the ICCA of 1975, and its predecessor, the ICCA of 1972.

⁴¹ Ratifications by countries accounting for 80 percent of world exports and 65 percent of world imports are needed for the agreement to enter into force.

⁴² For 1988, the average SDR exchange rate was 0.75 SDR/U.S. dollar.

⁴³ As of April 1989.

daily price is the average daily quote for cocoa beans of the nearest three active futures 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.

The ICCA also includes a provision for a Withholding Scheme in case the buffer stock is unable to maintain prices within the designated range. Under the supervision of the buffer stock manager, the scheme provides for the withholding of a maximum of 120,000 tons of cocoa from the market by producers if 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 tons of cocoa. 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.

Tin

Although the Sixth International Tin Agreement (ITA) was granted a 2-year extension by the International Tin Council (ITC) in April 1987, for all practical purposes the agreement has ceased to exist, and there is presently no commodity agreement between producing and consuming countries to regulate world tin exports and prices. However, actions taken by a group of tin producing countries during 1987-1989 to reduce worldwide tin inventories, along with growing demand for tin, have combined to achieve a recovery in the price of tin that apparently could not be maintained under the Sixth ITA.⁴⁴

Declining tin prices prompted the Association of Tin Producing Countries (ATPC), a cartel of tin producers formed in September 1983, to impose export controls on member nations.⁴⁵ In March 1987, the ATPC began a tin supply rationalization plan to raise tin prices by attempting to reduce worldwide tin inventories from the level of 73,000 metric tons that prevailed at the time. The ATPC agreed to limit tin exports among all member nations to no more than 96,000 metric tons until February 29, 1988. In addition, China and Brazil, the two largest producers outside the ATPC, agreed not to take advantage of these quotas to increase exports. Brazilian and Chinese exports had grown rapidly

⁴⁴ These developments followed the announcement in October 1985 that the ITC could no longer support tin prices at the ITA floor price of \$5.65 per pound due to credit problems. Tin prices soon dropped to \$2.40 per pound. Since the tin price collapse, the ITC has concentrated on fighting legal challenges by creditors.

⁴⁵ The ATPC consists of Malaysia, Indonesia, Thailand, Australia, Bolivia, Zaire, and Nigeria.

since 1980, when neither nation exported tin, to 26,000 and 10,000 metric tons, respectively, during 1988. In January 1988, the ATPC announced that tin inventories had fallen to 45,000 metric tons as a result of stronger demand for tin by the electrical, container, and construction industries and export controls. As a result, the ATPC agreed to raise annual tin export quotas for its seven members by 6 percent to 101,900 metric tons until February 28, 1989. The combination of increasing demand and a steady depletion of worldwide tin inventories served to exert upward pressure on tin prices throughout 1988 as tin for New York delivery rose from \$4.27 in January 1988 to \$4.60 in December and tin inventories declined to 38,000 metric tons by yearend 1988.

In January 1989, the ATPC announced an increase of 4 percent in its annual export quotas to 106,400 metric tons beginning in March 1989. The ATPC also announced that these quotas are to be maintained in cooperation with Brazil and China, which agreed to hold their exports at 31,500 and 10,000 metric tons respectively. The ATPC anticipates reducing tin inventories to 30,000 metric tons by January 1990 and looks for tin prices to improve to the \$5 per pound level.

During 1988, the U.S. General Services Administration (GSA) disposed of 2,784 metric tons of tin to bring the entire U.S. strategic tin stockpile as of December 31, 1988 to 174,269 metric tons. The ATPC called on the U.S. Government to "continue to restrict its releases of tin from its strategic stockpile" in an effort to further support tin prices.

Natural Rubber

Developing countries account for nearly all of the world's production and exports of natural rubber. The importance of natural rubber in international trade between developed and developing countries led UNCTAD to convene a negotiating conference in 1976 for the purpose of formulating an international agreement on natural rubber and several other commodities. The resulting agreement on rubber is called the International Natural Rubber Agreement (INRA).⁴⁶

The INRA, which was finalized and signed on October 6, 1979 (INRA 1979), came into force provisionally on October 23, 1980. The United States joined INRA in May 1981. The agreement expired in 1985, but was extended for a 2-year period through October 23, 1987, by the

⁴⁶ For more details about the INRA and its operations, see *Operation of the Trade Agreements Program, 33rd Report, 1981*, USITC Publication 1308, pp. 91-94; and *Operation of the Trade Agreement Program, 38th Report, 1986*, USITC Publication 1995, pp. 3-14 and 3-15.

International Natural Rubber Organization (INRO), which administers the provisions and supervises the operations of the agreement. On March 20, 1987, the major producing and consuming countries of natural rubber reached a new accord, INRA 1987 (or INRA II), and decided to allow INRA 1979 to lapse after October 1987.

Through most of 1988, INRA 1987 was not in force because less than 75 percent of the producing and consuming members had ratified it. An official of the U.S. Department of Commerce stated that INRA 1987 came into effect on December 28, 1988. INRA 1987 is similar in coverage to INRA 1979—the only significant difference pertains to the procedure for review and revision of the intervention price range. The intervention and trigger prices, both upper and lower, are set as fixed percentages of a reference price.⁴⁷ The reference price is a midrange price level that is reflective of recent market prices. Both INRA 1979 and INRA 1987 call for automatic adjustments of 5 or 3 percent, up or down, to the reference price under certain circumstances.⁴⁸ Unlike INRA 1979, which allows the International Rubber Council to adopt percentage adjustments lower or higher than the 3 and 5 percent, INRA 1987 only allows the Council to raise the percentage adjustment. INRA 1987, is scheduled to operate for the same duration as INRA 1979, that is, for 5 years plus a possible two-year extension.

INRA 1987 was signed on behalf of the United States on August 28, 1987, but was not ratified by the U.S. Government until November 1988.⁴⁹ The delay in ratification was due to budgetary restrictions, which made it unclear how the funding for INRA 1987 would be appropriated or allocated. This difficulty was overcome when the U.S. Government decided to allow funds from INRA 1979 to be rolled over to INRA 1987 rather than returned to the U.S. Treasury.

⁴⁷ For an explanation of reference, intervention, trigger, and indicative prices, see *Operation of the Trade Agreements Program, 33rd Report, 1981*, USITC Publication 1308, pp. 92-94; and *Operation of the Trade Agreements Program, 32nd, 1980*, USITC Publication 1414, pp. 90-92.

⁴⁸ U.S. Department of Commerce, International Trade Administration, Office of Commodities. Under article 32 of INRA 1979 and article 31 of INRA 1987, the reference price is automatically revised by 5 percent if the average of the daily market indicator prices over the prior six-month period is either below the lower intervention price or above the higher intervention price. The reference price is automatically by 3 percent if net buffer stock purchases or sales amounting to 300,000 metric tons have taken place since (a) the entry into force of this agreement, (b) the last revision under this paragraph, or (c) the last revision under paragraph two of the article, whichever is most recent.

⁴⁹ U.S. Department of State, *Airgram*, Reference No. A 301, Dec. 5, 1988.

The buffer-stock manager continued the buy and sell functions throughout 1988, even though INRA 1979 had lapsed and INRA 1987 was not yet in effect.⁵⁰ Through most of 1988, the buffer-stock manager was forced to sell as the price of natural rubber exceeded the "must sell" level of 242 Malaysian/Singapore cents per kilo (52.3 U.S. cents per pound).⁵¹ Through intervention, however, the buffer-stock manager was able to maintain the market price of natural rubber within the allowable price band. The manager claimed that the daily market indicator price (DMIP) was one of the factors that caused the price to remain above the "must sell" level, since the DMIP was generally higher than his selling price.⁵² He said that there is practically no relationship between the prices he offers in each market and the figures quoted by trade groups for DMIP calculations.⁵³

Worldwide consumption of natural rubber reached 5.125 million metric tons in 1988, a 7-percent increase over the 4.805 million metric tons in 1987.⁵⁴ Worldwide production of natural rubber in 1988 is estimated at 4.995 million metric tons, an increase of more than 4 percent over 4.775 million metric tons in 1987. Natural rubber stocks declined in 1988 as natural rubber demand rose about 3 percent faster than production. The overall drop in natural rubber stocks for the year has been reported as 120,000 metric tons.⁵⁵

Jute

The first International Jute Agreement (IJA) was scheduled to expire on January 9, 1989, after five full years of operation, but was extended for two more years until January 1991. Member countries will be using these two years to negotiate a second IJA. The IJA was originally signed in 1982 under the auspices of UNCTAD. The IJA came into operation on January 9, 1984, with the establishment of the International Jute Organization (IJO), which administers the IJA.

⁵⁰ For more details about the background of the buffer stock, see *Operation of the Trade Agreement Program, 39th Report, 1987*, pp. 3-16 and 3-17.; and, *Operation of the Trade Agreement Program, 31st Report, 1979*, pp. 86 and 87.

⁵¹ For an explanation of "Must Sell," "May Sell," and similar terms incorporated in INRA, see *Operation of the Trade Agreements Program, 33rd Report, 1981*, pp. 92-94.

⁵² For an explanation of DMIP, see *Operation of the Trade Agreements Program, 33rd Report, 1981*, USITC Publication 1308, p. 92; and, *Operation of the Trade Agreements Program, 35th Report, 1983*, USITC Publication 1535, pp. 140-141.

⁵³ International Natural Rubber Organization, *Draft Report of the Twenty First Meeting of the Committee on Buffer Stock Operations*, Aug. 25, 1988, p. 11. This meeting took place on Apr. 22, 25 and 27, 1988, in Kuala Lumpur, Malaysia.

⁵⁴ International Rubber Study Group, *Rubber Statistical Bulletin*, London, Vol. 43, No. 7, April, 1989, table 1.

⁵⁵ International Rubber Study Group, *Rubber Statistical Bulletin*, London, Vol. 43, No. 7, April, 1989, table 1.

Signatories to the IJA consist of five exporting countries, which account for more than 95 percent of world jute exports, and 37 importing countries, including the United States and the EC countries, which account for more than 65 percent of world imports. There are also six additional countries and 22 organizations that are admitted as observers. Funding for projects is based almost entirely on contributions from the importing countries.

The objectives of the IJA are to (a) improve structural conditions in the jute market, (b) enhance the competitiveness of jute and jute products, (c) maintain and enlarge existing markets as well as to develop new markets for jute and jute products, (d) develop production of jute and jute products with a view to improving their quality for the benefit of importing and exporting members, and (e) develop production, exports, and imports of jute and jute products so as to meet the requirements of world demand and supply. These objectives are to be met through research and development projects, market promotion, and cost reductions in production and processing. Unlike some intergovernmental commodity agreements, the IJA currently has no authority to stabilize world prices or supplies through the establishment of buffer stocks, pricing-level measures, or export quotas.

During 1988, member countries held two formal sessions. These meetings dealt primarily with issues pertaining to renegotiation or extension of the IJA. Many of the members from importing countries are opposed to changing any of the intent of the first IJA. In contrast, the members from exporting countries want a different approach taken and are in favor of several new, controversial provisions including (1) a price stabilization policy, (2) mandatory funding for projects by all member countries, and (3) negative campaigning against the use of synthetic fibers.

World production of jute fiber was 2.9 million metric tons in crop year 1988-89. This was a sharp decline from the 6.4 million metric tons in crop year 1985-86, when the combination of favorable weather conditions and increased acreage planted resulted in overproduction and bumper crops in all major producing countries. World production has declined in the past two years because increased preference for synthetic fibers has cut into demand for jute and growers are switching to more profitable crops, such as rice, pulses, and oilseeds. India, Bangladesh, and China account for about 85 percent of world jute production. India was responsible for the greatest share, 40 percent (1.2 metric tons) in 1987-88. Bangladesh and China accounted for 26 percent and 19 percent respectively that year.

These developing countries are also the major producers of jute products (i.e. yarns, fabrics, carpetbacking, bags, and sacking.) Much of Bangladesh's production of jute products is exported. Bangladesh provided more than forty percent of the total world exports of these products in 1987-1988. India and China, on the other hand, produce these products more for domestic consumption. India supplied 24 percent of the exports and China 7 percent in 1987-1988.

Tropical Timber

The International Tropical Timber Agreement (ITTA) came into force on April 1, 1985, following 8 years of preparatory work and negotiations carried out under the aegis of UNCTAD. Since its entry into force, 18 producer countries and 23 consumer countries have signed the agreement. These countries account for over 95 percent of world trade in tropical timber.

The objectives of the ITTA⁵⁶ reflect a recognition by member governments that tropical timber is a commodity that, unlike many others, is harvested from mostly virgin forests, is a product of highly fragile ecosystems, and is renewable, under certain conditions, only over a long time span. Broadleaved hardwood forests need minimally 30 to 50 years, and, in many cases, up to 100 years, to produce harvestable logs, making management of this resource very different from that of other agricultural resources. Another unique feature of this 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, and provide a life support system for the people who live in or near those forests. For these reasons, the ITTA seeks to ensure that the economic use of tropical timber is kept in balance with conservation of the resource and with environmental needs. It is the only international commodity agreement to include such objectives.

The ITTA held its fourth and fifth sessions in 1988. The fourth session,⁵⁷ held in Rio de Janeiro, Brazil during June and July 1988, was the first of a planned series of Spring Council meetings to be held in host member countries. At the meeting, the ITTA concentrated on strengthening its project procedures, resulting in a new requirement that project proposals be submitted to the Council at least 8 weeks prior to each session. The Council also delineated general

⁵⁶ For the purpose of the ITTA, "tropical timber" is defined as nonconiferous tropical wood for industrial uses which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer, and plywood.

⁵⁷ The ITTA held its second and third sessions in 1987.

project and nonproject priorities for each of three areas: reforestation and forest management; forest industry; and economic information and market intelligence. A U.S. initiative for a market study group, modeled after the EC Timber Committee, was also tabled and discussed. The fifth session, held in Yokohama during November 1988, emphasized the organization's nonproject work. Plans were also made for a 2-day market review to be held in conjunction with the sixth council session scheduled for May 16-24, 1989, in the Ivory Coast. An elaboration of a work program in forest management by a panel of experts from member governments was also undertaken during the meeting, and a number of projects and preprojects were approved.

The ITTA is the third commodity agreement to be negotiated under the framework of UNCTAD's IPC. Its objectives are to provide an effective framework for cooperation and consultation between tropical timber producing and consuming countries with a view to promoting the expansion and diversification of international trade in tropical timber and improving structural conditions in the tropical timber market. To these ends, the ITTA seeks to promote research and development aimed at improving forest management and wood utilization, improving market intelligence, encouraging increased and further processing of tropical timber in member producing countries, encouraging reforestation and forest management activities, improving marketing and distribution of tropical timber exports of producing members, and encouraging national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources and at maintaining the ecological balance in the regions concerned. It is envisaged that projects in these areas will be financed from the Second Account of the Common Fund for Commodities when it becomes operational, from regional and international financial institutions, and from voluntary contributions.

Other Trade Agreements Activities

The Bilateral Investment Treaty Program

The U.S. Bilateral Investment Treaty (BIT) program was launched in late 1981 to help protect U.S. direct investment abroad.⁵⁸ BITs with interested countries, 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—particularly those in developing countries—are eliminated, U.S. international investment flows should increase.

⁵⁸ For a complete discussion of the BIT program, see the *Operation of the Trade Agreements Program, 35th Report, 1983*, USITC Publication 1535, pp. 36-43.

The U.S. Government negotiates BITs using a prototype treaty that has the following main objectives: (1) ensure national treatment status, including provisions to hire whomever companies desire to manage the venture, (2) unrestricted capital and profit repatriation, (3) expropriation protection based on the "fair market value" of the investment, and (4) binding third-party arbitration to resolve disputes. This model is an updated version of the original BIT prototype treaty and dates from early 1984.

Since the beginning of the program, the United States has held preliminary discussions with over 40 countries. In 1986, 10 BITs were submitted to the Senate for ratification.⁵⁹ In 1988, 8 BITs were ratified by the Congress, and signed into law by the President.⁶⁰ Negotiations continue on BITs with developing countries in Africa, Asia, and Latin America.

United States-Israel Free-Trade Area Agreement

The United States-Israel Free-Trade Area Agreement,⁶¹ the FTA entered into by the United States, became effective on September 1, 1985, with the first of a series of tariff reductions and eliminations.⁶² Over a 10-year period, the agreement will eliminate tariffs on all trade between the two countries. The FTA covers not only manufactured goods and agricultural products, but also areas that are not presently covered by GATT, such as trade in services, intellectual property rights, and trade-related investment performance requirements.⁶³

⁵⁹ The 10 countries are Morocco, Turkey, Panama, Egypt, Senegal, Haiti, Zaire, Cameroon, Bangladesh, and Grenada.

⁶⁰ Of the original 10 submitted to Congress for ratification, all were ratified except those negotiated with Haiti and Panama. These treaties will not go into effect until the United States formally exchanges instruments of ratification with the other countries. As of February 1989, the United States had not formally exchanged the instruments of ratification with the 8 countries.

⁶¹ An FTA is an agreement in which participating countries remove substantially all trade barriers with respect to each other. GATT article XXIV establishes an exception to GATT obligations, in particular the MFN obligation, for FTAs provided: (1) duties and restrictions on "substantially all the trade" between the members are eliminated; and (2) each members' duties and regulations are not more restrictive than those existing prior to the FTA. The GATT also permits interim agreements that lead to the formation of an FTA "within a reasonable length of time."

⁶² For a discussion of the U.S.-Israel Free-Trade Area Agreement, see the *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, pp. 26-33.

⁶³ The United States has retained its rights under the Multifiber Arrangement to restrain disruptive imports of textiles and apparel from Israel.

Imports are broken down into four categories for the purpose of phasing out customs duties. Each of the categories will follow a different staging pattern based on the sensitivity of domestic products to imports, with the complete elimination of duties accomplished by January 1, 1995. Duties on the most import-sensitive products, which fall into category 4, will remain unchanged at least until January 1, 1990. On September 1, 1985, duties on products in the first, the least sensitive category, were completely eliminated, and duties on products falling into categories two and three were reduced.

The year 1988 was the third full year of operation for the United States-Israel FTA. Total imports under its special-duty provisions were at their lowest level since the FTA became operational. The total reported value of imports under the FTA in 1988 was \$717 million, or about 24 percent of total U.S. imports from Israel. Comparable figures for previous years were \$763 million, 29 percent of total U.S. imports from Israel in 1987, and \$734 million, or about 30 percent of total U.S. imports from Israel in 1986. Many of the top items imported under special duty provisions of the United States-Israel FTA were electronic products, such as radios, data processing machines, electrical articles, and telephones. Table 6 lists imports of the top 10 items imported from Israel under the United States-Israel FTA.

In terms of dollar value, overall bilateral trade between the United States and Israel has been growing at a healthy rate. In both 1987 and 1988, U.S. exports to Israel rose 18 percent, with 1988 exports totaling over \$2.4 billion. Total U.S. imports from Israel rose by about 13 percent in 1988, to nearly \$3.0 billion. The bilateral trade balance, a U.S. deficit of \$536 million, remained in Israel's favor for the third year. For a list of leading goods in U.S.-Israel trade during 1988, see appendix tables B-3 and B-4.

The United States and Israel held annual talks on the FTA in June. Each side brought certain trade-related concerns to the meeting. The United States raised the issue of certain Israeli taxation practices that the U.S. Government feels discriminate against exports to Israel. The tax practices include an import levy, known by its Hebrew acronym TAMA (meaning additional rate of increase), and a purchase tax which allegedly discriminates against imports of finished goods. Israel expressed concern about U.S. Government procurement, where, it feels, Israeli companies are discriminated against relative to U.S. firms. Israel also feels that new U.S. legislation (in the Defense Appropriation Act of 1988) has the effect of reducing the list of products from foreign sources eligible for Department of Defense procurement. The two governments agreed to set up two joint working groups to study the issues.

Table 6

Leading U.S. imports for consumption from Israel, under special-duty provisions of the U.S.-Israel FTA, customs value, 1986-88

(thousands of dollars)

TSUSA Item No.	Description	1986	1987	1988
685.3300 ¹	Radio apparatus, and parts n.s.p.f	2,185	20,590	50,904
676.3077	Other data processing machines, n.s.p.f	1,226	13,430	27,079
688.4280	Electrical articles, parts n.s.p.f	48,677	17,983	23,799
684.5940	Other telephonic apparatus, parts n.s.p.f	13,754	13,337	20,906
712.0500	Optical instruments, apparatus, parts	1,182	8,584	20,860
712.4975	Electrical measuring eq & parts n.s.p.f	4,922	4,799	15,813
709.1540	Electro-surgical apparatus, n.s.p.f	15,829	18,401	14,349
740.1300	Other necklaces, neckchains, gold	7,354	5,390	13,125
684.5845	Other telephonic terminal equipment & parts	2,154	7,375	11,846
710.5000	Other surveying instruments and parts	0	0	9,292
	Total of items shown	97,282	109,890	207,975
	All other	636,878	652,643	509,172
	Total all commodities	734,160	762,533	717,147

¹ Prior to July 1, 1987, trade for TSUSA item 685.3300 was reported under item 685.3277.

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

U.S.-U.S.S.R. Grain Agreement

On November 28, 1988, the United States and the Soviet Union agreed to extend the United States-Soviet 5-year Long-Term Grain Agreement (LTA), which expired on September 30, 1988.⁶⁴ The extension covers the period October 1, 1988-December 31, 1990.⁶⁵ Although more than 9 months of difficult negotiations⁶⁶ failed to result in a new long-term deal, the two sides agreed to restart negotiations before the extended agreement expires.⁶⁷

The terms of the LTA—which continue under the extended agreement—call for U.S. exports to the Soviet Union of at least 9 million metric tons (mt) of U.S. grains during each agreement year (Oct. 1 through Sept. 30 of the following year). At least 4 mt of the total must be wheat and 4 mt, corn, but the Soviets may substitute 500,000 mt of soybeans or soybean meal for the additional 1 mt of wheat or corn.⁶⁸ During the

second and third agreement years of the LTA, wheat exports fell short of the stipulated minimum of 4 mt,⁶⁹ but the final tally of U.S. grain shipments to the Soviet Union represents an over-fulfillment of Soviet purchase obligations (see table 7).

During the negotiations to arrive at a new long-term grain agreement, price, quantity, and the length of a new agreement were reported to have constituted the major stumbling blocks. The Soviets reportedly wanted lower U.S. prices under the Export Enhancement Program (EEP),⁷⁰ whereas U.S. negotiators pressed for a longer agreement and higher Soviet purchase commitments than specified by the LTA.⁷¹ On December 23, 1988, USDA offered 2.0 mt EEP wheat to the Soviet Union.⁷² On the same day, USDA also raised the amount of U.S. grain the Soviets can buy without further consultations during October 1988-September 1989, from 12 mt to 16 mt.⁷³

⁶⁴ Foreign Broadcast and Information Service (FBIS), *Daily Report: Soviet Union*, Nov. 29, 1988, p. 11.

⁶⁵ The Soviets also have long-term grain supply agreements with Canada, Argentina, France, China and Hungary. For details, see article by Christian J. Foster in *U.S.S.R. Agriculture and Trade Report*, USDA, Economic Research Service, May 1988, pp. 41-42.

⁶⁶ The six rounds of negotiations are referenced in the *56th Quarterly Report to the Congress and Trade Policy Committee on Trade Between the United States and the Nonmarket Economy Countries During July-September 1988*, USITC Publication 2146, January 1989, p. 18, (hereafter referred to as the *56th Quarterly Report* . . .).

⁶⁷ FBIS, *Daily Report: Soviet Union*, Nov. 29, 1988, p. 11.

⁶⁸ Since the extension of LTA includes 3 months in addition to 2 agreement years, the terms of the extension call for prorating Soviet purchase requirements for that period. (Bureau of National Affairs [BNA], *International Trade Reporter*, Nov. 30, 1988, pp. 1557-1558.)

⁶⁹ For the circumstances surrounding default during the second agreement year, see *45th Quarterly Report* . . . , pp. 44-46, and for the circumstances surrounding default during the third agreement year, see *49th Quarterly Report* . . . , pp. 44-46.

⁷⁰ EEP reduces the price of a U.S. agricultural commodity to a stipulated level by augmenting the U.S. exporter's shipments with those of the USDA's Commodity Credit Corporation. For details, see *Agricultural Information Bulletin No. 515, Increased Role for U.S. Farm Export Programs*, April 1987. During 1988, China contracted for 6.5 Mt of EEP wheat, the Soviet Union for 4.4 Mt. (Interview with USDA, Foreign Agricultural Service, Office of the General Sales Manager, Jan. 26, 1989.)

⁷¹ BNA, *International Trade Reporter*, Nov. 30, 1988, pp. 1557-1558.

⁷² *USDA News Release*, 1596-88, Dec. 23, 1988.

⁷³ Foreign Agricultural Service (FAS) *Program Announcement* PR 714-88, Dec. 23, 1988. On Jan. 25, 1989, the limit of Soviet purchases was further extended to 20 Mt. (FAS *Program Announcement* PR 25-89.)

Table 7

U.S. sales of wheat, corn, soybeans, and soybean meal to the Soviet Union under the 5-year, long-term U.S.-Soviet grain agreement

(million metric tons)

Agreement Year	Wheat	Corn	Total grains	Soybeans	Soybean meal
Oct. 1, 1983-Sept. 30, 1984 ...	7.6	6.5	14.1	0.4	(¹)
Oct. 1, 1984-Sept. 30, 1985 ...	2.9	15.8	18.7	-	(¹)
Oct. 1, 1985-Sept. 30, 1986 ...	0.2	6.8	7.0	1.5	(¹)
Oct. 1, 1986-Sept. 30, 1987 ...	4.1	4.1	8.2	0.1	(¹)
Oct. 1, 1987-Sept. 30, 1988 ...	9.0	5.5	14.5	0.8	1.3
Total	23.8	38.7	62.5	2.8	1.3

¹ Not available.

Source: Compiled from the reports of the U.S. Department of Agriculture, Foreign Agricultural Service, Export Sales Reporting Office.

Soviet grain imports dropped sharply from 41.1 mt in 1985 to 26.8 mt in 1986, but they rose again to 30.4 mt in 1987 and to an estimated 36 mt in 1988.⁷⁴ According to USDA forecasts, Soviet grain imports in 1989 will be above those of 1988.⁷⁵ The precipitous decline in Soviet grain output from 211 mt in 1987 to 197 mt in 1988⁷⁶ and the continued efforts of the Soviet Government to increase the output of the livestock sector constitute the major reasons for the increase from 1987 to 1988 and, to some extent, the reasons for the projected increase from 1988 to 1989. Most agricultural forecasters also believe that annual Soviet imports will range from 25 to 30 mt for years to come.⁷⁷

Despite this prediction, the outlook for a new long-term agreement with the Soviet Union after December 1990 remains uncertain. Soviet economic reformers have expressed a growing dissatisfaction over the country's agricultural performance,⁷⁸ and they will no doubt search for new approaches to improve grain production⁷⁹ and reduce hard-currency outlays for grain imports.⁸⁰ Even if Soviet demand remains strong

for imported grain, U.S. producers will have to face stiff competition from other grain-producing countries in the Soviet market.⁸¹

Progress on Services Trade Agreements in 1988

Services Activities in the OECD and UNCTAD

For several years, the United States has advocated liberalizing services trade. In 1988, while GATT Uruguay Round discussions on trade in services progressed⁸², the OECD and UNCTAD continued their work programs on services trade issues. Those activities are summarized below. The chapter concludes with a discussion of trade agreements activities in three major service industries (insurance; telecommunications; and architectural, engineering, and construction services). Each of these industries encountered significant international developments in 1988.

⁸⁰ —Continued

much grain as they can from other nonmarket economy countries, particularly from Hungary and China. (See FBIS, *Daily Report: Soviet Union*, Oct. 4, 1988, pp. 33-36.) They also try, to the extent possible, to use barter and countertrade in paying for their grain imports. (See reference to countertrade in Soviet grain imports from Argentina in *Latin American Commodities Report*, Dec. 15, 1988, p. 12.)

⁸¹ According to the USDA, the U.S. share of the Soviet grain market during June 1987-July 1988, was roughly 50 percent followed by Canada and the European Community (mainly France), each with 15 percent. The remaining 20 percent was divided among Australia, Argentina, Eastern Europe, China, and Austria. (Interview with USDA Economic Research Service, Agriculture and Trade Analysis Division, Centrally Planned Economies Branch, Jan. 31, 1989.) For more on the strong competition in the Soviet grain market, see article "Rivalry in Soviet grain market intensifies" in USITC, Office of Economics, *International Economic Review*, March 1989.

⁸² For a summary of 1988 GATT services negotiations, see ch. 2.

⁷⁴ According to the WEFA Group, Soviet grain purchases amounted to \$6.0 billion in 1985, \$2.9 billion in 1986, \$2.3 billion in 1987, and \$2.7 billion in 1988.

(U.S.S.R. official data converted to U.S. dollars at annual average exchange rates.) Relatively low grain prices in world markets during 1986-87 helped keep the Soviet grain import bill low.

⁷⁵ See article by Kathryn Zeimet in USDA, *Agricultural Outlook*, December 1988, pp. 13-15.

⁷⁶ For details on Soviet agricultural performance in 1988, see section entitled "Soviet Union" in the *57th Quarterly Report*

⁷⁷ Interview with USDA Economic Research Service, Agriculture and Trade Analysis Division, Centrally Planned Economies Branch, Feb. 10, 1989.

⁷⁸ See article by Abel Aganbegyan and Timor Timofeyev, *The New Stage of Perestroika*, Institute for East-West Security Studies, New York, 1988, pp. 32-33. (Abel Aganbegyan is General Secretary Mikhail Gorbachev's chief economic advisor, and Timor Timofeyev is a high-profile Soviet academic.)

⁷⁹ *Business Eastern Europe*, Jan. 30, 1989, pp. 33-34.

⁸⁰ The Soviets are reportedly trying to decrease hard-currency outlays for grain imports by buying as

Organization for Economic Cooperation and Development

In 1982, the OECD Ministerial Council launched a work program to "examine ways of removing unjustified impediments to international trade in services and to improve international cooperation in this area."⁸³ The work program has taken a two-part approach. Committees with sectoral expertise are identifying and evaluating obstacles to trade in specific service industries. Meanwhile, the Trade Committee and its working party are establishing a general framework for considering service trade issues.

At the 1988 OECD ministerial meeting, ministers reaffirmed the importance of liberalization of trade in services for member countries because of the growing contribution of service sectors in member economies, and those of their trading partners. The ministers agreed to "persevere" in their work on trade in services, particularly regarding a multilateral agreement in services, and strengthening of the OECD codes.

Tourism services.—International tourism is one of the services that has been the subject of study and agreement by the OECD.⁸⁴ In its annual report on tourism, released in November 1988, the OECD Tourism Committee reported record growth in tourism among member countries in 1987 compared with previous years. The OECD reported that tourism receipts in OECD countries rose by 24 percent in 1987 to \$114.2 billion, representing a 6 percent growth in real terms. The Pacific OECD countries and southern Europe were the largest beneficiaries of the growth. The 1987 turnaround follows a year of low real growth in tourism in 1986, which had been hampered by extraneous factors, such as the fall in the value of the dollar against European currencies, fear of terrorism, and concern over possible effects of the Chernobyl accident. During 1987, arrivals at frontiers grew by 7 percent (compared with 3 percent growth in 1986), and nights spent in various forms of accommodation rose by 4 percent (compared with 2 percent in 1986). The OECD noted that protectionist barriers to tourism are generally low, when compared with barriers to trade in other services, but said that increased liberalization, a goal of the committee, is desirable for further development of the sector.

⁸³ OECD, "OECD Council Meeting at Ministerial Level Communique," *The OECD Observer*, May 1982, p. 6.

⁸⁴ In November 1985, the OECD Council approved a three-part Decision Recommendation for eliminating government barriers to tourism. The Decision Recommendation focuses on reducing impediments to the international movement of people, goods, services, and capital and lowering duties on personal items of tourists. It also contains guidelines on how the objectives may be met. The Decision-Recommendation provides for a review of progress on meeting its objectives at least every 3 years and incorporates the updated OECD Code of Liberalization of Current Invisible Operations, which facilitates financial operations for tourists. For more information on the OECD code and tourism, see *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, p. 117.

Transportation services.—In 1988, the OECD released a report on the effects of deregulation in the international air transport sector.⁸⁵ The report noted that the high degree of regulation in the air transport sector has meant limited competition for choice, price, and quality of service. The report studies air transport sector deregulation in the United States and partial deregulation in the United Kingdom. Deregulation of air transport services, the report states, facilitates entry into the sector of new carriers, which mean increased price and service competition and greater consumer choice. The U.S. and U.K. examples of deregulation, the report noted, produce prices that are more in line with real costs, resulting in—on the whole—lower fares. The OECD also noted sharp increases in traffic in 1987, with passenger traffic on North Atlantic routes, for example, up 13 percent.

Communication services.—The OECD Information, Computers, and Communication Policy Division prepared a study in 1988 on development of videotex services in several OECD countries.⁸⁶ The Secretariat's report⁸⁷ examined the various routes of technological and policy developments affecting videotex services across OECD countries. It contrasted, for example, the French experience of providing free terminals to telephone subscribers and the decentralized architecture of the French system with the centralized system architecture of the public videotex service in the United Kingdom. The report suggested that the U.K.'s centralization may have held back growth of the British videotex system. In general the report stated that, based on observation of the various OECD country strategies adopted in videotex, government intervention may be justified for development of a new service, but may not be sufficient to ensure its success. The report stated that questions remain regarding which form intervention should take when considered necessary, how to assess the costs and benefits of such intervention, and how to evaluate the applicability of alternate regulatory frameworks, particularly in emerging, high-technology service sectors.

The separate OECD Committee for Information, Computer and Communications Policy considered recent technological and commercial developments in fiber optics and

⁸⁵ Organization for Economic Cooperation and Development, *Deregulation and Airline Competition*, Paris, 1988.

⁸⁶ Videotex services are generally defined as interactive services which allow users of videotex terminals to communicate with databases via telecommunications networks.

⁸⁷ OECD, "New Telecommunications Services: Videotex Development Strategies," Paris, 1988.

satellites, as well as the competition and complementarity between the two technologies. In a report released by the Secretariat in 1988,⁸⁸ the OECD detailed developments in telecommunications using the two technologies, and outlined policy implications for national policy makers in the context of technical change in satellites and fiber optics. The report concluded that future expansion of space telecommunications market for use in domestic markets, particularly by Europe and Japan, is much more dependent on deregulation measures than on further technological developments. Internationally, the OECD noted, allowing direct, private international connections would cut out four intermediaries for a United States-Europe connection (a national carrier, Comsat, Intelsat, and the national communications authority in the European country), and would lead to greatly reduced costs. The OECD stated that fiber optics and satellites could, if deregulation continues, handle significantly higher levels of communication traffic at prices well below present levels.

Maritime services.—In October 1988, the OECD Council approved the annual report on Maritime Transport produced by the Maritime Transport Committee.⁸⁹ In the report, the Committee speculated that the worldwide surplus of shipping tonnage prevalent in recent years, and the consequent low freight rates of the shipping industry, were beginning to show signs of recovery. The report characterized the previous year as “fairly eventful” among member countries, as states sought to keep their maritime industries afloat in intensely competitive shipping markets. The OECD noted that several countries have tried to implement protectionist policies in their maritime shipping sectors during 1987, but some modified their proposals under pressure from OECD member states.

United Nations Conference on Trade and Development

Issues related to trade in services have long been a part of UNCTAD's work program. The Secretariat has produced studies on specific service industries (notably shipping, insurance, and financing related to trade) and on service issues related to technology transfer and the control of restrictive business practices.⁹⁰ Within the United Nations, many organizations deal with service-sector concerns. Whereas some bodies focus their attention on a particular subsector (e.g., the International Civil Aviation

Organization), others deal with issues applicable to services in general (e.g., the World Intellectual Property Organization).

The UNCTAD Secretariat has studied trade in services in the context of development on several occasions.⁹¹ The UNCTAD Secretariat prepared a report on services for the 34th session (second part) of the Trade and Development Board, which met in April, 1988.⁹² In its report, the Secretariat considered definitional aspects of services, the question of a data base and methodology for analyzing services, and general issues of services, production, and international trade.

On the subject of definitional aspects of trade in services, the Secretariat stated that attempts to create a universal classification system and definition of services have been unsuccessful, in part because, unlike goods, there are various modes of delivery that may be used for services (e.g. international movement of persons, capital, information, and goods). The Secretariat concluded that a general definition of services covering all modes of delivery may not be possible, but “trade” in services could be defined by what it is not, e.g., investment and immigration.

The Secretariat also considered the subject of an internationally comparable data base and methodology for analyzing services. It stated that the only existing system, that of the International Monetary Fund, is too general to allow countries to determine which services make up the majority of their services transactions. The Secretariat concluded that multilateral cooperation and negotiation would be the best way to establish a universal system of comparable data on services.

Finally, the Secretariat also considered the role of services in economic development. It stated that technological progress in developed countries has created an “integrated service infrastructure and the growth of the producer service sector” which enhance competitiveness in manufacturing and other sectors. In contrast, it described the service sector of many developing countries as having low productivity and generally not being integrated into support of other sectors of those economies. The Secretariat concluded that development of a services infrastructure and producer services “would seem a priority objective for these [developing] countries.” The

⁸⁸ In the Final Act of UNCTAD VII (105(19)) the mandate of the Secretariat to study trade in services was reaffirmed. The Conference stated, *inter alia*, “From the point of view of developing countries and in the context of overall development objectives, the Secretary-General of UNCTAD is requested: (i) to analyze the implications of the issues raised in the context of trade in services; (ii) to explore appropriate problematics for trade in services, keeping in view the technological changes in the field of services.” For a discussion of the Final Act of UNCTAD VII, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 3-6 to 3-7.

⁹² UNCTAD “Services,” Feb. 15, 1988, TD/B/1162.

⁸⁹ Organization for Economic Cooperation and Development, *Satellites and Fiber Optics: Competition and Complementarity*, Paris, 1988.

⁹⁰ OECD, “Maritime Transport: 1987,” Paris, 1988.

⁹¹ UNCTAD's Intergovernmental Group of Experts on Restrictive Business Practices did not meet in 1988.

Secretariat found that to best contribute to overall international competitiveness, and to increase retained value added, these objectives would "most appropriately" be pursued through multilateral negotiation and cooperation.

Maritime services.—The United Nations Convention on a Code of Conduct of Liner Conferences came into force in October 1983. The Liner Code is designed "to (1) facilitate the orderly expansion of world seaborne trade; (2) stimulate the development of regular and efficient liner services adequate to the requirements of the trade concerned; and (3) ensure a balance of interests between suppliers and users of liner services, taking into account the special needs of developing countries."⁹³ There are 71 Contracting Parties to the Liner Code.⁹⁴ According to the articles of the Code, a conference is to be held 5 years after the Convention entered into force "to review the working of the Convention, with particular reference to its implementation, and to consider and adopt appropriate amendments." The 3 week review conference, convened under the auspices of UNCTAD in November 1988, was deadlocked in a dispute over voting rights of non-contracting parties. After the conference, the Secretary-General of UNCTAD and the president of the conference undertook to try and settle the procedural issue. The conference participants agreed to reconvene in 1989.

The UNCTAD Committee on Shipping held its 13th session in March 1988. The main topic of the meeting was the existing imbalance between supply and demand in world shipping, resulting from overcapacity in shipping tonnage compared with demand for shipping services.⁹⁵ The Committee adopted a resolution urging member states to try and achieve more balance between shipbuilding and the demand for shipping services by providing incentives for scrapping surplus tonnage, and by restraining from new shipbuilding which has no viable commercial employment prospects.

Information services.—Work on an international code of conduct on the transfer of technology has been on UNCTAD's agenda since 1978. Such a code would most likely set international standards for the sale of technical information across national borders. A code on transfer of technology could affect international service transactions that rely heavily on international transmission of information as a principal method of trading. During 1976-78, an Intergovernmental Group of Experts in UNCTAD

⁹³ For a detailed discussion of Liner Code see *UNCTAD Bulletin*, No. 247, October 1988, pp. 5-9.

⁹⁴ The United States is not a Contracting Party to the Liner Code.

⁹⁵ For study of this imbalance by the UNCTAD Secretariat see UNCTAD, "Imbalance between Supply and Demand in World Shipping," Nov. 20, 1987, TD/B/C.4/312.

developed major elements of a draft code of conduct. During 1978-85, a U.N. conference on an international code of conduct on the transfer of technology met under the auspices of UNCTAD several times to continue work on the draft code, but was unable to resolve the outstanding issues.

In 1988, the UNCTAD Secretary-General, as directed by a General Assembly resolution of December 1987,⁹⁶ carried out consultations with regional groups and interested governments to try to identify solutions that would allow for resumption of negotiations on the technology transfer code of conduct. However, the talks failed. The major stumbling-block involves different views on the treatment of "restrictive policies." Consultations are expected to continue in 1989.

Trade Developments in Selected Service Industries

Insurance services

Trade.—In general, the U.S. Government does not maintain comprehensive databases on domestic and international insurance services. The U.S. Commerce Department, however, does conduct an annual survey of the reinsurance industry.⁹⁷

In 1988, the world's insurance market exceeded \$900 billion in annual premiums. Industry figures indicate that the United States represented roughly 43 percent of this market demand, followed by the 12 nations of the European Community (22 percent), and Japan (20 percent).⁹⁸ Only a small portion of insurance premium income crosses international frontiers: life, health, and accident claims tend to be serviced, administered, and paid in the same country in which the premium is collected. Reinsurance is an exception, and this sector is highly international. U.S. insurers continue to rely heavily on foreign firms to offer reinsurance on some of their largest policies, placing the U.S. industry in a net deficit position in reinsurance trade. In the case of life insurance, international business represents a small portion of total revenues for U.S. companies. In 1987, roughly \$3.9 billion of life, health, and annuity premiums were attributed to foreign transactions, compared with \$314.3 billion total premium receipts received by U.S. insurers underwriting these lines of insurance that year. Health insurance

⁹⁶ U.N. General Assembly resolution 42/172 of Dec. 11, 1987.

⁹⁷ Many international insurance transactions take the form of reinsurance, that is, the original insurer spreads its liability by reinsuring with another carrier, thereby diversifying its risk portfolio.

⁹⁸ Swiss Reinsurance, *Sigma*, May 1988. *Business Week*, Mar. 6, 1989. Note: Exchange rate fluctuations since 1985 tend to exaggerate the growth rate of world premium income when the figure is expressed in U.S. dollars.

premiums from foreign sources were the fastest growing of the three types over the long term. Foreign premium receipts for the three increased at an annual rate of 12.4 percent from 1975 to 1987, reflecting the wider, more flexible range of policies in these lines available from U.S. companies abroad, compared to the products of foreign insurers. This is significantly above the average annual growth rate during the same period for all premium receipts.⁹⁹

In 1988, estimates of net exports of reinsurance amounted to \$833 million, a 21 percent increase over 1987. Estimates of net imports were \$1.9 billion, up 18 percent over 1987.¹⁰⁰ Reinsurance markets continue to suffer from a lack of capacity relative to demand for certain "uninsurable" risks, e.g. pollution control and hazardous waste removal. This is particularly true in the United States: claims for losses associated with the removal of hazardous wastes, for example, are now being claimed on policies written when such losses (caused partially by new environmental regulations) could not have been foreseen.

For the next few years, reinsurance will continue to be a high risk industry in which profits and losses may vary widely from year to year. European reinsurers will maintain their traditional, dominant position in the global market, although the U.S. reinsurance market continues to grow. Both U.S. and foreign marginal players will continue to enter or exit the market; interest-rate levels in various countries will play a prominent role in such decisions.

Tort reform on a Federal or state level continues to be discussed by the U.S. Congress and state legislatures; if reforms were enacted they would, by limiting liability, materially help the industry.

Trade-related activities in 1988.—Numerous trade barriers exist in the insurance industry. Among the most common are denial of the right of establishment, restrictive reserve and re-investment rules, mandatory licensing procedures, and restrictions on reinsurance opportunities. Progress continues to be made in implementing the 1986 bilateral insurance agreements negotiated with Korea and Taiwan. The United States-Canada FTA covers insurance services as well as trade in goods. Uruguay Round discussions in the GATT seeking to create rules for services trade (including insurance) continued

⁹⁹ American Council of Life Insurance, *1987 Life Insurance Fact Book*, 1987, and U.S. Department of Commerce, *U.S. Industrial Outlook*, 1989.

¹⁰⁰ Export and import data supplied by U.S. Department of Commerce, Bureau of Economic Analysis, from the international transactions accounts. These figures fluctuate considerably on an annual basis since a series of droughts, plane crashes or other tragedies (or lack thereof) can effect annual profits and losses substantially.

in 1988. Increasing attention and interest is being devoted by the U.S. Government and industry to EC directives issued in connection with its 1992 market integration activity.

The United States and Taiwan continued to achieve progress on increased market access for U.S. insurers. Under the 1986 insurance agreement, Taiwan agreed to grant branch licenses to two U.S.-based life and two U.S. property/casualty insurers each year.¹⁰¹ Talks continue over remaining obstacles, including the ability to form joint ventures and obtain subsidiary status (instead of branches or liaison offices), and the right to invest in real estate in Taiwan.

The agreement on liberalization of the Korean insurance market also has continued to show results. The Korean regulatory authorities announced in February, 1989, the admittance (i.e. licensing) of one U.S. based wholly-owned subsidiary as well as 5 joint-ventures involving U.S. based insurers—with the U.S. partners holding majority interest in each company. These admissions augment the initial access of five U.S. companies.

The services provision of the United States-Canada FTA, which includes insurance, stipulates that no new services trade barriers be created, and that existing restrictions be opened to negotiation. The rights of establishment, cross-border sales and a binding dispute settlement mechanism are included in the agreement.

The U.S. Government has watched with interest the issuance of various "directives" of the European Community (EC) that outline the rules under which insurers are to be admitted and regulated under the Community's 1992 market integration initiative. The Second "Non-Life" Directive¹⁰², relating to property and casualty insurance, would appear to be market liberalizing, allowing an insurer licensed in one EC nation to conduct business with "large" risks (i.e., major consumers of insurance, such as companies and industries) in any other EC nation, without the express authorization of each national insurance regulatory body. The second "Life" Directive,¹⁰³ however, which proposes rules for the underwriting and sale of life insurance, is much more narrowly written. Made public in December, 1988, this directive also contains a reciprocity provision that leads to concerns in some parts of the U.S. insurance industry that the directive may be trade restrictive, rather than liberalizing. This is

¹⁰¹ As of March 1989, twelve U.S.-based companies were operating in Taiwan.

¹⁰² "Facilitation of freedom to provide services in insurance other than life insurance." L 172 *Official Journal of the European Communities*, July 4, 1988, (88) 357.

¹⁰³ "Second Directive on Direct Life Insurance," C 38 *Official Journal of the European Communities*, Feb. 15, 1989, (88) 729.

because each EC national insurance authority would need to agree that third-country governments whose insurance companies wished to enter the EC market offered reciprocal entry and trading rules to EC-based insurers; extensive delays to admittance/licensing in the EC, as well as arguments between nations over interpretations of rules, are thought by some to be inherent in such a broadly written provision.

Over the next several years, competition is likely to increase throughout the world in all financial service sectors, including insurance. The integration of insurance, banking, brokering, securities and other financial services is increasing on a global scale, and is already extensive outside the United States. Although U.S. banks still have not gained the right to underwrite insurance (a practice common in many parts of the world), they continue to pursue this issue. Indeed, California voters approved the underwriting of insurance by state banks in November, 1988. In the United States, this continued effort to diminish the separation between banks and insurance firms may lead to expanded federal regulation of insurance services. All aspects of the market are likely to continue expanding internationally, with U.S. insurers increasing their presence in overseas markets and foreign insurers establishing more subsidiaries in the United States. In addition to these international opportunities, the challenges of diseases such as AIDS, restrictions on the U.S. tort adjudication system and product liability, and the status of antitrust provisions of current U.S. insurance law are among the issues that will continue to affect U.S. insurers.

Telecommunications services

Trade.—Total U.S. revenues from international telecommunications services¹⁰⁴, after payments to foreign carriers, rose from \$330 million in 1970 to \$2.7 billion in 1987, or by about 13 percent per year.¹⁰⁵ The U.S. Department of Commerce estimates that revenues for 1988 grew by slightly more than 6 percent over 1987, and projects that revenues for 1989 could reach \$3.6 billion.¹⁰⁶ In 1987, the largest segment of international telecommunications services was telephone message service, which represented about 85 percent of total revenues.

The growth in volume of international telecommunications services—telephone, tele-

graph, and telex—far outstripped the growth in revenues during 1970–87. For example, in 1970, approximately 123 million minutes of telephone service were transmitted to and from the United States; by 1987, this number had risen to over 4.7 billion, representing an annual growth rate of 24 percent. In 1987, the U.S. balance of payments deficit in international communication services continued its record setting pace, rising to an all time high of \$1.4 billion and increasing by approximately \$226 million over the prior year.¹⁰⁷

Trade related activities in 1988.—The move toward deregulation of telecommunications services and increased competition continued throughout much of the developed world in 1988. Although each country's policies differ, common trends such as the promotion of competition in the markets for value-added network (VAN) services and terminal equipment, and the separation of the regulatory functions from network operations are emerging in most deregulation plans. However, most countries continue to restrict the provision of certain basic services, most commonly voice telephony and the network infrastructure, to a monopoly carrier.¹⁰⁸

Of all the countries in Western Europe, West Germany has been the most reluctant to relax regulation of the telecommunications industry. Consequently, it has come under increasing pressure from both the EC and the United States to liberalize. However, at the conclusion of the Market Access Fact Finding (MAFF) talks in January 1988, German officials announced that legislation to restructure their telecommunications administration would be introduced within two months.¹⁰⁹ In a related development, the U.S. Federal Communications Commission (FCC) approved US Sprint's bid to operate a gateway service with West Germany for telephone service. The German Bundespost allowed only two carriers, MCI and US Sprint, to have a direct connection to its network in addition to AT&T. The Bundespost designated US Sprint as the gateway for all other U.S. carriers which wanted to provide service to Germany. This decision led to a dispute among carriers in the United States. The FCC approved US Sprint's bid, but stated that the unusual arrangement would require strict regulatory oversight to keep the carrier from abusing its position as a gateway.¹¹⁰

¹⁰⁴ Telecommunications services are classified under the Standard Industrial Classification as items 4811 and 4821.

¹⁰⁵ Federal Communications Commission (FCC), *The Balance of Payments Deficit in International Telecommunications Services*, Dec. 12, 1988. Revenues from service between the United States and both Canada and Mexico are not included in the figures given in the text because such data are not collected by the FCC with the same degree of detail as for service with other countries.

¹⁰⁶ U.S. Department of Commerce, *U.S. Industrial Outlook, 1989*.

¹⁰⁷ FCC, *The Balance of Payments Deficit*. . . , Appendix B.

¹⁰⁸ "European Telecommunication— Fact or Fiction?," *Telecommunications*, October 1987, p. 46.

¹⁰⁹ For a discussion of the MAFF talks and the German restructuring plan see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 3–31.

¹¹⁰ "FCC Approves Sprint Service to West Germany," *FCC Week*, Mar. 7, 1988, pp. 7–8.

Japan is allowing increased foreign participation in its telecommunications services industry and, after lengthy negotiations, the Japanese Government has granted licenses to a number of consortiums that sought to compete with Kokusai Denshin Denwa (KDD) in the Japanese telecommunications services market.¹¹¹ Two U.S. firms entered the lucrative Japanese VAN services market in 1987 and several others are planning to enter in the near future.¹¹² At the start of 1988, U.S. firms' potential in this market appeared to be limited by regulations recommended by the International Telecommunications Union (ITU) and proposed by the Japanese Ministry of Posts and Telecommunications. These regulations would prohibit the use in Japan of the proprietary telecom protocols U.S. firms have developed to make their operations more efficient.¹¹³ During 1988, administration and congressional criticism of the proposed Japanese regulations were instrumental in getting a more flexible protocol proposed.¹¹⁴ At midyear, Japan presented a new plan for international value-added network (I-VAN) service to clear up the controversy with the United States. The plan was reviewed by U.S. industry officials, and a new agreement was finalized with the exchange of letters between Japanese and U.S. trade officials on November 11, 1988.¹¹⁵ The agreement allows the use of proprietary protocols by I-VAN providers rather than requiring that they use a recommended international protocol.¹¹⁶

The World Administrative Radio Conference on the Use of Geostationary Satellite Orbit (Space WARC) met in August 1988 to determine a method of allotting orbital slots and new frequency bands for satellite communications among the countries of the world. Decisions made at this conference will affect satellite communications through the year 2000. Allotment planning, where some slots are reserved for developing nations, was a concern for the United States. The United States does not support full-scale planning for all slots and frequencies because this action may create artificial scarcity. The United States recommended that the conference cover only those slots/frequencies which were agreed to under the first Space WARC in 1985.¹¹⁷

¹¹¹ "Japan Grants Licenses, Private Cables Progress," *FCC Week*, Dec. 7, 1987, p. 6.

¹¹² "Tymnet, GE Information Services Enter Japan's Value-Added Market," *Communications Week*, Dec. 28, 1987, p. 6.

¹¹³ "U.S. Telecom Groups Urge Administration to Fight New Japanese Regulator," *Inside U.S. Trade*, Feb. 12, 1988.

¹¹⁴ "Senate Members Hit Japan's Telecommunications Trade Practices," *FCC Week*, July 4, 1988, p. 9.

¹¹⁵ "Industry Task Force Examines New Japanese I-VAN Plan," *FCC Week*, July 25, 1988, pp. 9-10.

¹¹⁶ "U.S. & Japan Sign I-VAN Agreements," *Communications Daily*, Nov. 22, 1988, p. 3.

¹¹⁷ "FCC to Announce Space WARC Recommendations," *FCC Week*, Mar. 21, 1988, pp. 5-6.

Theodore Brophy, head of the U.S. delegation to the Space WARC, said that a plan which provides every country a slot in space would receive wide support. The United States also favored a shared satellite system where countries would give up the right to an individual slot.¹¹⁸ Multilateral planning meetings, which allow for resolution of technical and interference problems, should not be used for allocating slots, according to the U.S. position.¹¹⁹

In November, the World Administrative Telegraph and Telephone Conference (WATTC) considered a new definition of telecommunications services and changes in the regulatory framework that was drafted by the ITU. The proposed regulations addressed technological change and recommended bilateral and multilateral trade talks, including GATT talks. Both the United States and the United Kingdom objected strongly to the final draft document that emerged from the WATTC preparatory committees.¹²⁰ The United States said that it would resist any effort to subject enhanced services to international regulation. The U.S. position was opposed by nations with government-owned telecommunications systems which sought to extend regulation to such services.¹²¹ To give more weight to its opposition to international regulation, in early 1988 the FCC reversed its 1986 decision which had included enhanced services providers in the international settlements policy.¹²² Also of particular concern was article 1.7 which called for mandatory domestic regulation. The U.S. position was that it was improper and inappropriate to build domestic regulation into an international treaty.¹²³ The final agreement was signed by 112 of 113 nations attending the WATTC, including the United States. U.S. officials indicated that the results were more favorable than had been anticipated, but the United States still filed two reservations.¹²⁴

¹¹⁸ "U.S. Anticipates Getting Its Way at Space WARC in Geneva," *FCC Week*, July 25, 1988, p. 9.

¹¹⁹ "U.S. Space WARC Delegation Arrives Before Critical Software," *FCC Week*, Aug. 29, 1988, p. 7.

¹²⁰ "WATTC 88 Keeping the Luddites at Bay," *Telecommunications*, Jan. 1988, p. 1.

¹²¹ "Patrick Calls for Less Regulation, Lower Rates," *FCC Week*, Feb. 22, 1988, pp. 7-8.

¹²² "FCC Exempts Services from International Settlements Policy," *FCC Week*, Mar. 14, 1988, pp. 7-8. This policy required that all U.S. carriers have the same financial agreement with foreign telecommunications administrations; it was designed to prevent foreign telecommunications authorities from "whipsawing" U.S. telecommunications competitors by having them bid against each other so that the foreign telecommunications administration could negotiate a more favorable rate.

¹²³ "International Regulatory Proposal Attacked by Patrick, Users Group," *FCC Week*, Oct. 17, 1988, pp. 3-4 and "U.S. Wants Neutral Flexible Treaty at WATTC," Nov. 7, 1988, pp. 7-8.

¹²⁴ "State Dept Upbeat on WATTC Results," *Communications Daily*, Jan. 13, 1989, pp. 3-4.

During 1988, the United States passed the Omnibus Trade and Competitiveness Act of 1988. Section 1377 of this act requires that the USTR review the operation and effectiveness of trade agreements regarding telecommunications products and services that are in force with respect to the United States. To this end, the USTR began reviewing the Market-Oriented Sector-Selective (MOSS) agreement with Japan which had been negotiated between March 1985 and February 1986.¹²⁵ The act also requires that the USTR designate "priority countries" for negotiations on improving U.S. access to their telecommunications markets. The EC and South Korea were selected as priority countries because of their high volume of exports to the United States, potential for U.S. sales in their markets, and barriers to U.S. telecommunications equipment and services trade. The removal of prohibitions or restrictions on value-added services has been mentioned as one of the goals of the proposed negotiations.¹²⁶

Architectural, engineering, and construction services

Trade.—For 1988, the U.S. Department of Commerce estimated exports of architectural, engineering, and construction services at \$16.5 billion compared with \$19.7 billion in 1987.¹²⁷ The value of new contracts won by U.S. contractors overseas declined by 18 percent from \$18.3 billion in 1987 to \$15.0 billion in 1988.¹²⁸ Foreign billings by U.S. design firms increased from \$1.4 billion in 1987 to \$1.5 billion in 1988, or by 7 percent. U.S. design firms increased their foreign billings to all regional markets except the Middle East. During 1987–88, the largest increases occurred in Latin America (up by 51 percent), Canada (up by 50 percent), and Europe (up by 38 percent).¹²⁹

The decline of the U.S. dollar relative to the Japanese yen and West German mark has made U.S. architecture, engineering, and construction firms more price competitive during recent years. However, U.S. contractors have lost market share in all areas of the world because of the debt crisis in the developing countries, a general

¹²⁵ The MOSS telecommunications agreements are a series of understandings and commitments exchanged between the United States and Japan starting in 1985. The United States initiated the process in order to influence the shape of Japan's deregulation of its telecommunications market. The MOSS commitments were intended to ensure that Japan's deregulation did not discriminate against foreign goods and services.

¹²⁶ "Bush Administration Moves Aggressively on Telecommunications Trade," *Communications Daily*, Feb. 23, 1989, pp. 4–5.

¹²⁷ U.S. Department of Commerce, *U.S. Industrial Outlook*, 1988.

¹²⁸ Charles T. Pinyan, "Foreign Influences in the U.S. Construction Market—The ENR Surveys," *Engineering News Record*, May 9, 1988.

¹²⁹ *Ibid.*

contraction of demand for large infrastructure projects, and the inability of U.S. contractors to compete against the financing packages of foreign contractors.

Imports of architectural, engineering, and construction services reached an estimated \$8.5 billion in 1988, compared with about \$8.0 billion in 1987.¹³⁰ Foreign-owned architecture, engineering, and construction services firms have been increasing their share of the U.S. market at an increasing rate since 1980 because of increased foreign merger and acquisition activity in the U.S. market.

Trade-related activities in 1988.—During recent years, U.S. architectural, engineering, and construction services providers have sought access to the Japanese construction market. In May 1988, the U.S. and Japanese Governments reached an agreement whereby U.S. contractors were to be given the opportunity to bid on 14 major Japanese public works projects involving \$18 billion worth of potential work. The agreement provides for (1) the initiation of procedures to establish an open and transparent bid and tender system; and (2) a review of the agreement after 2 years. However, in November 1988, the USTR initiated a Section 301 investigation to probe U.S. firms' allegations of significant Japanese barriers to architectural, engineering, and construction services trade. Because Japanese contractors had been bidding on U.S. public and private sector projects while allegedly denying U.S. contractors access to their market, the President included a provision in the fiscal year 1988 Budget Appropriations Act prohibiting the awarding of Federally funded public works contracts to Japanese contractors. At the end of fiscal year 1988, the provision was extended without an expiration date.¹³¹

In December 1988, the U.S. Government attempted to stimulate a discussion of services trade at the Montreal GATT midterm review. However, negotiations concerning reciprocity and transparency issues in architecture, engineering, and construction services were blocked by several of the developing nations that wanted to include the issue of free labor mobility among trading partners in the reciprocity negotiations. As a result of the impasse, further GATT negotiations on the architecture, engineering, and construction services sector were deferred until the next meetings scheduled for April 1989.

During 1988, the U.S. Army Corps of Engineers and the U.S. architectural, engineering, and construction services industry agreed to form the Construction Productivity

¹³⁰ Estimated by the staff of the USITC.

¹³¹ Memo, Office of Management and Budget, "Fiscal Year 1988 Restrictions on the Award of Certain Contracts and Subcontracts to Japanese Firms," Mar. 17, 1988.

Advancement Research (CPAR) Program, to develop new construction materials and technical innovations and raise industry productivity. The program was designed to increase the level of investment in construction research and development by both the U.S. Government and U.S. industry and to increase the overall competitiveness of the U.S. construction industry. The CPAR Program will transfer construction technologies developed in Federal and university laboratories to the U.S. construction industry.¹³² Funding for the CPAR Program was approved by Congress during December 1988, and preliminary CPAR project bids have been received from the U.S. construction industry. Project selection and implementation is scheduled to begin by mid-1989.

¹³² "Corps Ready to Roll on R&D," *Engineering News Record*, June 2, 1988.

Export financing has been an especially contentious issue during 1983-88. U.S. architectural, engineering, and construction services industry officials allege that the financing subsidies offered foreign contractors by their governments severely affect the competitiveness of the U.S. contractors in open foreign bidding. The ability of U.S. contractors to assemble attractive financing packages for project bids has continued to be hindered by the scarcity of available financing channels. The U.S. Government did not allocate more funds for export financing in 1988, and commercial banks increasingly turned away from international lending. Adequate export financing is crucial to a successful overseas bid by a U.S. contractor; more than 57 percent of 1987 bids and about 10 percent of total 1987 awards involved contractor financing.¹³³ This trend is expected to continue.

¹³³ U.S. Department of Commerce, *U.S. Industrial Outlook*, 1989, ch. 1,3.

Chapter 4

Developments in Major U.S. Trading Partners

Introduction

This chapter reviews the economic performance of major U.S. trading partners, U.S. trade with those countries, and important bilateral trade issues in 1988. Specifically, U.S. relations with the European Community (EC), Canada, Japan, Mexico, Taiwan, The Republic of Korea (Korea), and Brazil are discussed.

In 1988, the U.S. merchandise trade deficit registered \$129.1 billion, of which \$111.1 billion (86 percent) was with the countries under review. The largest bilateral merchandise trade deficit in 1988 was with Japan at \$53.1 billion (41 percent of the total U.S. merchandise trade deficit), followed by Taiwan with \$13.1 billion (10 percent) and the EC with \$12.7 billion (10 percent). (West Germany, the most dynamic economy in the EC, recorded a \$3.1 billion deficit with the United States.) The U.S. merchandise trade deficit with the Asian newly industrializing economies (NIEs) covered in this report totaled \$22.8 billion or 18 percent of the total U.S. merchandise trade deficit.

While the European Community remained the largest U.S. trading partner in 1988, U.S.-EC trade relations continued to be marked by disputes throughout the year. Notable among these was the EC ban on the sale of meat from animals treated with growth hormones. U.S.-EC agricultural differences extended into the multilateral arena with sharp disagreement over the issue of subsidies during the midterm review of the Uruguay Round of trade negotiations. Meanwhile, the EC internal market program to achieve economic integration continued apace in 1988. The program is a source of continuing concern among EC trading partners.

The United States-Canada Free Trade Agreement, concluded in October 1987, continued to be the major bilateral issue between the two countries in 1988 as formal ratification and implementation of the agreement took up literally almost the entire year: President Reagan and Prime Minister Mulroney signed the agreement on January 2, 1988, and the Canadian Parliament approved the pact on December 30, 1988. Between these dates, the FTA precipitated extensive debate in the Congress and a national election in Canada. Other important U.S.-Canada bilateral trade issues included Canada's handling of the sale of alcoholic beverages, particularly at the provincial level, and

the review of an earlier imposition of a U.S. tariff on shakes and shingles from Canada.

The U.S.-Japan bilateral agenda again included numerous unresolved trade disputes from previous years. Negotiations continued on politically sensitive sectors such as beef and citrus and the United States had another significant bilateral trade deficit. While the yen appreciated in 1988, the U.S. bilateral trade deficit declined by 7.1 percent from its record 1987 level. Agreements were concluded in the areas of science and technology and construction projects, as well as in product specific sectors such as beef and citrus, and processed foods, where previous disputes had been of long duration. Discussions in the high technology sphere covered semiconductors, supercomputers, telecommunications, and the FSX fighter plane.

Bilateral relations between the United States and Mexico continued to improve in 1988 as Mexico's system of prior import licensing was being phased out. A major step to improve commercial cooperation was concluded in 1987 with the announcement of a broad framework agreement on principles and procedures of bilateral trade. In 1988 both parties began to use the consultative mechanism established in the agreement for discussing mutual trade and investment concerns. The debt issue continued to be an important aspect of bilateral relations. Other U.S. concerns focused on government controls on foreign technology, and restrictive investment policies.

Taiwan, the fifth largest trading partner of the United States, adopted a number of general trade liberalization measures in 1988. These included lowering of tariff barriers, lessening of restrictions on foreign investment, particularly in the manufacturing sector, and the adoption of a trade action plan. The latter is intended to specifically address Taiwan's perennial trade surplus with the United States.

Korea's growing trade surplus and slow pace of market liberalization led to an increase in trade disputes with the United States in 1988. A number of section 301 petitions involving market access questions were filed under U.S. law. One of the most contentious issue concerned Korean exchange rate policies, where the U.S. Treasury Department argues that the won is one of the foreign currencies purposely undervalued in order to perpetuate a certain trade advantage.

Relations between the United States and Brazil in 1988 were characterized by a continuation of a number of disputes. U.S. sanctions were imposed during the year in reprisal for Brazil's lack of patent protection in the area of pharmaceuticals and fine chemicals. The country's informatics policies continued to be a source of major bilateral friction.

The European Community

The Economic Situation in 1988

The EC economy grew by almost 4 percent, which was the strongest growth since 1976. The Gross Domestic Product (GDP) grew 3.7 percent in 1988 compared with only a 2.4 percent rise in real terms in 1987. Within the EC, individual country performance varied significantly: Spain's GDP expanded 4.9 percent, followed by Portugal at 4.2 percent, and the United Kingdom at 4.1 percent. At the other end of the spectrum, Denmark's economy saw virtually no expansion (0.2 percent). The remaining EC countries recorded moderate growth rates ranging from 2.6 percent to 3.8 percent.

Investment has become the most significant factor behind the EC's current expansion. The real annual growth rate of investment was 7.3 percent in 1988, the highest in two decades. Until 1984, growth in the EC economy was led primarily by exports. In 1986, growth was attributed to an improvement in the terms of trade due to the fall in oil prices and depreciation of the dollar. Since 1987, and particularly in 1988, GDP growth has been stimulated primarily by investment. Specifically, private investment in equipment rose 8.1 percent and investment in the construction sector increased by 6 percent in 1988 compared to 1987.

Another area of improvement is capacity utilization. In 1988, EC capacity utilization was 86 percent, which surpassed the previous peak of 1979. The highest levels of capacity utilization were in the United Kingdom (94.3 percent), West Germany (87.7 percent), and France (87.1 percent).

Adding to the favorable economic climate was the 1.2 percent increase in the total number of persons employed. On the downside, however, the unemployment rate remained high at 10.3 percent, a decrease of only 0.3 percent from 1987. Spain recorded the highest unemployment rate in the EC in 1988 at 19.7 percent. Ireland ranked second at 18.6 percent and Italy was third at 15.0 percent. The lowest rate recorded was in Luxembourg at 1.4 percent. Portugal had a 5.9 percent unemployment rate with the rest of the countries fluctuating between 11.3 (Netherlands) and 7.3 (Greece) percent. Nevertheless, the trend in unemployment was positive. Nine countries experienced a decline in unemployment in 1988 from 1987 levels, whereas only two countries showed increases: Denmark (7.6 to 8.3 percent) and Italy (14 to 15 percent). West Germany's unemployment rate of 8.1 percent remained unchanged in 1988.

Along with the still stubbornly high unemployment was a slightly increasing inflation

rate. The 1988 rate was 3.7 percent, up from 3.4 percent in 1987. The EC rate, however, remained below the U.S. inflation rate of 4.0 percent.

The EC's trade position deteriorated somewhat in 1988. Estimates indicate that exports increased slowly (6.1 percent) while imports continued to rise steadily (9.1 percent).¹ Of concern to the EC was the sizable disparity between countries with trade surpluses and those with deficits. The EC trade balance as a percentage of GDP was only 0.5 percent. However, six countries recorded negative percentages, or trade deficits, with Portugal at -10.4 percent as the largest. Five countries recorded positive balances with Ireland at 11.8 percent and West Germany at 6.3 percent as the two largest. Italy had a balanced trade account.

West Germany continued to maintain a high trade surplus. In 1988, the surplus was \$48.5 billion, which was a slight rise from the \$45 billion recorded in 1987. The United Kingdom, on the other hand, registered a trade deficit of \$23.3 billion.

Merchandise Trade With the United States

In the aggregate, the EC remained the United States' largest trading partner, accounting for over one-fifth of total U.S. trade. Table 8 shows that the value of two-way trade between the United States and the EC rose nearly 13 percent in 1988 to \$155.4 billion from \$137.4 billion in 1987. The EC market decreased its share of U.S. merchandise exports from 23.5 percent in 1987 to 23.2 percent in 1988. U.S. merchandise imports from the EC represented 19.2 percent of total U.S. merchandise imports from the world in 1988, down from 19.9 percent in 1987.

Table 8 shows that the United States recorded a merchandise trade deficit with the EC of \$12.7 billion in 1988, down 44 percent from the \$22.9 billion in 1987. The U.S. trade deficit was \$13.3 billion with West Germany, \$5.0 billion with Italy, and \$2.3 billion with France. The U.S. trade deficit with West Germany, which is the fourth largest U.S. trading partner after Canada, Japan, and Mexico, accounted for 10 percent of the total U.S. trade deficit. The United States also recorded trade deficits with Denmark (\$822 million) and the United Kingdom (\$497 million). The United States posted trade surpluses with the remaining member nations of the EC: the Netherlands (\$5.0 billion), Belgium/Luxembourg (\$2.5 billion), Spain (\$0.8 billion), Ireland (\$0.7 billion), Portugal (\$27 million), and Greece (\$14 million).

¹ As of May 1989, full-year 1988 trade data for the EC was unavailable due to incomplete collection from member states.

Table 8

U.S. merchandise trade with the European Community, by SITC¹ Nos. (Revision 2), 1986-88

(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports³</i>				
0	Food and live animals	3,268,238	3,403,885	3,759,630
1	Beverages and tobacco	1,185,213	1,298,535	1,593,988
2	Crude materials, inedible, except fuel	5,118,412	5,716,127	6,469,180
3	Mineral fuels, lubricants, etc	2,508,647	1,993,143	2,286,335
4	Oils and fats, animal and vegetable	155,591	146,922	194,344
5	Chemicals	6,296,221	7,138,406	8,333,917
6	Manufactured goods classified by chief material	2,937,504	3,505,249	4,575,587
7	Machinery and transportation equipment	22,330,594	26,318,695	34,498,343
8	Miscellaneous manufactured articles	5,082,848	5,828,208	7,372,235
9	Commodities and transactions not elsewhere classified	1,368,566	1,880,906	2,275,371
Total		50,251,834	57,230,077	71,358,930
<i>U.S. imports⁴</i>				
0	Food and live animals	2,321,199	2,260,214	2,042,692
1	Beverages and tobacco	2,411,733	2,441,917	2,416,203
2	Crude materials, inedible, except fuel	835,545	964,663	1,086,996
3	Mineral fuels, lubricants, etc	3,713,484	4,020,395	3,694,747
4	Oils and fats, animal and vegetable	97,309	129,897	165,532
5	Chemicals	6,264,746	6,974,746	8,598,310
6	Manufactured goods classified by chief material	11,259,698	11,849,678	13,701,360
7	Machinery and transportation equipment	33,608,469	36,441,078	36,901,462
8	Miscellaneous manufactured articles	11,616,448	11,835,634	12,287,533
9	Commodities and transactions not elsewhere classified	3,345,706	3,226,127	3,190,839
Total		75,474,337	80,144,348	84,085,673

¹ Standard International Trade Classification.² On Jan. 1, 1988, the Bureau of the Census began reporting trade separately for small principalities and regions—Faroe Island, Andorra, Monaco, San Marino, and Vatican City — that had previously been included in the respective trade figures for Denmark, France, and Italy. For consistency in reporting, trade values for these areas are included in the EC figures for 1988. During this year, exports from these regions amounted to \$53,305,816, while imports totalled \$49,469,060.³ Domestic exports, f.a.s.⁴ Imports for consumption, customs value.

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

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

In 1987, the United States had a deficit position with both Portugal and Greece. The EC's share of the total U.S. trade deficit decreased between 1987 and 1988, from 14.5 percent to 9.9 percent. U.S. imports of EC products rose by only 4.9 percent to \$84.0 billion in 1988, after rising 6.2 percent in 1987 and 11.7 percent in 1986.

Appendix table B-5 shows that the leading U.S. exports to the EC in 1988 consisted of office machine parts (\$5.3 billion), computers (\$3.6 billion), aircraft (\$3.5 billion), aircraft parts (\$2.5 billion), engine parts (\$2.2 billion), soybeans (\$1.9 billion), and coal (\$1.9 billion). These products accounted for about 29 percent of total U.S. exports to the EC. With the exception of soybeans, U.S. exports of these products increased in 1988 compared with those in 1987. U.S. exports of office machine parts rose 28 percent; computers, 20 percent; aircraft, 32 percent; and aircraft parts, 16 percent.

Table B-6 shows that the leading U.S. imports from the EC in 1988 were motor vehicles (\$8.4 billion), motor-vehicle parts (\$2.0 billion), airplanes and airplane parts (\$1.8 billion), crude petroleum (\$1.6 billion), and motor fuel (\$1.3 billion). These products accounted for about 18 percent of total U.S. imports from the EC. Imported motor vehicle parts, airplanes and airplane parts and motor fuel rose in 1988 compared with those in 1987, with the most notable increase occurring in motor fuel (34 percent). Imports of motor vehicles and crude petroleum decreased in 1988 from 1987, 26 percent and 30 percent, respectively.

Major Policy Developments Affecting Trade

Agriculture

Efforts to curb the rising cost of the Common Agricultural Policy (CAP) and end surplus production of food continued in 1988. Spending on the EC's farm programs under the CAP

currently accounts for about two-thirds of the EC's annual budget. Although EC farmers suffered a 3.5 percent fall in farm incomes on average in 1987, the EC Commission approved reform measures at an emergency summit in February, and proposed, for the third year in a row, a farm price package that freezes or cuts most support prices.

Each spring, the EC Commission proposes common farm support prices for products covered by the CAP to the EC's Council of Ministers for a decision. In 1988, the major political debates revolved around the complex system of cross border taxes and subsidies known as monetary compensatory amounts (MCA's).² Although the EC Commission proposed changing the current level of Greek MCA's in order to increase the prices paid to Greek farmers, the Greek Government felt the changes did not go far enough in raising farm incomes. As a result, Greece vetoed the entire farm price package in June. Because a new agreement had not been reached by July 1, the beginning of the new 1988-1989 marketing year, the EC Commission imposed transitional measures until an agreement could be approved. On July 19, the Greeks lifted their veto and the Council formally adopted the farm package.

The approved package froze prices of all products at 1987/1988 levels in European Currency Unit (ECU)³ terms with the exceptions of durum wheat (a 5.2 percent reduction) and certain categories of tobacco (6 to 8 percent reduction). Other important measures included a reduction of 25 percent and 20 percent respectively in the monthly increments to the guarantee price paid to cereals and oilseed producers, a commitment to introduce an incentive for the use of cereals in animal feed before October 31, and a modest narrowing of the conditions for beef intervention.⁴ Also, the agreement pledges additional help for Greek farmers at some stage in the future.

In addition to the annual farm price package, major CAP reform measures were also endorsed in 1988. Efforts to approve a package of financial reforms, including proposals to reform the CAP by limiting agricultural expenditures, failed at the EC's semiannual summit in December 1987. At an emergency summit meeting in February, the European Council approved a budget reform

² MCA's are border levies or refunds applied to offset the impact of fluctuations in national currencies on prices paid to farmers. For example, a country with a strong currency, such as West Germany, has positive MCA's, which act as subsidies on exports and taxes on imports of farm produce.

³ The 1988 annual average exchange rate of the ECU in U.S. dollars was 1 ECU = \$1.1798.

⁴ For a further discussion of the animal feed provision of the farm price package, see the section on corn gluten feed in this chapter.

package that fixes an overall budget ceiling; limits the increase in agricultural spending to no more than 74 percent of the EC's GNP growth rate; sets up automatic price cuts when production of grains, oilseeds and other products exceeds specified ceilings; establishes a land set-aside program and early-retirement incentives; and doubles structural funds (economic development assistance) by 1993.

The land set-aside program, one of the provisions of the budget reform package, would pay farmers of arable land to take one-fifth of their land out of production. The measures are compulsory for member states but optional for farmers. The program calls for EC member states to present to the EC Commission for approval their plans for national land set-aside schemes. Although most member states missed the July deadline, by yearend, all member countries had submitted their national schemes to the EC Commission. Other farm reform measures were discussed in 1988 but failed to win approval. A proposal to grant direct income aids to farmers, who are facing difficulties with the reform of the CAP, was introduced in 1987 and again endorsed by the European Council in February. These funds, which would be financed from both EC and national sources, were supported by a majority of agricultural ministers. However, questions over implementation remained unresolved throughout the year.

The Council of Ministers also failed to approve a milk quota compensation scheme for dairy farmers who helped curb the EC's milk surpluses in the days before compulsory production quotas were imposed, only to find out that they could not qualify for a quota and were forced out of business. These farmers had volunteered to give up milk production temporarily by replacing dairy herds with beef cattle, only to be locked out of dairy farming permanently. Further reforms were proposed in the fall, including proposals to reform the beef and sheep meat regimes, and to reduce imports of New Zealand butter.

Steel

The EC steel industry enjoyed strong growth in production and demand in 1988 as prices and profits continued to rebound after a decade-long slump. This increase in demand and prices was fueled by record car sales and buoyant orders from the engineering and construction industries. Preliminary figures indicate a rise of 8.9 percent in EC crude steel production in 1988, reaching 137.2 million metric tons, compared to an increase of 5.6 percent in worldwide crude steel production last year. Production of finished rolled products in the EC grew at a slightly higher rate of 9.6 percent to 115.1 million metric tons.

Given the robust market conditions, the EC Commission's efforts in 1988 to reduce excess

steel-making capacity met with little success. At the end of 1987, EC industry ministers terminated remaining steel production quotas, except for three product categories—hot and cold rolled coils (category Ia and Ib), heavy sheet (category II), and heavy sections (category III)—citing favorable market conditions. Quotas for these categories of products, which account for about one-half of the EC's steel-making capacity of 140 million metric tons, were extended until June 30, 1988, with the possibility of an additional extension until the end of 1990. In order to justify a further extension of the quota system beyond June 1988, the EC Commission required that the steel industry submit plans by June 10 for significantly reducing the 20.7 million metric tons of excess capacity in these three categories. Surplus capacity in heavy sheet and heavy sections production was to be cut by 75 percent and 7.5 million tons of the 11.1 million tons of excess hot-rolled coil capacity was to be eliminated.

As 1988 unfolded, however, strong demand, prices, and exports dampened the steel industry's motivation to cutback capacity. By June 10, steel industry commitments to reduce surplus capacity fell far short of those demanded. No plans were submitted to reduce coil capacity, commitments to reduce the heavy sheet capacity totaled only 2.2 million metric tons of the 4.4 million metric tons demanded, and although reductions of 2.1 million metric tons for heavy sections were identified out of the surplus 2.5 million metric tons, 800,000 metric tons had been previously announced and 1.3 million were judged too "imprecise." Therefore, since it was no longer possible to point to a "manifest crisis" in steel, on June 15, 1988, the EC Commission announced that it would end the production quota regime, effective July 1, 1988.⁵ On June 24, the EC Council of Ministers backed the Commission's decision and officially terminated the production quota system.

EUROFER, the steel industry's lobby group, strongly opposed the elimination of production quotas claiming that the high level of demand was hiding the real structural production capacity surpluses which, given the abolition of quotas, could lead to a sharp increase in deliveries and a consequent drop in prices. Producers of flat-rolled products discussed a return to "voluntary" arrangements in which the Commission would set production targets and "guidance" prices to induce market discipline by producers, but the Commission did not want to participate. Producers also considered informally regulating production and pricing themselves

⁵ The steel production quotas were introduced in 1980 under Article 58 of the European Coal and Steel Treaty which allowed for production and price controls in the event of a "manifest crisis."

without any sanction from the Commission. However, the Commission warned against the kind of cooperation among steel firms that could lead to a veiled cartel in violation of Article 4 of the European Coal and Steel Community Treaty.

To allay industry concerns stemming from the loss of production quotas, on July 19, 1988, the EC Commission set up a system for monitoring the steel market by gathering monthly statistics, enabling it to react quickly if a new crisis should develop. The Commission will also publish detailed forecasts of demand for the various categories of steel products covered by the monitoring system in its existing quarterly report entitled "Forward Program for Steel." The Commission decision covers the period July 1, 1988 to June 30, 1990. Karl-Heinz Narjes, Commission Vice President for Industrial Affairs, also emphasized that the Commission would continue to protect the steel industry against unfair competition from third countries, particularly by speeding up antidumping procedures and by adopting appropriate positions in international trade negotiations.

On June 24, 1988, the EC industry ministers also extended the steel State "aid code" until January 1, 1992. The current aid rules were adopted in 1985 and were scheduled to expire at the end of 1988. The code for state aid only allows governmental financial assistance to national steel industries for research and development, environment-related investments, and closures under certain limited conditions. An EC program designed to address the social implications of steel industry restructuring, the RESIDER program, was adopted in February 1988 with 300 million ECU of funding. Finally, on December 21, 1988 the Commission authorized the member states to institute intra-Community surveillance of imports of specific iron and steel products originating in certain third countries. The surveillance is not intended to restrict import flows but allow for monitoring.⁶

Internal Market

December 31, 1988 marked the half-way point of the internal market program as outlined by the EC Commission's 1985 White Paper—the working paper for completing the EC's quest for economic integration launched by the 1957 Treaty of Rome. The White Paper was issued in response to inadequate momentum toward truly integrating the European economies, and outlined some 300 specific proposals, each with a timetable, for the removal of all obstacles to the free movement of goods, people, services, and capital by December 31, 1992. Important to the

⁶ The decision affects imports from Bulgaria, Czechoslovakia, Hungary, Democratic People's Republic of Korea, Poland, Romania, and the Soviet Union.

success of the internal market program was passage of the Single European Act (SEA), the first major reform of the Treaty of Rome. The SEA entered into effect in 1987 and liberalized the decision-making process for implementing many of the internal market proposals. Since their original appearance in the 1985 White Paper, the 300 proposals have been reduced to 279, following the deletion of some, the regrouping of others, and the addition of a few new proposals.

In 1988, much progress was made moving towards the European internal market goal. In February, the EC's budget crisis was resolved, providing enough money to carry out the 1992 exercise. In June, the European Council, composed of the heads of government of the member states, declared at the Hanover summit that progress towards the completion of the internal market "has now reached the point where it is irreversible." This statement followed what was regarded as a very successful six-month term of the German presidency of the EC. During the German term, 23 directives were adopted and member states' approved another 14. During the June-December Greek presidency, the EC adopted 32 directives.⁷

One of the biggest accomplishments of the first half of the year was the accord to end all exchange controls, which has major implications for EC Commission tax harmonization and currency plans, as it allows people to hold bank accounts and borrow money in any EC country. Among those adopted at the year's final Internal Council meeting on December 21 was the directive on construction materials. The building sector is a vital economic sector, with a turnover of 300 billion ECUs per year. The directive seeks to improve building safety by introducing essential requirements for the safety of materials used for buildings. By yearend, other notable Council of Ministers' adoptions pertained to the liberalization of non-life insurance, mutual recognition of diplomas, labeling of cosmetics, free movement of trade in new tractors, and standards for frozen foods and food additives.⁸

At the end of 1988, 229 of the 279 pieces of legislation required to create the single European market had been proposed by the EC Commission, and 107 had been adopted by the Council (not including the 5 partial adoptions).⁹ An inspection of these figures reveals that the EC Commission finished the year slightly behind

the goals it had set in July 1987 for implementing the internal market program. Approximately 82 percent of the proposals had been introduced by the EC Commission by December 31, although it had hoped to table 90 percent by that time. Similarly, the EC Commission had hoped to attain adoptions or common positions on 50 percent of the internal market measures by yearend, but the Council had adopted only 38 percent of the proposals. Fifteen common positions—the stage of the cooperation procedure where the Council can be considered to have reached political agreement—were pending at yearend.

In November of 1988, the EC Commission adopted the half-way progress report on the internal market process required under article 8b of the SEA. The report noted that progress was satisfactory in the areas of financial services and capital movements, and was commendable in the removal of technical barriers. Seventy percent of the directives and measures adopted by the Council relate to technical barriers as defined in the White Paper. The report also pointed out that there are areas in which progress has not been so advanced, an opinion reiterated by the European Council at the Rhodes summit on December 2 and 3. Progress has lagged behind in the areas of plant and animal health, transport and energy, taxation, and "Citizen's Europe," or the free movement of people. Border controls affecting the free movement of citizens is a particularly sensitive issue, since it is linked to progress in intergovernmental cooperation to combat terrorism, international crime, and drug and other trafficking.

Nonetheless, the consensus within Europe during 1988 was that the completion of the internal market program is inevitable and will be economically beneficial for nearly all involved. A study commissioned by the EC Commission by economist Paolo Cecchini and released in 1988 forecasts an increase of 4.25 percent to 6.50 percent in the GDP of the EC as a whole and the creation of five million new jobs as a result of the program. European officials at the Rhodes summit proclaimed that the 1992 exercise "has already created a new dynamism in the European economy." They also cautioned, however, that the Council has a great deal to do in the next two years. Although there are four years left before December 31, 1992, member states must be given time to incorporate Community measures into national law. Effectively this means that the Council must complete most of its work in the next two years.

The past year was also notable because it was the first in which the EC presented an official policy line addressing third country concerns about the effects of the internal market program on non-EC economies. The U.S. Government

⁷ The yearend figures on internal market progress were supplied by *European Report*, Dec. 22, 1988. The EC Commission does not publish progress reports on a calendar year basis.

⁸ *European Report*, June 27, 1988, and *European Report*, Dec. 22, 1988.

⁹ U.S. Department of Commerce, Brussels, Dec. 22, 1988, 17308.

has expressed worries that increased competition among the 12 member states may cause EC industry to seek more protection from third countries, creating a "Fortress Europe." Japanese businessmen particularly fear new Community barriers since EC authorities have warned that they will consider raising tariffs and imposing quotas on Japanese products should the Japanese increase their market shares in Europe as a result of the integration exercise. On the other hand, the EC argues that the 1992 program will benefit EC and non-EC firms alike, through the benefits of working with a single market rather than a partitioned market, and through the favorable repercussions of increased growth. The EC also points out that as the world's biggest exporter, it has a fundamental stake in the existence of free and open international trade, and that it would be absurd for the Community to lean towards protectionism. Moreover, an official of the European Parliament has said that "what American business has to face is not European protectionism but European competitiveness."¹⁰

Research and Development

EC research is organized by the Community Research and Development Framework program. The EC launched a number of initiatives in 1984 and 1985 under the first multiannual plan to promote cooperative R&D efforts, concentrating on precompetitive research; i.e. research in the intermediate stage between fundamental research and development work that immediately precedes marketing. The adoption of the Single European Act in 1987 provided a legal foundation for cooperative R&D efforts sponsored by the EC, including a provision for the institution of a multi-year framework program.

The adoption of the second Multiannual Framework Program for Technological Research and Development (1987-91) on September 28, 1987 was the first application of the R&D provisions of the Single Act. The second framework program is funded at a level of 6.5 billion ECU and outlines eight areas of research activity: (1) quality of life, including health and the environment; (2) information technologies and telecommunications; (3) new technologies in industry; (4) energy; (5) biotechnology; (6) development aid (application of science and technology to the problems of the Third World); (7) marine resources; and (8) "A Europe for Research Workers" (training and exchanges among scientists and researchers). All programs under the initiative are open to non-EC nations in Western Europe.

¹⁰ Klaus Hansch, member of the European Parliament. Statement appears in an article by Richard Alm, "Europe's 'Quiet Revolution' in Trade Gains Momentum, EC's 12 Member Nations Optimistic About 1992 Launch of Integrated Market System," *The Washington Post*, Jan. 8, 1989, p. H6.

Community research essentially takes three forms. The first form, in-house research, is carried out at the Joint Research Centre (JRC), which has establishments in Italy, Belgium, West Germany, and the Netherlands. Nuclear safety accounts for much of the activities of the JRC. The second form of research is the concerted-action project in which the Community does not finance the actual research but ensures close coordination of the work done at the national level. The third form, which accounts for the largest share of Community research, is shared-cost or contract research. This is carried out in research centers, universities, and companies with financial aid from the Community generally amounting to 50 percent of the total cost. The following is a discussion of some of the more significant shared-cost programs.

The European Strategic Programme for R&D in Information Technology (ESPRIT) is the largest program in the framework plan and was launched in 1984 to provide European industry with a technological base enabling it to compete effectively with the United States and Japan. The program is designed to run through 1993; the first phase of 219 ESPRIT projects was concluded at the end of 1987. Projects carried out under ESPRIT necessarily involve two or more independent industrial partners from two different member states. Half of the funding comes from participating companies and institutes. On April 11, 1988, the EC Commission approved an overall financial ceiling of 3.2 billion ECU for the second phase of ESPRIT (1988-92), ESPRIT II. The Commission received almost 700 project proposals for ESPRIT II, valued at 10 billion ECU, in its first round of proposals that ended on April 12, 1988. In August, the Council of Ministers approved 158 projects for contract negotiations and committed 780 million ECU of the total 1.56 billion ECU of Community funding. Three research areas were selected for the second phase of ESPRIT: microelectronics and peripheral technology; information-processing systems; and information technology application technologies. The largest new ESPRIT project is for work on bipolar high-speed integrated circuits, and will cost 80 million ECU over three years.

The R&D in Advanced Communication Technology for Europe (RACE) program is part of the EC's overall strategy to ensure coherence of the different telecommunication systems and services being developed in Europe. The primary objective of the RACE program is the development of Integrated Broadband Communications throughout the EC by 1995. Funding for the period June 1987-May 1992 is 550 million ECU.¹¹ The application of advanced techno-

¹¹ Forty new RACE projects with a budget of 1.1 billion ECU (50 percent contributed by the Community) were launched in February, 1989.

logies (laser, computerized design, mathematical modelling, etc.) in manufacturing industry is covered by the program for Basic Research in Industrial Technology for Europe (BRITE) (499.5 million ECU; 1989-1992). Energy research conducted at the EC level falls within three principal areas: nuclear fission, nuclear fusion, and non-nuclear. EC research in nuclear fission is within JRC and has specialized in the area of safety. An essential element of The European Fusion Program is the Joint European Torus (JET) project, which centers around use of a tokamak type of machine.¹² In decisions made in July and October 1988, the Council of Research Ministers extended the JET project until the end of 1992, from its previous end date of December 1990, and increased funds for research on fusion technology and safety. JET funding for the 1988-1992 period totals 795 million ECU. The Strategic Program for Innovation and Technology Transfer (SPRINT) is an important component of the EC's activities to master technological change. The first, experimental phase of the program expired at the end of 1988. In the summer of 1988, the EC Commission adopted a proposal on the main phase of the program for a period of 1989-1993, which has a budget of 130 million ECU.

Five new programs, with a total cost of 320 million ECU, were adopted by the Council of Research Ministers on June 29, 1988. The new programs are (1) the Stimulation of the International Cooperation and Interchange Need by European Research Scientists (SCIENCE) program, which aims to raise general scientific and technical levels in Europe by promoting cooperation and exchanges of research workers throughout the Community (167 million ECU; 1988-1992); (2) under the quality of life area of research the ministers approved funding of 60 million ECU for the Dedicated Road Infrastructure for Vehicle Safety in Europe (DRIVE), which will promote the use of information technology and telecommunications to improve European road safety and efficiency and to reduce vehicle-related pollution (June 1988-May 1991); (3) the Common Bureau of References (BCR), which will promote development of technical standards, received funding of 59.2 million ECU (1988-1992); (4) the Development of European Learning through Technological Advance (DELTA) program, which received 20 million ECU in funding and will run two years; and (5) a 20 million ECU funding increase for the five year (1985-89) training program in the field of biotechnology to allow for intensified research in the areas of

¹² A tokamak is a doughnut shaped reactor designed to control fusion in a plasma of ions and electrons.

safety and information technology and to extend the program to the EC's newest member states, Spain and Portugal.

On April 12, 1988, the EC Commission launched its Community Superconductivity Action, designed to promote and support collaborative transnational research in Europe into both the basic properties and the future applications of superconductors. Superconductivity projects relating to electronics will be supported through the ESPRIT program while information exchange will be facilitated through JRC and the SCIENCE programs. In continuing its efforts to be at the forefront of high density television (HDTV) technology, on November 16, 1988, the EC Commission adopted a proposal that the Commission prepare an Action Plan for the Introduction of HDTV in Europe, although most HDTV research is conducted through the EUREKA program (see discussion below).

Another important European R&D program is EUREKA (European Research Cooperation Agency), which supplements the EC's framework research program.¹³ This program focuses on the rapid development of goods with high market profile compared with the EC's R&D framework program that concentrates on long-term research with less emphasis on immediate commercial exploitation. Like the framework initiative, it is financed by a combination of public and private sector funds and invites all Western European countries to participate. Fifty-four new R&D projects, representing a value of 360 million ECU, were approved at the sixth EUREKA Ministerial conference on June 15 and 16, bringing the total number of approved projects under EUREKA to 214. The budget for EUREKA is now about 3.8 billion ECU, including projects completed and money committed but not yet spent. The major funding areas are information technology (25%), robotics and advanced manufacturing (17.6%), biotechnology (13%), and new materials (12%).

United States-EC Bilateral Trade Issues

Overview

Agriculture continued to dominate the U.S.-EC trade agenda in 1988. The EC's ban on the sale of meat from animals treated with growth hormones was the year's most contentious bilateral trade issue. The ban was scheduled to take effect on January 1, 1988, but the United States was granted a 1-year grace period. Last minute negotiations at the end of 1988 failed to resolve the dispute, however, and the ban was implemented as planned on January 1, 1989.

¹³ EUREKA participants consist of the twelve EC member states, Austria, Finland, Norway, Sweden, Switzerland, Turkey and the Commission of the European Communities.

Corn gluten feed was the source of two U.S.-EC disputes in 1988. Also, the United States requested GATT dispute settlement panels to resolve two agricultural trade conflicts: EC quotas on apple imports and EC production and processing support for oilseeds and protein crops. The bilateral dispute over the EC's Third Country Meat Directive largely resolved itself in 1988 when the majority of U.S. meat plants were certified eligible by EC inspection teams to export U.S. meat to the EC. In the multilateral arena, the United States and the EC exposed sharp differences over agricultural subsidies during the midterm review of the Uruguay Round of trade negotiations.¹⁴

Action outside the agriculture sector was subdued in 1988. Although EC subsidies to Airbus Industrie remained a primary area of contention between the two major trading partners, negotiations lost momentum in the second half of the year with the change of U.S. administrations.

Hormone Ban

The EC's ban on the sale of meat (beef, veal, sheep, and lamb) from animals treated with growth-promoting hormones entered into effect on January 1, 1988, but the United States was given a 1-year grace period before it had to comply with the ban.¹⁵ The grace period was intended to give U.S. and EC officials time to work out a permanent solution, but the dispute remained unresolved throughout 1988. The ban was a major concern of the United States, since U.S. farmers rely heavily on hormones to fatten livestock. Based on 1988 trade statistics, U.S. producers were estimated to lose \$130 million a year in exports to the EC.

The EC's hormone ban was implemented in response to consumer concerns that meat treated with hormones poses a health risk. However, the United States continues to insist that no existing scientific evidence suggests that cattle raised with the aid of hormones pose a health hazard, and that the EC's ban on beef treated with hormones is actually an unfair barrier to trade disguised as a health concern. The EC claims the ban is in accord with the GATT, which permits a country to regulate the processing of goods it imports, as long as those same regulations are imposed on its domestic producers. The member countries of the Community have all banned the use of hormones for fattening cattle within their borders, and the EC's other main third country suppliers of beef (Argentina, Brazil, Australia, and New Zealand) have complied with the ban.

¹⁴ For a discussion of the midterm review of the Uruguay Round of multilateral trade negotiations, including the agricultural dispute, see ch. 1 of this report.

¹⁵ For a complete discussion of the history of the U.S.-EC hormone conflict, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4 7.

The United States hoped to resolve the conflict under the GATT Standards Code. However, the EC repeatedly blocked the U.S. request to establish a technical experts group to evaluate the effect of hormone usage on consumers. Officially known as the Agreement on Technical Barriers to Trade, the Standards Code aims to ensure that government regulations on health, safety, or consumer protection do not create unnecessary obstacles to trade. The EC argues that the Standards Code is not applicable in this issue because it does not apply to production methods, and the use of hormones to fatten cattle is a production method. Nonetheless, the U.S. view that hormone-treated cattle pose no health hazard gained support in November, when an international committee on food safety approved the use of certain natural and synthetic hormones in food-producing animals. This committee, the Codex Committee on Residues of Veterinary Drugs in Foods, recommended to the higher level Codex Alimentarius ("food code") Commission that no maximum residue levels be set on these hormones, as the amount of the substances found in food products is negligible compared to the significant levels produced naturally in the human body. The higher level commission, which is an arm of the Food and Agriculture Organization and the World Health Organization, will review the recommendation in July 1989.

Throughout 1988, the Community remained determined to implement the ban on U.S. exports on January 1, 1989 as planned. At the end of 1988, U.S. threats to retaliate upon implementation of the ban led to a series of last minute negotiations. In November, EC officials tabled a compromise package intended to lessen the negative impact of the ban on U.S. producers. The EC Commission proposed both to exempt meat imported for pet food (which accounts for approximately 20 percent of the value of U.S. meat exports to the EC) and to increase the EC's import quota on high-quality beef. Although the U.S. Government accepted the offer on pet food, it rejected the compromise on high-quality beef since such meat would still have to be free of hormones. Efforts to resolve the issue at meetings scheduled in early December were precluded by the overriding concern to resolve the U.S.-EC dispute on agricultural subsidies at the Uruguay Round Midterm Review in Montreal.

With the date for the ban's implementation drawing near, the United States resurrected a list of targeted EC exports drawn up 1 year earlier. The proposed U.S. retaliatory measures would impose 100-percent tariffs on a number of EC products, worth \$100 million. The European goods to be affected by the U.S. Government's retaliatory measures were listed as boneless beef, processed pork hams and shoulders, prepared or

preserved tomatoes, soluble or instant coffee extracts, some fermented beverages with less than 7 percent alcohol content, some fruit juices, and packaged pet food.

Some U.S. officials sought additional retaliatory measures. Fourteen Senators asked Agriculture Secretary Lyng to block temporarily all U.S. imports of European meat under the Reciprocal Meat Inspection (RMI) provision of the Omnibus Trade and Competitiveness Act of 1988. This provision, which was created as a result of the hormone dispute, calls for the United States to ban the import of meats from countries that deny entry of American meat not proven to be a health risk. If the RMI provision were to be enacted, about \$445 million worth of EC meat exports to the United States would be halted.

U.S. officials also suggested blocking European meat imports under the U.S. Food Safety Act on the grounds that EC meat products pose a health hazard to consumers in the United States. The United States has seen evidence of illegal hormone use in Italy, Belgium, Ireland, and the United Kingdom, as well as in West Germany, where in August at least 14,000 veal calves were found to be treated with black market hormones. Such findings caused serious doubts about the Community's ability to monitor beef production within its own borders. U.S. officials indicate that hormones found on the black market are often more hazardous than those used in the United States, and are generally administered in a more unsafe manner.

In December, the EC charged that the threatened unilateral retaliatory measures proposed by the United States were a violation of the GATT, and sought to have the legality of the proposed U.S. retaliatory moves judged within the GATT Council. However, the United States blocked the Community's request for a Council ruling, noting that the dispute had been before a GATT Standards Code committee for the past 18 months, and the EC had blocked any action in the committee. Also, in response to the U.S. threats of retaliation, the EC drafted a counterretaliatory list of U.S. exports upon which corresponding 100-percent tariffs would be imposed. These counterretaliatory measures were intended to hurt U.S. products worth \$361 million, and therefore to counteract the \$445 million worth of EC exports that would be lost should the U.S. Administration enact a total ban on European meats.¹⁶

¹⁶ On Jan. 1, 1989, the EC enacted its ban against U.S. meats raised with the aid of growth-promoting hormones, and the United States immediately implemented its planned retaliatory measures. In response, the EC Commission finalized its list of U.S. exports targeted for counterretaliation. The new list was drafted to cost U.S. producers \$96 million, rather than \$361 million. However, the EC held off on implementing the measure. Moreover, the United States made no move to ban all

Corn Gluten Feed

Corn gluten feed (CGF), an animal feed and byproduct that results when corn is used to make ethanol and other products, was the subject of two potential disputes between the United States and the EC Commission during 1988. Corn gluten feed is one of the few agricultural products that enters the EC without restraints because the tariff is bound at zero. With a slightly higher protein content and a slightly lower energy value, corn gluten feed is increasingly replacing cereals in feedstuffs for cows, pigs, and poultry and has become an increasingly important U.S. commodity export. CGF is an attractive feed ingredient within the EC because of high internal grain prices. In 1987, U.S. exports of corn gluten feed amounted to 4.2 million tons valued at roughly \$522 million.¹⁷

The first dispute began after the EC Commission drafted a proposal to increase the use of grains in animal feed by paying the feed compound industry a premium to use grains instead of imported nonfeed grain ingredients. The proposal was to be part of the annual farm price package. The United States strongly opposed the proposal because it would displace U.S. exports of corn gluten feed to the EC. U.S. officials met with high level EC officials to express their opposition and urged EC member states not to support the measure.¹⁸ The United States also urged Thailand and other Southeast Asian countries to oppose the measure because of their exports of another nonfeed grain ingredient—manioc—to the EC.

¹⁶—Continued

European meats from U.S. markets, and instead worked out a three-month plan with Community countries to certify that EC beef exports were not tainted with black-market hormones. More breathing room for negotiations was created when U.S. and EC officials agreed to allow unhindered entry of U.S. hormone-treated beef and tariff-affected EC products that were in overseas transit before January 1st. The trade row was pacified further in February, when the United States and the Community agreed to establish a joint task force to work out the technical problems associated with U.S. exportation of hormone-free beef to the EC. On May 3, the task force officials signed an interim agreement. Under the agreement, EC officials will undertake the responsibility of inspecting the feedlots of U.S. beef producers exporting to the EC to certify that the animals have not been treated with growth hormones. Talks will resume despite the agreement, as both sides have not resolved the issue of how to address U.S. exports of "variety meats," such as tongue and liver, to the EC. About 70 percent of the U.S. beef exports to the EC are variety meats used for human consumption. Also, the agreement does not address the underlying U.S. concern that the ban is an unfair barrier to trade and has no scientific justification. The task force is scheduled to present a progress report by June 15 on the issue of trade in variety meats for human consumption. The task force is also expected to assess progress on the implementation of the interim measure by July 15. The U.S. Government is not expected to modify its retaliation list until trade actually resumes.

¹⁷ U.S. Department of Agriculture, Office of the Foreign Agricultural Service.

¹⁸ *Inside U.S. Trade*, Inside Washington Publishers, Washington, DC, Apr. 29, 1988, p. 6.

On November 9, 1988, the EC Council received the completed proposal. It called for an incorporation premium and suggested granting progressively increasing subsidies to animal feed producers based on an increase in their use of cereal grains. The subsidy would be granted for feed grains with a 20 to 45 percent endproduct content composed of grain. Below 20 percent there would be no subsidy and above 45 percent the incentive levels would be a flat rate. It was estimated that the average subsidy paid to animal feed producers would amount to \$54 per ton.¹⁹ Although France supported the proposal, several member countries—particularly the United Kingdom, Denmark, the Netherlands, and Germany—criticized the proposal because it penalized those members states that presently had a higher proportion of grain in their feed. The EC Council referred the proposal back to a committee on December 20 with instructions to revise the proposal into something more acceptable to the members. The EC Council is scheduled to discuss the complete farm price package in April 1989.²⁰

The second dispute occurred when the General Association of French Maize Growers (AGPM) filed a formal countervailing duty complaint (CVD) with the EC Commission on September 13, 1988, alleging that subsidies provided to U.S. corn gluten feed producers caused serious damage to European corn growers. The AGPM argued that United States CGF producers receive subsidies at two stages. The first stage is Federal and state payments to corn producers, such as deficiency payments, loans, storage, and investment subsidies. In the second stage, the AGPM alleged that corn gluten feed is subsidized by indirect benefits to ethanol producers and consumers, such as an exemption from the tax on fuels.²¹ The AGPM asked the EC Commission to take action and demanded the imposition of a countervailing duty on U.S. exports to the EC.

Although the petition was filed, the EC Commission would not initially accept it because it was filed by European corn growers rather than corn gluten feed producers. Under international CVD rules, only the industry directly affected by subsidies or dumping has the legal standing to file a complaint. Because of these rules, EC officials reasoned that only the European corn gluten feed sector could have filed the complaint against U.S. exports. Reportedly, EC officials also worried that a decision against U.S. corn gluten feed could open the floodgates to similar complaints against EC agricultural subsidies.²²

¹⁹ *International Trade Reporter*, Bureau of National Affairs, Inc., Washington, DC, Nov. 6, 1988, p. 1499.

²⁰ During discussions in April there was no mention of the feed grain subsidies in the farm price package.

²¹ *Inside U.S. Trade*, Inside Washington Publishers, Washington, DC, Oct. 7, 1988, pp. 7-8.

²² *International Trade Reporter*, Bureau of National Affairs, Inc., Washington, DC, Nov. 16, 1988, p. 1499.

The EC Commission is reviewing the petition on a technical level and if accepted on technical grounds, the petition would then be considered by the Commission at the political level before a decision to initiate an investigation is made. Under EC law there is no time limit within which the Commission must decide to accept the petition.

Apples

On February 3, 1988, the EC Commission unilaterally imposed an import licensing scheme on dessert apples from nonmember countries. The EC, in defending the measure, said it was necessary to monitor imports because of increased production within the Community, a decline in producer prices, an overstock of domestically produced apples, increasing imports, and declining Community exports. The nontransferrable license was subject to a security deposit of 1.5 ECUs/100 kg and was valid for only one month.²³ On April 12, under the import licensing scheme, the Commission temporarily suspended issuing import licenses for Chile as their applications had exceeded the ceiling set for Chilean apple imports.

Shortly thereafter, on April 20, 1988, the EC Commission unilaterally imposed import quotas on dessert apples that fixed overall targets for imports through August 1988. The EC justified the action under article XIX of the GATT and explained that the quotas were necessary because the supplying countries had refused to sign voluntary restraint agreements (VRAs), as they had in 1987. The targets set for 1988 limited imports to 521,731 metric tons, about 30,000 more than the EC allowed under VRAs in 1987. The limits by country and area were (metric tons): South Africa, 166,000 tons; Argentina, 70,000 tons; Australia, 11,000 tons; New Zealand, 115,000 tons; Chile, 142,131 tons; and others, 17,600 tons.²⁴ Imports from the United States fell into the "Other" category along with imports from Canada and Eastern Bloc countries. The United States had already exported 11,847 metric tons of apples to the EC by the time the "Other" quota filled on April 22, effectively shutting out any further U.S. exports. On May 17, another major apple supplier, Argentina, had its import licenses suspended until August 31, because they had reached their import ceiling.

The EC's restrictive measures were criticized sharply by the major apple suppliers, as well as other members of the GATT and by importers, exporters, and wholesalers whose orders were suspended or cut back. The supplier countries argue that the EC restrictions violate GATT rules

²³ "Imports of Dessert Apples from Non-member Countries", Press Release 1P(88)64, Commission of the European Communities, Feb. 4, 1988.

²⁴ *European Report*, No. 1399, Apr. 21, 1988, p. 9.

and the EC's standstill commitment under the Uruguay Round negotiations. Chile in particular, was distressed by the quotas since they had been imposed at the height of their exporting season. Despite consultations held with the EC, the matter was not satisfactorily resolved and on May 4, Chile requested establishment of a GATT panel under article XXIII:2.²⁵ The United States, arguing that the EC's actions contravened the prohibition in Article XI of the GATT against the maintenance of quantitative restrictions, supported Chile's complaint.

On June 8, 1988, the United States held consultations with the EC under GATT Article XXIII:1. U.S. officials charged that the EC quotas violate the GATT and not only hurt U.S. apple exporters but resulted in diversion of southern hemisphere apples to the U.S. market. Because the consultations did not result in a mutually satisfactory settlement, the United States on July 20 requested that another dispute panel be formed under GATT Article XXIII:2 to review the U.S. complaints.²⁶ Panel findings on Chile and the United States are expected during April 1989.²⁷

Soybeans

On January 5, 1988, the USTR initiated a section 301 investigation in response to a complaint filed by the American Soybean Association (ASA) against the EC alleging unfair subsidization of its domestic production and processing of oilseeds. Specifically, the ASA charged that the EC's subsidies to farmers and oilseed processors are inconsistent with the GATT because they impair duty-free bindings granted to U.S. soybeans and soybean meal by the EC in 1962.²⁸

The United States and the EC spent the entire year wrangling over the soybean issue without reaching a resolution. Several rounds of consultations were held, but because of lack of progress, the United States requested in May that a GATT dispute panel be established. The United States wanted the panel to address the issue of whether the EC's production and processing support for oilseeds and protein crops and the subsidies of nonfat dry milk into feed is in

²⁵ Chile obtained a panel on EC apple restrictions. For more information, see "Dispute Settlement" section of ch. 2.

²⁶ A panel was established in response to the U.S. request. For further details, see "Dispute Settlement" section of ch. 2.

²⁷ The EC has adopted the panel report on Chile. The EC must now change its import licensing system to operate in accordance with GATT rules. No decision has been forthcoming on the US panel report.

²⁸ For a background discussion of the issue, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 4-10 to 4-11. See also "Dispute Settlement" section of ch. 2 and "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

violation of GATT rules on national treatment and whether it nullifies and impairs the zero bound tariff on soybeans and soybean meal. At the Council meeting on May 4, however, the EC blocked formation of the dispute panel, noting that under GATT complaint procedures, it is only after bilateral talks collapse that a dispute panel can be formed. According to EC officials, they were still awaiting a U.S. response to several questions, including the extent of injury to U.S. soybean producers. While the United States did not agree with the EC, it agreed to another round of consultations. The talks, held on June 6, failed to produce a resolution, and during a June 16 Council meeting the United States again requested a GATT dispute panel be established. This time establishment of a dispute panel was approved. However, the parties could not agree on the composition of the panel or what the objectives of the panel would be as the EC sought special terms of reference. As a result, the panel was not established before the end of the year. The United States believes the EC is using these procedural maneuvers to stall efforts to set up the dispute panel.

If no progress is made by July 5, 1989, the USTR is required to make an unfairness determination under the new "super 301" provision of the Omnibus Trade and Competitiveness Act of 1988 and must retaliate if no progress is made. The ASA estimates that the value of lost trade because of these subsidies amounts to \$1.5 billion annually.²⁹

Third Country Meat Directive

The issue of the EC's third country meat directive, which requires meat producers to comply with certain technical standards in order to export to the EC, largely resolved itself in 1988 because of action taken by U.S. meat plants to satisfy EC requirements.³⁰ By early 1988, 90 U.S. plants had been certified by EC inspection teams and implementation of the directive had been delayed until April 1, 1988, to allow for additional plants to be inspected. Although the GATT had agreed to a U.S. request in December 1987 that a dispute panel be established, the U.S. Government campaign lost steam as more large U.S. meat plants invested massive amounts of capital in plant refurbishments to bring their plants into compliance with EC requirements.³¹

²⁹ *1989 National Trade Estimate Report on Foreign Trade Barriers*, Office of the United States Trade Representative, April 1989.

³⁰ For a background discussion, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 4-8 to 4-9.

³¹ For further details, see "Dispute Settlement" section of ch. 2 and "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

Plant owners reasoned that such investments were necessary to avoid the risk of losing a substantial share of their EC export market. By early May, the EC Commission had granted full export authorization to 117 U.S. meat plants, 22 of which dealt solely in offal and 69 of which were authorized for meat storage only. The EC Commission granted temporary export licenses to another 18 plants under consideration for approval. In the following months additional U.S. meat plants were certified, including the 10 major U.S. slaughterhouse plants.

Concurrently, a GATT dispute panel was established, but by mutual agreement of the parties, no further action was taken in the GATT as progress was being made on the issue. A section 301 case initiated by USTR on July 22, 1987, remains active however, as the industry did not withdraw the complaint.

Airbus

The United States claims that Airbus Industrie, a European aircraft manufacturing consortium, is being unfairly subsidized remained a primary area of contention between the United States and the EC in 1988. Airbus Industrie is a public/private corporation co-owned by Aerospatiale of France, Deutsche Airbus of West Germany, British Aerospace, and Construcciones Aeronauticas (CASA) of Spain. The U.S. administration charges that government subsidies to Airbus builders and other unfair trade activities, including political and economic incentives to potential customers of Airbus as well as government intervention in sourcing decisions for Airbus components, are inconsistent with the Agreement on Trade in Civil Aircraft, one of the Tokyo Round codes. Specifically, articles 4 and 6 prohibit trade-distorting subsidies and unfair inducements for potential purchasers.

Regular meetings throughout 1988 failed to resolve the key issue of subsidies. Compromises on certain issues were agreed, however, at a Ministerial meeting held in March. Both sides agreed that future government aid to Airbus would be granted only for research and development and not for production. They also agreed that any final settlement would include an "escape clause" allowing governments to assist companies that face unforeseeable financial troubles; to observe GATT rules banning certain inducements to aircraft purchasers; to set up a consultation mechanism; and, in principle, to invite other countries to adhere to the eventual U.S.-EC accord. They moved closer to agreeing in principle that any settlement should involve similar rules for both direct and indirect subsidies; disclosure of subsidies; and on appraisal of the commercial viability of the aircraft programs.

However, still unresolved were three central issues: the precise terms under which government

support would be permitted; definitions of acceptable commercial business practices; and transparency arrangements to enable third parties to gauge the actual level of subsidization. U.S. officials remained concerned that the EC insisted that the prohibition on future production support may not apply to aircraft models (A-330 and A-340) under development. The United States also rejected an EC request to address exchange rate fluctuations in an agreement. EC officials indicated that the weakened dollar—the currency of the civil aviation market—has increased production costs for Airbus relative to its U.S. rivals. The U.S. government expressed concern that this proposal would not only negate the advantage of dollar depreciation, but would also set a dangerous precedent for other industries. On the other hand, EC officials commended the accord for covering both indirect and direct subsidies. According to a report released by Airbus, U.S. aircraft manufacturers Boeing and McDonnell Douglas have received \$23 billion between 1978 and 1987 in indirect subsidies, mostly in the form of funding for military research and development.

Despite important convergence on certain issues, the settlement reflected agreement on principles rather than details. Efforts to resolve remaining issues stalemated throughout the spring and summer. Continuous delays and lack of progress at technical meetings frustrated U.S. officials. As a result, the Cabinet-level Economic Policy Council met in late July to discuss U.S. strategy in the Airbus dispute. Following the meeting, the U.S. Administration reiterated its resolve to settle the dispute and warned that the dispute could intensify if Airbus governments granted any new state subsidies to the aircraft consortium. Although U.S. officials stopped short of suggesting retaliation, the council agreed to keep all options open, including retaliation under Section 301. Nonetheless, negotiations remained stalemated through the end of the year.

Several new twists to the Airbus dispute were introduced in 1988. A proposal by an "expert's group" to restructure Airbus Industrie resulted in an agreement among Airbus owners to introduce a slimmed and strengthened management structure in 1989. A recommendation that is still under consideration would transform Airbus into a public limited company sometime after 1992. This restructuring would require Airbus to publish financial information for the first time and would therefore make more transparent the level of government subsidies to Airbus.

Two American aircraft manufacturers discussed possible future cooperation with Airbus. Throughout the year, officials from Airbus and McDonnell Douglas discussed the possibility of signing an industrial cooperation agreement. In August, Lockheed submitted a proposal to Airbus

to build Airbus planes in the United States on a subcontractor basis.

U.S. officials were particularly concerned at the end of the year over efforts by Daimler-Benz, the largest enterprise in West Germany, to take over Messerschmitt-Bolkow-Blohm (MBB). MBB is the leading aerospace company in West Germany whose wholly owned subsidiary—Deutsche Airbus—represents Germany's 37.9-percent share of the Airbus consortium. Efforts to shift some of MBB's 52.5-percent public ownership to the private sector through a Daimler-Benz-MBB merger has been conditional on the German Government's ability to cover the financial risks of current and future Airbus projects. In November, the German Cabinet approved the merger, including a plan for Bonn to assume the financial risks involved in the construction of Airbus over a 10-year transitional period. The German Government also agreed to protect against exchange rate risks by making up the difference between a dollar exchange rate of DM 2.00, at which the Airbus is calculated, and the actual rate, to a maximum of DM 1.60.³² The USTR warned that the exchange rate risk package sets a dangerous precedent and would greatly increase trade tensions across the Atlantic.³³

Canada

The Economic Situation in 1988

The Canadian economy continued to enjoy vigorous expansion in 1988, the sixth year of an extended upswing. GDP growth for the year registered 4.5 percent, fueled by increases in mining, construction, wholesale trade, and transportation; industrial production increased 4.2 percent from 1987 to 1988. During 1988 capacity utilization was at its highest level in seven years.

For the year as a whole, however, inflation remained steady, registering 4.0 percent, down from the 4.4 percent level of 1987. The central bank maintained an activist inflation-fighting role during the year, repeatedly raising interest rates. The prime rate climbed from 9.75 percent to 12.25 percent during the year. This was the highest rate in almost three years.

The Federal budget deficit, a problem area in the recent past, remained intractable. The OECD reported in 1988 that public debt in Canada as a

³² In April 1989, the Federal Cartel Office ruled against the merger of Daimler-Benz and MBB because it would have allowed Daimler, already the largest industrial enterprise in West Germany, to monopolize the market in the armaments, aeronautics and space, and truck industries. The merger is still being debated within the German government.

³³ On Mar. 20, 1989, the United States requested formal consultations with the EC under the Subsidies Code to discuss the exchange rate subsidy plan.

percentage of GDP/GNP was 69.5 percent,³⁴ the second highest level among G-7 countries after Italy.³⁵ The policy of lowering the debt level in Canada was aided by the buoyancy in the Canadian economy as tax revenues were expected to increase.³⁶ Despite a decline in the size of the annual budget deficit, curbing public debt remains a major problem for the government.

In 1988 Canada experienced the greatest increase in investment spending among G-7 countries. While the average change in business investment was 10.6 percent, in Canada the rate was 19.0 percent. Over the period 1985-1987, Canada's direct investment in the United States grew by 26.9 percent; U.S. direct investment in Canada grew by 21.3 percent over the same period.³⁷ Canada is the fourth most significant investor in the United States, behind Great Britain, the Netherlands and Japan. Canada's largest holdings are in the real estate industry, where it accounts for 15.5 percent of all foreign direct investment in the sector.³⁸

The unemployment rate, a serious concern to Canadian policy makers over the past several years, continued its decline in 1988. The 8.9 percent average for the year made 1987 the first time in 6 years that the Canadian annual unemployment rate registered under 9 percent. In 1988 unemployment averaged 7.8 percent, a 14-year low. Significant regional disparities continue to exist in unemployment rates, however. For example, Ontario, Quebec and the Prairie provinces with rates of 5.0, 9.4 and 7.8 respectively, are sharply outdistanced by the Atlantic provinces and British Columbia (12.6 and 10.4 percent).

The Canadian current account balance for 1988 was a negative \$6.0 billion, a decrease from the negative \$8.0 billion of 1987. The merchandise trade balance was in surplus in 1988—\$7.2 billion, down from \$8.3 billion in 1987. Overall, Canadian exports increased by 8.8 percent during the year, while imports rose 13.3 percent. The vigorous economic expansion fueled strong domestic demand leading to the rise of imports into Canada. The appreciating dollar cut into export sales.

³⁴ The comparable statistic for the U.S. public debt is 51.3 per cent.

³⁵ OECD, *Economic Outlook*, December 1988. The G-7 countries are: the United States, Canada, Japan, France, West Germany, Italy and the United Kingdom.

³⁶ For the first half of FY 1987-88 the deficit dropped to C\$28.9 billion. New tax measures that took effect in 1988 further aided in the reduction of the government deficit. See later section on tax reform.

³⁷ U.S. Department of Commerce, *Survey of Current Business*, vol. 68, August 1988.

³⁸ *Ibid.*

The Canadian dollar continued to strengthen against the U.S. dollar in 1988, appreciating 9.2 percent over the year. The Canadian dollar averaged 81.25 U.S. cents for 1988, changed from 75.43 cents in 1987.³⁹ The dollar fluctuated between 76.96 U.S. cents and 83.86 cents during 1988.

Merchandise Trade with the United States

Canada and the United States are each other's most important trading partners. In both volume and value, theirs is the largest trading relationship between two countries in the world. In 1988 U.S. exports to Canada, driven by the continuing strong expansion of the Canadian economy, increased 15.6 percent, more than doubling their 7.2 percent climb of 1987. U.S. imports from Canada increased by 13.9 percent during the year, again a sharp increase from the 4.0 percent rise registered the previous year. The merchandise trade deficit, which the United

³⁹ The Canadian dollar reached a seven year high in December 1988, when it hit 84.33 cents.

States has had with Canada for every year but one since 1970, increased from \$13.8 billion in 1987 to \$14.8 billion in 1988.⁴⁰ Table 9 shows U.S. trade with Canada by broad industrial categories. U.S. exports increased in all of the ten SITC sectors. The machinery and transportation equipment sector is the major area of bilateral trade between the United States and Canada. Trade in this sector accounted for half the overall shipments to Canada in 1988. Trade in motor vehicles accounted for over 90 percent of bilateral trade in SITC section 7. This trade is governed by a 1965 bilateral agreement that provides for duty-free treatment for imports of specified automotive products.⁴¹

⁴⁰ The U.S. bilateral deficit is, by definition, a Canadian bilateral surplus. This surplus in merchandise trade with the United States is partially offset by deficits with other trading partners, particularly the EC. The overall merchandise trade situation for Canada was still \$7.2 billion in surplus in 1988.

⁴¹ U.S.-Canadian trade in motor vehicles is discussed below in the section on the operation of the Automotive Products Trade Agreement.

Table 9

U.S. merchandise trade with Canada, by SITC¹ Nos. (Revision 2), 1986-88

(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	1,324,288	1,539,376	1,745,418
1	Beverages and tobacco	49,457	58,205	64,107
2	Crude materials, inedible, except fuel	1,360,875	1,665,860	1,817,816
3	Mineral fuels, lubricants, etc	1,397,347	1,360,327	1,399,951
4	Oils and fats, animal and vegetable products	27,013	36,092	36,188
5	Chemicals	2,655,318	3,250,527	3,777,995
6	Manufactured goods classified by chief material	3,631,443	4,770,644	5,854,212
7	Machinery and transportation equipment	25,572,793	29,227,230	32,970,082
8	Miscellaneous manufactured articles	2,548,682	3,148,885	3,623,457
9	Commodities and transactions not elsewhere classified ..	14,597,897	11,943,901	14,621,111
	Total	53,165,113	57,001,048	65,910,336
<i>U.S. imports³</i>				
0	Food and live animals	2,669,566	3,046,250	3,131,021
1	Beverages and tobacco	457,075	474,653	510,168
2	Crude materials, inedible, except fuel	5,695,148	6,369,175	6,986,724
3	Mineral fuels, lubricants, etc	6,473,152	6,672,853	6,717,960
4	Oils and fats, animal and vegetable products	28,968	50,124	100,487
5	Chemicals	2,720,306	2,970,451	3,695,267
6	Manufactured goods classified by chief material	11,677,339	13,296,748	15,497,623
7	Machinery and transportation equipment	29,880,206	30,584,538	36,310,908
8	Miscellaneous manufactured articles	3,185,446	3,399,744	3,684,539
9	Commodities and transactions not elsewhere classified ..	5,359,773	3,986,089	4,043,924
	Total	68,146,979	70,850,625	80,678,621

¹ Standard International Trade Classification

² Domestic exports, f.a.s.

³ Imports for consumption, customs value.

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

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

The leading products exported to Canada from the United States were parts of motor vehicles, automobiles, trucks, parts of office machinery, computers, and coal.⁴² These leading items represented nearly half the total of U.S. exports to Canada in 1988. (See appendix table B-7.)

U.S. imports from Canada increased in each of the ten SITC sectors. Imports of machinery and transportation equipment dominated the flow of goods from Canada, accounting for 45 percent of 1988 imports. The leading U.S. imports from Canada in 1988 were passenger cars, parts of motor vehicles, newsprint paper, trucks, crude petroleum, natural gas, methane, ethane, propane and butane, wood pulp and lumber. These categories of goods accounted for 48 percent of total imports from Canada during the year. Imports of passenger automobiles, the most significant item, increased over 30 percent in 1988. (See appendix table B-8.)

Major Policy Developments Affecting Trade

United States-Canada Free Trade Agreement

The FTA and the process of its approval by each Government dominated bilateral relations during 1988. The FTA and the negotiations leading up to it marked the most important bilateral issue of 1987. Over three years in the making, the agreement was concluded in October 1987, after intense last-minute negotiations and the near collapse of the talks. As 1988 began, President Reagan and Prime Minister Mulroney signed the agreement simultaneously but separately on Jan. 2, 1988, and both sides were preparing to submit legislation to their respective legislatures to put the agreement into effect. Action on the agreement shifted to ratification, with January 1, 1989, being the target date for implementation of the accord.⁴³

The FTA is important not merely as a catalyst for increased bilateral trade. It includes numerous provisions on topics of multilateral interest. Its provisions covering all services, and financial services in particular, as well as its inclusion of a unique dispute settlement mechanism are likely to have an impact on the Uruguay Round of GATT negotiations currently underway. The FTA's

⁴² Two other statistical items appear as leading items in app. table B-7. One provides for undocumented exports to Canada, a new category which is the result of a recent agreement to reconcile bilateral trade statistics. (For additional information, see the *Operation of the Trade Agreements Program, 38th Report, 1986*, p. 4-12, fn. 6.) The value of these undocumented exports increased over \$1 billion from 1987 to 1988. The other is the result of a new statistical classification which categorizes general merchandise according to a relatively low dollar value, without further product identification.

⁴³ This date, explicit in the agreement, assumes concurring action by the Canadian Parliament and the U.S. Congress.

commitment for a harmonization of trade laws between the world's leading trade partners could also have far-reaching multilateral implications.

On July 25, 1988 President Reagan submitted the final legal text of the FTA, along with the implementing legislation, and the required Statement of Administrative Action as well as the statement of how the FTA serves the interests of the United States to the Congress. By a wide margin the U.S. House of Representatives approved the FTA between Canada and the United States on August 9th. Action was surprisingly swift and reflected the considerable preliminary work that went into the legislation sent to the Congress. Under the terms of the fast-track process, Congress could vote the FTA only up or down, without any modifying amendments. As a result, the Administration worked with legislators in crafting a package that would win wide acceptance and still remain true to the agreement that had been renegotiated with the Canadians. The package of implementing legislation proposed to Congress by the White House on July 25 included a statement of benefits, or more formally a "Statement of Reasons as to How the United States-Canada Free Trade Agreement (FTA) Serves the Interests of U.S. Commerce."⁴⁴

Among the Canadian duties to be eliminated immediately are those on data processors, certain semiconductor devices, telephone sets, some telecommunications equipment, motorcycles, furs, raw hides, some unprocessed fish, whiskey, and rum. Pre-FTA Canadian duties on these products range as high as 17.5 percent.

The U.S. Senate passed the agreement on September 28, 1988. At that point the focus of FTA activity shifted to Ottawa, where the Canadian Parliament had to complete action on the legislation. Debate in Canada on the entire FTA issue was considerably more intense than in the United States. This was true throughout the entire three-year period of discussion and negotiation. While the agreement had been through two of the three required readings in the House of Commons, it became the subject of serious political wrangling in the Canadian Senate, whose approval is required before any piece of legislation becomes law. The Senate,

⁴⁴ The statement addressed how the agreement will effect U.S. trade in goods and services, U.S. investments in Canada, and specific sectors of the U.S. economy. It summarized the overall economic and trade effects of the agreement by highlighting the fact that the average tariff rate on U.S. dutiable imports entering Canada is 9.9 percent. This contrasted with a U.S. average of 3.3 percent on dutiable imports from Canada. (The statement includes average tariff data on specific categories of products, illustrating the tariff differentials between the United States and Canada.) The welfare gains in the United States from duty elimination under the FTA range between \$1 billion and \$3.5 billion. U.S. exports to Canada are expected to increase by about \$2.4 billion.

with its appointed membership heavily weighted by members of the Liberal party, then out of power, threatened to take no action on the FTA unless and until the pact received approval by the electorate. In effect, this meant that the issue must be placed before the Canadian public in a national election. This further politicization of the FTA issue by the Canadian upper house was unprecedented.

Given the political stand-off on Canadian passage of the trade pact, the Government was forced to call elections. Since the FTA was the principal issue of the campaign, the election was widely recognized as a referendum on the pact by the Canadian electorate. On November 21, Canadian Prime Minister Brian Mulroney and his Progressive conservative (PC) party were returned to office in Canadian Federal elections. This event was preceded by a campaign that was marked by serious divisions between the majority PC party and the two other major Canadian parties, the New Democrats and the Liberals. A party needs at least 148 seats in the House of Commons in order to have a mandate to set up a government. In the previous Parliament the PC's held 211 out of the 281 seats. They were returned to majority status with 169 seats in the Parliament in mid-December. The agreement was eventually passed by both houses of Parliament on December 30, 1988, just in time to go into effect on January 1, 1989.⁴⁵

The implementation of the agreement on both sides of the border, however, will not bring about the instant or complete cessation of trade hostilities anticipated in some quarters. For example, the agreement will not bring any major changes in the way either country handles dumping and countervailing duty cases involving the products of the other. Nonetheless, there will be some immediate changes in the appeal process. At the outset, such cases will be subject to appeal by an appointed binational review panel. The binational panel will replace the present adjudicatory appeals process under each country's own trade laws. This binational appeal arrangement in antidumping and countervailing duty cases is slated to be in effect for five years, although it could be extended for an additional two years. What happens after this time period is a question left unanswered by the FTA.

The FTA also calls for the establishment of a "working group" to "seek to develop a substitute system of rules for dealing with unfair pricing and government subsidization".⁴⁶ The substitute system would be the ultimate phase in dealing with dumping and subsidy disputes under the

⁴⁵ Another significant change that occurred at yearend was the institution of the Canadian International Trade Tribunal, a new organization that replaced the Canadian Import Tribunal, the Tariff Board, and the Textile and Clothing Board.

⁴⁶ A working group on subsidies is established under section 1907 of the agreement.

FTA. Meanwhile, the operation of the interim binational appellate system is considered critically important because the experience gained from it will contribute greatly to the development of a viable "substitute system." Any new system will require the approval of the legislative bodies in both countries. A smoothly functioning bilateral panel will go a long way toward providing the political leverage necessary for either country to muster the strength to pass the required changes for genuine binational trade rules. The FTA could even provide an example to the multilateral trade community of how to define and maintain certain subsidies.

Tax Reform

The problem of chronic budget deficits is not unique to the United States. A number of western democracies share the difficulty, but the issue has become particularly significant in Canada, where the annual deficit as a percentage of gross national product (GNP) measures over 4.5 percent.⁴⁷

A proposal for a comprehensive program of tax reform was introduced in May 1985, updated in October 1986, and implementing legislation appeared in December 1987. The legislation was approved by Parliament in September 1988. The proposal called for a two-stage alteration in the country's tax system. The first stage, to be implemented by the end of March 1989, lowers statutory corporate and personal tax rates; the second stage will see a form of value added tax replace the existing manufacturers' sales tax. The reform was prompted by a desire to enhance the performance of the economy by reducing marginal tax rates. It was believed that as a result of tax preferences and exemptions developed over the years, the efficiency and international competitiveness of the Canadian economy were being hampered. The desire for simplification gave rise to proposals for lower tax rates, a wider tax base, and broader tax brackets.

It is well accepted, however, that U.S tax reform influenced the speed of implementation in Canada. The economic implications of the U.S. tax changes were predictable in Canada. Left unchanged, Canadian corporate rates—much higher than those in the United States—would seriously disadvantage Canadian businesses as binational companies could arrange to account for revenues in the low-tax country and costs in the high-tax country. Similarly, any significant disparity in personal income tax rates could unduly affect the high-tax country (i.e. Canada).

In both Canada and the United States the bulk of tax receipts comes from personal income

⁴⁷ The comparable figure for the United States is under 2.5 percent.

taxes. The Canadian tax system, however, differs from that of the United States in a number of respects. Tax revenues from all levels of government equal about one third of GDP. This is greater than the U.S. figure. While the share of revenue from personal and corporate taxes is about the same in both Canada and the United States, general sales tax revenue is greater in Canada. Indirect taxes (tariffs, specific excises, license fees, etc.) represent 28 percent of Federal tax revenue in Canada and only 8 percent in the United States. In Canada the Federal share of overall tax revenue is about 50 percent, with personal taxes accounting for 45 percent of the total of federal tax receipts; corporate taxes, 11 percent; and the Federal sales tax, 14 percent.

The effects of the first stage of reforms were registered in mid-1988, as Canadian taxpayers on average took home about \$25 more each month.⁴⁸ On the income tax side, this was the result of the lowering of the statutory tax rates and the conversion of certain exemptions and deductions into tax credits. On the corporate tax side, the reduction in rates was coupled with a number of measures designed to broaden the tax base. These measures are aimed at offsetting the revenue loss resulting from the reform of personal income tax rates as well as enhancing international competitiveness and promoting small business.

The second stage of the comprehensive tax reform program is to address the manufacturers' sales tax (MST). Originated in the 1920s, the MST is considered cumbersome, inefficient, and unfair. It is levied at several rates, requires a number of arbitrary decisions for the categorization of goods and the calculation of manufacturing costs. In addition, the MST discriminates in favor of imports and against exports. Implementation of the second stage is not expected before the early 1990s and will require coordination between the Federal and provincial governments. The Federal Government in Ottawa is said to prefer a National Sales Tax (NST) in order to spread the tax burden more equitably and to create fewer distortions in the Canadian economy. Any changes to the existing MST will require consultations with the provinces.

Foreign Investment and Mergers

In its annual report for fiscal year 1987-88 Investment Canada⁴⁹ showed direct foreign investment in Canada climbing by 18 percent over that in the previous year. The Can\$8.7 billion inflow was the highest in Canada's history. The continued globalization of the world

⁴⁸ Dollar figures mentioned in this section refer to U.S. dollars unless otherwise stated.

⁴⁹ Investment Canada is the agency of the Canadian Government charged with overseeing and enforcing Canada's investment laws. Its responsibilities also include encouraging foreign investment in Canada.

economy offers one explanation for the increase in foreign direct investment in Canada. Other factors include the political stability of the area, the excellent transportation infrastructure already in place, and the decline in the value of the U.S. dollar.

Citing the "explosion of foreign investment" in the world since the mid 1980s, the Investment Canada report acknowledged the importance of "strategic partnering" as a means to expand markets and secure international competitiveness through increased investment. It also called attention to the global sourcing and market niche strategies increasingly being adopted by Canadian firms—another explanation of "partnering".

The United States is the largest foreign investor country in Canada, while Canada trails the United Kingdom, the Netherlands, and Japan as a source for foreign direct investment in the United States. Analysts in the United States and Canada predict that trade and investment will increase in both countries as a result of the FTA. Whether the increases in foreign direct investment will be mainly bilateral or will come from the rest of the world, remains to be seen. The implementation of the FTA on both sides of the border is still in its earliest stages, and the longer term effects of the trade pact on investment trends on both sides of the border are unclear.

The growth in foreign investment in Canada comes despite a long standing Canadian concern over foreign ownership of its economic base. This fear led to official control and review of foreign investment in the late seventies and early eighties. However, the establishment of Investment Canada with its mandate of outreach and promotion of the investment potential of Canada, may have reduced Canada's negative image in international investment circles, as the data recently reported by Investment Canada seem to bear out. Canadian concerns over foreign investment may emerge again, however, if FTA opponents successfully portray the growth in foreign investment as a loss of Canadian economic control.

Although the reported growth in foreign investment in Canada during fiscal year 1987-88 occurred prior to the implementation of the FTA, continued increases in foreign investment are expected as familiarity with the terms of the FTA spreads. The more likely strengthening of investment activity in Canada, coupled with the upsurge in merger activity and Canadian sensitivity to foreign ownership in general, will allow opponents of the pact an opportunity to counter the generally optimistic predictions of the effects of the FTA. Such opposition only underscores the importance of the Investment Canada objective "to explain to Canadians how

foreign investment can help to improve our industrial competitiveness.”

Operation of the Automotive Products Trade Agreement

Trade in automotive products constitutes the greatest segment of commerce between the United States and Canada. The Automotive Products Trade Agreement of 1965 (Auto Pact) liberalized this trade, with two-way automotive trade between the two countries growing from \$716 million in 1964 to \$51.5 billion last year.

The Automotive Products Trade Act (APTA) of 1965 implemented a bilateral agreement between the United States and Canada that removed duties on trade between the two countries in new motor vehicles and original-equipment parts. In effect, the agreement created the basis for an integrated automobile industry in North America.⁵⁰

⁵⁰ According to art. I, the agreement has three objectives: “the creation of a broader market for automotive products within which the full benefits of specialization and large-scale production can be achieved; the liberalization of United States and Canadian automotive trade in respect of tariff barriers and other factors tending to impede it, with a view to enabling the industries of both countries to participate on a fair and equitable basis in the expanding total market of the two countries; and the development of conditions in which market forces may operate effectively to attain the most economic pattern of investment production and trade.”

Because the United States did not extend this customs treatment to automotive products of other countries with which it has trade-agreement obligations, it obtained a waiver of its most-favored-nation (MFN) obligations

Previous research has identified several problems in accounting for all the trade in automotive products between the United States and Canada. U.S. export statistics, for example, sometimes fail to capture as automotive products those goods having a variety of end uses (e.g., engine parts, nuts, bolts, fabric for seat covers, and so forth). Consequently, a joint U.S.-Canadian committee studying overall trade statistics agreed that each country should use its own import statistics to report its imports, and use the other country’s import statistics to report its exports.⁵¹ The result is the “import/import” method of reporting automotive trade used in table 10.

⁵⁰—Continued

under GATT insofar as they pertain to automotive products. Canada, on the other hand, did not consider it necessary to obtain a GATT waiver because, at the time the agreement went into effect, it accorded duty-free treatment to specified automotive products on an MFN basis to all manufacturers with production facilities in Canada. There is, therefore, a difference in the application of the agreement in the two countries. In the United States, anyone may import a finished vehicle from Canada covered by the agreement duty free. In Canada, however, the duty-free import privilege is limited to vehicle manufacturers, but they may import auto parts free of duty from most other countries in addition to the United States. Individuals importing motor vehicles, or parts thereof, from the United States must pay the Canadian duty.

⁵¹ The Committee’s study, entitled *The Reconciliation of U.S.-Canada Trade Statistics 1970, A Report by the U.S.-Canada Trade Statistics Committee*, was published jointly by the U.S. Department of Commerce, the U.S. Bureau of the Census, and Statistics Canada.

Table 10
U.S.-Canadian automotive trade, 1964-88
(In millions of U.S. dollars)

Year	U.S. Imports	Canadian Imports ¹	Canadian Imports less U.S. Imports
1964	76	640	563
1965	231	889	658
1966	819	1,375	556
1967	1,406	1,889	483
1968	2,274	2,634	360
1969	3,061	3,144	83
1970	3,132	2,935	-197
1971	4,000	3,803	-197
1972	4,595	4,496	-99
1973	5,301	5,726	426
1974	5,544	6,777	1,233
1975	5,801	7,643	1,842
1976	7,989	9,005	1,016
1977	9,267	10,290	1,023
1978	10,493	10,964	471
1979	9,715	12,274	2,559
1980	8,780	10,552	1,773
1981	10,618	12,055	1,437
1982	13,292	10,971	-2,321
1983	16,940	14,779	-2,161
1984	23,047	18,996	-4,051
1985	24,726	21,450	-3,276
1986	24,817	21,488	-3,329
1987	24,579	22,109	-2,470
1988	29,229	23,164	-6,065

¹ Canadian Import data converted to U.S. dollars.

Note.—Data exclude trade in materials for use in the manufacture of automotive parts and are adjusted to reflect transaction values for vehicles.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

Canada rang up a record surplus in automotive trade with the United States in 1988. Spurred by an 18.9 percent increase its exports, the bilateral surplus amounted to about \$6 billion. This constituted a record U.S. deficit, nearly tripling the deficit of 1987, and 72 percent greater than the previous high attained in 1986.

The Auto Pact governs the most significant sectoral flow of trade between the United States and Canada. At a time when both countries have ratified the FTA and an even closer trading relationship, the Auto Pact is looked upon by some as an anachronism. The Auto Pact, however, is not a true sectoral FTA; if it were, it could be incorporated into a broader, comprehensive liberalization scheme. But the pact, at least as it is administered by Canada, does not fully constitute an FTA. Canada applies duty-free status only to automotive imports from bona fide manufacturers of motor vehicles. The United States, on the other hand, provides duty-free status to all new (original-equipment) automotive imports from Canada, whether for manufacturers or individuals. According to the agreement, the United States provides duty-free status for automobiles, buses, and most trucks assembled in Canada with a 50-percent North American content. Therefore, Canada can incorporate parts imported free of duty from third countries into vehicles produced in Canada and export those products free of duty to the United States. Furthermore, in "Letters of Understanding," Canadian manufacturers pledged to increase the Canadian value-added to at least 60 percent by the end of 1988.⁵²

U.S. exports to Canada rose in all categories, with exports of passenger cars rising 6 percent in 1988 (table 11). This increase in U.S. automotive exports to Canada may be a reflection of a 9 percent fall in the average Canadian sticker price of U.S. vehicles between 1987 and 1988. The greatest increase in U.S. imports in automotive products from 1987 to 1988 was in passenger cars, where imports increased by 30 percent over 1987.

U.S. Canadian trade in automotive products will be subject to both the FTA and the auto pact until 1998. As the FTA is phased in, it will begin to be superimposed on the APTA, but it will not function in lieu of it. Automotive products qualified for entry into the United States under the APTA will continue to receive duty-free

⁵² Under the APTA, Canadian manufacturers received favored status. In a previous report, the U.S. International Trade Commission stated that "the agreement as implemented by Canada is not a free trade agreement, and it has primarily benefited the Canadian economy." The report further states that the concessions provided through APTA are made by the United States, whereas Canada made no substantive concessions except those in the Letters of Understanding. See *Canadian Automotive Agreement*, U.S. International Trade Commission, Ninth Annual Report, 1976.

treatment, while those products not qualified to be imported under the APTA will be dutiable at applicable column 1 rates. Under the FTA, the tariff on automotive parts for use in original equipment that are not covered by the APTA, will be phased out by January 1, 1998, at which time a free rate of duty will apply. Tariffs on by the APTA, on the other hand, are to be eliminated over a period of 5 years. When duty rates on all U.S. and Canadian products are phased out on January 1, 1998, the FTA will supersede the APTA from a U.S. perspective because it will no longer be necessary to have a separate agreement covering automotive products. Conversely, the APTA may continue as an effective agreement after 1998 from a Canadian viewpoint, because Canada has always treated the AOTA as a multilateral agreement; i.e., pertaining to products imported from the United States and all other countries that meet certain local value-content requirements.

Although the FTA acknowledges the Auto Pact and extends it into the future, a few of the FTA provisions have been contested by sections of the auto industry. The rules of origin in the FTA call for a 50 percent North American product content to qualify for duty-free passage across the border, a percentage that the auto parts industry generally feels should be higher. Also controversial is the Canadian duty remissions program, protested in a 1988 petition for an investigation under section 301 of the Trade Act of 1974. The petition, filed by Michigan Governor James Blanchard, claimed that the duty remission program constitutes an unfair export subsidy.

Rules of origin

According to the rules of origin outlined in the FTA, to qualify for duty-free treatment, goods from a third country must contain 50 percent North American value-added based upon direct cost of production, or undergo sufficient change once in North America to result in a change in tariff classification. Some parties, including the United Auto Workers (UAW), the Motor and Equipment Manufacturers Association, and the Automotive Parts and Accessories Association (APAA), maintained that 50 percent is not adequate enough to keep third-country producers from taking advantage of the bilateral agreement to evade duties.⁵³ Concern about the 50 percent

⁵³ Those favoring an increase in the content requirements to 60 percent agreed that parts imported from certain NICs are likely to be lower in cost than those produced in North America, and that when the 50 percent content requirement is calculated from the direct cost of production, an auto that qualifies for duty-free treatment may actually be less North American than foreign. See Congressional Research Service, Report for Congress, Oct. 19, 1988, p. 11.

Table 11.

U.S.-Canadian automotive trade, by specified products, 1987 and 1988

(In millions of U.S. dollars)

Item	1987	1988
U.S. Imports from Canada: ¹		
Duty free: ²		
Passenger cars	10,173	13,241
Trucks, buses, and chassis	5,119	5,958
Parts and accessories	7,813	8,473
Total	23,105	27,672
Dutiable:		
Passenger cars	13	17
Trucks, buses, and chassis	42	35
Parts and accessories	920	1082
Tires and tubes	498	423
Total	1,473	1,557
Total:		
Passenger cars	10,187	13,258
Trucks, buses, and chassis	5,161	5,993
Parts and accessories	8,733	9,555
Tires and tubes	498	423
Total	24,579	29,229
Canadian Imports from the United States: ³		
Duty free: ²		
Passenger cars	6,524	6,840
Trucks, buses, and chassis	2,406	2,384
Parts and accessories	12,212	12,613
Tires and tubes	14	156
Total	21,156	21,993
Dutiable:		
Passenger cars	31	155
Trucks, buses, and chassis	70	118
Parts and accessories	632	770
Tires and tubes	220	128
Total	953	1,171
Total:		
Passenger cars	6,555	6,995
Trucks, buses, and chassis	2,476	2,501
Parts and accessories	12,844	13,383
Tires and tubes	234	285
Total	22,109	23,164
U.S. automotive trade balance	-2,470	-6,065

¹ U.S. Import data.² Duty free under the United States-Canada Automotive Products Trade Agreement.³ Canadian import data (preliminary tables) converted to U.S. dollars as follows: 1987, Can\$1.00=US\$0.7543; and 1988, Can\$1.00=US\$0.8125. Canadian import data are not yet available.

Note.—U.S. Imports are f.a.s. or transaction values, as published by the U.S. Bureau of the Census. Canadian Imports are valued on a similar basis.

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

rule was also expressed in Canada. Victor Lonmo, head of the Automotive Parts Manufacturers Association of Canada, said that the move does "absolutely nothing" to help auto parts producers in meeting stiff competition from overseas auto makers.⁵⁴ He claimed that the movement from 50 percent to 60 percent would ensure that most of the powertrain, transaxle, and electronics (the high-tech equipment) in each motor vehicle would have to be produced in North America.⁵⁵

⁵⁴ Toronto *Globe and Mail*, Oct. 6, 1987, p.B6.⁵⁵ U.S. Department of State, Toronto, Jan. 27, 1988.

In December 1987, before the FTA was signed, USTR Yeutter attempted to convince Canadian officials that the North American content should be raised to 60 percent.⁵⁶ Before the FTA was approved by the U.S. House of Representatives in August 1988, members of the House urged the Administration to change the language of the agreement to reach a 60 percent origin rule.⁵⁷ For a while, there was fear that this

⁵⁶ *Inside U.S. Trade*, Dec. 31, 1987, p. 8.⁵⁷ *Inside U.S. Trade*, June 24, 1988, p. 8. Rep. John Dingell led efforts by the Michigan congressional delegation to alter the North American content rule.

issue could threaten passage of the FTA by Congress, since the support of sections of the automotive industry seemed to hinge on these proposed changes that were unlikely to be agreed to by the Canadians. The Canadians did agree to discuss the possibility of raising the origin content after the pact became implemented, but would not set a specific date for those talks.

Duty remission

The subject of Canadian duty remission schemes has long been a sensitive issue in the United States.⁵⁸ Originally introduced in 1963, the concept came under attack in the United States and was dropped upon the signing of the Auto Pact. The programs were resumed between 1975 and 1978 in response to the large Canadian trade deficit with the United States in automotive trade. The deficit, however, has been reversed in the 1980s. Beginning in 1984, when Ottawa extended the export subsidy program to Japanese companies with production facilities in Canada, these programs increasingly came to be seen as unfair and harmful to the United States.⁵⁹

Upon implementation of the FTA, the export-based duty remission program was immediately dropped with respect to the United States. Remissions for exports to other countries would end January 1, 1998, after which U.S. parts manufacturers claim they may be at a competitive disadvantage in third country auto parts markets. The loudest complaints came over the production-based remissions which are not completely phased out by the FTA until 1996.

In October 1988, Governor James Blanchard of Michigan filed a section 301 petition with the USTR, asserting that the Canadian duty remission programs constituted an unfair practice that restricted U.S. commerce. The petition alleged that the Canadian programs constitute a subsidy for the export of autos to the United States and other countries and are therefore a violation of the GATT. It maintained that the duty remissions programs had placed U.S. parts firms at a competitive disadvantage in winning orders from auto makers in Canada and had also increased the level of U.S. imports. According to Marc Santucci, Blanchard's economic advisor, the

⁵⁸ There are two types of duty remission programs. The export-based program allows foreign vehicle importers in Canada a partial rebate on the duties they pay for imported vehicles proportional to a percentage of the Canadian value added in original equipment components they export from Canada. In practice, the majority of these exports have traditionally gone to the United States. The second type of program is production-based. This program grants foreign owned auto makers located in Canada reduced duties on vehicles and parts they import into Canada proportional to the amount of Canadian-built parts they purchase for their production operations in Canada. Such programs are now in effect with Honda, Toyota, Hyundai, and a joint venture between General Motors and Suzuki.

⁵⁹ *Journal of Commerce*, Nov. 17, 1988, p. 1.

programs distort parts supplier investment in Canada during the critical period that eligible foreign-owned manufacturers are establishing sourcing patterns for their Canadian assembly operations.⁶⁰

The case filed by Blanchard was rejected by the USTR in November 1988. The rejection was based on the fact that the case targeted trade problems that the USTR believed would be remedied in the FTA, and that an investigation at the time would have been inappropriate.⁶¹ At the time, both the UAW and the APAA expressed willingness to support a refiling of the 301 petition if the FTA were not implemented.⁶²

Although the FTA is generally seen as a beneficial and important step in U.S.-Canada relations, according to the U.S. auto parts industry, it is an imperfect document. Though a promise was secured from Canada to discuss at a later date the 50 percent content rule, the different attempts to change the language of the FTA in regard to the rule of origin and duty remissions were unsuccessful.

United States-Canada Bilateral Trade Issues

Alcoholic Beverages

The issue of the control of alcoholic beverages in Canada by provincial liquor boards has been a nettlesome one for some time. The effects of discriminatory practices on the part of some provincial boards against U.S. products⁶³—a continuing bilateral irritant—were expanded when similar allegations against Canada were brought to the GATT by the EC.⁶⁴

In late March 1988 Canada agreed to the adoption of a GATT panel report that recommended removal of Canada's discriminatory regulations on wine and spirits, practices implemented by certain of its provincial liquor boards. At the time, Canada indicated that it was undertaking negotiations with the provinces to arrive at possible changes in the regulations. However, the Canadian trade minister stated that Canada will not change its practices affecting imported beer. The minister noted that only one-half of 1 percent of Canada's imported beer

⁶⁰ *Automotive News*, Mar. 28, 1988.

⁶¹ *Inside U.S. Trade*, Nov. 18, 1988, p. 22. In rejecting the petition, USTR Yeutter also said that a governor does not have any legal standing to file a section 301 petition.

⁶² The USTR announcement was made shortly before the Canadian election.

⁶³ See *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, p. 138.

⁶⁴ The EC-Canada GATT dispute is discussed in *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, p. 2-11; *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 2-16.

comes from the EC, the party that originally lodged the complaint.⁶⁵

U.S. exports of alcoholic beverages to Canada are covered by the FTA. The agreement requires the Canadian Government to eliminate the discriminatory provincial liquor practices regarding wine and spirits. However, it specifically exempts U.S. beer exports from this provision.⁶⁶ Canada is taking cautious moves to amend its provincial pricing, listing, and distribution practices on sales of imported alcoholic beverages. To counter both domestic and international criticism, Canada is changing its practices with respect to wine and spirits, but not beer. Since Canada foresees the regulatory changes as a threat to its domestic wine industry, the Government has agreed to move gradually to eliminate the practices on imported wine. The domestic distilleries are expected to weather the changes fairly well. Canadian beer brewers, on the other hand, lobbied hard for the exclusion of beer from any changes. They feared that U.S. breweries could potentially swamp the Canadian market with low-cost, excess supplies.⁶⁷

The Canadian wine industry has also been taking a close look at EC subsidies on wine production. In March 1988 the industry formally petitioned the Canadian Government, seeking duties and quotas on exports to Canada of subsidized EC wine. The move is seen as part of a broader struggle regarding the effects on Canadian producers of the EC Common Agricultural Policy on wine and grapes as well as many other agricultural products.

⁶⁵ The GATT dispute between Canada and the EC was a long-running one. In March 1985, the GATT Council set up a panel under article XXIII:2 at the request of the EC. The EC alleged that certain practices of the Quebec liquor board, in particular a markup on the sale price of certain alcoholic beverages, as well as other forms of restriction and discrimination, were unfair under GATT rules. As a result, the EC claimed the Quebec liquor board actions gave imports less favorable treatment than domestic products. The panel report ruling against the Canadian practices was completed and circulated to the parties in November 1987. After the report was circulated, Canada and the EC unsuccessfully attempted to arrive at a bilateral solution. In March 1988, when the report was adopted by the Council, Canada indicated that it would report back to the Council by yearend on its progress in eliminating the barriers. In December Canada and the EC reached agreement, with the Canadians acquiescing to a 7-year phase out of discriminatory pricing and limits on listings of imported wine from Europe.

⁶⁶ When the FTA was implemented in January 1989, the Province of Ontario was refusing to phase out discriminatory price mark-ups on U.S. wine. Following lengthy Federal-Provincial discussions, Ontario agreed to comply with the FTA provisions in March 1989. The differential will be phased out over a period of 7 years.

⁶⁷ A program of national treatment for imported beer has been promised. The Government has committed itself to eliminating mark-ups on imported beer when the Provincial Governments have eliminated internal barriers to domestic beer trade.

Shakes and shingles

Although most of the talks between the United States and Canada in 1988 concentrated on the FTA, not all trade discussions between the two countries led to the elimination of trade barriers. The midprogram review of a 1986 U.S. escape-clause action that resulted in increased duties on imports of red cedar shakes and shingles—a review which resulted in President Reagan's continuing the tariff—caused tension between the two countries, since all U.S. imports of shakes and shingles come from Canada.⁶⁸ A pivotal issue in the review was whether or not the tariff had been effective in helping the U.S. shakes and shingles industry respond to the injury caused by increased U.S. imports.⁶⁹

In June 1988, the USTR requested the Commission to investigate the probable economic effect on the domestic shakes and shingles industry if the temporary tariffs were removed after thirty months, that is, when the originally imposed tariff was scheduled to fall to 20 percent on December 6, 1988. Such a midcourse review had been provided for at the time relief was imposed in 1986. The ITC study was completed in October 1988.⁷⁰ The report showed that prices of shakes and shingles in the U.S. market increased approximately 50 percent since the imposition of the tariff.⁷¹ The report also showed that the U.S. supply of the old-growth red cedar, from which shakes and shingles are made, is

⁶⁸ The United States is Canada's largest shake/shingle export market.

⁶⁹ Shakes and shingles industry representatives met with President Reagan early in 1986 in search of protection from Canadian competition. In an investigation completed in March 1986, the USITC concluded that the U.S. industry was being harmed by imports, \$182 million worth in 1985, all of them from Canada. [*Wood Shakes and Shingles*, USITC Investigation No. TA-201-56, USITC Publication 1826, March 1986.]

On June 6, 1986, President Reagan imposed a temporary duty increase on Canadian shakes and shingles of 35 percent to be effective immediately and last through December 6, 1988, then to be lowered to 20 percent for two years until December 6, 1990, when it would be dropped to 8 percent for a final six months, and then terminated in June 1991. This U.S. move, announced by President Reagan on the same day that talks for the United States-Canada FTA began, greatly upset the Canadians. A request for equivalent concessions in response to the duty increase was immediately filed, but was subsequently denied. Following the denial, the Canadian Government retaliated with new or increased tariffs on various, unrelated U.S. products. [Canadian retaliatory tariffs were imposed on certain books, catalogues of publications issued by non-Canadian publishers, printed music, computer parts, certain semiconductor devices, tea bags, diesel motor rail cars and parts, oatmeal and rolled oats, certain trees, cider, asphalt paving oil, and ozone generators.] Within a month, the Canadian Government banned the export of red cedar bolts and blocks to the United States.

⁷⁰ *Western Red Cedar Shakes and Shingles: Report to the President on Investigation No. TA-203-18, under Section 203 of the Trade Act of 1974*, USITC Publication 2131, October 1988.

⁷¹ *Ibid.*, p. 24.

diminishing. One estimate projected that current total U.S. supplies would last about sixteen years at the harvest levels of 1980-1985, while Canadian supplies were estimated to last another century.⁷²

Because of this disparity in red cedar crop life and an eventual U.S. supply shortage, the Canadian ban on export of red cedar logs frustrated the attempt to assist the U.S. shakes and shingles industry through the tariff. With the Canadian supply cut off, American log prices rose. Though shakes and shingle producers were able to raise their prices for the finished product after the imposition of the tariff, it appears that a relatively large portion of these price increases reflected higher log prices. Canadian producers were still able to sell shake and shingles profitably in the U.S. market because of the higher prices. Many U.S. mills, however, closed.

Despite these problems, signs of improvement in the U.S. industry were apparent since the imposition of the tariff. The tariff produced a 22 percent decrease in exports in 1987 from 1985 levels.⁷³ Employment, total wages, and average hourly wages per worker all increased from 1985 through 1987.⁷⁴ The U.S. industry increased sales 64 percent in the eighteen months of the tariff, and U.S. market share went from 27.2 percent before the tariff to 44.1 percent. Many mills invested in both new, more efficient machines and in research and development in order to become more competitive.

Three of the six Commissioners found that the dramatic increase in shakes and shingles prices since the imposition of the tariff was passed on to the U.S. consumer. However, the remaining three Commissioners argued that the U.S. industry might be nonetheless hurt by the elimination of the tariff. The Canadian industry—two to three times larger than the U.S. industry and similar in structure—would be able, it was argued, to increase exports to the United States rapidly in response to higher export prices received by Canadian mills if the relief were terminated. The resulting oversupply would drive U.S. prices down and lead to a decline in U.S. market share—marginal U.S. producers would drop out of the industry and production would fall.⁷⁵

The Commission split 3-3 on the issue, half supporting continuation of the tariff, and half stating that continuation would not enhance the competitiveness of the domestic industry. In December USTR Yeutter announced that President Reagan would keep the five-year tariff, but scale it down over the final two and a half years. The tariff would drop as scheduled to 20

⁷² *Ibid.*, pp. 19-20.

⁷³ *International Trade Reporter*, Nov. 16, 1988, p. 1513.

⁷⁴ *Western Red Cedar* . . . , USITC Report, p. 35.

⁷⁵ *Ibid.*, pp. 39-40.

percent on December 6, 1988, but then drop to 10 percent on December 5, 1989, and then down to 5 percent on December 6, 1990, for the final six months until terminated in June, 1991.

Japan

The Economic Situation in 1988

The Japanese economy continued its dynamic growth during 1988, outperforming both governmental and private economic forecasts. Japan's GNP registered an inflation-adjusted increase of 5.7 percent in 1988, the highest since 1973, and a 1.2 percent improvement over 1987. Japan's economic growth rate in 1988 was the highest among the major industrialized countries. Consumer spending, the engine behind much of the growth, accounted for about 55 percent of total GNP. Japan's per capita GNP in 1988 was the highest among the seven largest industrial countries at \$23,400, compared to \$19,800 for the United States when an average exchange rate of ¥128.2=\$1.00 is used. If figures are adjusted to reflect cost of living, however, the United States would be ahead of Japan.⁷⁶

For the third year in a row, growth in Japan was achieved without depending on an expansion of real net exports. While exports rose by 15.6 percent in 1988 to \$264.9 billion, import growth was far faster, rising by 25.4 percent to \$187.4 billion. Japan's exports increased relatively slowly until the last quarter of 1988 when a surge in exports of machinery, attributed to a world-wide plant and equipment boom, contributed to a larger increase than expected. The overall result was a decline in Japan's merchandise trade surplus to \$77.4 billion in 1988 from \$79.7 billion in 1987.⁷⁷

The value of the yen against the dollar continued its upward climb in 1988, appreciating by 12.8 percent on a year on year basis, to an average of ¥128.2=\$1.00.⁷⁸ Japanese companies appeared to take the increase in stride as many had already adjusted to rising exchange rates of 41.5 percent in 1986 and 16.5 percent in 1987. In fact, corporate profits increased compared to 1987 results and economic growth increased.⁷⁹

As in 1987, much of the stimulus behind increased domestic demand came from the Government's supplemental budget, which raised spending by 6.2 percent over the revised fiscal year 1987 budget.⁸⁰ The supplemental budget

⁷⁶ All figures from "Japan's Economy Up Sharply in 1988", JEI Report No. 12B, Japan Economic Institute, Mar. 24, 1989.

⁷⁷ "Japan's Trade Surplus Dips in 1988 But Worries Mount", JEI Report 5B, Japan Economic Institute, Feb. 3, 1989.

⁷⁸ *International Financial Statistics*, International Monetary Fund, Vol. XLII No. 3, March, 1989.

⁷⁹ "Yen Reaches Plateau In 1988", JEI Report No. 1B, Japan Economic Institute, Jan. 6, 1989.

⁸⁰ Japan's fiscal year covers the period from April 1 through March 31.

included ¥552.8 billion to, among other things, help Japanese farmers adjust to the coming liberalization of agricultural products such as beef and oranges, ease introduction of a new three percent consumption tax, ¥6.7 trillion for public works spending, and ¥11.9 trillion in public welfare insurance.⁸¹

Unemployment in Japan continued to decline during 1988, falling to 2.5 percent from 2.9 percent in 1987. The number of job openings compared to job seekers continued to rise, with service sector jobs topping the growth list, followed by construction and wholesale/retail. Employment in the manufacturing and agricultural sectors, reflecting fundamental changes in the Japanese economy, declined.⁸²

Industrial production continued to surge ahead in 1988, and ended the year 9.4 percent ahead of 1987. Private sector orders for machinery were up 25.2 percent over 1987. Inventories continued to remain low and analysts speculated that Japanese manufacturers were making only modest progress in catching up with exceptionally strong domestic demand.⁸³

At \$79.5 billion, Japan's current account surplus in 1988 was 8.7 percent below the level of 1987. The decline was somewhat disappointing to the Japanese Government as forecasts had estimated a drop to \$72 billion for the fiscal year 1988. Analysts believe that higher domestic plant and equipment investment was a significant factor in shrinking Japan's current account surplus.⁸⁴

Japan continued to send huge amount of capital overseas in 1988, although net long-term capital outflows declined by 4.5 percent to \$130.3 billion from \$136.5 billion in 1987. Of total net long-term capital outflows, securities, especially bonds, continue to account for the majority of Japanese investment abroad. Japanese net purchases of bonds overseas increased from \$72.8 billion in 1987 to \$85.8 billion in 1988, a 17.9 percent increase. In the first half of 1988, 53 percent of these funds went to the United States. Japanese foreign direct investment reached \$34.1 billion in 1988, up by 74.9 percent over year earlier levels. For the first six months of 1988, 59 percent of Japan's foreign direct investment went to the United States.⁸⁵

⁸¹ "Fiscal Review: Revised FY 1988 General Account Budget", JEI Report No. 5B, Japan Economic Institute, Feb. 3, 1989.

⁸² Bureau of Labor Statistics, Department of Labor and "Inflation Watch In Japan", JEI Report. No. 10B, Japan Economic Institute, Mar. 10, 1989.

⁸³ "Japanese Economy Remains Strong", JEI Report No. 7B, Japan Economic Institute, Feb. 17, 1989.

⁸⁴ "Current Account Surplus Shrinks In 1988", JEI Report. No. 7B, *Ibid.*

⁸⁵ *Ibid.*

Merchandise Trade With the United States

The U.S. merchandise trade deficit with Japan declined to \$53.1 billion in 1988 from \$57.1 billion in 1987, or by 7.1 percent. The value of imports from Japan rose from \$84.0 billion in 1987 to \$89.1 billion in 1988, or by 6 percent (table 12). Imports of manufactured goods (SITC secs. 5, 6, 7, and 8) totaled \$87.5 million and accounted for 98 percent of total imports from Japan in 1988. Imports of monolithic integrated circuits or semiconductors, and parts of ADP machines, both increased by slightly over \$1 billion each, or 86 percent, and 37 percent (see appendix table B-10). The increases reflect continued strong demand in the United States for computers and related products in 1988. Other product categories where imports from Japan showed large increases in value from 1987 to 1988 were game machines (181 percent), chassis, bodies, and other parts of motor vehicles (31 percent), and telegraph or telephonic apparatus (73 percent).

Imports of autos from Japan, consistently the single largest import category, declined in 1988 for the first time in the 1980s, falling \$923 million to \$23.7 billion, or 27 percent of total imports in 1988, compared with 29 percent in 1987. Factors contributing to the decline were the increased cost of Japanese cars and the increasing number of Japanese cars built in the United States. As noted above, auto part imports rose by nearly one-third, to \$2.8 billion as Japanese car makers shifted to U.S. assembly of cars for sale in the U.S. market. Imports of trucks valued at \$1,000 or more, which declined in 1987, continued to fall in 1988, dropping from \$4.2 billion to \$3.1 billion or by 26 percent. Imports of tape recorders and magnetic recording media (tape cassettes), declined again in 1988 to \$2.5 billion (21 percent) and \$747 million (7 percent), respectively. Their continued decline reflects the increasing substitution of these products from Japan with lower priced consumer electronic products from the NICs.

U.S. exports to Japan, as shown in table 12, increased by 34 percent, from \$26.9 billion in 1987 to \$36.0 billion in 1988. The broad-based increase reflects in part the decline of the dollar, which made U.S. exports more economically attractive in Japan. Of the top five export items in 1988, three were agricultural, with exports of corn, in absolute terms, increasing the most, by \$580 million to \$1.6 billion (56 percent) (see appendix table B-9). Exports of fish and fresh or frozen beef or veal increased by \$368 million to \$1 billion (53 percent) and by \$267.8 million to \$811.6 million (49 percent), respectively. Exports of unwrought aluminum, which began to increase in 1987 as a result of tariff cuts, continued to increase in 1988, by \$359 million in 1987 to \$664

Table 12

U.S. merchandise trade with Japan, by SITC¹ Nos. (Revision 2), 1986-88

(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	4,105,483	4,652,843	6,720,809
1	Beverages and tobacco	390,401	864,489	968,612
2	Crude materials, inedible, except fuel	4,064,395	4,952,908	6,420,314
3	Mineral fuels, lubricants, etc	1,312,109	1,298,379	1,423,671
4	Oils and fats, animal and vegetable products	54,151	45,502	73,999
5	Chemicals	3,111,444	3,445,766	4,025,793
6	Manufactured goods classified by chief material	1,325,451	1,808,720	2,837,502
7	Machinery and transportation equipment	6,213,261	7,066,791	9,822,040
8	Miscellaneous manufactured articles	1,779,706	2,358,371	3,174,295
9	Commodities and transactions not elsewhere classified ..	534,445	409,861	574,540
Total		22,890,847	26,903,632	36,041,575
<i>U.S. imports³</i>				
0	Food and live animals	446,600	392,916	336,923
1	Beverages and tobacco	37,735	42,162	41,865
2	Crude materials, inedible, except fuel	136,315	158,288	187,792
3	Mineral fuels, lubricants, etc	79,567	88,128	123,303
4	Oils and fats, animal and vegetable products	10,958	17,256	14,324
5	Chemicals	1,757,976	2,108,219	2,126,043
6	Manufactured goods classified by chief material	6,833,591	6,569,658	7,371,475
7	Machinery and transportation equipment	65,118,259	66,716,722	69,928,286
8	Miscellaneous manufactured articles	6,736,153	7,077,426	8,032,636
9	Commodities and transactions not elsewhere classified ..	828,720	837,723	947,839
Total		81,985,873	84,008,499	89,110,486

¹ Standard International Trade Classification² Domestic exports, f.a.s.³ Imports for consumption, customs value.

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

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

million (118 percent). Higher shipments of manufactured goods also contributed to the increase in U.S. exports (SITC secs. 5, 6, 7, and 8) which grew by 35 percent in 1988. Exports of selected manufactured goods with large increases in value were digital CPU's (48 percent), parts of ADP, photocopying, and similar machines (31 percent), and electronic tubes, transistors, and other electronic components (44 percent).

Major Policy Developments Affecting Trade

During 1988, the Japanese Government undertook a number of policy actions which had potential trade effects. Three were noteworthy. The first was passage of a tax reform package to lower personal and corporate income tax rates and impose a three percent consumption tax. Complicating its passage, however, was the Recruit Cosmos scandal.⁶⁶ Japanese opposition

⁶⁶ The scandal became public in June after it was revealed that Recruit Cosmos Co., Ltd., a real estate company, had offered prefloatation shares of its stock to influential public and corporate officials. While this practice is not illegal in Japan, it became clear as details emerged that the stock offering was an effort to influence key government and private sector individuals. The

parties used the scandal to embarrass the Liberal Democratic Party (LDP) and delayed passage of the tax reform package until the end of the year. Government officials also signaled a policy change by publicly recognizing the need to reform the cumbersome, labyrinthian Japanese distribution system. During the year a number of Japanese Government and industry studies were begun or released which recommended changes in the system. In June, after a series of consultations, the United States and Japan signed a new Science and Technology Agreement, with one of the key provisions providing for increased access for U.S. researchers and scientists to private Japanese labs.

While it is impossible to place a dollar value to the United States of these policy developments, all have the potential for affecting the level of U.S. trade with Japan. The results may become clearer once the effect of tax reform is evaluated,

⁶⁶—Continued

Tokyo prosecutor's office asserted that certain of these acts constituted outright bribery since favors were reportedly granted in return. By the end of the year it appeared that former Prime Minister Nakasone and even Prime Minister Takeshita might be implicated.

the distribution system is eventually overhauled, and as cooperation between the United States and Japan in science and technology hopefully leads to scientific advances in both countries. In 1988, the importance of these shifts is a reflection of how the economies of the United States and Japan are increasingly intertwined, to the point where policy shifts, seemingly unrelated to trade, affect the bilateral trading relationship.

Tax Reform

On December 24, 1988, Prime Minister Takeshita accomplished what two other Prime Ministers could not, passage of a tax reform package, the first in nearly 40 years. Overcoming vocal and sometimes physical resistance from opposition parties, the Liberal Democratic Party maneuvered the measure through the lower house of the Japanese Diet on November 16, and then propelled the package through the upper house during a marathon 25-hour session ending late on December 24. The six-bill package is intended to simplify Japan's tax structure and shift its revenue-raising emphasis from direct to indirect taxes. The United States has much at stake in the Japanese action: revisions to Japan's commodity and alcoholic beverage tax system could benefit U.S. exporters, whereas provisions to allow firms to collude to ensure full pass-through of the broad-based consumption tax could work against U.S. interests. The Japanese Government estimates that 33 percent of total tax revenues will come from indirect taxes under the new system, versus 27 percent under the old system. The tax package is expected to provide a net stimulus to Japanese economic activity of approximately \$19.2 billion, equalling about 4.2 percent of Japan's general account budget. The tax code will be considerably simplified, with the number of brackets for personal income taxes reduced from twelve to five. The reform package also improves the "fairness" of Japan's tax system by subjecting certain activities, such as capital gains on stock and bond transactions, to tax for the first time. The package lowers income-related taxes for corporations and individuals, but imposes a wide-based consumption tax of three percent.⁸⁷ These changes were thought to be necessary in light of changing demographic and business trends in Japan. In particular, the increasing age of Japan's population means that income taxes have become a less potent source of central government revenue. The tax will apply to most goods and services, including food, starting April 1, 1989.

⁸⁷ The proposed consumption tax is a multistage, noncumulative tax similar to the value-added tax employed in the EC. Although the tax will be levied at each stage of the distribution chain just as is the EC's VAT, adjustments for previously collected taxes will not be made on the basis of official tax receipts passed forward. Instead, they will be based on the purchasing firm's own accounting records. The tax will be levied on the margin between the buying cost and sales price.

At least two elements of the recently passed tax reform package are of concern for the United States. The package authorizes the creation of cartels to discuss how to pass higher taxes on to consumers. An antitrust exemption for such activity is tentatively slated until March 31, 1991. Ostensibly aimed at smaller businesses, the United States is concerned that the exemption is tantamount to antitrust immunity for all price-related activities by business associations, as long as large firms do not account for more than one-third of the exempted associations' members. The fact that small retailers were the leading proponents of this provision also makes the United States wary that it may slow reform of Japan's distribution system. Collection of the consumption tax will already favor small-scale operators, since unlike larger retailers, they will be assessed taxes based on average receipts, rather than actual sales.

Second, the broad incentives included in Japan's tax reform package are not necessarily consistent with U.S. hopes that Japan will give its consumers greater purchasing power, eliminate incentives for specific types of business investment and activities, and broadly stimulate domestic economic activity. The tax reform package shifts the burden of taxes towards consumers and away from producers, with the new taxes mostly regressive in nature. Furthermore, central government tax receipts have already risen sharply in recent years, at a time when international considerations appeared to argue for greater fiscal accommodation.

The package is expected to provide a rather small net stimulus to Japanese economic activity of approximately \$19.2 billion. According to Economic Planning Agency (EPA) estimates, real GNP would be lifted annually by an average 0.2 percent between FY 1988 to FY 1991, and real personal consumption would be boosted by an average of 0.2 percent over a four-year period starting in FY 1988. Real imports are estimated to rise 0.2 percent, while real exports will increase 0.1 percent. The EPA theorizes the package would reduce Japan's current account surplus by 2 billion dollars in FY 1991.

U.S. suppliers do stand to gain from some aspects of Japan's tax reform scheme. Japan's taxes on alcoholic beverages will be lowered to remove distortions that favored lower priced Japanese and higher priced foreign (mainly European spirits) over U.S. wine, beer, and whiskey. The ad valorem tax applied to whiskeys, brandies, and other alcoholic beverages will be abolished and replaced with a specific tax system. The grading system and the taxation according to extract content of liqueurs will also be abolished. The differential in tax rates will be reduced between whiskeys/brandies and shochu (a Japanese wine). U.S. exporters also welcome the removal of high excise taxes on larger

automobiles and the elimination of the ad valorem tax on cigarettes and other tobacco products. Both provisions had worked against U.S. suppliers in favor of domestic ones.

Some changes will clearly benefit U.S. exporters, and as a matter of policy, the United States is reluctant to criticize Japan's efforts to simplify its tax code. At the same time, the U.S. Government has put Japan on notice that it will closely monitor implementation of the law to ensure it does not harm U.S. export interests.

Distribution System

The United States has long complained that Japan's complex distribution system makes it difficult for foreign suppliers to enter the Japanese market. In 1988, as corporate Japan actively campaigned for deregulation of the retail industry and consumer complaints about prices (nearly 50 percent higher than Americans pay for similar goods and services) began to be heard, Japanese opinion leaders appeared to be moving towards a consensus that something must be done to make the process of getting goods from producers to consumers more efficient and less discriminatory. Several Japanese studies on the distribution system were released in 1988 which recommended changes in the system. At the same time, during the U.S.-Japan Trade Committee and at Economic Sub-Cabinet meetings in late 1988, the United States pointed out problems the distribution system creates for U.S. suppliers.

High prices in Japan and low levels of imports have long been attributed, in part, to barriers inherent in Japan's distribution system. The fact that Japanese consumers have benefited little from the yen's substantial appreciation led to a critical examination of the country's distribution system in 1988. Faced with mounting criticism from both foreigners and businesses in Japan, the Japanese Government began to consider some degree of deregulation. At the June 1988 Toronto Economic Summit, Prime Minister Takeshita pledged to streamline Japan's distribution system. Also in June, the Economic Planning Agency issued a report identifying four areas of business practices which restrict competition in the area of distribution. In July, the Ministry of International Trade and Industry (MITI) created a high-level post to handle distribution issues. MITI also began preparing a distribution "vision" report, which is slated for completion in 1989. On December 1, the Administrative Reform Council presented a report to Prime Minister Takeshita containing proposals for deregulating certain areas of the economy and changing the distribution system. The Prime Minister announced he would implement an action program based on the recommendations in the Council's report.

At the center of the distribution problem are business practices, some of which are protected and supported by government policy and regulations. Consumer goods like food products are often expensive in Japan because of trade barriers, exclusive import rights, an archaic and cumbersome web of wholesalers, and a limited number of retail outlets. On the average, it is estimated a product in Japan passes through seven pairs of hands between manufacturers and customer, as opposed to one or two in the United States.⁸⁸ Mutual relationships, often involving cross-ownership among banks, manufacturers, wholesalers, and retailers, are also common in Japan's distribution system. U.S. businesses have complained that these relationships impede exports to Japan of products such as electric appliances and pharmaceuticals. Some manufactured goods move through longstanding networks of related suppliers, middlemen, and dealers, making it difficult for "outsiders" to crack established markets. Even if they can gain entry, U.S. suppliers complain that high markups by import agents and retailers erode their initial landed price advantage.

Legal barriers have also played a role. The United States has complained about three in particular: government restrictions on the expansion of large retailers, such as supermarkets and department stores; tightly controlled licensing of liquor sales; and limitations on the offering of sales premiums. These restrictions limit consumer choice and dampen retail competition.

Large retailers, with their extensive shopping areas and sophisticated purchasing departments, have been major vendors of imported consumer products in Japan. The so-called Large-Scale Retail Store Law has been blamed for slowing down the expansion of chain stores and restricting the kinds of business they can engage in. The law requires a prospective store operator to submit a report to the government on the proposed site, size, and operating hours of any new retail store over 500 square meters. In practice, the government requires retailers to obtain approval from local confederations of retailers before it will accept a company's application, giving smaller retailers a substantial say in the prospective store's plans. In many cases, the original construction plan is delayed for years and the store size reduced in an effort to preserve harmony with local small- and medium-sized retail store owners. As a result, applications have taken up to 10 years to process.

Other aspects of retailing are also tightly controlled. A government-issued license is required for selling liquor, tobacco, rice, real estate, and pharmaceuticals. Official permission is needed for selling certain foods at a

⁸⁸ "The New Japan Goes Shopping," *The Economist*, Aug. 13, 1988, p. 55.

retail store to ensure compliance with the Food Sanitation Law. Even the sale of salt, antiques, and thermometers are regulated by legal codes. Restrictions on sales promotions have also made it difficult for new entrants to introduce their products to Japanese consumers and to reward distributors for promoting their wares. Although the Japan Fair Trade Commission recently issued new guidelines that liberalize such controls, industry-specific fair competition codes remain a barrier to U.S. sales efforts.

There is some evidence that Japan's distribution system has begun to respond to changes in economic circumstances and consumer tastes. With the appreciation of the yen, Japanese consumers have become more willing to try new products and change traditional shopping habits. New and more direct distribution channels have been created. Convenience stores have been springing up and expanding sales rapidly, as have mail-order distributors. Outlets for the sale of inexpensive consumer goods and volume discounters for household products have been established.

U.S. firms have developed independent sales networks for products such as chocolate confectionery and wood products. Still, setting up completely new distribution outlets can be expensive and U.S. suppliers who must work through the existing distribution network often find it resistant to penetration. An effort to assist U.S. firms in gaining entry to the Japanese market took place in early September. In 1988 U.S. Secretary of Commerce C. William Verity and Japan's Minister of MITI headed a delegation of U.S. companies for the "Market Japan" mission or the Tamura-Verity initiative. The purpose of the trade mission was to promote U.S. products from five sectors (leisure goods, sporting goods, furniture, jewelry, and processed foods) in Japan. Although the mission was given positive reviews, the problems of dealing with Japan's complex distribution system will not be resolved by one trade mission or initiative.

A bilateral "dialogue" on distribution issues was proposed at the September 1988 Economic Sub-Cabinet meetings as a possible option for dealing with U.S. concerns about Japan's distribution system. However, some U.S. officials have expressed the view that meaningful progress on distribution will be achieved only if bilateral negotiations go further than strictly governmental barriers, such as the Retail Store Law, to aspects of industrial structure, financial relationships, competition policy, and ways of doing business. The Japanese Government, appears to be aware of the need to streamline Japan's distribution system and to be willing to begin a constructive dialogue with the United States to address specific concerns. However, it is likely to face opposition from some quarters such as the small "mom and

pop" shops which have played a role in stabilizing Japan's unemployment rate and who are important backers of the ruling Liberal Democratic Party.

Science and Technology Agreement

On June 20, 1988, President Reagan and Prime Minister Takeshita signed a new science and technology agreement that is expected to increase U.S. researchers' access to Japanese Government supported research and development projects. The five-year agreement was reached after seven rounds of bilateral talks and superseded an agreement that had been in effect since 1980.

The agreement established a framework under which the two countries will conduct future science and technology cooperation. It called on both Governments to provide comparable access to their Government-sponsored or supported research facilities and activities as well as to scientific and technical literature. The agreement also contained provisions to ensure adequate protection and distribution of intellectual property rights. The shared security obligations of both countries were addressed under the agreement as they pertain to science and technology.

There had been concerns in the United States that the previous agreement was more advantageous to Japanese scientists than Americans and possibly gave the Japanese greater access to research with potential for commercial applications for high technology. Formerly, Japanese scientists were given open access to facilities and programs where U.S. Government-supported research is carried out. By contrast, in Japan most Government-sponsored research occurs in the labs of private sector firms and U.S. scientists were given access to only a few such research centers. The 1988 agreement was expected to open up those research centers to U.S. researchers and scientists.

United States-Japan Bilateral Trade Issues

Overview

With Congressional action on a potentially protectionist trade bill as a backdrop, 1988 was generally a year of intensive negotiations followed by the conclusion of agreements between the United States and Japan. By yearend, the two sides had reached accords to liberalize Japan's quotas on beef and citrus, to phase out quotas on a number of processed foods, and to give U.S. firms greater access to major Japanese construction projects. Japan also agreed to revise a bilateral science and technology agreement, to renew its nuclear cooperation agreement with the United States, and to cooperate in developing the FSX fighter plane.

The year 1988 started out with Prime Minister Takeshita's first visit to Washington. Although the two leaders did not discuss specific trade issues, they reached general agreement on continued macroeconomic policy coordination. Despite the cooperative atmosphere at the beginning of the year, by mid-March specific bilateral trade issues were starting to emerge as major irritants in the relationship. On March 16, the Cabinet-level U.S. Economic Policy Council considered whether to initiate a section 301 investigation on Japan's practices regarding construction and engineering services, putting pressure on Japan to act quickly. On March 31 the beef and citrus agreement expired, leaving both countries far apart in their positions. Intensive negotiations, resulted in agreements on both of these longstanding issues during the next few months. The U.S. Department of Defense signed an MOU with Japan on the FSX project in June which set the stage for an acrimonious debate in Washington concerning military and commercial priorities, including the role of other civilian agencies in approving future high-tech deals.

On August 23, 1988, the President signed into law H.R. 4848, the Omnibus Trade and Competitiveness Act. Several of the bill's provisions appeared to be aimed at Japan such as the "super 301" provision requiring the USTR by May 30, 1989, to name priority countries and practices held to be significant barriers to U.S. exports, a telecommunications 301 provision requiring an identification of all countries restricting U.S. market access, a ban on sales of equipment by Toshiba and its subsidiaries to the U.S. Government for a period of three years, and a "special 301" provision requiring identification of countries denying adequate protection of intellectual property rights. Interpretation and implementation of the trade law was a subject of debate among policy makers in Washington and Tokyo. In September, the first test of the administration's willingness to use the newly strengthened unfair trade statute came when the U.S. rice industry filed its second section 301 petition in two years. USTR Clayton Yeutter rejected the petition just before election day saying that the United States would pursue the issue in the Uruguay Round.

During the course of the year, government officials, private research organizations, and academics in the United States and Japan devoted attention to finding new ideas for handling U.S.-Japan trade relations in reports, conferences, and hearing testimony. Among these efforts was a USITC study presented to the Senate Committee on Finance on September 16 that summarized the views of experts on the pros and cons of initiating free trade agreement discussions with Japan.⁸⁹ The report did not

⁸⁹ See *Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a U.S.-Japan Free Trade Area Agreement*, USITC publication 2120, September 1988.

make a recommendation on whether to pursue FTA negotiations. However, it did indicate that although most of experts believed that current methods of handling trade disputes caused unnecessary friction and frustration, few were optimistic that an FTA would produce greater market-opening results. The debate over the best approach, strategy, or method of handling U.S.-Japan trade relations seemed destined to continue well into the future.

Agriculture

During 1988, the United States and Japan settled two major disputes involving liberalization of Japan's agricultural market and continued discussions on a third.

Beef and Citrus

For years the United States avoided direct confrontations with Japan over removal of its quotas on citrus and beef by agreeing to annual quota increases. However, before the most recent agreement expired on March 31, 1988, the United States warned Japan it would not renew the agreement and called for an end to Japan's quotas on beef and citrus. On May 4, the United States stepped up the pressure by requesting the formation of a dispute settlement panel to rule on whether the quotas were consistent with Japan's obligations under the GATT.

A round of intensive bilateral negotiations between the USTR and Japan's Ministry of Agriculture followed. The United States called for an immediate elimination of quotas; however, Japan requested some type of permanent safeguard authority to protect its farmers from import surges after 1991. On July 5, 1988, Japan agreed to phase out its import quotas on beef and fresh oranges over a period of three years and its quotas on orange juice over a four-year period. In return for the United States' acceptance of a phase-out of quotas, rather than immediate elimination, Japan agreed to significant increases in market access in the interim and to duty reductions on a variety of foods.

During the phase-out period, the import ceiling for beef will be raised from 274,000 metric tons in FY 1988 to 334,000 metric tons in FY 1989 and 394,000 metric tons in FY 1990. Under the agreement, the Livestock Industry Promotion Corporation's (LIPC's) role in setting prices of foreign beef will be reduced after April 1991, but it will continue to administer the price stabilization program for domestic beef. Once the LIPC's involvement with imported beef ends, a temporary tariff will be set at 70 percent in FY 1991, declining to 60 percent in FY 1992 and dropping to 50 percent in FY 1993 and thereafter. At the time of the agreement, LIPC surcharges on top of the 25 percent ad valorem tariff were equivalent to an ad valorem tariff rate of 96 percent.

The Japanese quota on oranges will increase by 22,000 metric tons each year until April 1, 1991 and then be eliminated at that time. Current tariffs on fresh oranges of 20 percent during the off-season (June 1 through November 30) and 40 percent in season remained in effect following the agreement. For orange juice concentrate the quota on imports will increase each year from 8,500 metric tons in FY 1987 to 40,000 metric tons in FY 1991.⁹⁰ The agreement on beef and citrus was expected to end a longstanding and highly contentious bilateral dispute between the United States and Japan. Estimates of the effect of removing quotas on these products range from \$1.0 to \$1.5 billion annually.

GATT-11

Another major breakthrough in liberalizing Japan's agriculture sector occurred on August 2 when a settlement was reached in the GATT-11 case.^{91 92} At yearend 1987, Japan had refused to accept a GATT dispute panel's recommendation that Japan lift its restrictions on 10 of 12 categories of processed agricultural products. On February 2, 1988, Japan accepted the panel's findings that 10 of the 12 product categories were GATT-inconsistent, however, it failed to implement the panel's recommendations for eliminating quotas.

Under the settlement, Japan agreed to eliminate its import quotas on seven categories of agricultural products and to partially lift quotas and provide substantial liberalization for four other product categories. The liberalization was scheduled to begin on October 1, 1988, and to be completed by April 1, 1990.

Japan agreed to eliminate import quotas on certain dairy products in four different stages and will maintain import controls during this period on other dairy products. In exchange for maintaining import controls, Japan will reduce tariffs on a number of other agricultural products such as popcorn, breakfast cereals, and soup, as

⁹⁰ After Apr. 1, 1992, the only restrictions on imports of orange juice will be the tariff of between 25 percent and 35 percent, depending on sugar content. Blending requirements for foreign orange juice will be gradually phased out. In 1989, the blending requirements will be removed from 60 percent of foreign imports and as of Apr. 1, 1990, the requirement will be eliminated totally.

Tariffs on other products of interest to the United States were also reduced under the agreement. As of Apr. 1, 1990, the duty on grapefruit will be 10 percent year round. Duties on the following agriculture products will also be reduced or eliminated after Apr. 1, 1989: lemons, frozen peaches and pears, pistachios, macadamias, pecans, walnuts, bulk pet food, pet food for retail sale, beef jerky, sausage, and pork and beans.

⁹¹ This was formerly referred to as the GATT-12 case. However, under the 1988 settlement, the 12th category of products, prepared and preserved beef, was resolved under the July beef and citrus agreement, hence the reference change.

⁹² See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 4-26 to 4-27.

of April 1, 1989. Japan will also increase its quota on peanuts from 55,000 metric tons to 75,000 metric tons over three years and eliminate lentils and chickpeas from the quota on dried peas and beans.

Rice

Japan's virtual ban on rice imports was a continuing source of friction in 1988. U.S. industry has estimated that the removal of the ban on rice imports could lead to an increase of U.S. exports to Japan of up to \$656 million.

During Prime Minister Takeshita's visit to Washington in January 1988, Secretary of State Shultz told Japan's Foreign Minister Uno that Japan must reform its agricultural policies, including rice. On September 14, the Rice Millers' Association (RMA) filed its second section 301 petition in two years calling for an end to unfair Japanese trade restrictions on rice. Election year pressures, enactment of the trade bill, and the successful negotiations on beef and citrus may have given the RMA encouragement that its petition would be accepted. However, on October 28, USTR Clayton Yeutter rejected the petition saying that "Japan must demonstrate its commitment to resolve the rice issue in the context of the Uruguay Round." In announcing his decision, Ambassador Yeutter invited resubmission of the petition if no progress on liberalization of Japan's rice policies were achieved at the midterm meeting of the Uruguay Round in Montreal in December. At the end of the year, the issue remained unresolved.

Major Projects

In the past, Japan's closed, non-transparent bid and tender system and non-competitive bidding practices among Japanese construction companies have inhibited the ability of U.S. firms to compete on major construction projects in Japan. Following increased pressure from the United States⁹³ during the first few months of 1988, the United States and Japan reached an agreement on May 25 that was expected to provide more transparent procurement procedures for the Kansai Airport project and other major construction projects in Japan. The agreed-upon procedures⁹⁴ covered an estimated \$16.9 billion in construction work on 14 projects during the next ten to fifteen years.

The agreement set forth open, nondiscriminatory procedures allowing U.S. firms to gain experience in the Japanese market and to compete on future projects without the need of

⁹³ On Feb. 25, 1988, the Trade Policy Review Group recommended that the President initiate a Section 301 investigation of Japan's bidding practices for construction projects. The Economic Policy Council threatened to take a similar position if no agreement were reached by March 31.

⁹⁴ The agreement was finalized through an exchange of letters between U.S. Secretary of Commerce Verity and Japanese Ambassador Matsunaga.

the special procedures contained in the agreement. The new procedures eliminate the requirement that U.S. firms demonstrate previous experience in Japan before being granted a construction license. In the past this requirement prevented U.S. firms with worldwide experience from being selected as bidders. The new procedures also required the Ministry of Construction to provide a status report after 90 days on a company's licensing application upon request.

Three types of procurement procedures will apply to the fourteen projects covered by the agreement. The first type of procedures (K-1) covers the Kansai International Airport, Tokyo Bay Bridge, and new NTT headquarters building. Under the K-1 procedures, firms have 30 days to submit their applications for bidder designation following publication of the tender notice. A 60-day period is set aside between selection of bidders and submission of bids for construction services. The second type of procedures (K-2) procedures will apply to Japanese Government-contracted portions of certain projects including the aprons and runways for Haneda Airport and New Hiroshima Airport. The K-2 procedures are similar to K-1 procedures except that the time between designation and bidding for construction services is 40 days.

According to the May agreement, the Government of Japan will encourage private and third-sector (mixed private/local government) entities to adopt other nondiscriminatory procurement procedures (K-3) on seven major projects, including Haneda, New Hiroshima, and New Kitakyushu airport terminals. These guidelines include the establishment of contact points to facilitate entry by foreign firms, use of nondiscriminatory specifications, and provisions requiring an explanation of specifications, supplier qualifications and procurement criteria in advance of bid selection.

A committee consisting of the Japanese Ministries of Foreign Affairs, Transport, and Construction, and the U.S. Embassy in Tokyo was established to monitor implementation of the procedures. A comprehensive government-to-government review will be conducted in 1990 to determine if modifications to the agreement should be made, including the possibility of expanding the list of designated projects.⁹⁵ Although the May 1988 procedures laid the basis for changes in Japanese procurement practices for construction services, U.S. industry continues to face other obstacles such as informal arrangements among Japanese construction firms.

⁹⁵ As of February 1989, seven U.S. companies had obtained construction licenses to work in Japan, four U.S. companies had entered into joint ventures, and seven U.S. companies had signed cooperation agreements with Japanese companies.

As required under section 1305 of the Omnibus Trade and Competitiveness Act of 1988, the USTR initiated an investigation on November 21, 1988 of Japanese policies and practices that are barriers to U.S. firms offering architectural, engineering, construction and construction-related consulting services in Japan.

Semiconductors

U.S. and Japanese officials met on numerous occasions during 1988 to assess the bilateral arrangement on semiconductor trade.⁹⁶ The two principal outstanding issues were the lack of progress in improving market access for U.S. firms and implementation of a GATT panel report on Japan's measures to eliminate third-country dumping.

Little progress has been made on the market access front since the bilateral arrangement was signed in September 1986. The debate over lifting the remaining \$165 million in sanctions, imposed in 1987 because of U.S. dissatisfaction with enforcement of the market access provisions of the 1986 agreement, for semiconductors surfaced throughout the year. Japanese officials made a major effort in 1988 to convince the U.S. Government to remove these sanctions.⁹⁷ Twice during the year, despite efforts by individuals at the highest levels of the Japanese Government, the USTR refused to remove the sanctions, pointing out that data on the U.S. market share in Japan had barely improved and therefore the sanctions did not warrant removal. The share of U.S. suppliers in the Japanese market has fluctuated within a small range since October 1986, hovering in the 8.5 to 11 percent range. By fourth quarter of 1988 (on a three month moving average) the U.S. market share in Japan was 10.5 percent.⁹⁸ The U.S. industry argues that the U.S. share would need to have averaged 12 to 13 percent in 1988 in order to meet the objective of a 20 percent U.S. market share by 1991. Japan counters that the U.S. share has remained constant in a growing market. With expanding production in Japanese user industries such as computers, Japan points out that actual U.S. sales have grown by 40 percent over the past year. The Japanese Government also questions whether U.S. suppliers have sufficient capacity to meet higher demand, complaining that many U.S. producers treat the Japanese market as a residual when U.S. demand takes off. Japan also suggests that U.S. suppliers do not produce the types of semiconductors that Japanese industry needs, nor in sufficient quantity for consumer products,

⁹⁶ For further details on the history of this issue, see the *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 2095, pp. 4-26 to 4-27 and *39th Report, 1987*, USITC Publication 2095, pp. 4-24 to 4-25.

⁹⁷ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 4-24 to 4-25.

⁹⁸ U.S. Department of Commerce, International Trade Administration.

which account for over 40 percent of Japanese semiconductor demand. The U.S. semiconductor industry rejected these contentions.

Elimination of third-country dumping is a key facet of the bilateral semiconductor arrangement. Fulfillment of the commitment was complicated, however, when the GATT Council adopted a dispute settlement panel report on May 4, 1988, which found that the way Japan attempted to meet this commitment was inconsistent with article XI of the GATT code. The GATT Council finding was the result of an October 1986 EC complaint.⁹⁹ The panel did not examine the GATT consistency of the bilateral arrangement itself, but rather focused on the means the Japanese Government used to achieve its ends. Although the panel did not specifically find any individual Japanese Government measure inconsistent with the GATT, it concluded that the combination of measures they employed to prevent third-country dumping served as a coherent system that effectively restricted Japanese exports. The panel determined that the system as a whole was not in conformity with GATT article XI:1, which bars Contracting Parties from imposing quantitative restrictions on exports. It also concluded that excessive Government of Japan delays in export licensing constituted restrictions on exportation that were inconsistent with article XI:1. The panel concluded that there was no evidence that U.S. firms had been accorded preferential access to the Japanese market as a result of the market access portion of the arrangement. Indeed, data submitted to the panel indicated that sales by third-country suppliers, including those from the EC, increased at a faster pace than those by U.S. firms. The panel also did not support the EC view that GATT antidumping rules, as embodied in GATT article VI and the Antidumping Code, give only importing countries the right to take measures concerning goods dumped in their markets.

In early May, Japan indicated a willingness to reach a compromise with the EC and the United States that would be consistent with the GATT and the arrangement. At that point, the three parties had widely divergent views on the GATT panel report and its implications. At first, Japan seemed to be interpreting the panel's findings rather broadly, believing that all formal monitoring mechanisms were invalidated by the panel's ruling. In bilateral meetings, Japan claimed that other actions, which would be permitted under the GATT, could either require new legislation or be ineffective. The United States made it clear that it planned to hold Japan to the third-country dumping portions of the

arrangement, noting that the bilateral accord addresses only desired results, i.e. an end to third country dumping. Officially, the EC maintained that the GATT ruling required Japan to abrogate the third-country dumping portion of the arrangement and to dismantle monitoring of third-country sales. Negotiations with the Japanese continued during the remainder of 1988 without resolution. During that time, the status of the third country monitoring remained somewhat ambiguous. Japan continued to enforce its third country dumping provisions but in a different (and unspecified) way than before.

Supercomputers

Despite implementation of the U.S.-Japan Supercomputer Procurement Agreement on August 7, 1987, controversy over the lack of penetration by U.S. supercomputer producers in Japan's public sector market did not abate in 1988.¹⁰⁰ A key criterion for judging the success of the agreement from the U.S. point of view is sales. Since the agreement was signed, there have been no U.S. sales of supercomputers to the Japanese Government or publicly-funded universities.

There have been three supercomputer procurements offered by the Japanese Government since the agreement was signed. A fourth procurement, by the Japan Railways Technical Research Institute, a private sector body not covered by the agreement, voluntarily decided to follow the procedures in the agreement for its supercomputer purchase. All four procurements were awarded to Japanese supercomputer producers.

U.S. and Japanese Government officials met twice during 1988 to review implementation of the agreement. The agreement was still too new during the first review in February to allow for significant results. At the full year review in October, however, U.S. officials expressed their concern and dissatisfaction with the continued lack of penetration into the Japanese public sector market by U.S. manufacturers. Despite an 80 percent share of the world supercomputer market, and an acknowledged reputation as the world leader in supercomputer technology, U.S. supercomputer producers continue to experience difficulty entering the Japanese public sector market. To date, the United States has supplied only 6 percent of the public sector market as a result of two purchases of supercomputers by Japanese Government entities. These purchases were done on a noncompetitive basis under a special, one-time only, 1987 budget for import promotion purposes prior to the agreement.

⁹⁹ See *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, pp. 4-9 to 4-10.

¹⁰⁰ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-28.

While it appears that the transparency of bid procedures has improved as a result of the agreement, U.S. supercomputer producers allege that they do not have the opportunity to compete on an equal basis with Japanese producers because U.S. firms are still unable to obtain complete and clear information regarding upcoming procurements. U.S. producers also allege that they continue to face discriminatory treatment, such as technical specifications which favor Japanese suppliers, and predatory pricing practices such as deep discounting by the Japanese.

A continuing concern of both U.S. officials and supercomputer producers is the standard practice by Japanese supercomputer producers of massively discounting their prices to the Japanese public sector market. The United States has raised this issue with Japanese Government officials on numerous occasions during the last several years. The United States believes that this practice is the result of very low Japanese Government budgets for public sector supercomputer purchases, which result in discounts of up to 80 to 90 percent by the Japanese supercomputer producers. Reportedly, Japanese producers perceive the discounts as a necessary cost of doing business in order to retain the markets for software development and joint research. These huge discounts place U.S. firms at a severe price disadvantage as they cannot be matched by U.S. firms, which do not have the financial resources of the large vertically integrated Japanese supercomputer producers.

No resolution of the discounting problem was reached during 1988 between the United States and Japan. Both countries have agreed to conduct further reviews of the agreement during 1989 and the United States will continue to closely monitor its implementation.

Telecommunications

The United States and Japan have negotiated under the MOSS framework since 1985 to determine the conditions under which international value-added network services (IVANs) could be offered between the two countries.¹⁰¹ It is estimated that Japan's market for VANs will be some \$400 million per year by the 1990s. As of June 1988, eleven U.S. companies had registered with Japan's Ministry of Posts and Telecommunications (MPT) to provide IVAN services.

¹⁰¹ VANs are services that use telephone lines or leased circuits to transmit information other than voices such as electronic mail or computer data bases. IVAN services allow computers to communicate with each other internationally through transmission procedures or protocols that companies develop for their internal telecommunications services. These protocols are usually developed through expensive R&D efforts.

In 1988, the United States became concerned over an MPT proposal to impose a single standard or protocol on all companies offering IVAN services. The MPT proposal would have allowed firms to use their proprietary protocols within their own network, but would have required a unified protocol to interconnect with other networks. The United States was concerned that the MPT proposal would force U.S. companies to commit additional time and resources to change protocols already in place. U.S. firms such as IBM and AT&T believed that they would lose their competitive edge over Japanese firms if they were forced to adopt MPT's mandated protocol. In addition, U.S. providers also claimed that the security and confidentiality of their networks would be jeopardized if external networks and users could tap into their proprietary networks.

In June and July, a number of U.S. Senators and U.S. officials including the Secretary of Commerce and the U.S. Trade Representative raised the U.S. concerns with MPT Minister Nakayama in letters and meetings. The issue was also raised with the Japanese Government during bilateral trade talks in August, but no major progress was made to resolve the issue.

In September, during a trip to Tokyo by Secretary of Commerce Verity, Japan agreed to allow proprietary protocols by U.S. firms if the technical capability were provided to interconnect with the domestic VAN standard. According to this arrangement, Japanese firms employing different protocols could access U.S. data base services, but the details of the proprietary protocols would remain commercial information subject to disclosure only by the U.S. firms to their private customers. During sub-cabinet level meetings in September, the U.S. accepted the proposal and in November, the two countries concluded negotiations based on those principles.

FSX

On November 29, the United States and Japan signed an agreement to jointly develop a new fighter plane, the FSX, at an estimated cost of \$8.2 billion. The FSX arrangement once again generated a debate among government agencies and Congress about the tradeoff between commercial and strategic interests. Short-term commercial gains for U.S. companies and improved military capabilities for Japan were weighed against the possible expense of giving a long-term competitive advantage to Japan through technology transfer.

Under a memorandum of understanding announced on June 3, 1988, the Government of Japan was to provide \$1.2 billion in development costs for the FSX. The new fighter plane will consist of Japanese modifications to General Dynamics' F-16. U.S. defense contractors are to receive 35 to 40 percent of the development

under the agreement and possibly some of the production share of the 130 to 170 airplanes. Mitsubishi Heavy Industries would be the prime contractor in a co-development arrangement with General Dynamics.

Japan originally wanted to develop the fighter of its own design and reportedly rejected suggestions that it buy F-16's. Only under strong pressure from the United States did Japan agree to give U.S. producers a role in developing the new fighter. Critics of the deal believed that the United States should have pressed Japan harder to buy an updated version of the F-16 because it would have been cheaper than developing a new plane and it would have helped reduce Japan's overall trade surplus with the United States. The Defense Department argued that the FSX was beneficial to U.S. security interests because Japan would be devoting more resources to military spending. Besides that, proponents noted that the alternative would be for Japan to develop the fighter on its own without any input from the United States.

One major issue which arose in conjunction with the debate over the FSX was whether the deal would result in a give-away of U.S. technology. The Defense Department claimed that the deal would result in beneficial technology transfer to the United States, especially with regard to composite wing technology and advanced radar systems. Opponents of the deal claimed, however, that U.S. firms already have these technologies or the ability to produce them. Although even the staunchest critics of the FSX deal doubted that technology gained by Japan from the FSX arrangement alone would be enough to make Japan competitive in commercial aircraft, they argued that the technology transfer to Japan could reduce the U.S. lead in aircraft and component design.

Another element of the FSX debate was the amount of production U.S. firms were likely to receive under the agreement. The agreement reportedly was ambiguous on what share of the production would go to U.S. firms. According to the agreement, this issue would be subject to negotiation in 1993 after development of the prototypes.¹⁰²

Intellectual Property Rights

For several years, the United States has raised concerns regarding Japan's patents, trademarks, and copyrights system during bilateral consultations. During bilateral trade committee talks in the spring of 1988, the United States

¹⁰² By March of 1989 efforts were underway to revise the agreement and ensure that U.S. firms would indeed have a guaranteed share of the production. Critics continued to urge that the deal be scrapped.

proposed that a new forum, a working group on intellectual property rights, be formed to discuss bilateral concerns. The first working group on intellectual property rights met in August 1988.

One of the issues which has been raised by the United States with regard to intellectual property rights is slowness in issuing patents. It can take up to six years for a patent to be issued in Japan. The scope of a patent claim is more narrowly defined in Japan than in the United States and does not include a "doctrine of equivalence" that affords protection to other inventions implied by a given claim. This has led to "patent flooding" by Japanese companies as a defensive measure to protect their inventions from foreign competition. U.S. companies have also criticized Japanese rules that allow patent applications to become public after 16 months which can result in duplication of industrial processes. Japan has proposed a plan to facilitate examining certain patent applications.

Slow trademark registration in Japan (up to four years) has deterred some U.S. companies from introducing their products in Japan. During the processing period no penalty for infringement can be applied. In addition, although widely accepted service trademarks are protected in Japan, it is difficult to obtain well-known designation. There is no trademark coverage for new service marks.

In 1988, Japan enacted new legislation to facilitate the prosecution of suspected video pirates and extended the protection of sound recordings to 30 years. However, the United States continued to press Japan to expand this further to 50 years, consistent with the U.S. GATT Uruguay Round copyright proposal. Sound recordings produced before 1978 when Japan adhered to the Geneva Phonograms Convention are unprotected and therefore subject to duplication.

Autos and Auto Parts

On January 29, 1988, Japan announced it would extend the voluntary export restraints on Japanese auto exports to the United States through March 31, 1989 at the level of 2.3 million units. The announcement ended speculation that Japan might discontinue the quota.¹⁰³ At the end of 1988, Japanese shipments of autos totaled 2.15 million units, or 150,000 short of their ceiling. The shortfall was primarily due to decreased exports to the United States by Nissan.

In February 1988, the United States and Japan met to assess progress of U.S. auto parts firms in gaining access to the Japanese market as

¹⁰³ See *Operation of the Trade Agreements Program, 38th Report, 1987*, USITC Publication 2095, p. 4-29.

a result of the MOSS talks.¹⁰⁴ In 1988, U.S. auto parts sales to Japan increased 42 percent over 1987 to \$308 million. However, the U.S. share of the Japanese market remained at less than 2 percent. One of the goals of the MOSS talks was to develop long-term design, engineering and supply relationships between U.S. auto parts suppliers and Japanese original equipment manufacturers. According to U.S. industry, difficulties remained in breaking into the distribution system at yearend.

Two follow-up meetings to the MOSS talks were held in 1988 to monitor progress of U.S. auto parts firms. In early June 1988, the Government of Japan supplied six months of data on Japanese auto producers imports of U.S. products and provided an updated list of Japanese suppliers.¹⁰⁵ A U.S. auto products trade mission was sent to Japan in November 1988.

On a related matter, on May 9, the Auto International Association filed a section 301 petition claiming that Japanese auto producers and original equipment manufacturers use "predatory and anticompetitive" practices that result in a loss of sales and profits by independent imported auto parts distributors. The petition claimed that the Japanese Government fails to provide adequate enforcement of antimonopoly laws. The petition was subsequently withdrawn.

Medical/Pharmaceutical MOSS

The third follow-up meeting of the medical/pharmaceutical MOSS talks was held in Tokyo on April 19, 1988.¹⁰⁶ U.S. officials discussed a number of issues with officials of Japan's Ministry of Health and Welfare (MHW), among which were delays in approving small changes to previously approved applications, customs delays in clearance of imports, clarification of an MHW regulation which appeared to prohibit the importation of unapproved products for testing, and restrictive regulations on display of nonapproved products at trade shows. U.S. officials also urged Japan to use actual marketing performance as the basis for any price revisions of newly approved drugs. The United States expressed support for Japan's progress on labeling of in-vitro diagnostic (IVD) products with expiration dates, processing applications within agreed upon time frames, and acceptance of foreign clinical data.

¹⁰⁴ The first phase of the MOSS talks on auto parts was concluded in August 1987. See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, pp. 4-29 to 4-30.

¹⁰⁵ For a discussion of the MOSS talks on auto parts see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-29.

¹⁰⁶ See *Operation of the Trade Agreements Program, 38th report, 1986*, USITC Publication 1995, p. 4-23.

On November 21, 1988, a preparatory meeting for the next medical/ pharmaceutical talks, scheduled for March 1989, was held. Because this was not a MOSS follow-up, the groundwork for more substantive discussions in 1989 was laid. In particular, U.S. Government officials urged Japanese officials to make more meaningful progress toward the development of a better method of revising new drug prices. Japanese officials agreed that little progress had been made on this issue and that they will fully consider the U.S. April proposal and will respond to it in 1989. On a positive note, the United States commented that a number of issues had been resolved since the April follow-up meeting. They included the exhibition of products prior to approval at trade shows, labeling of IVD products, and imports of yet-to-be approved medical equipment and IVDs for in-house training.

TRON

A potentially new source of trade friction arose in 1988 known as TRON, or The Real Time Operating System Nucleus. TRON is a new Japanese operating system that has been developed with government support. The United States is concerned about possible Japanese Government plans to specify TRON in upcoming procurements for two reasons. First, the software is expected to be used in conjunction with the Japanese Ministry of Education's (MOE) plans to procure 2.2 million personal computers for Japanese secondary schools. This \$6.9 billion procurement will involve purchases of 700,000 units to be announced in the spring of 1989.

A special group under the joint jurisdiction of the Ministry of International Trade and Industry and the Ministry of Education is expected to announce the technical specification for the procurement in early 1989. If TRON is mandated as the technical specification, U.S. operating systems and computers which run only operating systems other than TRON (such as Microsoft's MS-DOS and OS/2 and AT&T's UNIX) will be effectively excluded from the MOE procurement. On September 9, 1988, Deputy USTR Michael B. Smith wrote a letter to MITI Vice Minister Muraoka expressing U.S. concerns about the possible discriminatory procurement. The United States and Japan met subsequently to discuss the issue subsequently. The United States is continuing to monitor Japanese actions regarding these procurement plans.

Secondly, in November 1988, NTT issued a request for joint development of a high speed packet multiplexing system saying that TRON would be used for system management. In January 1989, NTT announced it would require TRON in order to upgrade its next generation digital communications network. Although there are no estimates on the size of the NTT market

for TRON, the long-term implications of a Japanese preference for TRON-based computer systems in Japan could severely affect U.S. suppliers' competitive position in that market.

Mexico

The Economic Situation in 1988

Nineteen eighty-eight was the last of 6 years in office for the Administration of Miguel de la Madrid, who was succeeded by President Carlos Salinas de Gortari of the same political party on December 1.¹⁰⁷ Several major economic accomplishments can be attributed to the former President, especially in the last 3 years of his term. These included restructuring and diversifying Mexico's oil-dependent economic base; opening up the country's traditionally closed economy to the outside world; liquidating or selling inefficient and unprofitable state-owned enterprises to the private sector; and earning the respect of the international economic community as a disciplined debt-servicing country.¹⁰⁸ The former president also deserves credit for his successful anti-inflation program during the year under review.

However, the de la Madrid era had been characterized by austerity which allowed virtually no economic growth. In addition to an inherited, crushing debt burden, Mexico had suffered from declining international oil prices and an overall deterioration in the country's terms of trade. The result was a considerable loss of foreign exchange earnings and even more austerity, at a very high social cost. Real wages under the former administration had been cut almost in half. The loss of purchasing power led to major political opposition and popular discontent with the former President in the latter years of his term by which his successor was also affected.¹⁰⁹

In his last state-of-the union address in September 1988, de la Madrid defended his economic policies. He emphasized that austerity was the only way to restore Mexico's economic health from the crisis in which he took over in 1982. In his words: "The sacrifice of these years in austerity hasn't been in vain. We have laid the foundation of a sustained, efficient and more equitable growth."

¹⁰⁷ Mexican presidents serve a 6-year term with no reelection. Carlos Salinas de Gortari of the Institutional Revolutionary Party was elected on July 6, 1988, in Mexico's most contested presidential election, with 50.7 percent of the vote. He served as planning and budget minister in the outgoing administration.

¹⁰⁸ The de la Madrid administration has taken a highly responsible attitude in managing external debt and has avoided confrontational actions with creditors.

¹⁰⁹ Major opposition to the ruling Institutional Revolutionary Party became evident at the July 1988 elections.

At the time he delivered the address, de la Madrid's latest comprehensive economic measures have come under increasing strain. These measures are formally known as "The Pact of Economic Solidarity", an accord between three sectors of the economy: government, business, and labor. The "Pact" was launched in December 1987 and contained a mixture of provisions aimed primarily at fighting inflation. At the outset, these included a freeze on wages and on the prices of publicly provided services (such as petroleum, gas, electricity, telephone, airtravel, sugar, fertilizers), and voluntary price controls for other goods.

On March 1, 1988, the Government followed up with a second round of anti-inflationary measures. Officials halted their four-year policy of constant devaluations and froze the controlled exchange rate at 2,280 pesos to the dollar.¹¹⁰ They extended this fixed peso-dollar rate in May and June. In August, the fixed rate was extended through the end of the year. The administration extended other anti-inflationary measures too, such as the freeze on wages and publicly provided services. In addition, the 1988 measures included steep reductions in government spending, tax cuts, and further efforts to liberalize foreign trade.

The fixed exchange rate has become the pact's most controversial aspect, because it gradually eroded the peso's cushion of undervaluation. As the year progressed, the increasingly stronger peso prompted a burst in imports—especially of capital goods—erasing much of Mexico's trade surplus. Mexico's trade surplus shrank from \$8.4 billion in 1987 to \$1.7 billion in 1988, due to a surge in imports from \$12.2 billion in 1987 to \$18.9 billion in 1988. In contrast, Mexican exports remained unchanged from 1987 to 1988 at \$20.6 billion. For the excess imports, critics blamed in part the frozen exchange rate, which encouraged buying in anticipation of a new devaluation of the peso and, in part, the administration's trade liberalizing measures. Overall exports declined because oil revenues dropped by \$2.0 billion to \$6.7 billion as a result of lower sales volumes and prices. In 1988, petroleum contributed to about one third of Mexico's export revenues, compared with 42 percent in 1987.¹¹¹ Crude oil exports dropped from 1,345 million barrels a day in 1987 to 1,306 million barrels a day in 1988. In addition, the average price per barrel was down to \$12.24 in 1988 from \$16.06 in 1987.

¹¹⁰ Mexico has three exchange rates. The controlled rate applies to most exports and imports, debt payments, and in-bond commercial receipts. The official rate is used by commercial banks to buy and sell dollars, and the private free rate is offered in exchange houses. The Government kept, however, the differences among the three exchange rates below one percent for most of 1987 and 1988.

¹¹¹ Mexico's proven reserves fell from 54.7 billion barrels in 1986 to 48.6 billion barrels in 1987, and Mexico fell from fourth to eighth place in global reserves.

The loss from petroleum revenues was offset, in part, by a 16-percent growth of nonoil exports to \$13.9 billion. This was a major accomplishment in view of the peso's rising exchange rate and resulting loss of price-competitiveness. For the second year in a row, in 1988, non-oil exports outstripped oil as Mexico's source of foreign exchange earnings.

The year under review is characterized by other adverse economic developments. The loss of much of the trade surplus moved Mexico's current payments' account into deficit. Growth of the GDP was 1.1 percent compared with 1.5 percent in 1987. Capital flight from the country resumed following a period of repatriations because of widespread fear of a sudden major devaluation of the peso. Nonetheless, the administration maintained the stability of the peso at the cost of Mexico's foreign exchange reserves which had been cut in half from an all-time high of \$16.2 billion in May 1988 to \$8.6 billion by the end of 1988.

Labor interests turned away from the "Pact of Solidarity" as the workers' purchasing power continued to fall, down 15 percent in 1988. In addition, shortages developed for some basic products—including meats, milk, and certain vegetables—as producers withheld their product from the market in response to frozen prices. In October, the de la Madrid administration announced further spending cuts to prevent a crisis of confidence and the acceleration of capital flight. According to some estimates, the budget deficit in 1988 will reach 11 percent of the Mexican GDP—an improvement over the 15.2 percent of 1987, but more than planned or acceptable. Nonetheless, the "Pact of Solidarity" was successful in curbing inflation, which was its principal objective. The annual 1988 rate of inflation was 51.7 percent, way down from a historic peak of 159 percent in 1987.

In December 1988, shortly after taking office, Mexico's new President announced a package of new economic measures, called "the Pact for Economic Growth and Stability." Business and labor leaders approved the program, which was to be in effect from January 1, 1989 at least through July 1, 1989. The new measures relieved the nine-month old freeze on wages, prices, and the peso's exchange rate. The peso which had been frozen at 2,280 pesos per dollar during the year was to be devalued by one peso a day through July 31, 1989. The new package also included an 8-percent increase in the minimum wage. Business leaders agreed to absorb the higher cost of imports resulting from the peso's devaluation, while the Government consented to review periodically the prices of controlled goods and services.

During the year under review, the Government's attention continued to focus on

mechanisms of reducing Mexico's foreign debt. Debt remained the major source of economic pressures, making stable, noninflationary growth an unattainable goal.¹¹² Early in 1988, Mexico was able to reduce its external debt by over one billion U.S. dollars, by issuing discounted new bonds for part of the public-sector debt backed by the U.S. Treasury's zero coupon bonds. The Government also encouraged the private sector to pay off its own external debt. As a result, Mexico's overall foreign debt fell from \$107 billion to \$103 billion in January-June 1988.

Nonetheless, there is a consensus that foreign debt continues to be an intolerable burden on the Mexican economy. During the 1988 Mexican election campaign, opponents of the ruling party demanded unilateral action to reduce the country's debt burden. The new Mexican President also considers some form of debt relief a necessity.¹¹³ The resolution of the debt problem also continues to be a major concern of U.S. officials, U.S. banks, and international institutions.

Merchandise Trade with the United States

In 1988, U.S. trade with Mexico reached an all-time record high. Trade increased in both directions, but U.S. exports to Mexico rose faster than U.S. imports from Mexico. As a result, the U.S. trade deficit shrank abruptly from \$5.7 billion in 1987 to \$2.8 billion in 1988. In 1988, Mexico continued to be the third largest U.S. trading partner, maintaining its place as the third largest single-country market for U.S. exports and fifth single-country source of U.S. imports. For Mexico, the United States remains both its biggest foreign supplier and its principal foreign market.

Nineteen eighty-eight was the seventh consecutive year in which the United States had a negative merchandise trade balance with Mexico. The balance of bilateral trade shifted from a pattern of consistent annual U.S. surpluses to a U.S. deficit for the first time in 1982, the year that Mexico's debt crisis became apparent. The crisis triggered a recessionary environment in Mexico and the imposition of rigorous trade controls, designed to generate sizable trade surpluses.

¹¹² In 1986, Mexico launched an ambitious "debt-for-equity swap" program that permitted foreign investors to buy Mexican debt at a discount on international capital markets, then convert that debt into equity in Mexican firms at a higher value than the investors originally paid for the debt. The program reduced external debt by about \$1.4 billion. However, the high cost of the program, fear of its inflationary implications, and some opposition to the foreign investment it brought into the country, forced its suspension in 1987.

¹¹³ In 1988, Mexico paid \$9 billion in interest and close to \$6 billion toward the principal on the combined public and private debt.

Although U.S. imports of mineral fuels and oils from Mexico continued to drop considerably, this category alone accounted for virtually all the overall U.S. merchandise trade deficit with Mexico in 1988. However, the United States registered a deficit in several other major SITC product categories. On the other side of the ledger, a large imbalance of trade in nonfuel crude materials and chemicals continued to favor the United States. The United States narrowed substantially its deficit in food trade during the year, and balanced its trade in manufactures classified by material (table 13).

U.S. exports to Mexico, amounting to \$19.9 billion in 1988, surged by 41.4 percent from 1987. Exports expanded in all major SITC commodity sections except mineral fuels. The strength of the peso—the result of the currency being “frozen” throughout the year—made U.S. products relatively cheap in pesos, thereby stimulating U.S. sales in the Mexican market. Larger U.S. exports also reflected the rapid pace of import liberalization undertaken by Mexico, such as lowering duties and dropping the requirement of prior import licensing for most products.¹¹⁴ As intended by Mexican

¹¹⁴ For a discussion of Mexico's import liberalization, see the following sections.

policy-makers, the flood of suddenly cheaper imports into Mexico, and the pressure they put on Mexican producers to compete, played a large role in cooling down the country's inflation rate.

In 1988, the Mexican consumer market opened up for U.S. manufactured products for the first time in many years. U.S. sales of electronic appliances, furniture, and clothing showed major gains. Imported consumer goods are now sought by the Mexican middle and upper classes. However, since these classes account only for some 25 percent of the population, and the rest has very small buying power, the Mexican market for U.S. consumer goods is limited.

U.S. sales of agricultural products, such as cereals, flours, oilseeds, live cattle and beef also surged in 1988. Reportedly, the Mexican Government was buying U.S. cattle for slaughter and U.S. beef in an effort to stabilize beef prices.

As in prior years, in 1988 machinery and transportation equipment dominated U.S. exports to Mexico accounting for nearly one-half of the total. Automotive products, electrical equipment, parts for office machines, and telecommuni-

Table 13
U.S. merchandise trade with Mexico, by SITC¹ Nos. (Revision 2), 1986–88
(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	593,432	665,730	1,507,103
1	Beverages and tobacco	1,938	4,528	13,866
2	Crude materials, inedible, except fuel	802,836	1,034,763	1,442,017
3	Mineral fuels, lubricants, etc	405,634	512,660	458,022
4	Oils and fats, animal and vegetable products	136,947	96,985	137,985
5	Chemicals	1,270,965	1,433,683	1,817,748
6	Manufactured goods classified by chief material	1,272,206	1,591,544	2,384,894
7	Machinery and transportation equipment	6,140,994	6,969,596	9,577,845
8	Miscellaneous manufactured articles	919,168	1,173,252	1,672,275
9	Commodities and transactions not elsewhere classified ..	380,731	562,436	841,589
Total		11,924,851	14,045,175	19,853,345
<i>U.S. imports³</i>				
0	Food and live animals	2,190,689	2,055,421	1,919,740
1	Beverages and tobacco	182,696	276,549	264,490
2	Crude materials, inedible, except fuel	676,787	358,912	422,782
3	Mineral fuels, lubricants, etc	3,696,280	3,789,667	3,179,866
4	Oils and fats, animal and vegetable products	1,624	3,727	8,116
5	Chemicals	365,934	402,612	578,215
6	Manufactured goods classified by chief material	1,615,764	2,017,196	2,400,821
7	Machinery and transportation equipment	6,537,831	8,343,192	10,606,622
8	Miscellaneous manufactured articles	1,323,742	1,748,284	2,241,522
9	Commodities and transactions not elsewhere classified ..	605,015	770,229	995,003
Total		17,196,360	19,765,789	22,617,177

¹ Standard International Trade Classification

² Domestic exports, f.a.s.

³ Imports for consumption, customs value.

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

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

cations products continued to be the leading goods in this category. Exports were larger in 1988 for most than in 1987 (appendix table B-11). As in several prior years, chassis and parts topped by far the list of all leading U.S. exports to Mexico.

Sales of machinery were sustained in part by Mexico's booming maquiladora industry, which imports equipment and components for reexport after assembly.¹¹⁵ The maquiladora, ranking as Mexico's second largest industry after oil and related production, continued to thrive in 1988.

In 1988, U.S. imports from Mexico amounted to \$22.6 billion, up 14.4 percent from their 1987 level (table 13.) The composition of this trade flow continued to shift from petroleum to manufactured products, reflecting Mexico's progress in diversifying its exports. U.S. imports from Mexico increased in 1988 in all major manufactured product categories. Mineral fuel imports declined from \$3.8 billion in 1987 to \$3.2 billion in 1988. Mineral fuels accounted for only 14 percent of overall U.S. imports from Mexico in 1988, compared to more than half of the total in 1982, and 19.1 percent in 1987. Despite the diminishing importance of petroleum, light crude oil was the top item on the list of leading products Mexico ships to the United States (table B-12,) and heavy petroleum was third (after motor vehicles.) The United States took more than half of Mexico's total petroleum sales to 20 countries during the year.

U.S. imports of Mexican machinery and transportation equipment continued to surge in 1988 with imports of most leading items in the group rising. Imports amounted to \$10.6 billion, up 27.1 percent from 1987. As on the U.S. export side, automotive products, and telecommunications equipment were the top goods in this group. Automobile companies, forced by a 1983 decree to maintain a positive trade balance, have accounted for the biggest share of Mexico's export surge in manufactures. The Mexican automobile industry consists mainly of U.S. or other foreign subsidiaries, such as the big three U.S. automakers, plus Volkswagen and Nissan.

A large part of machinery and transportation equipment imports, especially of telecommunications equipment and office machinery, enter the United States under TSUS item 806.00 and 807.00 after further processing or assembly from components in Mexico. The United States levies duty only on the value added in Mexico. Mexico's production units established for further processing foreign material or assembling foreign components are leading beneficiaries of TSUS items 806.30 and 807.00.¹¹⁶ Mexican authorities

¹¹⁵ Mexico's maquiladora (or "in-bond") industry processes materials, or assembles components, produced in the United States and returns the processed or assembled product to the United States.

¹¹⁶ Item 806.30 of the TSUS 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

established the maquiladora industry in 1965 to foster job creation in Mexican territory that borders the United States. The program was later extended to cover Mexico's interior parts. Maquilas¹¹⁷ (most of them subsidiaries of U.S. corporations) are the principal source of U.S. imports under TSUS item 806.30 and 807.00 from Mexico. Mexican authorities allow maquilas to be fully foreign owned, although they generally permit only minority foreign ownership in other areas of production.¹¹⁸

Items entering under TSUS 807.00 from Mexico, accounted for 38.3 percent as a share of total imports in 1986, 43.5 percent in 1987, and 47.1 percent in 1988 (table 14.) Goods entering under TSUS item 806.30, were responsible for 0.4 percent, 0.6 percent and 0.7 percent of total imports during the 3 respective years. In addition to machinery, maquilas supply a major part of textiles and apparel and other miscellaneous manufactures imported from Mexico. Bilateral trade in textiles and apparel is subject of a separate agreement between Mexico and the United States.¹¹⁹

Imports of food from Mexico continued to fall in 1988 due principally to a sharp drop in shellfish shipments from their high 1987 level, and a continued fall in coffee shipments.

Major Policy Developments Affecting Trade

In its last few years, the de la Madrid administration made major changes in improving Mexico's economic relations with the outside world, in accordance with joining the GATT in 1986. The administration dismantled much of Mexico's highly protectionist tariff and nontariff import barriers, and significantly reduced Mexico's dependence on petroleum by developing nonpetroleum industries and diversifying the country's exports.

Phasing out the system of prior import licensing was a major component in the overall scheme of import liberalization by the de la Madrid administration. Mexico's import licensing system had required prior licenses for virtually all categories of imports. Licensing requirements had been an effective policy tool for excluding foreign

¹¹⁶—Continued

processing. Item 807.00 applies to articles that are assembled abroad, in whole or in part of U.S. made components, and then imported into the United States. The Harmonized Tariff System (HTS) designation, in effect since Jan. 1, 1989, is subheading 9802.00.60 for TSUS 806.30, and subheading 9802.00.80 for TSUS 807.00.

¹¹⁷ The term "maquila" is generally associated with the labor-intensive subsidiary of a foreign company that receives from its parent, duty-free and in bond, its machinery, equipment, and raw materials needed for processing or assembling components manufactured outside Mexico.

¹¹⁸ See also *The Use and Economic Impact of TSUS Items 806.30 and 807*, report to the Subcommittee on Ways and Means under Section 332(b) of the Tariff Act of 1930, USITC Publication 2053, January 1988.

¹¹⁹ See "U.S.-Mexico Bilateral Trade Issues" later in this section.

Table 14
U.S. Imports from Mexico entered under TSUS Items 806.30 and 807.00, 1986-88

Item	1986		1987		1988	
	Value	Percent of total	Value	Percent of total	Value	Percent of total
	Million dollars		Million dollars		Million dollars	
Total U.S. Imports	17,196	100.0	19,766	100.0	22,617	100.0
TSUS Item 806.30	74	.4	123	.6	152	.7
TSUS Item 807.00	6,592	38.3	8,602	43.5	10,655	47.1
Imports under items 806.30 and 807.00	6,666	38.8	8,725	44.1	10,806	47.8

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

products from the Mexican market. By November 1988, about 95 percent of all tariff items, representing about 75 percent of imports by value became exempt from prior licensing requirements.

The administration also pursued a phased reduction of tariffs, capping rates at 20 percent.¹²⁰ In its efforts to build up Mexico's nonoil exports, the administration put its weight behind industries that already have achieved some level of acceptance in foreign markets, especially in the United States. These included production of automobile and parts, steel, beer and shrimp.

Although unwilling to change Mexico's restrictive foreign investment laws, the de la Madrid administration did become more hospitable to foreign investors.¹²¹ In February 1988, Mexico announced an update of its General Resolution of the National Foreign Investment Commission. The new rules simplify foreign investment authorization procedures and make authorization automatic under specified conditions rather than requiring negotiations with Mexican authorities in each and every case.

The laws limit foreign investment in Mexico to 49 percent of investment participation.¹²² However, 100-percent foreign ownership is permitted in the in-bond (maquiladora) industry, most of which is located close to the U.S. border.

¹²⁰ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-34. Mexico's action in January 1989 in imposing duties on some formerly duty-free products, and raising duties on others, is not considered likely to reverse the market-opening process.

¹²¹ Treatment of foreign investment in Mexico is based on three laws with their respective resolutions: the 1983 Law to Regulate Foreign Investment, the 1973 Technology Transfer Law, and the 1976 Law on Inventions and Trademarks.

¹²² Certain sectors, such as petroleum, radioactive minerals, electricity and railroads are reserved to the state; others, such as radio and television, bus and air transport to Mexican nationals.

The Mexican Government has a wide discretion in enforcing the country's restrictive foreign investment laws. These laws had been applied in an increasingly flexible manner in the past few years. As a result of the many exceptions Mexican officials made on grounds of serving the best interests of Mexico's economy, thousands of majority-foreign-owned companies currently exist in Mexico. In obtaining permission to operate, foreign companies have to satisfy certain performance requirements, such as producing for exports, having high local content in their products, or choosing appropriate locations within Mexico. Mexico's development programs in the auto, computer, and pharmaceutical sectors all contain special requirements affecting foreign investment. Foreign investment in Mexico is currently estimated at \$15 billion, two-thirds of it from the United States.

On July 1, 1988, Mexico switched from the Customs Cooperation Council nomenclature (CCCN) system of classifying merchandise trade to the Harmonized System (HS) of merchandise classification. The new tariff schedule consists of 11,963 tariff items, of which 83.8 percent are subject to duties, 16.1 percent are duty free, and 0.1 percent are prohibited import categories. In addition, 2.7 percent of the items require prior import permits compared with 3.4 percent in the old schedule.

Under the new system, as under the old CCCN system, the ad valorem duty to be assessed specific product categories is determined by the availability of domestically produced substitutes, and on grounds of the value added by manufacturing processes in the imported product. Many basic consumption goods that are in short supply domestically, raw materials for priority industries, and capital goods that are not produced in Mexico may enter duty free. Other basic raw materials, and products that have been only slightly processed and are not produced in Mexico, are assessed a 5-percent duty; most

intermediate goods used by domestic manufacturers pay a 10-percent duty. Imports of high-value-added intermediate goods with a high foreign value-added content are subject to a 15-percent duty; and goods for final consumption subject to 20-percent duty. Under the newly adopted HS nomenclature, the unweighted average duty on all imports is 10.6 percent, compared with 19.7 percent under the CCCN nomenclature.¹²³

United States-Mexico Bilateral Trade Issues

Overview

Bilateral economic relations between the United States and Mexico continued to improve in 1988. Closer ties were forged after Mexico's accession to the GATT in 1986, and the conclusion of a bilateral "framework agreement" between Mexico and the United States in 1987. In 1988, both parties began to use the consultative mechanism established in the framework agreement for discussing their concerns in mutual trade and investment relations.¹²⁴

Framework Agreement

In February, 1988, the first formal consultations began under the framework agreement. This landmark understanding of November 6, 1987 established principles of governing trade and investment relations between the two countries and consultative mechanisms to resolve disputes. At the end of 1987, the two parties concluded substantive accords on bilateral trade in steel, textiles and alcoholic beverages.¹²⁵

The issues discussed in February 1988 included major U.S. concerns: barriers to direct foreign investment, the electronics sector development plan, and protection of intellectual property rights in Mexico.¹²⁶ In May, the parties discussed the technical aspects of some of the same issues. U.S. officials expressed interest in Mexico's loosening the restrictions of its electronics development plan to permit increased U.S. exports and direct foreign investment. Mexican officials provided clarifications on changes in Mexican laws governing intellectual property rights.

¹²³ The trade-weighted average duty for the HS is not available.

¹²⁴ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-36.

¹²⁵ *Ibid.*

¹²⁶ Among others, the United States seeks an accelerated phase in of expanded product patent protection in Mexico, particularly as applied to pharmaceuticals. According to recent Mexican regulations, full product patent protection will be available only in January 1997. For processes, Mexico recently extended patent production to a number of inventions, lengthening also the term of such protection from 10 to 14 years. On the issue of intellectual property rights, see also *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-37.

Further exchanges took place in June on a wide range of trade and investment issues. In August 1988, officials of the two countries affirmed their intention to establish working groups to address trade and investment data collection and exchange in areas including direct foreign investment and intellectual property rights. Earlier in the year, Mexico raised the issue of possible bilateral sector-by-sector discussions in several production areas and certain service areas. At the August meeting, both sides agreed to explore all possible ways of further promoting trade, either along industry lines or along issue-oriented lines that cut across specific sectors. Mexico's major concerns in bilateral relations with the United States center around access to the U.S. market for a wide range of products, especially for textiles, steel, and certain agricultural products. Mexico has consistently requested increases in quota limits under existing agreements in the first two areas.

In the area of agriculture, Mexico opposes what it considers unreasonably high U.S. duties on melons, tomatoes, and strawberries. Mexico also objects to certain U.S. sanitary requirements which, they believe, limit their exports to the U.S. market of Mexican mangoes, avocados, meat, and other farm products. The U.S. position is that sanitary requirements are uniformly applied to all exporters. The year under review brought some relief on the meat issue. On December 29, 1988, the U.S. Department of Agriculture reinstated Mexico as eligible to export beef, mutton, pork, and goat products to the United States. Mexico had been removed from the list of eligible countries in February 1984 because its residue testing and specified verification programs had not met the provisions of the U.S. Federal inspection law. A recent review of Mexico's laws and regulations indicated that Mexico now meets U.S. standards.

Foreign Debt

In 1988, the United States continued to assist Mexico with foreign debt—its most immediate and grave problem. In March, the U.S. Treasury issued 20-year zero coupon (noninterest-paying) bonds to back securities issued (at a discount) by the Mexican Government in exchange for part of Mexico's public debt.¹²⁷ In addition, in October 1988, the United States responded to the decline in Mexican oil revenues and the country's increased budget problems by offering Mexico a short-term bridge loan of up to \$3.5 billion—the largest ever made available to a debtor nation.¹²⁸ Meanwhile, political pressure for a moratorium on interest payments remains strong in Mexico and the debt issue continues to be an important aspect of bilateral relations.

¹²⁷ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-35.

¹²⁸ In February 1989, the Mexican finance ministry said that Mexico will not need the loan because its foreign reserves have stopped falling and inter national oil prices began rising.

Extension of the Subsidy Agreement

In June 1988, U.S. and Mexican officials extended the 1985 bilateral agreement between the two countries on export subsidies and countervailing duties through April 23, 1991. The original three-year accord called for Mexico to phase out its export subsidies (such as low-cost export and pre-export financing, and energy discounts), and refrain from introducing new ones.¹²⁹ In exchange, the United States agreed to an injury test under the U.S. countervailing duty law for imports from Mexico, pursuant to section 701(b)(3) of the Tariff Act of 1930. The test requires evidence of injury to U.S. industry before any countervailing measures may be levied against subsidized imports from Mexico.¹³⁰ The agreement was widely perceived as an important step in U.S.-Mexican commercial relations.

The extension of the export subsidy agreement in 1988 reduces the likelihood of new subsidy complaints by either Government during the next three years. While the number of complaints registered by U.S. companies against Mexico decreased since the 1985 agreement,¹³¹ and none was filed since 1987, Mexico is concerned with outstanding countervailing duty determinations that had been made before it became entitled to the injury test.

Taiwan

The Economic Situation in 1988

Taiwan's economy is one of the world's best performers. However, after double-digit growth in 1986 and 1987, growth slowed to 7.1 percent in 1988. Despite the slowdown, per capita GNP for Taiwan's estimated 20 million people exceeded \$6,000—giving Taiwan the fourth highest per capita GNP in Asia, after Japan, Hong Kong, and Singapore. Domestic demand increased in 1988 as real capital formation increased 13.7 percent and consumption spending rose 11.6 percent. Inventory increased as the 42 percent appreciation of the New Taiwan (NT) dollar in 1985–1987 drove down net foreign demand by 40.3 percent. The unemployment rate did not exceed 2 percent during the year.

Taiwan's economy depends on exporting. About half of total GNP is exported, with over 38 percent of the exports bound for the United States. Studies done in Taiwan indicate that between \$700 million and \$1 billion of Taiwan's

sales to the United States are goods produced by U.S. companies which have established manufacturing facilities on Taiwan.¹³² A substantially larger proportion of the trade is derived from contract manufacturing for U.S. companies. Domestic demand grew 17.8 percent over 1987 and became a significant factor in Taiwan's 1988 economic growth. The surge in domestic demand contributed to the 9.5 percent growth in the service sector which replaced manufacturing industries to become the biggest economic sector, accounting for 47.2 percent of GNP. The industrial sector grew only 5 percent and accounted for 46.4 percent of GNP.

Market forces are rapidly changing the structure of the industrial sector as traditionally labor-intensive, light industries (apparel, footwear, toys, sporting goods) lose ground to more capital- and technology-intensive industries such as machinery and electronic goods. There is a tendency in Taiwan to shift low-end, labor-intensive production elsewhere, particularly to Thailand, Malaysia, China, and the Philippines.¹³³ Output of light manufacturing industries as a share of total industrial production decreased from 43 percent in 1987 to 40 percent in 1988. Production from capital and technology-intensive industries grew 8 percent in 1988, and its share of total industrial production increased from 57 percent in 1987 to 60 percent in 1988. The marketplace is changing rapidly as well. Disposable income has risen faster than the availability of goods and services on which to spend it. As a result, western-style retailing is appearing frequently in the form of grocery stores, supermarkets, department stores, fast-food restaurants, and convenience drug stores.¹³⁴

Merchandise Trade with the United States

During the year, Japan remained Taiwan's major supplier of capital and intermediate goods. The United States was Taiwan's largest trading partner, its largest export market, and its second largest import supplier. (See table 15 for U.S. merchandise trade with Taiwan.) Due partly to the NT dollar devaluation relative to the yen and major European currencies during 1985 and 1986, Taiwan succeeded in further diversifying its export markets in 1988, shifting from the United States to western Europe, Japan, and elsewhere in Asia. Shipments to the United States as a share of total exports decreased from 44.5 percent in 1987 to 38.7 percent in 1988. Conversely, Taiwan's export shares of other markets rose over the period: Western Europe from 14.5 percent to 16.3 percent; Japan from 13.0 to 14.3 percent;

¹²⁹ See *Operation of the Trade Agreements Program, 37th report, 1985*, USITC Publication 1871, p. 184.

¹³⁰ Before the pact, U.S. industries could demand countervailing duties simply by proving that the imports had benefited from subsidies; they did not have to show injury from import competition.

¹³¹ In the 5 years prior to the 1985 accord, U.S. industries lodged 25 countervailing duty complaints against Mexican imports; since then, there have been only 2 such cases.

¹³² Taipei, American Institute in Taiwan, AITGRAM, "Taiwan Marketing Plan FY 1989", Aug. 4, 1988, p.4.

¹³³ Ibid.

¹³⁴ Ibid.

Table 15

U.S. merchandise trade with Taiwan, by SITC¹ Nos. (Revision 2), 1986-88

(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	543,605	552,996	857,355
1	Beverages and tobacco	47,341	146,594	179,733
2	Crude materials, inedible, except fuel	1,050,742	1,223,696	1,463,898
3	Mineral fuels, lubricants, etc	269,649	319,166	434,654
4	Oils and fats, animal and vegetable products	7,693	7,271	9,783
5	Chemicals	858,855	1,132,511	1,538,029
6	Manufactured goods classified by chief material	255,257	306,614	502,250
7	Machinery and transportation equipment	1,722,526	2,345,421	3,576,164
8	Miscellaneous manufactured articles	223,656	297,107	411,852
9	Commodities and transactions not elsewhere classified ..	77,799	687,863	2,625,568
Total		5,057,124	7,019,239	11,599,286
<i>U.S. imports³</i>				
0	Food and live animals	422,037	518,917	417,072
1	Beverages and tobacco	2,020	2,358	3,192
2	Crude materials, inedible, except fuel	40,557	55,675	52,524
3	Mineral fuels, lubricants, etc	30,352	12,113	5,692
4	Oils and fats, animal and vegetable products	2,054	869	842
5	Chemicals	232,066	249,409	275,575
6	Manufactured goods classified by chief material	3,069,524	3,784,047	3,758,409
7	Machinery and transportation equipment	6,406,249	8,532,732	9,324,781
8	Miscellaneous manufactured articles	9,359,674	11,180,476	10,592,600
9	Commodities and transactions not elsewhere classified ..	206,078	239,087	280,044
Total		19,770,612	24,575,682	24,710,730

¹ Standard International Trade Classification² Domestic exports, f.a.s.³ Imports for consumption, customs value.

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

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

and ASEAN¹³⁵ from 5.5 to 6.7 percent. Taiwan also began exploring trade possibilities with Eastern Europe, the Soviet Union, and Vietnam, but foreign exchange shortages in these countries limited trade opportunities. Taiwan's imports grew much faster than its exports. Taiwan's global surplus (excluding Central Bank gold imports) fell by 16.4 percent from 1987 to \$16.1 billion in 1988. Including gold imports, Taiwan's surplus fell 41.3 percent to \$10.9 billion.

As part of Taiwan's effort to reduce its huge trade bilateral surplus with the United States, diversify its international reserves, and hedge against the effects of an appreciating NT dollar, Taiwan's Central Bank began a policy of rapidly increasing its gold bullion imports from the United States in November 1987. By February 1988, Central Bank gold imports reached almost \$1 billion. By yearend, the United States had sold Taiwan \$2.9 billion in gold bullion (a 57 percent market share), thereby replacing Hong Kong as Taiwan's number one gold supplier. Virtually all

¹³⁵ The member countries of the Association of Southeast Asian Nations (ASEAN) are: Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand.

of the gold imports represented the Central Bank portfolio adjustment measures that began in November 1987.

Hong Kong continued to dominate as a source of private sector gold purchases with 42 percent of that market's share.¹³⁶ Public and private sector gold imports accounted for over 26 percent of Taiwan's total imports in 1988. Gold accounted for a fourth of all U.S. exports to Taiwan during the November 1987-February 1988 four month period.

As a result of the gold purchases, Taiwan authorities emphasized that their bilateral surplus with the United States was diminishing rapidly. However, U.S. officials argued that gold, as a monetary asset and not a commodity to be consumed, should not be included in the bilateral merchandise trade equation.¹³⁷ Financial analysts said that, since Taiwan counted its gold purchases

¹³⁶ Taiwan's private sector is also a big importer of gold bullion, but from non-U.S. sources. By yearend, the private sector imported \$2.2 billion in gold bullion and coins mainly from Hong Kong, Canada, Australia, Switzerland, and South Africa. Taipei, American Institute in Taiwan, Dec. 14, 1988, 07992.

¹³⁷ Ibid.

as a commodity import in the current account, the inflow artificially reduced the U.S.-Taiwan trade imbalance for the November 1987-February 1988 period by almost 30 percent.¹³⁸ By September 1988, the Central Bank had stopped virtually all gold purchases and said it had no plans to buy more in the near future.

If Central Bank gold purchases are included in the merchandise trade equation, U.S. market share on Taiwan increased from 21.8 percent in 1987 to 26.2 percent in 1988. Excluding public sector gold purchases, U.S. market share was still up, but only to 23.4 percent.¹³⁹ Thus, with or without gold, Taiwan's surplus with the United States fell in 1988.

Taiwan's exports to the United States were flat in 1988 at \$24.7 billion. Taiwan's purchases from the United States (excluding gold) were up 42 percent to \$9.1 billion and its bilateral trade surplus (excluding gold) fell 14 percent to about \$17 billion.¹⁴⁰ Including Central Bank gold purchases, Taiwan's imports from the United States increased 65 percent to about \$12 billion, and its trade surplus dropped 27 percent to \$14 billion.¹⁴¹ The leading exports from the United States to Taiwan in 1988 were gold or silver bullion (\$2.5 billion), electronic components (\$582 million), motor vehicles (\$497 million), and soybeans (\$463 million). The leading items imported from Taiwan into the United States in 1988 were rubber and plastic footwear (\$1.2 billion), office machines (\$726 million), machinery parts (\$705 million), office machines (\$509 million), men's leather footwear (\$505 million). See appendix tables B-13 and B-14 for details of United States-Taiwan trade.

Major Policy Developments Affecting Trade

The effects of the liberalization and internationalization policies begun in 1986 and the lifting of martial law in 1987 continued to be felt during the year.¹⁴² Most restrictions on foreign investment in the manufacturing sector were removed, although a number of areas remain reserved for state and local enterprises. After a 15-year freeze, a ban on new securities

¹³⁸ James McGregor and W. Mossberg, "Magic of gold: Washington irked by Taiwan ploy to reduce trade gap with U.S.," *The Asian Wall Street Journal*, Apr. 25, 1988, p. 3.

¹³⁹ Taipei, American Institute in Taiwan, Feb. 10, 1989, 00874.

¹⁴⁰ Taipei, American Institute in Taiwan, Jan. 27, 1989, 00582.

¹⁴¹ *Ibid.*

¹⁴² The lifting of martial law in July 1987 reportedly has contributed to increased labor activism in Taiwan. Following on the heels of two technically illegal strikes by bus and rail transportation workers early in the year, in December, employees of the Dairen Petrochemical Co. began the first legal strike in Taiwan's post-war history in a dispute over the size of yearend bonus payments.

firms was lifted in early 1988. During August financial services talks between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA), Taiwan authorities stated that foreign banks, mutual funds and insurance companies will be able to operate in Taiwan under less restrictive circumstances, although such liberalization must await legislative approval.

The agricultural sector proved to be resistant to the general liberalization measures adopted in 1988. Although agricultural production grew to \$5.2 billion in 1988, its share of Taiwan's GDP continued to decline, dropping from 5.3 percent in 1987 to 5 percent in 1988. Despite its small contribution to the GDP, the heavily subsidized agricultural sector represents 20 percent of the voting population and is politically vocal. Legislative concern for agricultural interests led to the exclusion of agricultural products from Taiwan's otherwise broad tariff cuts in 1987 and 1988. Tariffs on agricultural imports remain as high as 50 percent ad valorem on many items. Other barriers to agricultural imports such as quotas, special levies, commodity taxes, and unique sanitation or purity standards persist.

Tariffs

Taiwan has made significant progress in lowering its tariff barriers to nonagricultural items. In 1987, Taiwan authorities reduced tariff rates on about 1,200 products. Further reductions were made in the tariff schedule revision effective February 8, 1988 when tariff rates for 3,520 items—about 80 percent of all dutiable items—were reduced by an average of 50 percent. The maximum tariff rate was reduced from 57.5 percent to 50 percent, with the exception of 6 items which will have had rates of 53 percent. Rates were also eliminated for 142 products and raised on only one product. As a result of the reductions, Taiwan's nominal average tariff rate fell from 20 percent at the beginning of 1987, to about 12 percent in 1988.

The primary beneficiary of the tariff cuts were industrial products. Tariff rates on agricultural goods generally remained high. Duties for citrus, seafood and fruit juices remain between 45 and 50 percent; frozen vegetables and fruits and nuts generally face a 35-40 percent tariff. On motor vehicles the duty remains high at 42.5 percent, while many other industrial products of interest to the United States face duties of 15 to 25 percent.¹⁴³

Foreign Investment

In 1987, Taiwan announced a proposal to liberalize its policy on foreign investment.¹⁴⁴ The

¹⁴³ Taipei, American Institute in Taiwan, May 12, 1988, 03367.

¹⁴⁴ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-40 for background information.

policy was implemented in 1988, but contains a list of industries specifically closed to foreign investment. Excluded from foreign investment are businesses violating public safety, monopoly rules, and moral codes. Foreign investment in financial and insurance service organizations, pollution-producing industries, news and other publishing activities were restricted. Foreign investment is completely banned in 55 categories of business, including: vegetables, rice, mushrooms and fruit; jewelry and precious metals; utilities, including gas, water, and electricity; civil engineering and housing; transportation, including railroad, taxi, and other passenger services; farming, including, flowers, poultry, dairy cattle, hogs and other livestock; iron and steel industries; production and repair of metal tools and machinery; communications facilities; optical instruments; hunting, forestry, ocean and fresh water fishery exploitation; manufacture of monosodium glutamate; real estate; radio, television, and other cultural industries.¹⁴⁵

Limited foreign investment is allowed in 51 businesses, including shipping, banking, insurance, coal and mineral mining, medicine and pesticide production, inland water and air transport, travel agencies, and accounting services.

Taiwan statistics indicate that the 1987 upward trend in foreign investment approvals was not sustained in 1988.¹⁴⁶ Foreign investment approvals increased 84 percent in 1987 but faltered in 1988. Approvals declined by more than 40 percent in the first 5 months of 1988 compared with the January-May 1987 period, with significant declines by the United States (down 69 percent), Hong Kong (down 57 percent), and European countries (down 70 percent). Only Japanese approvals increased, rising 2 percent in the first 5 months.¹⁴⁷ Taiwan authorities attributed the decline in overall foreign investment to several factors: the appreciation of the NT dollar; increasing wages and labor unrest; the new environmental activism; and increasing challenges to government authority.¹⁴⁸

New Trade Action Plan

Late in the year, news sources reported that President Lee Teng-hui instructed the Executive Yuan, in cooperation with the Ministry of Economic Affairs, to pursue strategies to balance and improve trade relations with the United States, Japan, and Europe. In particular, the

¹⁴⁵ *Taiwan Industrial Panorama*, March 1988, p. 1.

¹⁴⁶ Taiwan publishes investment statistics based on investment application approvals. According to Taiwan officials, about 50 to 65 percent of the value of investment approvals result in actual investments.

¹⁴⁷ Taipei, American Institute in Taiwan, July 13, 1988, 04416.

¹⁴⁸ *Ibid.*

President's guidelines suggested accelerating reduction in the trade surplus with the United States and relieving trade tensions. Taiwan agencies developed a preliminary action plan that included the following:¹⁴⁹

Regarding the United States—(1) continue to review and lower tariffs on U.S. products, setting a timetable for gradual elimination of import controls; (2) hold industrial product shows featuring U.S. products to increase purchases; (3) begin consultations for a free trade area agreement with the United States; and (4) establish a dispute-settlement mechanism.¹⁵⁰

Regarding Japan—(1) persuade Japanese government and private organizations to dispatch more trade missions to Taiwan; (2) induce Japanese manufacturers on Taiwan to increase their sales to Japan; (3) assist Japanese firms to hold trade shows on Taiwan; and (4) set up Taiwan trade centers in Tokyo and Osaka.

Regarding Europe—(1) accelerate establishment of Taiwan trade centers in major European cities; and (2) explore measures to cope with the emerging European integration scheme.

On November 30, Taiwan announced a broad outline of a new trade action plan for advancing economic liberalization measures intended to lower its trade imbalance with the United States. With the exception of its exchange rate policies, the plan addressed almost all U.S. concerns about Taiwan's trade policy. Some analysts suggest that Taiwan's proposals are, in large part, an attempt to avoid being targeted by "super 301" provisions of the 1988 omnibus trade law.

The plan specifies that the global trade surplus and the bilateral trade surplus with the United States will be substantially cut. From 1988 to 1992, the bilateral trade surplus is targeted to be reduced by \$1 billion every year. Other highlights of the plan include: accelerating economic liberalization; increasing purchases from the United States; accelerating market diversification; adjusting domestic policies and measures to expand domestic demand and increase public investment in infrastructure. The plan also includes timetables for resolving bilateral trade issues, including intellectual property rights protection, import duties, inland transportation, banking, insurance, and securities.¹⁵¹

Indirect Trade with China

In August, Taiwan authorities added 20 items to the list of items eligible for indirect import from

¹⁴⁹ The source for the information in this section is *Taiwan Industrial Panorama*, November 1988, p. 1.

¹⁵⁰ See, "Taiwan trade action plan", in the section below.

¹⁵¹ In early 1989, Taiwan's ad hoc committee on Taiwan-U.S. trade approved the trade action proposal. Following concurrence by the Executive Yuan, the plan will be officially conveyed to Washington.

China. This is the first addition to the list since it was first issued in 1987 and raises to 50 the number of product categories that can be imported indirectly from China. Unlike the original 30 items on the list which focused on products of negligible value or not readily available from other sources (such as Chinese herbal medicines)¹⁵², the new additions to the list represent items of significant value that Taiwan had been sourcing elsewhere. The additional items include: coal; pig iron; scrap iron and steel; aluminum ingot; tin ingot; copper; kaolin; talc; rubber; leather; cotton; oil crops; silk; wool; mineral ores; silicon carbide, corundum, aluminum oxide, and magnesium oxide; pulpwood; yellow phosphorous; and polymerized oil and tung.

The shift toward China as a source for agricultural and industrial raw materials is characterized as a cost-saving measure; raw materials from China are priced about 15 percent less than elsewhere.¹⁵³ Taiwan's Board of Foreign Trade has said that the shift in sourcing was necessary to help Taiwan manufacturers maintain their international competitiveness against other Asian NIEs which are procuring low cost materials from China for reprocessing and export. Overall, the additional 20 items accounted for \$2.7 billion in imports to Taiwan in 1987. In the first 4 months of 1988, total China-Taiwan trade via Hong Kong increased 61 percent over the same period for 1987. More than 90 percent of the imports were in 8 product categories: coal, scrap metal, cotton, copper, aluminum ingots, wool, rubber, and pig iron. It is expected that the expansion of sanctioned trade will result in rapid expansion in Taiwan's trade with China.

The United States and other major suppliers of raw materials to Taiwan are likely to be affected by the shift to China for raw materials. Among the 20 raw materials on the list, U.S. exports accounted for 42 percent of Taiwan's coal imports, 31 percent of cotton imports, 30 percent of iron and scrap steel imports, 34 percent of kaolin imports, 30 percent of leather imports, and 5 percent of aluminum ingot imports.¹⁵⁴ U.S. exports in the 20 product categories represented nearly one-fourth of total Taiwan imports in these items.

Environmentalism

One of the most significant prospects for increased foreign sales to Taiwan is in the area of

¹⁵² Other items on the original list include: seeds; horsehair; pig, hog, and bear bristle; rabbit hair; rabbit furskin; chicken feathers; non-edible castor oil; non-edible beef tallow; rattan; china clay; ginseng; dried red dates; emery sand; diatomite; hyoscyami semen; ramie; flax; coarse and fine goat hair; and refractory mortars.

¹⁵³ Taipei, American Institute in Taiwan, Aug. 24, 1988, 05448.

¹⁵⁴ Ibid.

environmental protection. Taiwan's history of subordinating environmental questions to the drive for economic growth has resulted in what may be one of the worst environments in the world.¹⁵⁵ Air pollution is extreme and intensive agriculture has resulted in a river system polluted by animal wastes, herbicides and fertilizer run-off. Sewer systems are largely undeveloped and hazardous wastes frequently go untreated. Public and political concern for the environment has grown, and significant resources are being committed to environmental projects. Sewer and incinerator projects are planned for Taiwan Basin, stack scrubbers are being added to power plants, and an island-wide pollution monitoring system is being implemented.¹⁵⁶ By the year 2000, Taiwan expects to invest \$33.3 billion in pollution control and industrial waste systems. An estimated \$9 billion will be spent on air pollution control and \$1.33 billion on water pollution control over the next 5 years. Between 1987 and 1996, Taiwan authorities plan to invest \$2.4 billion in solid waste disposal.¹⁵⁷

United States-Taiwan Bilateral Trade Issues

Exchange Rates

An October 1988 report by the U.S. Treasury Department criticized Korea and Taiwan as manipulating their exchange rate policies "for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade."¹⁵⁸ The report further stated that "Taiwan's underlying economic fundamentals strongly suggest that further appreciation would occur if capital and exchange restrictions were dismantled and market forces were given freer rein." Following the release of the U.S. Treasury report, the NT\$/US\$ rate reversed its depreciating trend of the previous two months and appreciated, leading to protests by Taiwan's textile and footwear manufacturers.

The NT\$/US\$ exchange rate was essentially stable during the year. Between January 1 and December 31, the rate moved from 28.55 NT dollars per U.S. dollar to 28.16, representing an appreciation of 1.3 percent.

Import Barriers to Agricultural Products

Generally, Taiwan has used tariffs rather than nontariff measures to protect its domestic industries from imports. However, it does maintain an extensive import licensing system which increases the transaction cost for exporting to Taiwan, and is particularly difficult for novice exporters to comprehend. In 1988, Taiwan began

¹⁵⁵ American Institute in Taiwan, AITGRAM, "Taiwan Marketing Plan FY1989," Aug. 4, 1988, p. 7.

¹⁵⁶ Ibid.

¹⁵⁷ Taipei, American Institute in Taiwan, AITGRAM, "Economic trends report", Jan. 27, 1989, p. 10.

¹⁵⁸ Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, Oct. 15, 1988.

adopting major nontariff barriers to slow—or eliminate—the import of certain U.S. fruits and

turkey meat. Taiwan had argued that refusals to issue import licenses for these products were due, in part, to health concerns and import surges.¹⁵⁹ Following AIT/CCNAA consultations, Taiwan authorities began reissuance of import licenses for turkey parts in December 1988. The fruit issue remained under discussion at yearend.

Taiwan continued to ban imports of edible beef and poultry offals, chicken and chicken parts, duck meat, peanuts, azuki beans, and a limited number of chemical products in 1988. Early in the year, Taiwan banned the import of selected citrus products from countries other than the United States, and is considering replacing this with an overall quota system that would include the United States.¹⁶⁰

Insurance

Taiwan's domestic insurance market is governed by an insurance law first promulgated in 1929 and last amended in 1974. The enforcement rules of the law were amended in 1975. Taiwan has made progress in opening its insurance industry to U.S. firms. Under the April 1987 bilateral agreement which opened the Taiwan market to U.S. insurance firms, Taiwan is committed to authorize 2 U.S. property and casualty and 2 U.S. life insurers each year. The Ministry of Finance makes the final selection from among those who apply during the annual August application period. In March 1988, 2 U.S. life insurers were permitted to begin operations in Taiwan as part of a bilateral agreement to liberalize Taiwan's insurance markets. They join 5 property and casualty firms and 2 other life insurance companies which have gained access to the Taiwan market. AIT and CCNAA have held consultations on implementation problems concerning issues such as: numerical restrictions on the number of branch offices; the review process for applications; restrictions on investments by U.S. firms in real estate and securities; and the approval process for new life insurance products. CCNAA has informally undertaken to resolve the problems, either through revisions to the insurance law (planned for mid-1989) or through administrative means.¹⁶¹

Republic of Korea

The Economic Situation in 1988

Korea had an excellent year in 1988; in addition to successfully hosting the 1988 Olympics and continuing democratization of its political structure, its economy had another

¹⁵⁹ Taipei, American Institute in Taiwan, May 12, 1988, 03367.

¹⁶⁰ Ibid.

¹⁶¹ Ibid. At yearend, the Ministry of Finance had proposed that U.S. firms be allowed to invest in local stocks. Once approved by the Executive Yuan, the change would take effect immediately. Reportedly, foreign investment in real estate is not likely to be permitted in the near future.

stellar performance. Total worldwide trade exceeded \$100 billion; fixed capital formation increased 10.6 percent; growth of the agriculture, forestry, and fisheries sector was up 8.4 percent; and the manufacturing sector grew by 13.1 percent. In the first half of the year, real GNP grew 11.8 percent compared to the same period for 1987. Slow growth in the second half and attributed to several factors, including a number of labor disputes, higher labor costs, and won appreciation. (Wage increases averaged about 15 to 16 percent for all industries for the year, and the won appreciated 15.8 percent.) The 1988 labor disputes were less numerous and less severe than those which occurred in 1987, but they had an impact on industrial production, especially in certain export industries. Although Korea's exports increased an estimated 11.3 percent in real terms, that compares with the preceding year's 24 percent growth. Nevertheless, Korea's export-oriented economy achieved double-digit growth for the third consecutive year in 1988, with GNP growing by 12.1 percent.¹⁶² The unemployment rate during 1988 was 2.6 percent.

Korea's continuing current account surplus (\$13.8 billion in 1988, up from \$9.9 billion in 1987) permitted a substantial reduction in the country's outstanding foreign debt to \$32 billion from \$35.6 billion at year ending 1987.¹⁶³ However, excess liquidity resulting from the burgeoning current account surplus also contributed to inflationary pressures as consumer prices increased about 7.5 percent and wholesale prices were up about 3 percent. That compares with 3 percent and 0.5 percent increases in consumer and wholesale prices respectively, in 1987.¹⁶⁴ Per capita income for 1988 was \$3,728, up from \$2,813 last year.

Although exports continued to be the major force behind the economy's expansion, growing domestic consumption also took on a greater role. Consumer demand increased by 8.1 percent from 1987 (compared with a 7-percent increase in 1987) with substantial expenditures on such household durable goods as automobiles, furniture, medical care, and education and cultural expenses. Local firms began to view the

¹⁶² This compares with an estimated 3.8 percent growth for the United States, 3.5 percent for the EC, 5.8 percent for Japan, and 7.25 percent for Taiwan. U.S. Department of Commerce, *Business America*, Mar. 13, 1989, p. 2.

¹⁶³ Outstanding foreign debt accounted for 54 percent of GNP at year ending 1985; 30 percent of GNP at year ending 1987; and 20.5 percent of GNP at year ending 1988. Thus the burden of a heavy external debt has been substantially reduced. Furthermore, Korea's international reserves, which were relatively flat in 1987, increased by over \$7 billion by October 1988. According to Economic Planning Board estimates, Korea will achieve its goal of becoming a creditor nation by late 1989—nearly 2 years ahead of the targeted goal. Department of the Treasury, *Report to Congress on International Economic and Exchange Rate Policy*, Oct. 15, 1988, p. 18.

¹⁶⁴ Far Eastern Economic Review, *Asia Yearbook 1989*, p. 156.

domestic market as a way to counter declining export profitability due to the rising value of the Korean currency. Business conglomerates began developing new products targeted at the domestic market.¹⁶⁵

Korean manufacturers also coped with the effects of an appreciating won by passing the cost on to foreign customers. This is reflected in the increased production of higher value-added goods and an increasing tendency to sell their own brand names thereby gaining more control of sales and increasing profits.¹⁶⁶ During the year, export industries continued to shift away from traditional industries (for example, toys, and apparel) towards more technology-intensive industries. For the first time, electronics surpassed textiles as the leading export. The profitability of listed, nonfinancial companies rose 39 percent in the first half of the year, and about 20 percent in the second half.¹⁶⁷

Merchandise Trade with the United States

Korea is the United States' seventh largest trading partner and its fourth largest market for

¹⁶⁵ *Korea Trade and Business*, "Second Engine for Economic Growth," January 1989, p. 8.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

Table 16

U.S. merchandise trade with the Republic of Korea, by SITC¹ Nos. (Revision 2), 1986-88
(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	439,669	658,461	845,609
1	Beverages and tobacco	11,688	7,725	67,363
2	Crude materials, inedible, except fuel	1,577,248	2,057,501	2,672,016
3	Mineral fuels, lubricants, etc	230,126	322,027	286,586
4	Oils and fats, animal and vegetable products	23,910	36,367	46,792
5	Chemicals	761,902	996,020	1,391,616
6	Manufactured goods classified by chief material	385,710	455,030	745,484
7	Machinery and transportation equipment	2,020,474	2,510,591	3,733,449
8	Miscellaneous manufactured articles	287,641	350,211	480,088
9	Commodities and transactions not elsewhere classified ..	57,336	92,131	112,433
	Total	5,795,704	7,486,064	10,381,436
<i>U.S. Imports³</i>				
0	Food and live animals	179,567	293,105	261,218
1	Beverages and tobacco	25,772	20,009	23,942
2	Crude materials, inedible, except fuel	12,840	16,583	25,426
3	Mineral fuels, lubricants, etc	41,187	16,469	14,002
4	Oils and fats, animal and vegetable products	4	365	435
5	Chemicals	125,278	137,685	172,093
6	Manufactured goods classified by chief material	1,793,870	1,983,604	2,311,877
7	Machinery and transportation equipment	4,524,157	7,045,561	9,060,531
8	Miscellaneous manufactured articles	5,901,497	7,275,860	8,070,232
9	Commodities and transactions not elsewhere classified ..	78,647	98,911	132,232
	Total	12,682,819	16,888,153	20,071,989

¹ Standard International Trade Classification

² Domestic exports, f.a.s.

³ Imports for consumption, customs value.

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

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

Imports of Korean goods into the United States continued to increase in 1988. However, the rate of increase declined over the past 2 years. U.S. imports from Korea increased 33 percent from 1986 to 1987 and about 18.9 percent between 1987 and 1988. Leading items imported by the United States from Korea were: automobiles and miscellaneous vehicles (\$2.5 billion); electronic tubes and transistors (\$1.2 billion); leather footwear (\$1.6 billion); leather wearing apparel (\$568 million); and office machines (\$459 million). See appendix tables B-15 and B-16 for details on leading items of U.S.-Korean trade.

Major Policy Developments Affecting Trade

The combination of Korea's growing trade surplus and relatively slow pace of market liberalization provided impetus in 1988 for retaliation measures by the United States, the EC, and—for the first time—Japan, whose knitwear producers accused Korean companies of dumping.¹⁶⁸ To cut the trade surplus and ease tensions with its major trading partners, the Korean Government initiated several measures to reduce tariffs and other barriers to imports.

Report of the Commission on Economic Restructuring

Shortly after his February 1987 inauguration, President Roh established the Commission on Economic Restructuring to recommend economic policy reforms. The final report of the Commission, submitted on October 28, 1988, identified three major areas of concern: internationalization of the economy, restructuring industry, and improving the quality of Korean life. The report generally recommended reducing the government role in the economy, increasing imports (particularly from the United States), and liberalizing the financial sector. To further internationalize the economy, the report recommended an outward-looking development strategy based on accelerated market opening, tariff reductions on manufactured goods, and reform of the import distribution system. Regarding the agricultural sector, the report recommended that advance notice be given to producers prior to allowing increased agricultural imports, and that the opening of agricultural markets be linked to restructuring of the sector.

The Presidential Commission made several recommendations to smooth restructuring of the economy: limit the Government's industrial role to encouraging research and development; halt Federal support for declining industries or poorly performing firms but provide various forms of assistance to displaced workers; increase social investments and industrial diversification in rural

¹⁶⁸ Ibid.

areas; improve competition through a revamp of the licensing and permit system; encourage the expansion of R&D expenditures; and implement a comprehensive system of property and capital gains taxes to reduce real estate speculation and stabilize prices.

Trade Plan for 1988

Korea changed to the Harmonized System (HS) import classification on January 1, 1988. Import licenses are required for all imports and are classified into three categories: automatic approval, restricted, and prohibited. As noted below, Korea's 1988 annual trade plan, announced by the Ministry of Trade and Industry (MTI) in March and effective April 1, further liberalizes the import regime by adding 262 HS items to the automatic approval list for import licenses and revisions in the surveillance system, the market diversification plan, and special law provisions.¹⁶⁹

Automatic Approval List

The 1988 trade plan raises the proportion of automatic approval (AA) items to 94.1 percent from 91.5 percent last year based on HS classifications. Import licenses for items on the AA list are automatically approved by the issuing banks. Among the newly freed items for 1988, those of particular interest to the United States include: canned fruit cocktail, solid type caustic soda, certain chemicals, polyester fibers, kraft paper and paperboard, vacuum pumps, compressors, truck scales, excavators, sewing machines, machine tools, metal working machines, generators, medium- and large-type computers and computer peripherals, small- and medium- passenger cars, crane lorries, parts and components of automobiles, cameras, bearings, copy machines, motorboats, engines for motorcycles, and engines for ships. In addition to these items, MTI announced an additional 71 items for liberalization effective July 1. This list included: umbrella frames; natural and cultured pearls; jewelry of precious metal; articles of ivory, shells, jet, or amber; live snakes, fresh frog's legs; avocados; meat extracts; and prepared or preserved fish. Raw sugar and refined sugar were removed from the AA list and placed on the import restricted list.

As a result of changes to the trade plan, the total number of AA items increased to 9,671 products from 9,600 products (by 10-digit HS categories). About 530 items remained on the import restricted list. Many import-restricted products are of interest to the United States; these include personal computers, sporting goods, certain construction equipment, auto parts, certain machine tools, certain agricultural products, and seafood.

¹⁶⁹ The source for most of the information on Korea's trade plan is U.S. State Department AIRGRAM, "Korea's 1988 Annual Trade Plan", May 25, 1988.

Surveillance System

The surveillance system monitors import flows of newly freed AA items to determine their impact on the domestic market. Use of the surveillance system (SS) has virtually precluded any import growth or increased competition for domestic producers of the products on the list. Items on the SS list required prior confirmation for their import from the Association of Foreign Trading Agents (AFTAK)—approval that was rarely granted.

In principle, SS items will either be moved to full AA status after a period of surveillance, or returned to the import restricted list. Under the 1988 plan, 60 HS items were fully freed for import by removing them from the SS list. They include marble, granite, liquid type caustic soda, soda ash, umbrellas, press dyes and punches, and multiple-walled insulating glass.¹⁷⁰ Imports of frozen potatoes were freed from the SS list effective July 1; however, frozen potatoes prepared or preserved other than by vinegar or acetic acid remained under surveillance.

Market Diversification Plan

Over the past several years, Korea has maintained large trade surpluses with the United States and the EC and a large deficit with Japan. Import items listed in the market diversification (MD) category are subject to special import approval procedures if their import is sought from a country with which Korea has an extremely unfavorable trade balance (in particular, Japan). Importers need special approval from AFTAK for licenses to import these items. This measure indirectly provides a favorable consideration to competitors from other countries, such as the United States, that do not maintain a bilateral surplus with Korea. Under the 1988 plan, 47 items were added to the MD list. The items include ethyl acetate, cold-rolled steel sheets, air compressors, auto lathes, ferry boats, cargo ships, and small automobiles. The MTI also removed 268 items from the MD list to be completely freed for import from all countries. These items include styrene, corduroy, parasols, glass tableware, sanitary ceramic products, air conditioners, washing machines, and calculators. Moreover, in an effort to attain more balanced trade, Korea implemented an "import diversification program"

¹⁷⁰ Effective January 1989, Korea abolished the surveillance system. Of the 34 items subject to the system in 1988, 22 items were fully liberalized. These items include: frozen strawberries; dried egg yolks, frozen bracken; mushrooms in sulphur water; castor oil; and yarn spun from silk. The remaining 12 items (mostly agricultural products) were moved to the import restricted list, effectively preventing imports. These items include: frozen garlic; dried garlic; dried onions; other frozen fruits and nuts including mandarins and grapes; ginger; lactose; artificial honey; and silkworm cocoons suitable for reeling.

during the year, designed to encourage substitution of those products traditionally imported from Japan with products from either the United States or the EC. Accordingly, the Korean Government has made available a list of products targeted for such diversification along with names and addresses of Korean end-users.

Special Law Provisions

Korea maintains a complex system of special laws (there are approximately 40 laws that cover such issues as safety for electric apparatus and food sanitation) which take precedent over the trade plan. Special law (SL) provisions are intended to maintain coordination of trade and standards to protect the safety of Korean consumers. Although some of these laws include internationally accepted controls for health and safety, other SL provisions have been used as a tool of restrictive import policy and effectively discouraged imports.¹⁷¹ For example, these laws have been used to cut seed imports during a period of surplus of domestically-produced corn seed, and to effectively ban medical equipment product imports for which a domestic substitute was available. As part of its liberalization efforts, under the 1988 plan, the MTI deleted restrictive measures on 18 items which required prior import inspection under the Quality Control Law for Manufactured Products, 24 raw materials for medicines under the Pharmaceutical Law, and 11 items under the Atomic Energy Law.¹⁷² MTI also eased the restrictive measures on over 100 items that previously required recommendations from the relevant ministries for import to a simple reporting system to the concerned ministries. The eased items include platinum compounds, colloidal precious metals, egg albumin, electro-cardiographs, and artificial respiration apparatus.

Increased Trade with Centralized Economies

A significant shift in policy that occurred in 1988 was the beginning of open trade with the Soviet Union, China, and Eastern bloc nations. Korea's trade with China, usually indirect, more than doubled in 1988 to \$3.2 billion.¹⁷³ More of that trade was direct trade than ever before, and plans were made to establish direct shipping between the two countries. A handful of Sino-Korean joint ventures were established, including a Daewoo refrigerator assembly plant in Fujian province.¹⁷⁴ Trade offices were

¹⁷¹ U.S. State Department Airgram, "Korea's 1988 Annual Trade Plan", May 25, 1988, p. 5.

¹⁷² The newly freed items from the SL provisions included: calcium nitrate magnesium; para-amino salicylic acid and its salts; digitalis glycosides; sapoins; oil cake and other solid residues resulting from the extraction of soya-bean oil; ammonium sulphate; urea; and natural sodium nitrate.

¹⁷³ Shim Jae Hoon, "Backyard rivalries," *Far Eastern Economic Review*, Mar. 30, 1989, p. 48.

¹⁷⁴ *Ibid.*

exchanged with Hungary and Yugoslavia and offices are planned for Czechoslovakia and East Germany in 1989. Discussions were held with the Chinese and Soviet officials concerning future exchanges of trade offices with them. Korea has also established a special council for opening ties with Communist countries (except North Korea) with a mandate to revise and abolish related laws that interfere with smooth trade between Korea and Communist nations.¹⁷⁵

Tariffs

An important component of Korea's market liberalization measures is reduction of basic tariffs. High tariffs have traditionally been used by Korean authorities to curb imports, particularly of consumer items. Since mid-1987, Korea has made regular cuts in its tariff rate schedule; however, the average rate remains high at about 20 percent.

The Ministry of Finance announced import tariff reductions on 691 raw materials and consumer goods under the tariff quota plan effective July 1, 1988.¹⁷⁶ The tariff quota system is meant to lower tariffs on consumer goods, which account for 300 of the 691 liberalized items. These quota tariffs are effective only for a specific period of time. The revisions will cut tariffs on items such as soy sauce, chocolate, ketchup, cosmetics, perfume, handbags and luggage to 20 percent from the current 30 percent. Tariffs on consumer goods such as margarine, bread, candy, and biscuits will be cut to 15 percent from the current 20 percent, and those on spices, and coconut oil to 15 percent from 20 percent.¹⁷⁷ The reduced tariffs were in effect until yearend 1988, except for 137 items on which they will remain in effect until the end of June 1989.¹⁷⁸

During the year, the Korean Government submitted a proposal to the National Assembly that provides for further phased reduction of overall tariff rates to 7 percent by 1993. According to the Ministry of Finance, highlights of the proposed revisions include the following:

Tariffs on imported raw materials and manufactured goods will be reduced in the next 5 years to a level equivalent to that of advanced countries;

¹⁷⁵ *Korea Trade and Business*, "Towards greater internationalization and liberalization of economy," January 1989, pp. 14-15.

¹⁷⁶ For background information on Korea's tariff regime, see *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-47.

¹⁷⁷ GATT, *Review of Developments in the Trading System, April-Sept. 1988*, L/6435, Nov. 30, 1988.

¹⁷⁸ Beginning in 1989, Korea will reduce import tariffs on automobiles and tractors by 5 percent to 25 percent. Tariffs on motorcycles will be reduced from 50 to 20 percent, together with tariffs on a variety of steel products, which will be reduced an average of 13.6 percent to 9.5 percent.

An adequate level of protection will be provided to domestic manufacturing industries to ensure balanced growth between the domestic and export sectors;

Tariffs on agricultural products will be maintained at an appropriate level.

The tariff revision package was passed on December 2, and implementation is scheduled for January 1989. As rates are reduced, demand for foreign products, particularly consumer items, should increase.

United States-Korea Bilateral Trade Issues

Many of the difficulties U.S. exporters have experienced in attempting to gain access to the Korean market are rooted in Korea's complex system of regulations and interpretations employed in complicated licensing requirements; the inspection and approval of industrial goods; and special laws which give Ministries broad powers to "stabilize" markets by controlling imports.

Wine

After pressure from the United States, Korea began allowing imports of foreign wine in October 1987. However, at that time it also imposed quotas to limit imports to 20 percent of total domestic consumption in 1988, 30 percent in 1989, and 40 percent in 1990 before fully opening the market in 1991.

In April 1988, the Wine Institute and the Association of American Vintners filed a section 301 petition alleging that Korea's 100 percent wine tariff and quota on table wine, effectively kept U.S. wines from being price competitive with Korean wines. In addition, Korea banned the import of wine coolers, champagne, brandy, and non-grape based wines, as well as restricting the distribution of foreign wine. The industry alleged that these practices resulted in losses of \$45 million in the last 5 years with the potential loss of \$61 million over the next 5 years if these practices were not abated. The USTR initiated a section 301 investigation on July 8, 1988 to pursue the complaint with Korea.¹⁷⁹

In response to the section 301 petition, Korea agreed to fully open its wine market for U.S. table wine and other wine products. The agreement calls for Korea to lift its import ban on wine coolers, dessert and fortified wines, and to double its import quota for all wine products. Effective upon implementation of the agreement, all U.S. wines will have equal access to the Korean distribution system and U.S. companies will be able to establish their own distribution channels through Korean agents. Effective January 1989,

¹⁷⁹ USTR, "Report to Congress on Section 301 developments required by section 309(a) (3) of the Trade Act of 1974", July-December 1988.

Korea agreed to permit imports of wine and wine products to 40 percent of 1988 domestic consumption of such products covered by the quota. The accord also called for elimination of ceilings on the percentage of total imports accounted for by any single wine or wine product. Beginning in 1990, Korea will remove the quantitative restrictions on wines and wine products, excluding sparkling wine, brandy, and grain-based wines. In early 1988, the 100-percent tariff was reduced to 50 percent. The new accord calls for further reductions in the wine tariff to 35 percent effective July 1989 and then to 30 percent effective January 1990. The tariff rate on wine coolers will be lowered to 25 percent. Further tariff reductions on wine and wine products will occur through 1993.

Exchange Rates

One of the most contentious bilateral issues during the year concerned Korea's exchange rate policies. In its report to Congress, the U.S. Treasury Department argued that Korean authorities used administrative arrangements and strict capital controls to perpetuate the undervaluation of their currency to obtain an unfair trade advantage.¹⁸⁰ In 1988, the Korean won appreciated 16 percent in relation to the U.S. dollar. Between 1985 and 1988, the won appreciated about 29 percent against the dollar. Concern in Korea is over the effect the appreciating won will have on export competitiveness, particularly of labor-intensive industries.

Beef

Korean restrictions on high-quality beef imports were a highly sensitive bilateral issue in 1987, and continued to be so in 1988. In February, the American Meat Institute (AMI) filed a section 301 petition alleging that Korea maintained a restrictive import licensing system covering all bovine meat, including high-quality beef. With the exception of one shipment of 49 tons of beef for the annual meeting of the IMF in Seoul, Korea had prohibited all imports of beef since May 21, 1985. AMI alleged that this prohibition violates article XI of the GATT, nullifies and impairs Korea's tariff concession on beef under the GATT, and otherwise unfairly restricts U.S. commerce.¹⁸¹ A section 301 investigation was initiated on March 28, 1988. A GATT dispute panel was established to review the U.S. complaint; the first meeting was held November 28, and the second meeting is scheduled for January 20, 1989.

Despite the political sensitivity of the beef issue, shortages contributed to a lifting of the

¹⁸⁰ U.S. Department of the Treasury, *Report to Congress on International Economic and Exchange Rate Policy*, Oct. 15, 1988, p. 18.

¹⁸¹ USTR, *Report to Congress on Section 301 . . .*

import ban in June 1988. The Government's decision to implement a limited opening of the market was also influenced by pressure from the United States and other producers, both bilaterally and in the GATT. In May, Korea announced plans to resume gradually beef imports, and import 10,000 pounds of ordinary beef and 5,000 pounds of high quality beef annually over the next 2 years for use in tourist hotels, restaurants and clubs. A package of supports for the domestic cattle industry are also planned to help farmers adjust to future market liberalizations. In addition, Korea will establish a Livestock Products Marketing Organization to administer exclusively imports of beef. Discussions on the beef issue were continuing at yearend. U.S. exporters, however, did manage to sell about \$37 million of high-quality beef to Korea during 1988.

Motion Pictures

In September 1988, the Motion Picture Export Association of America (MPEAA) filed a section 301 petition complaining of certain Korean practices relating to the importation and distribution of foreign motion pictures in Korea and the protection of intellectual property rights. During the 45-day review period following USTR's receipt of the petition, intensive negotiations with the Korean Government resulted in an agreement on October 28, 1988, which addressed the problems raised in the petition. The accord provides for Korea to eliminate eventually its limits on the number of foreign film prints that may be distributed in Korea, and simplifies the pre-import screening process in Korea. On the basis of this settlement, the MPEAA withdrew its petition on October 28, 1988.

Cigarettes

The U.S. Cigarette Association filed a section 301 petition against Korea in January 1988 alleging unfair trade practices that shut U.S. companies out of Korea's market. USTR launched an investigation in February. In May, 1988, Korea agreed to liberalize its market for imported cigarettes, paving the way for significant increases in U.S. export sales. Under the terms of the agreement, Korea reduced the tax on imported cigarettes about \$1.50 to about \$0.49. In addition, firms are now allowed to import cigarettes and sell them independently of the Korea Monopoly Cooperation. Foreign cigarettes will also be available at all retail outlets that sell Korean brands. The agreement went into effect on July 1, 1988.¹⁸²

¹⁸² GATT, *Review of Developments in the Trading System*, April-September 1988. The U.S. Department of Agriculture reported that after the settlement, U.S. sales of cigarettes and leaf tobacco to Korea increased 30-fold in June 1988 from May 1988; and total sales of cigarettes increased 670 percent in 1988 from 1987. "Koreans light up more often with U.S.-made cigarettes," *Journal of Commerce*, Mar. 3, 1989.

Brazil

The Economic Situation in 1988

In 1988, the troubles of the Brazilian economy deepened. As did its predecessor the original Cruzado Plan of 1986,¹⁸³ the "New Cruzado Plan" of 1987¹⁸⁴ failed to resolve the country's chronic problem of inflation. On the contrary, inflation accelerated, reaching record levels. In 1986, after the cruzado replaced the cruzeiro in February, inflation dropped to an annual rate of 59 percent from 228 percent in 1985. However, inflation reached an annual rate of 396 percent in 1987 despite of the new currency, and a record 934 percent in 1988. Brazil's soaring public deficit and its burden of servicing a \$115 billion foreign debt are generally considered the two leading causes of runaway inflation.

Rapid inflation in 1988 had not been accompanied by economic growth. GDP registered virtually no growth compared with 2.9 percent in 1987 and 8 percent in 1986. Economic stagnation accelerated the long-term decline of per capita income, aggravating the considerable social and political pressures already existing at the beginning of the year.

In August 1988, the IMF approved a stand-by arrangement for the Government of Brazil, authorizing new credit for purchases up to \$1.5 billion through February 28, 1990. In exchange, Brazilian authorities adopted an 18-month economic program beginning June 1988 to deal with the imbalances of the economy. In a memorandum of understanding (MOU), Brazil promised the IMF to contain the public deficit, attain a BOP surplus, raise Brazil's net international reserves and brake the inflationary spiral. However, authorities have not succeeded controlling either public spending or inflation following the commitment.

On September 22, Brazil signed an agreement which rescheduled the repayment of its commercial foreign debt over a 20-year period. The accord was negotiated in June between the Government of Brazil and a committee of 14 banks, representing 700 creditor banks. It ended an era of unorthodox debtors' policies by Brazil, that was characterized by the administration's suspending interest payments on \$67 billion commercial debt in February 1987. With the new debt accord with the banks and the earlier agreement with the IMF, Brazil normalized its relationship with the international financial community and resumed regular payments of interest on foreign debt. In exchange, Brazil obtained easier terms of payment for its commercial debt and secured \$5.2 billion in new commercial loans.

On October 5, 1988, a new Brazilian constitution entered into force with major economic implications, some of them very controversial. These include new foreign investment regulations conferring special benefits to Brazilian-owned companies. These provisions are seen as a possible impediment for Brazil in attracting foreign investors. The new constitution also increases rights and benefits for labor, raising thereby production costs sharply and, according to business, posing a threat to profitability. The most controversial measure of the new constitution is a 12-percent annual ceiling on interest rates. It is feared that such an interest limit would slash the availability of credit, deprive the central bank of a major weapon against inflation, and provoke capital flight from Brazil. The Brazilian Congress was given 6 months to pass additional clarifying and implementing legislation to the text of the constitution following its adoption in October.

In November 1988, the Brazilian Government reportedly adopted a program modelled after Mexico's "Pact of Solidarity," launched in December 1987.¹⁸⁵ Brazil's own 60-day inflation-fighting "social pact" was, in principle, based on a consensus of Government, business, and labor, and featured temporary price controls for basic products and services. However, since the scheme relied heavily on voluntary compliance, critics attacked it as timid, and called for deficit-tightening fiscal measures of a "shock value" instead. The pact had not been implemented during the year under review.¹⁸⁶

Foreign trade was one of the few bright spots of Brazil's economy in 1988. The 1987 trade surplus of \$11.1 billion grew to \$19.1 billion. The larger surplus resulted from the surge of export receipts to \$33.8 billion from \$26.2 billion in 1987 as more production was diverted from domestic markets to exports. By contrast, import outlays at \$14.7 billion were less than their amount of \$15.1 billion in 1987. Manufactured products, which accounted for some 60 percent of total exports, led Brazil's export performance during the year under review. Notable is the surge of Brazilian steel and aluminum exports. Pulp and paper, chemicals, textiles and footwear exports also performed well.

¹⁸³ See *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 2095, p. 4-36.

¹⁸⁴ On Jan. 15, 1989, the Government of Brazil made a third attempt to introduce a major anti-inflationary package, including a freeze on wages and prices, an end to Brazil's 25-year-old indexation system, the closing of ministries and state-run businesses, and massive layoff of public-sector workers. At the same time, the Government replaced the cruzado by a "new cruzado," making one new cruzado equivalent to 1,000 old cruzados. The Brazilian Congress subsequently weakened the administration's anti-inflation program by rejecting certain budget cutting proposals and insisting on wage increases.

¹⁸⁵ See *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, p. 4-45.

¹⁸⁶ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-50.

Agricultural exports also increased. Exports of orange juice and soybeans and soybean products grew by almost 40 percent, buoyed by an excellent soybean harvest and high international prices. Brazil's good agricultural performance can also be credited with reducing imports of certain farm products, such as wheat, into the country.¹⁸⁷ In 1988, Brazil's grain output exceeded 60 million tons for the second consecutive year, following seven years of stagnation near 50 million tons.¹⁸⁸ Despite the sizable trade surplus, large payments for debt servicing and some other reasons depressed Brazil's hard-currency reserves below \$5 billion by the end of the year.

Merchandise Trade with the United States

In 1988, the United States remained Brazil's principal trading partner, but Brazil's role in U.S. trade continued to be relatively minor. As in 1987, Brazil ranked 11th as a source of U.S. imports but ranked only 18th (compared with 14th in 1987) as a market for U.S. exports.

¹⁸⁷ In 1980 through 1987, agricultural products accounted for an average of 24.3 percent a year of Brazil's export earnings.

¹⁸⁸ See also "Merchandise Trade with the United States" following this section.

Despite conflicts and threatened U.S. trade sanctions over Brazil's computer policy, and the actual U.S. trade sanctions imposed over Brazil's pharmaceutical policy,¹⁸⁹ bilateral merchandise trade between the United States and Brazil established new records in 1988. The U.S. deficit, which contracted in 1986 to \$2.9 billion from \$4.5 billion in 1985, and widened again to \$3.7 billion in 1987, grew further in 1988 to a record \$5.0 billion. This was the eighth consecutive annual deficit for the United States in merchandise trade with Brazil.

The large deficit in 1988 was the result of a surge in U.S. imports from Brazil compared with 1987, while U.S. exports to Brazil edged up only moderately (table 17). The United States continued to maintain a trade surplus with Brazil in chemical trade. Although machinery and transportation equipment trade increased in both directions, the U.S. surplus in this sector virtually disappeared during the year under review. A large U.S. merchandise trade deficit was recorded in all other major SITC groups of bilateral trade—food, manufactured goods classified by material, and miscellaneous manufactured products.

¹⁸⁹ See "U.S.-Brazil Bilateral Trade Issues" later in this section.

Table 17
U.S. merchandise trade with Brazil, by SITC¹ Nos. (Revision 2), 1986-88
(In thousands of dollars)

SITC section No.	Description	1986	1987	1988
<i>U.S. exports²</i>				
0	Food and live animals	441,442	171,448	22,589
1	Beverages and tobacco	1,348	1,025	1,444
2	Crude materials, inedible, except fuel	242,480	238,795	183,055
3	Mineral fuels, lubricants, etc	300,571	281,342	265,897
4	Oils and fats, animal and vegetable products	19,192	2,206	7,065
5	Chemicals	754,089	667,909	652,888
6	Manufactured goods classified by chief material	123,110	132,775	161,851
7	Machinery and transportation equipment	1,616,673	2,116,105	2,491,361
8	Miscellaneous manufactured articles	181,736	185,595	236,720
9	Commodities and transactions not elsewhere classified ...	66,341	92,072	83,390
	Total	3,746,982	3,889,272	4,106,260
<i>U.S. imports³</i>				
0	Food and live animals	1,722,713	1,750,937	1,764,741
1	Beverages and tobacco	117,320	149,684	127,260
2	Crude materials, inedible, except fuel	238,766	310,540	383,585
3	Mineral fuels, lubricants, etc	378,904	613,587	713,142
4	Oils and fats, animal and vegetable products	29,921	44,740	58,218
5	Chemicals	271,527	236,642	342,710
6	Manufactured goods classified by chief material	1,246,989	1,278,576	1,757,163
7	Machinery and transportation equipment	1,414,848	1,913,646	2,467,278
8	Miscellaneous manufactured articles	1,105,115	1,222,756	1,347,201
9	Commodities and transactions not elsewhere classified ...	156,493	91,099	97,618
	Total	6,682,597	7,612,206	9,058,916

¹ Standard International Trade Classification

² Domestic exports, f.a.s.

³ Imports for consumption, customs value.

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

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

Trade between the two countries rose steadily through the 1970s, generating a moderate U.S. surplus through 1981. Then a concerted Brazilian export drive, designed to help service the country's massive foreign debt, rapidly increased exports to the United States. Meanwhile, nontariff barriers to imports restricted U.S. exports to Brazil even more severely than before, and so have Brazil's efforts to diversify commodity supplies and lessen dependence on the United States.

U.S. exports to Brazil in 1988 amounted to \$4.1 billion, up only 5.6 percent from 1987, and mirroring Brazil's overall low imports during the year. Although import substitution had been Brazil's policy for decades, the persistently low level of imports came recently to be regarded as counterproductive.¹⁹⁰ U.S. exports to Brazil continued to decline in 1988 in major SITC categories such as chemicals, mineral fuels, and especially food products. Abundant harvests in Brazil reduced the demand for many imported food items, and the usual major U.S. sales of grains, beef, milk, and some other foods did not take place in 1988. Food exports to Brazil began their precipitous fall in 1986.

U.S. sales of machinery and transportation equipment edged up in 1988 as Brazilian producers were increasingly allowed to import capital goods. Machinery has been traditionally the leading product category of U.S. sales to Brazil, gaining in relative importance through the years. In 1988, items classified in this group accounted for 60.8 percent of all U.S. exports to Brazil compared with 54.4 percent in 1987. Notably, the importance of machinery and transportation equipment in mutual trade is two-way. The group is also the principal product category on the U.S. import side, where it is also gaining relative significance. Leading items in the group included aircraft and parts, telecommunications equipment, and automotive products (table B-17.) In 1988, aircraft was the top U.S. export item to Brazil for the second consecutive year, followed by radiotelegraphic equipment as second, and coal as third. In recent years, coal a the top U.S. export product to Brazil. SIDERBRAS, Brazil's national steel company is a leading overseas market for U.S. coking coal. In the early 1970s, before U.S. companies raised coal prices following a surge of international oil prices, Brazil depended almost entirely on U.S. coal. However, Brazil decided to diversify its sources of coal. In 1987, U.S. coal suppliers agreed to lower prices as demanded by Brazil's steel industry, but the price of coal remains an issue with U.S. suppliers seeking price increases.

¹⁹⁰ See "Major Policy Developments Affecting Trade" later in this section.

U.S. imports from Brazil totaled a record \$9.1 billion in 1988. Footwear, autos, petroleum products, orange juice, and coffee were leading imports. Imports surged by almost 20 percent from 1987 (table B-18). Machinery and transportation equipment contributed significantly to the increase attributable to certain automotive items, and small airplanes and parts—the latter in response to the end of the retaliatory threat over the dispute on computers in June.¹⁹¹

Machinery and transportation equipment has been steadily gaining as a share of total U.S. imports from Brazil, as well as of U.S. exports to that country. In 1988, this group accounted for 27.2 percent of overall U.S. imports from Brazil, compared with 25.1 percent in 1987. In addition, major increases were registered during the year in imports of pig iron, ferroalloys and semifinished steel, pulp and waste paper.

Food imports—consisting mostly of coffee, orange juice, soybean byproducts, cocoa butter and beans, shellfish, and sugar—did not change significantly in 1988.

Footwear imports from Brazil partially recovered in 1988, increasing by 4 percent to nearly 113 million pairs, or 10 percent of the U.S. market. The top item on the U.S. import list from Brazil was a footwear category. As in the case of aircraft imports, once the threat of U.S. reprisals related to the computer issue was removed, U.S. buyers resumed orders for Brazilian shoes. Earlier, they had postponed to place these orders for fear that footwear would become subject of retaliation. Brazil is the third leading U.S. source of imported footwear after Taiwan and South Korea. However, rapid inflation in Brazil and the resultant increase in the price of leather is reportedly narrowing Brazil's competitive edge on export markets for footwear.

Major Policy Developments Affecting Trade

Since the 1930s, and with greater emphasis since World War II, Brazil has followed a development policy dedicated to import substitution and continues to maintain complex and overlapping import restrictions. These include a prior import licensing system administered by the Foreign Trade Department of the Bank of Brazil (CACEX); general restriction of imports of certain products that can also be produced in Brazil (the law of similars); sectoral import quotas and individual import quotas for companies; a list of "suspended" products (technically those barred from imports under any conditions); local content requirements for manufactured products; a strong "buy national" policy in government procurement; and a variety of restrictive administrative techniques. Tariffs are also high, but the tariff system, established in 1957, has gradually lost importance relative to other protective measures.

¹⁹¹ See "Informatics" later in this section.

With increasing indebtedness in the 1970s, Brazil also began to emphasize exports, often through subsidies and incentives. These include programs such as relief from import duties for exporters, income tax exemptions for export earnings, special financing for export trading companies, and subsidized loans to buyers of Brazilian goods.¹⁹² The United States has sought reductions in these export subsidies for some time and has imposed countervailing duties on a wide variety of Brazilian products in response to U.S. industry petitions. Although generally intent on promoting exports, the Government also maintains a licensing system to control exports of items that are in short supply on the domestic market. A program of liberalizing international trade was first announced in January 1985 by Brazil's previous administration but progress had been minimal. In May 1988, President Jose Sarney announced a New Industrial Policy designed to liberalize trade, reduce state participation in the economy and promote technological development. The new policy also reconfirmed the Government's earlier disclosed intention to phase out Brazil's import substitution policy and rely more on imported capital goods, intermediate goods, and raw materials. However, much of the New Industrial Policy remained controversial and has not been implemented during the year under review.

Specific measures taken in 1988 included the Government is dropping export restraints on a large number of products. According to the new, more liberal rules, prior authorization is required only to export arms, drugs, radioactive materials, historic relics, and products subject to international accords such as those on coffee and sugar. Prior to that, in April 1988, Brazil's National Trade Council lifted restraints on trading rice, soybeans, corn, cotton, and metals, allowing companies to export and import these commodities freely in keeping with local needs and world prices.

In recent years, the level of export subsidization in Brazil has declined as certain programs were reduced or eliminated. In November 1988, Brazil temporarily suspended new export finance credits in an effort to slash the nation's inflationary public spending. It is believed that the measure could affect about half of Brazil's exports in 1989.

In 1988, Brazilian officials continued the daily "mini-devaluations" of the cruzado based on the cost-of-living index. This practice was crucial in maintaining Brazil's export-competitiveness at a time of rapid inflation, and in attaining the strong

¹⁹² CACEX operates the fund for financing exports (FINEX), which provides medium-term export financing in both dollars and local currency to purchasers and exporters of Brazilian products.

export performance noted earlier. The Government restricts the supply of foreign exchange for importers and for foreign travel, but has stated its intention to reduce exchange restrictions in 1989.

On the import side, a new tariff schedule went into effect on July 1, 1988, including tariffs for over 11,000 items. The new schedule lowered maximum tariff rates from 105 percent to 85 percent and was meant to supplant a multitude of nontariff restrictions to imports including taxes, surcharges and special tariff exemptions. Although the new schedule made Brazil's degree of protection more transparent than before, and features lower duty rates by an average of 10 percent, it allows too many exceptions for being considered a major step towards import liberalization.¹⁹³

While virtually all Brazilian imports still require prior licensing from CACEX, the procedures of granting licenses were eased during the year under review. Nonetheless, the regulations governing license issuance continue to be complex, and provide CACEX with wide discretionary power for delaying or denying permission to import. In November, Brazilian authorities reduced the list of prohibited imports temporarily from 2,400 to 1,200 items. Imports of many of these items were first barred 13 years ago when soaring international oil prices forced Brazil to protect limited foreign exchange reserves.

United States-Brazil Bilateral Trade Issues

Overview

Despite Brazil's declared intentions to lower its trade barriers, bilateral relations between the United States and Brazil continued in 1988, were marked by a series of trade disputes. In the last few years, economic relations between the two countries had been overshadowed by the prospect that the United States might impose trade sanctions in retaliation for Brazil's "Informatics"¹⁹⁴ policies. In 1988, U.S. sanctions on imports from Brazil materialized, not in retaliation for Brazil's informatics policy, but in reprisal for Brazil's pharmaceutical policy.¹⁹⁵

The U.S.-Brazil Trade Subgroup, the overall bilateral negotiating forum between the two

¹⁹³ For the majority of goods the new tariff rates will vary from 0 to 40 percent. For about 500 products, such as luxury cars, the tariff will be increased for a one-year period. The tariff rates will be reduced for basic materials for the chemical industry and for medical products if they are not produced domestically.

¹⁹⁴ "Informatics" is broadly defined to include computers and parts, and all other devices incorporating digital technology (i.e. communications switching equipment, process controls, and optical and electronic components), as well as software, services, and related investment.

¹⁹⁵ See later in this section.

countries, and the U.S.-Brazil Investment Task Force which reports to the former, have not met since 1985. Trade and investment issues have since been discussed bilaterally at various levels of the two Governments. Inadequate protection of intellectual property in Brazil—especially the absence of protection for pharmaceuticals, computer software piracy, and movie and video-cassette piracy—continued to be the major concerns on the U.S. side. Bilateral consultations on video and movie products held in February 1988 resulted in improved registration and enforcement practices in Brazil against illegal copiers.

Brazil's foreign debt burden, and its need for debt relief through write-offs or interest rate reductions or debt-for-equity swaps, continued to be a major policy issue the Government of Brazil raised in bilateral exchanges during the year under review. In August, after Brazil ended its moratorium on interest payments and concluded a debt-rescheduling agreement with commercial banks, the U.S. Export-Import Bank (Eximbank) restored its medium-term and long-term credit programs for Brazil. Since then, Eximbank has received applications to finance U.S. exports to Brazil but, to date, no disbursements have been made. The resumption of interest payments by Brazil helped to boost the earnings of U.S. banks and helped reduce their loan-loss provisions for Third World debt. Especially large U.S. banks were affected.

A three-year bilateral agreement on textiles and apparel trade, which expired in March 1988¹⁹⁶, was replaced by a new accord, effective April 1, 1988 through March 31, 1992. The agreement covers products made of wool, cotton, and man-made fibers, and stipulates that all textile exports from Brazil to the United States require a permit issued by the Government of Brazil.

A five-year (1985-89) voluntary restraint agreement (VRA) on Brazil's steel shipments to the United States remained in effect throughout the year. The accord sets limits to Brazil's annual steel exports of 1.42 percent of the U.S. market for finished steel products, and 700,000 net tons for semifinished steel. A June 1987 agreement added specialty steel products to the items originally covered by the steel accord. Completion of the specialty steel agreement had been held up pending progress on the informatics case and other trade issues. In 1988, Brazil continued to press for an increase in its semifinished steel quota. The steel VRA expires in September 1989.

¹⁹⁶ See the *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, p. 221.

Informatics

Since 1983, Brazil's efforts to establish a domestic computer industry under a protectionist umbrella have generated major bilateral trade disputes with the U.S. Government. U.S. objections to Brazil's reserved computer market,¹⁹⁷ and lack of adequate protection for computer software in Brazil, reached critical proportions in September 1985, when the United States opened an investigation on these issues under section 301 of the Trade Act of 1974.¹⁹⁸

Since then, the investigation brought U.S. authorities on the verge of retaliatory trade action several times,¹⁹⁹ but each time action was delayed in response to some last-minute concessions made by Brazilian authorities—the last time being in May 1988.

In May 1988, Brazilian authorities announced new legislation to govern software copying and licensing. Officials claimed that these regulations will make it easier for foreign-made software programs to enter Brazil's market and protect copyrights of such programs. On June 17, President Reagan responded positively, suspending retaliatory action once again, pending review by U.S. authorities of the implementing regulations to the new software law. A major sticking point remains that under the new regulations Brazilian authorities reserved the right to determine whether the imported item is "functionally equivalent" to competing domestic items. This enables officials to deny access at their discretion.²⁰⁰

Pharmaceuticals

Unlike the informatics case, the bilateral dispute about pharmaceuticals led to retaliatory U.S. trade action against Brazil during the year under review. On October 20, 1988, President Reagan ordered 100-percent ad valorem tariffs on U.S. imports of 3 categories of Brazilian products—certain paper products, certain nonbenzenoid drugs, and consumer electronics. The tariffs were imposed in retaliation for Brazil's refusal to provide patent protection for U.S. pharmaceuticals and fine chemicals.

The U.S. sanctions were triggered by a petition from the U.S. Pharmaceutical Manufacturers Association (PMA), filed in July

¹⁹⁷ For more than a decade, Brazilian companies have been protected by a so-called market reserve policy that gives them the exclusive right to manufacture and sell microcomputers and minicomputers in the country. In 1984, this practice was formalized with the passage of Brazil's controversial Informatics Law. This protection was instrumental in developing a thriving domestic computer industry in Brazil.

¹⁹⁸ See *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, p. 220.

¹⁹⁹ See also *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-54.

²⁰⁰ *Ibid.*

1987 under Section 301 of the U.S. Trade Act of 1974.²⁰¹ PMA has protested for years against patent infringement in Brazil.²⁰² The President's retaliatory measures were preceded by over 2 years of fruitless bilateral consultations between U.S. and Brazilian officials—the last meetings were held in February 1988. Throughout these talks, Brazil steadfastly refused to take into consideration the damage suffered by U.S. pharmaceutical and chemical companies due to lack of patent protection.²⁰³

In July 1988, the United States announced its intent to impose sanctions, and in August, the USTR published a list of Brazilian products targeted for retaliation. At hearings held on September 8 and 9, several U.S. companies and consumer groups testified in favor of eliminating certain targeted items from the penalty list, or including others. For its part, the Brazilian Association of Pharmaceutical Manufacturers defended its government's policies designed to help develop Brazil's own domestically owned pharmaceutical industry. The association argued that the industry is largely foreign dominated (85 percent foreign-owned, of which 35 percent is U.S.-owned.) They also argued that patents have a monopolistic effect with unacceptable price consequences.

U.S. officials estimated that the sanctions would affect some \$39 million in imports from Brazil (based on average import value in the last 3 years of the items in question). Brazilian estimates of the effect on their exports were much

²⁰¹ See *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, p. 4-55.

²⁰² Brazilian regulations, while recognizing patent rights in general, expressly deny protection for products and processes of the pharmaceutical industry and for some other specialty chemicals.

²⁰³ Brazil's policies which restrict the marketing efforts of U.S. pharmaceutical companies include: (1) lack of any form of patent protection; (2) delays in new product registration; (3) a possible market reserve for fine chemicals; and (4) price controls. Bilateral consultations during 1986 and 1987 achieved progress in all areas except patent protection.

higher. The U.S. assessment amounts to less than one-half of one percent of Brazil's exports to the United States in 1988. Sanctions on Brazilian electronics, for example, do not significantly affect currently traded items; they are directed mostly at products that have recently received approval for exports by the Brazilian Government, such as video-cassette recorders and microwave ovens. Brazil reportedly had planned a major push into the U.S. consumer electronics market, but was to be hindered in this effort by the prohibitive tariffs imposed in retaliation.

In making the announcement on retaliatory measures, USTR Clayton Yeutter pointed out that "pharmaceutical and chemical companies have little motivation to invest in the research and development of products important to mankind unless they are assured that the right to market those products will be safeguarded by patent protection. Patent piracy simply cannot go unchallenged."

Reportedly, Brazil reacted to the U.S. announcement with some relief. Officials had feared sanctions on other products originally targeted for retaliation—such as aircraft, footwear, jewelry, and air conditioners. Officially, Brazil has taken the position that its patent policy is consistent with international rules and therefore the U.S. sanctions are illegal. Brazil's delegate declared at the GATT annual meeting on November 8, 1988, that punitive U.S. tariffs on Brazilian imports violated the accord's existing rules and disciplines. The Government of Brazil requested that a GATT panel should rule on this issue.²⁰⁴ Brazil, along with India, has opposed U.S. efforts in the GATT to establish an international agreement on patents and other intellectual property.

²⁰⁴ On Feb. 21, 1989, the United States announced it would permit formation of a GATT dispute settlement panel on the issue, but would refuse to join in a consensus to establish one. The United States said that legitimate forms of commerce must be protected where the GATT is unable to do so.

Chapter 5

Administration of U.S. Trade Laws and Regulations

Introduction

This chapter reviews activities related to the administration of U.S. trade laws during 1988. The chapter 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 law provisions. The latter includes 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 Economic Recovery Act (CBERA), and the U.S. Generalized System of Preferences (GSP). In addition, U.S. programs regulating imports of both textiles and steel are reviewed.

Import Relief Laws

Safeguard Actions

Section 201 of the Trade Act of 1974 (19 U.S.C. § 2251 et seq.) is the United States' implementation of the GATT's so-called "escape clause." Section 201 is based on article XIX of the GATT, which permits a country to "escape" from its obligations with respect to a particular article of merchandise under certain conditions. Under section 201, the USITC investigates whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to a domestic industry.¹

If the Commission finds such injury or threat, it recommends to the President import restrictions or other import relief necessary to remedy the injury to the domestic industry. Within 60 days from receipt of an affirmative Commission determination and recommendation of relief, the President proclaims import relief unless he determines that such relief would not be in the national economic interest. The President may provide relief in the form of a duty, a tariff-rate quota,² a quantitative restriction, an orderly

¹ Because the two investigations conducted in 1988 (described below) were pursuant to the statute as it existed prior to enactment of the Omnibus Trade and Competitiveness Act of 1988 (1988 Act), this description is of the statute as it existed. For a description of the changes to section 201 made by the 1988 Act, see ch. 1 of this report.

² A tariff-rate quota provides for varying rates of duty based on levels of imports. For example, the first 1,000 tons of a given article entered during a calendar-year ("within-quota" imports) might be dutiable at a given rate, and all additional imports of the article entered during the calendar-year ("over-quota" imports) might be dutiable at a higher rate.

marketing agreement limiting imports to the United States, or a combination of the above actions.³ If the Commission's report includes a recommendation for Trade Adjustment Assistance (TAA), the President may order the Secretaries of Labor and Commerce to give expeditious consideration to petitions for TAA filed by workers or firms.⁴

Import relief may be provided for a period of up to five years, with the possibility of an extension of up to three additional years. Under section 203 of the Trade Act of 1974, the Commission, upon its own initiative or upon the request of the President, advises the President as to the probable economic effects on an industry receiving relief of the extension, reduction, or termination of relief.

The Commission in 1988 conducted one section 201 investigation in 1988, and one section 203 investigation: certain knives (investigation No. TA-201-61) and cedar shakes and shingles (investigation No. TA-203-18). The Commission did not find injury to the domestic knives industry. Following receipt of the Commission's advice, the President accelerated reductions of import relief for the shake and shingle industry. Each of these investigations is discussed below.

Certain Knives

The Commission conducted one investigation under section 201 in 1988, upon petition on behalf of the American Cutlery Manufacturers Association. The investigation (TA-201-61) concerned several types of knives, such as kitchen and butcher knives, cleavers, steak knives, pocket knives, and hunting knives. Three Commissioners found the existence of a single domestic industry consisting of producers of all the knives under investigation; the other three Commissioners found two domestic industries: producers of indoor knives and producers of outdoor knives.

Despite this split, the Commission unanimously determined that the knives under investigation were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry or industries.⁵ Because the Commission reached a negative determination, it did not recommend that the President provide import relief.

³ A rate of duty may not be increased by more than 50 percent ad valorem above the prior rate. Any quantitative restriction must allow the importation of at least the quantity or value of the article entered during the most recent period that the President finds is representative of imports of that article.

⁴ For a discussion of Trade Adjustment Assistance, see "Adjustment Assistance" section below.

⁵ *Certain Knives: Report to the President on Investigation No. TA-201-61 Under Section 201 of the Trade Act of 1974*, USITC Publication 2107, September 1988.

Cedar Shakes and Shingles

The Commission also conducted one investigation (TA-203-18) under section 203 in 1988, concerning Western red cedar shakes and shingles. The President had imposed duties on these goods in 1986 following an affirmative injury determination in a Commission investigation under section 201.⁶ The temporary rate of duty of 35 percent imposed by the President had been scheduled to decrease to 20 percent in December 1988, to 8 percent in December 1990, and to terminate in June 1991.

In a letter dated June 29, 1988, the USTR requested the Commission to assess the probable economic effect on the domestic industry of the termination of the duties altogether as of December, 1988. The USTR requested that the Commission's advice to the President include a review of the efforts and progress of the domestic industry in adjusting to import competition.

The Commission issued its report to the President on October 6, 1988. Three Commissioners advised the President that "[w]hile the domestic industry would suffer some injury from the elimination of the tariff as opposed to its reduction to 20 percent, consumers of housing and those United States industries whose exports were subject to retaliation from Canada would benefit."⁷ These Commissioners also found that "the underlying competitive position of the domestic industry [had] not improved over the period of import relief."⁸

By contrast, the other three Commissioners found that the termination of duties would "diminish if not eliminate the benefits of import relief, and would lead to a decrease in U.S. production [of shakes and shingles], loss of market share and employment, and declining sales and income."⁹ These Commissioners also found that the industry had "made reasonable progress in adjusting to import competition."¹⁰ The President subsequently issued a proclamation that accelerated the scheduled reduction of duties.¹¹

⁶ *Wood Shakes and Shingles: Report to the President on Investigation No. TA-201-56 Under Section 201 of the Trade Act of 1974*, USITC Publication 1826, March 1986.

⁷ *Western Red Cedar Shakes and Shingles: Report to the President on Investigation No. TA-203-18, Under Section 203 of the Trade Act of 1974*, USITC Publication 2131, October 1988, p. 1.

⁸ *Ibid.*

⁹ *Ibid.*, p. 41.

¹⁰ *Ibid.*, pp. 36-7.

¹¹ Under the proclamation, the reduction from 35 percent to 20 percent scheduled for December, 1988, was not affected. However, the proclamation provides for a reduction to 10 percent in December, 1989, and a further reduction to 5 percent in December, 1990. The duty is to terminate as scheduled in June, 1991. Proclamation 5925 of Dec. 21, 1988, printed in 53 *F.R.* 51737, December 23, 1988.

Market Disruption

Section 406 of the Trade Act of 1974¹² provides for investigations by the Commission 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 such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury or threat of material injury, to the domestic industry."¹³

The Commission did not conduct any investigations under section 406 in 1988. The most recent investigation under section 406 was in 1987, concerning ammonium paratungstate and tungstic acid from the People's Republic of China.¹⁴

Adjustment Assistance

The Trade Adjustment Assistance Program, Title II of the Trade Act of 1974, provides for adjustment assistance to workers, firms, and industries adversely affected by international import competition. The program and certain eligibility standards were modified by the Omnibus Budget Reconciliation Act of 1981 and by the Deficit Reduction Act of 1984.¹⁵ The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) discontinued financial assistance to firms effective April 7, 1986.¹⁶ Other modifications in the program, primarily in job training assistance and in coverage of certain workers in the oil and gas industries, were made by the Omnibus Trade and Competitiveness Act of 1988.¹⁷ The program, initially authorized through the Trade Expansion Act of 1962, was also extended by the act from September 30,

¹² 19 U.S.C. § 2436 (e)(2).

¹³ If the Commission makes an affirmative determination, it finds and recommends to the President such import restriction as is necessary to prevent or remedy the disruption. In general, if the Commission makes an affirmative determination, the President is authorized to provide relief in the same manner and amount as if the Commission had made an affirmative determination under section 201 (as it existed prior to the 1988 Act), except that the relief would be limited to imports from the subject Communist country.

¹⁴ Investigation No. TA-406-11.

¹⁵ The COBRA and Deficit Reduction Act made changes in the law that were designed to tighten the criterion used to determine eligibility. The principal change, affecting petitions filed retroactive to Oct. 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.

¹⁶ Authorization for the trade adjustment assistance program expired on Dec. 1985, but the COBRA reinstated the program effective Apr. 7, 1986. The adjustment assistance provisions of the program were made retroactive to Dec. 19, 1985, and with the exception of financial assistance to firms are scheduled to remain in effect through Sept. 30, 1991.

¹⁷ See Public Law 100-418, sections 1421 through 1430.

1991, to September 30, 1993. Adjustment assistance to workers is administered by the Department of Labor through its Office of Employment and Training Administration (ETA). ETA provides cash benefits for direct trade readjustment allowances (TRA) and service benefits for job search, relocation, and training. Trade adjustment technical assistance is provided to certified firms through Trade Adjustment Assistance Center (TAACs) funded by grants and co-operative agreements with the Department of Commerce and industry associations or other organizations representing a trade injured industry.¹⁸ The purpose of the industry-wide technical assistance is to improve the ability of the assisted industry to compete in world wide markets.

Assistance to Workers

The Department of Labor instituted 1,019 certification investigations in fiscal year 1988 on the basis of petitions filed for eligibility to apply for trade adjustment assistance. This was a decrease of 46 percent from the 1,877 investigations instituted in fiscal 1987. However, the number of petitions surged at the end of the fiscal year as certain oil and gas industry workers took advantage of special provisions of the Omnibus Trade and Competitiveness Act of 1988 giving them a 90-day period in which to file petitions for eligibility retroactive to 1985.¹⁹ According to statistics of the U.S. Department of Labor, the results of investigations completed or terminated in fiscal 1988, including those instituted in the previous year, are as follows:

Item	Number of investigations or petitions	Estimated number of workers
Granted certifications ...	357	55,693
Partial certifications	10	5,227
Petitions denied	475	76,436
Petitions terminated or withdrawn	18	1,920
Total	860	139,276

Source: U.S. Department of Labor.

¹⁸ Certified firms are eligible to apply for technical services necessary to implement programs of economic adjustment. Technical assistance includes in depth technical consultation in engineering, marketing, production methods, and financial management.

¹⁹ Section 1421 of the Omnibus Trade and Competitiveness Act of 1988 provides that employees of independent firms engaged in the exploration and drilling of oil and natural gas that were separated after Sept. 30, 1985, had 90 days in which to file petitions for certification of eligibility under the Trade Act of 1974. Petitions were accepted from Aug. 23 through Nov. 18, 1988.

The number of completed certifications in fiscal 1988, both fully granted and partial, declined to 367 from 888 in fiscal 1987. In keeping with the lower number of investigations instituted and certifications completed during 1988, preliminary figures indicate that Department of Labor expenditures in fiscal 1988 on TRA direct cash benefits to certified workers decreased to \$185.8 million, a 6.2-percent decrease from the \$198.0 million expenditure in fiscal 1987. In addition to direct financial assistance, the Department of Labor provided job search, training, and relocation services valued at an estimated \$54.4 million in fiscal 1988 for worker activities in the following areas:

Item	Estimated number of workers ¹
Job search	1,200
Relocation allowances	1,300
Training	9,700
Total	12,200

¹ Preliminary figures.

Source: U.S. Department of Labor.

Preliminary data for fiscal 1988 indicate an estimated 12,200 workers utilized available service benefits in 1988, a decrease of 16.7 percent from the 14,646 workers receiving such services in the previous year. The special training and relocation program for workers dislocated as a result of import competition in the footwear industry was terminated on June 30, 1988.²⁰

The principal change in the trade adjustment assistance program, resulting from the Omnibus Trade and Competitiveness Act of 1988 was that the receipt of trade readjustment allowances is contingent on the worker's participation in job training. Workers must participate in approved job training or have training waived in order to receive cash benefits, and all eligible workers are now entitled to this training assistance.

Assistance to Firms and Industries

The Department of Commerce, through its Office of Trade Adjustment Assistance, certified 171 firms as eligible to apply for assistance during fiscal year 1988. This was an increase of 55.4 percent from the 110 firms certified in the previous fiscal year. The Office of Trade Adjustment Assistance administers its programs through a nation-wide network of 13 TAACs. Funding for the TAACs during fiscal 1988 totaled \$12.8 million for provision of technical assistance to approximately 728 firms. Trade adjustment

²⁰ The footwear program, requested by President Reagan on Aug. 28, 1985, was implemented retroactive to Aug. 28, 1985 and was designed to remain in effect until June 30, 1988 at a total cost of \$5.0 million.

programs costing \$3.5 million for 358 firms were completed in fiscal 1988, while programs for 370 trade-impacted firms were on-going as of the end of the year.

The Department of Commerce also awarded trade adjustment technical assistance grants totaling \$556,000 to three industry associations. These associations represented steel founders and producers of semiconductors and electronics. Trade adjustment technical assistance programs initially funded in previous years continued in effect throughout fiscal year 1988 for the following industries: founders, electronics, manufacturers of textile and wire machinery, apparel, auto parts, and die casters.

Laws Against Unfair Trade Practices

As a result of antidumping and countervailing duty (CVD) investigations conducted in 1988 by the U.S. International Trade Commission and the Department of Commerce, 8 new antidumping orders and 3 new CVD orders were issued. During 1988, the Commission completed 18 investigations under section 337 of the Tariff Act of 1930 involving allegations of unfair methods of competition. Those investigations resulted in the issuance of five exclusion orders prohibiting the importation of merchandise, and one cease and desist order enjoining further violation of section 337.

In 1988, 6 new section 301 cases were instituted upon petitions filed by private parties, and 1 case was initiated as a result of a provision enacted in the Omnibus Trade and Competitiveness Act of 1988.

Antidumping Actions

The antidumping law provides relief in the form of special additional duties that are intended to offset margins of dumping.²¹ Antidumping duties are imposed when (1) the administering authority (under present law the Department of Commerce) determines that imports are being, or are likely to be, sold at less than fair value (LTFV) in the United States, and (2) the U.S. International Trade Commission determines that a U.S. industry is being materially injured or threatened with material injury, or that the establishment of an industry in the United States is being materially retarded, by reason of such imports.

In general, imports are considered to be sold at LTFV when the U.S. 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 the cost of

²¹ The present antidumping law is contained in title VII of the Tariff Act of 1930 (19 U.S.C. § 1673 et seq.), which was enacted in the Trade Agreements Act of 1979. The 1979 provisions superseded the Antidumping Act of 1921. The 1988 Act makes a number of minor revisions to title VII. See ch. 1 for a description of the main changes.

production of the merchandise. The margin of dumping equals the difference between the U.S. price and the foreign market value. Investigations generally are conducted on the basis of petitions filed by an industry, or on behalf of an industry, with the Department of Commerce and the International Trade Commission.

Both Commerce and the Commission conduct preliminary and final antidumping investigations.²² In 1988, the Commission completed 38 preliminary and 11 final antidumping injury investigations.²³ Imported products investigated included fork-lift trucks, brass sheet and strip, granite, and shock absorbers.²⁴ Antidumping orders were imposed as a result of 8 of these investigations on a total of 6 products from 4 countries. Details of antidumping actions and orders, including suspension agreements²⁵ in effect in 1988, are presented in appendix tables B-19 and B-20. The following tabulation summarizes antidumping investigations in 1987 and 1988:

<i>Antidumping Duty Investigations</i>	<i>Number¹</i>	
	<i>1987</i>	<i>1988</i>
Petitions filed	15	18
Preliminary Commission determinations:		
Negative	2	2
Affirmative	0	36
Final Commerce determinations:		
Negative	3	1
Affirmative	39	16
Terminated	1	0
Suspended	0	1
Final Commission determinations:		
Negative	9	3
Affirmative (includes partial affirmatives)	39	8
Terminated	3	0
Suspended	0	1

¹ The number of investigations instituted and determinations made generally would exceed the number of petitions filed. When a petition alleges dumping 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.

²² Upon the filing of a petition, the Commission has 45 days to make a preliminary determination concerning 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 must initiate an investigation and make a final injury determination. If Commerce's final determination is negative, the proceedings end and the Commission does not make a final injury determination.

²³ This figure does not include court-remanded cases on which new votes were taken.

²⁴ A single petition may result in the institution of several cases since separate case numbers are assigned to each foreign country source involved.

²⁵ An antidumping investigation may be suspended through an agreement prior to a final determination by Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports

Countervailing Duty Actions

The U.S. countervailing duty (CVD) law is set forth in sections 303 and 701 et seq. (title VII) of the Tariff Act of 1930. It provides for the levying of special additional duties to countervail or offset foreign subsidies²⁶ on products imported into the United States. In general, procedures for such investigations are similar to those of antidumping investigations. Petitions are filed with Commerce (the administering authority) and the U.S. International Trade Commission. Commerce must find a countervailable subsidy and the Commission must find material injury or threat thereof caused by the subsidized imports before a CVD order can be issued.

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,²⁷ or has otherwise been designated as a "country under the Agreement."²⁸ 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 enter free of duty, and (2) international obligations of the United States require an injury investigation.²⁹ For imports not in this category, a CVD order may be issued under section 303 on the basis of an affirmative determination (regarding subsidies) by Commerce alone.

As a result of CVD investigations completed in 1988, CVD orders were imposed on certain steel products from Malaysia and Argentina, and aluminum redraw rod from Venezuela. In 1988, the Commission completed 10 preliminary and 2 final injury investigations.³⁰ Details of CVD actions and outstanding orders, including

²⁶—Continued

of the merchandise under investigation agree either to eliminate the dumping, or to cease exports of the merchandise to the United States within six months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. A suspended investigation is reinstated should LTFV sales recur. See 19 U.S.C. § 1673c.

²⁶ 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).

²⁷ Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

²⁸ See 19 U.S.C. § 1671.

²⁹ Section 303(a)(2) provides: "[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).

³⁰ This figure does not count court remanded cases on which new votes were taken.

suspension agreements³¹ in effect in 1988, are presented in tables B-21 and B-22. The following tabulation is a summary of CVD investigations in 1987 and 1988:

Countervailing Duty Investigations	Number ¹	
	1987	1988
Petitions filed	8	8
Preliminary Commission determinations:		
Negative	0	0
Affirmative	3	10
Final Commerce determinations:		
Negative	3	5
Affirmative	16	5
Terminated	2	1
Suspended	0	0
Final Commission determinations:		
Negative	3	1
Affirmative (includes partial affirmatives)	11	1
Terminated	4	0
Suspended	1	0

¹ The number of investigations instituted and determinations made generally would exceed the number of petitions filed. When a petition alleges dumping 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.

Reviews of Outstanding Antidumping and Countervailing Duty Orders

Section 751 of the Tariff Act of 1930, as amended, requires Commerce (the administering authority), if requested, to review annually outstanding antidumping and countervailing duty orders and suspension agreements to determine the amount of any net subsidy or dumping margin and to review compliance with any suspension agreement.³² 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 CVD order or suspension agreement has the burden of persuasion before the Commission as to whether or not there are changed circumstances sufficient to warrant revocation. Based on either of the reviews above, Commerce revoke a CVD or antidumping order in whole or in part, or terminate or resume a suspended investigation.

³¹ 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 reinstated if subsidization recurs. See 19 U.S.C. § 1671c.

³² 19 U.S.C. § 1675.

The Commission did not complete any investigations under section 751 in 1988. The last such investigation by the Commission was completed in 1987 and concerned liquid crystal display televisions. As a result of an investigation under section 751 in 1988, Commerce revoked a CVD order concerning canned tuna.

Section 337 Investigations

Section 337 of the Tariff Act of 1930, as amended,³³ authorizes the U.S. International Trade Commission, on the basis of a complaint or on its own initiative, to conduct investigations with respect to unfair practices in import trade. Section 337 declares unlawful unfair methods of competition or unfair acts in the importation of articles into the United States, or in their sale, the effect or tendency of which is to destroy or substantially injure a domestic industry, that is efficiently and economically operated,³⁴ to prevent the establishment of an industry, or to restrain or monopolize trade and commerce in the United States.³⁵

If the Commission determines that a violation exists, it can issue an order to exclude the subject imports from entry into the United States, or order the violating parties to cease and desist from engaging in the unlawful practices.³⁶ The President may disapprove a Commission order within 60 days of its issuance for "policy reasons." Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping and CVD provisions and not under section 337. The Commission is required to complete section 337 investigations within 12 months of publishing a notice of investigation in the Federal Register, but may take up to 18 months to complete investigations it designates "more complicated."

³³ 19 U.S.C. § 1337.

³⁴ The 1988 Act eliminates the requirement of efficient and economical operation. For a discussion of changes to section 337 made by the 1988 Act, see ch. 1.

³⁵ The 1988 Act eliminates the need for a complainant to prove any of the above-mentioned harms in an investigation involving infringement of a U.S. patent, or a registered trademark, copyright, or mask work. In such investigations, a complainant would need to show among other things that an industry in the United States relating to the patent, registered trademark, copyright, or mask work, exists or is in the process of being established.

³⁶ Under present Commission practice, proceedings 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.

In 1988, as in previous years, most complaints filed with the Commission alleged infringement of a United States patent by imported merchandise.³⁷

In 1988, the Commission completed a total of 16 investigations under section 337, compared with 21 in 1987. These investigations addressed such products as ink jet printers, minoxidil powder and cellular mobile telephones. Five exclusion orders and one cease-and-desist order 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 1988, there were 16 section 337 cases pending in the Commission. Commission activities involving section 337 actions in 1988 are summarized in appendix table B-23.

As of December 31, 1988, a total of 49 outstanding exclusion orders based on violations of section 337 were in effect. All but 14 of these involved patent violations. Appendix table B-24 lists these exclusion orders, and the investigations that preceded their issuance.

Enforcement of Trade Agreements and Responses to Unfair Foreign Practices

Chapter 1 of title III of the Trade Act of 1974, as amended³⁸ (section 301) gives the USTR,³⁹ 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.⁴⁰ If the USTR finds that the foreign practice is "unjustifiable" and burdens or restricts U.S. commerce, or finds that U.S. rights under a trade agreement are

³⁷ Other examples of unfair acts are trademark or copyright infringement, false advertising, false designation of origin, and trade secret misappropriation.

³⁸ 19 U.S.C. § 2411, et seq.

³⁹ Prior to the enactment of the Omnibus Trade and Competitiveness Act of 1988 in August 1988, authority to act under section 301 resided with the President, while the USTR was effectively responsible for administration of the investigations. The new trade law placed section 301 authority directly in the hands of the USTR. In another significant development, the new law enacted a so-called Super 301 provision which called for the initiation of investigation of practices of certain countries that are identified by the USTR as "priority countries" and "priority practices" that restrict U.S. exports and investment. Most of the investigations described in this section were undertaken under the section 301 provisions in effect before passage of the 1988 amendments. See ch. 1 of this report for further details of the changes in these provisions enacted in the Omnibus Trade and Competitiveness Act of 1988.

⁴⁰ 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.

being violated, the USTR must take all appropriate and feasible action to enforce such rights or try to obtain the elimination of such act, policy, or practice. For "unreasonable" or "discriminatory" acts, the USTR has discretion about whether to take action.⁴¹ An interagency committee headed by the USTR conducts these investigations (including hearings, if requested), usually on the basis of petitions by interested parties alleging violations of section 301, but an investigation may also be initiated by the USTR even if a petition is not filed. If the foreign entity does not agree to change its practices, the USTR is empowered to (1) deny 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. The 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 1988, seven new section 301 cases were initiated by the USTR. Six of the new cases responded to petitions filed by private parties. These cases included three on Korean practices (cigarettes, beef, and wine) and three cases on other countries' practices: Japanese citrus quotas, Argentine patent protection, and EC scrap metal restrictions. The seventh case was initiated on Japanese barriers to construction services as a result of a provision enacted in the Omnibus Trade and Competitiveness Act of 1988. Further developments occurred in eight of the cases initiated prior to 1988. Therefore, 15 section 301 cases were active during 1988.

In three cases, bilateral settlements were obtained and the cases were consequently terminated or withdrawn. Retaliatory measures were instituted in two cases. Seven of the cases active in 1988 were being pursued under GATT or Tokyo Round Code dispute settlement mechanisms. Several longstanding dormant cases (not formally terminated) in which no further activity was reported in 1988 are listed at the end of this section.⁴² Table 18 summarizes activity on section 301 cases during 1988 that are described in greater detail below.

⁴¹ The statute provides a number of procedures and time limits for action by the USTR. The USTR has 45 days from receipt of a petition to determine whether or not to initiate an investigation. In all cases, 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 such agreements. The time period for a determination by the USTR concerning the practice in question, and any action to be taken, varies according to the type of practice alleged.

⁴² Section 301 cases not discussed below were resolved prior to 1988. Since the enactment of section 301 provisions from 1974 through the end of 1988, a total of 70 investigations have been handled.

In a few instances, the USTR determined that it would not institute investigations in response to petitions filed with the USTR during 1988.⁴³ Investigations were not initiated in response to petitions regarding Chile's patent protection of pharmaceutical products;⁴⁴ Japanese prohibitions on rice imports;⁴⁵ Korean practices on the import and distribution of motion pictures;⁴⁶ and Canadian duty remissions on exports of automotive components.⁴⁷

Cases Initiated in 1988

*Korean cigarette monopoly practices*⁴⁸

In January 1988, the U.S. Cigarette Export Association filed a petition complaining that the policies and practices of the Korean Government and the Government-owned Korean Monopoly Corporation unreasonably denied access to the Korean cigarette market and were a burden or restriction on U.S. commerce. In February, the USTR initiated an investigation and requested consultations with the Government of Korea.⁴⁹ The USTR signed an agreement with Korea in May providing for open, nondiscriminatory access to the Korean cigarette market. On the basis of this agreement, the investigation was terminated on May 31, 1988.

*Korean beef licensing system*⁵⁰

In February 1988, the American Meat Institute filed a petition alleging that Korea maintains a restrictive licensing system on imports of all bovine meat, in violation of GATT article XI. In March, the USTR initiated an investigation. The United States had already consulted with Korea under GATT article

⁴³ See USTR, "Report to Congress on Section 301 developments required by section 309(a)(3) of the Trade Act of 1974," Jul.-Dec. 1988.

⁴⁴ Filed on Feb. 22, 1988 by the Pharmaceutical Manufacturers Association. Based on consultations with Chile regarding Chile's intent to revise its patent law, PMA withdrew its petition on Apr. 7, 1988. Consultations between the United States and Chile on the revisions are continuing.

⁴⁵ Filed on Sept. 14, 1988 by the Rice Council for Market Development and the Rice Millers' Association. On Oct. 28, 1988, the USTR decided not to initiate an investigation because the Uruguay Round was thought to be a more effective way to open the Japanese rice market.

⁴⁶ Filed on Sept. 15, 1988 by the Motion Picture Export Association of America (MPEAA). During the 45 days of review of the petition, negotiations with Korea exacted an agreement that would resolve the problems addressed in the petition. As a result, the MPEAA withdrew its petition on Oct. 28, 1988.

⁴⁷ Filed on Oct. 4, 1988 by the Governor of Michigan. On Nov. 16, 1988, USTR ruled that government officials do not have standing to file a petition and that the investigation was not warranted under the terms of the U.S.-Canada Free-Trade Agreement (FTA). A study is being initiated under section 207 of the U.S. law implementing the FTA to determine whether Canada's duty remissions on automotive products are inconsistent with obligations under the GATT or the FTA.

⁴⁸ USTR Docket No. 301-64.

⁴⁹ See 53 F.R. 4926.

⁵⁰ USTR Docket No. 301-65.

Table 18
Summary of activity on sec. 301 investigations during 1988

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1988</i>
301-70 Nov. 1988	Copper and Brass Fabricators Council	Metal scrap/EC-United Kingdom	Pending. Investigation initiated in Dec. 1988. Public hearing scheduled for January 1989.
301-69 Nov. 1988	Required by sec. 1305 of Omnibus Trade and Compe- titiveness Act of 1988	Construction services/Japan	Pending. Investigation initiated in November 1988. Public hearings scheduled for March 1989. Consultations with Japan requested to be undertaken following public hearing.
301-68 Aug. 1988	Pharmaceutical Manufacr. Assoc.	Patent protection/ Argentina	Pending. Consultations between Argentina and the United States in December 1988.
301-67 Apr. 1988	Wine Inst. & Assoc. of American Vintners	Wine practices/Korea	Pending. Consultations held between Korea and the United States in October 1988.
301-66 May 1988	Florida Citrus Mutual, et. al.	Citrus Quotas/Japan	Bilateral agreement reached in connection with GATT dispute settlement on these and other products. Petition withdrawn and investigation terminated in July 1988.
301-65 Feb. 1988	American Meat Institute	Beef licensing/Korea	Pending. GATT dispute settlement panel established in May 1988. Panel began meetings in November 1988.
301-64 Jan. 1988	U.S. Cigarette Export Assoc.	Cigarette monopoly/ Korea	Agreement for open access to Korea signed in May 1988. Investigation terminated end of May.
301-63 Dec. 1987	American Soybean Association.	Oilseeds/EC	Pending. Investigation initiated January 1988. GATT Council to establish a dispute settlement panel. Panel formation under deliberation.
301-62 Nov. 1987	President acted on his own motion.	Animal Hormone Directive/EC.	In December 1987, the President proclaimed retaliation in the form of increased duties on certain EC exports. Duties suspended on same date as EC agreed to 12-month transition before implementing directive. On January 1, 1989 EC directive went into force and U.S. suspension of retaliatory measures was revoked thereby instituting increased duties.
301-61 June 1987	Pharmaceutical Manufacturers Association.	Lack of patent protection/Brazil.	Retaliatory measures implemented in October 1988.
301-60 July 1987	American Meat Inst., et al.	Third Country Meat Directive/EC.	GATT Council agreed to establish a dispute settlement panel in December 1987. In 1988 the EC took steps to provide access by granting export authorization to 117 U.S. plants.
301-59 Jan. 1987	California Growers Exch.	Almond licensing and tariffs/India.	GATT panels established under the GATT Council and the GATT Import Licensing Code in late 1987. Bilateral settlement reached in May 1988. U.S. panel requests withdrawn and investigation terminated.
301-55 Apr. 1986	Icele Seafoods and Associated Processors.	Ban on unprocessed herring and salmon exports/ Canada.	GATT panel report favorable to the United States completed in November 1987. Report adopted in February 1988. Canada agreed to terminate export restrictions on January 1, 1989. U.S. requested consultations on any new regulations to be put into effect.
301-54 Mar. 1986	USTR initiated at President's direction.	Accession of Spain and Portugal/EC.	Settlement reached Jan. 30, 1987. U.S. continuing to monitor EC compliance with the agreement.
301-53 Apr. 1986	National Soybean Processors Association.	Soybean and soybean product export taxes/ Argentina.	Pending. In February 1988, Argentina reduced the export tax differential but in July established a tax rebate. USTR then resumed consultations and Argentina suspended the rebate. Consultations continuing.
301-49 Sept. 1985	USTR initiated at President's direction.	Informatics policy/Brazil.	Pending. In November 1987, President proposed retaliatory duty increases. Hearings on retaliation held in December 1987. In February and June 1988 retaliation was postponed. Retaliation implemented July 1988.

Table 18—Continued

Summary of activity on sec. 301 investigations during 1988

Doc. No., date filed	Petitioner	Product or service/ country	Status at yearend 1988
301-48 June 1985	Semiconductor Industry Association.	Semiconductors/ Japan.	Agreement reached and investigation suspended in 1986. Case reactivated in 1987 due to failure of Japan to fulfill the agreement. Increased duties imposed on certain Japanese products in April 1987. Some duties removed in June and November 1987. Other duties remain in effect. In August 1988, the U.S. Government modified some aspects of implementation of the semiconductor agreement at the request of U.S. industry.
301-47 Aug. 1984	Fertilizer Institute.	Triple super- phosphate/EC.	Pending. Consultations under the GATT Standards Code started in December 1984. No action reported in 1988.
301-42 Apr. 1983	National Soybean Processors Association.	Soybean oil and meal/Spain.	Pending. Consultations took place. No action reported in 1988.
301-40 Apr. 1983	National Soybean Processors Association	Soybean oil and meal/Brazil.	Pending. GATT Subsidies Code consultations initially held to confirm Brazil's claim that barriers were eliminated. No action reported in 1988.
301-35 Oct. 1982	Footwear Indus- tries of America, Inc	Nonrubber foot- wear/Brazil.	Pending. In November 1985, Brazil offered to liberalize its import surcharge and reduce tariffs. No action reported in 1988.
301-34 July 1982	J.I. Case Co.	Front-end loaders/ Canada.	Pending. Following informal GATT consultations, the USTR returned to the petitioner for further information. No action reported in 1988.
301-23 Sept. 1981	National Broller Council.	Poultry/EC. Brazil	Pending. No action in 1988. GATT Subsidies Code conciliation undertaken at outset of case.
301-11 Nov. 1976	Florida Citrus Commission.	Citrus fruits and juices/EC.	Settlement reached August 1986. Full implementation of agreement effected following passage of the Omnibus Trade and Competitiveness Act of 1988. Accordingly, the President issued the implementing tariff proclamation in December 1988.
301-6 Nov. 1975	Millers National Federation	Wheat flour/EC.	Pending. No action in 1988. GATT Subsidies Code panel declined to rule if EC violated code rules. Report not yet adopted by Code members.

XXIII:1. In May 1988, the GATT Council agreed to establish a dispute settlement panel. Australia was also granted a panel on the same matter, so consultations on panel selection included coordination between two panels. The panel began meeting in November.⁵¹

Japanese citrus quotas⁵²

In May 1988, Florida Citrus Mutual, et al., filed a petition alleging that Japan's import quotas on fresh oranges and orange juice violate GATT article XI and that their domestic content mixing requirements violate GATT article III: 5. Later in May, the USTR initiated an investigation.

The United States had already consulted with Japan under GATT article XXIII:1, and a panel under article XXIII:2 had been authorized by the GATT Council on May 4, 1988; the panel included these and other products within its

⁵¹ See also the "Dispute Settlement" section of ch. 2 of this report.

⁵² USTR Docket No. 301-66.

scope.⁵³ Intensive settlement negotiations followed, and on July 5, 1988, a bilateral agreement was reached to settle the issue. Among other issues settled, import quotas on fresh oranges will end April 1, 1991, and on April 1, 1992 for orange juice; the blending requirements will be phased out in 1988-89 and eliminated as of April 1, 1990. Based upon this agreement, the citrus industry withdrew its petition and the USTR terminated the investigation on July 5, 1988.⁵⁴

Korean wine practices⁵⁵

In April 1988, the Wine Institute and the Association of American Vintners filed a petition complaining that certain policies and practices of the Korean Government unreasonably deny access to the Korean wine market and are a burden or restriction on U.S. commerce. In June, the USTR initiated an investigation⁵⁶ and

⁵³ See also the "Dispute Settlement" section of ch. 2 of this report.

⁵⁴ See 53 F.R. 25714.

⁵⁵ USTR Docket No. 301-67.

⁵⁶ See 53 F.R. 22607.

requested consultations with the Korean Government. Public comments were requested, to be submitted by July 8, 1988, to aid in consultations. Consultations were held October 11-12 in Washington and October 25 in Seoul.

*Argentine patent protection for pharmaceuticals*⁵⁷

In August 1988, the Pharmaceutical Manufacturers Associations (PMA) filed a petition complaining of Argentina's denial of product patent protection for pharmaceuticals and discriminatory product registration practices. In September, the USTR initiated an investigation⁵⁸ and requested public comments as preparation for consultations with the Argentine Government. Consultations between the United States and Argentina began in December 1988.

*Japanese construction-related services barriers*⁵⁹

Section 1305 of the Omnibus Trade and Competitiveness Act of 1988, enacted August 23, 1988, required the USTR to initiate an investigation regarding the acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to U.S. construction-related services. The investigation was directed to cover the offering or performance of architectural, engineering, construction and consulting services in Japan. The USTR initiated an investigation in November 1988, and requested public comment to be filed by December. Consultations with Japan have been held were requested, to be held following a public hearing.⁶⁰

*EC copper scrap restrictions*⁶¹

In November 1988, the Copper and Brass Fabricators Council, Inc., filed a petition under section 302, regarding restrictions maintained by Brazil and the EC, and separate restrictions maintained by the United Kingdom, on the export of copper scrap, copper alloy scrap, and zinc scrap. The petitioner subsequently withdrew the petition with regard to Brazil and zinc scrap. The petitioner asserted that export restrictions maintained by the EC and the United Kingdom depress the price of EC scrap and elevate the price of non-EC scrap, and thereby provide a cost advantage to EC brass fabricators.

In December 1988, the USTR initiated an investigation and scheduled a public hearing for January 1989. The USTR also announced that it would not proceed separately against the United Kingdom if it were determined that the restrictions were not being maintained

independently of the EC restrictions. The USTR advised the EC that it intended to request GATT consultations following the public hearing.

Other Cases Active in 1988

*EC oilseed policies*⁶²

In December 1987, the American Soybean Association filed a petition complaining that the EC's policies and practices relating to oilseeds and oilseed substitutes nullify or impair GATT benefits and are inconsistent with a zero tariff bound by the EC under its GATT schedule of tariff concessions. On January 5, 1988, the USTR initiated an investigation and requested consultations with the EC.⁶³

The United States held GATT article XXIII:1 consultations with the EC in early 1988 and, in May, asked the GATT Council to establish a panel.⁶⁴ The Council agreed to a panel in June and negotiations on the composition and terms of reference of the panel are underway. According to the U.S. Administration, the "EC has delayed the formation of the panel with a number of procedural maneuvers."⁶⁵

*EC Animal Hormone Directive*⁶⁶

On November 25, 1987, the President announced his intention to retaliate against the planned January 1, 1988 implementation of an Animal Hormone Directive in the EC. The Animal Hormone Directive would ban imports of meat produced from animals treated with growth hormones. The United States argued that since the ban was not supported by valid scientific evidence, it represents a disguised restriction on trade.⁶⁷ The President proposed raising customs duties to a prohibitive level (100 percent ad valorem) on as much as \$100 million in EC exports to the United States, and then suspending these duty increases if EC member states would continue to allow such imports for a 12-month transition period. On December 24, 1987, the President proclaimed but suspended the increased duties on specified EC products.⁶⁸

The EC finally implemented its directive on meat imports, effective as of January 1, 1989. In response, the USTR implemented the retaliatory

⁵⁷ USTR Docket No. 301-63.

⁵⁸ See 52 *F.R.* 984, Jan. 14, 1988.

⁵⁹ See also the "Dispute Settlement" section of ch. 2 of this report.

⁶⁰ USTR, "Report to Congress on Section 301 Developments Required by Section 309 (a)(3) of the Trade Act of 1974," (July-December 1988).

⁶¹ USTR Docket No. 301-62.

⁶² USTR, "Report to Congress on section 301 developments required by section 306 of the Trade Act of 1974," July-December 1987.

⁶³ See 52 *F.R.* 49131, Dec. 30, 1987.

⁵⁷ USTR Docket No. 301-68.

⁵⁸ See 53 *F.R.* 37668.

⁵⁹ USTR Docket No. 301-69.

⁶⁰ The public hearing took place on Mar. 13, 1989.

⁶¹ USTR Docket No. 301-70.

measures by means of terminating the suspension of increased duties, also effective January 1989.⁶⁹

*Brazilian patent protection for pharmaceuticals*⁷⁰

The Pharmaceutical Manufacturers Association filed a petition in June 1987 complaining that Brazil lacked process and patent protection for pharmaceutical products. The USTR initiated an investigation in July 1987 and requested consultations with Brazil.⁷¹ Consultations were held in February 1988.⁷² In July 1988, the President determined that Brazil's policy was unreasonable and a burden and restriction on U.S. commerce. The USTR held public hearings on certain products from Brazil in September 1988.⁷³

In October 1988 the President implemented retaliatory measures. He proclaimed tariff increases to 100 percent ad valorem on certain paper products, nonbenzenoid drugs, and consumer electronics items. The increases became effective October 30, 1988.⁷⁴ The level of retaliation was estimated by the USTR at approximately \$39 million.⁷⁵

*EC third country meat directive*⁷⁶

In July 1987, the American Meat Institute, the U.S. Meat Export Federation, the American Farm Bureau Federation, the National Pork Producers Council, and the National Cattlemen's Association filed a petition complaining that the EC's Third Country Meat Directive, that sets requirements for meat slaughter and packing plants only when the meat will be shipped across national borders, violates GATT article III and is a burden on U.S. commerce. In July 1987, the USTR initiated an investigation and requested consultations with the EC.⁷⁷ The United States consulted with the EC under GATT article XXIII:1 in the fall of 1987. In December 1987, the GATT Council agreed to establish a dispute settlement panel.⁷⁸

In 1988 the EC took steps to provide access for a number of U.S. meat packers.⁷⁹ The EC granted full export authorization to 117 U.S.

⁶⁹ One of the product subheadings previously slated for increased duties was excluded because the EC agreed not to apply the directive to import of products to be used in pet foods. USTR, "Report to Congress on Section 301 Developments required by Section 309(a)(3) of the Trade Act of 1974," July-December 1988.

⁷⁰ USTR Docket No. 301-61.

⁷¹ See 52 F.R. 28223, July 28, 1987.

⁷² USTR, "Section 301 Table of Cases," Nov. 15, 1988.

⁷³ See 53 F.R. 28199 and 53 F.R. 30894.

⁷⁴ See 53 F.R. 41551.

⁷⁵ USTR "Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974," July-December 1988.

⁷⁶ USTR Docket No. 301-60.

⁷⁷ See 52 F.R. 28223, July 28, 1987.

⁷⁸ See also the "Dispute Settlement" section of ch. 2 of this report.

⁷⁹ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

plants and granted temporary import licenses to 18 others under consideration for approval.⁸⁰ Further action on this case is on hold pending further developments in EC approval of U.S. plants.

*Indian licensing requirements and tariffs on almonds*⁸¹

In January 1987 the California Growers Exchange filed a petition alleging that India's licensing requirements and high tariffs on almonds are actionable under section 301. The USTR initiated an investigation in February 1987 and requested consultations with India.⁸² During 1987, the United States consulted with India under GATT article XXIII:1. Following U.S. requests at three previous meetings, the GATT Council agreed in December 1987 to establish a dispute settlement panel.⁸³ The United States also raised the almond issue in the GATT Balance of Payments Committee and requested a panel under the GATT Import Licensing Code. In September 1987, India agreed to a panel under the code.

In May 1988, the United States and India agreed to a bilateral settlement of the dispute. The Indian Government established a separate quota for almonds which set increased access to the Indian market.⁸⁴ India also agreed to eliminate the quota in three years if its balance of payments position improves. India also reduced and bound its tariffs for shelled and unshelled almonds.⁸⁵ As a result of the settlement, the USTR withdrew its requests for the two dispute settlement panels and terminated the investigation.⁸⁶

*Canadian ban on fish exports*⁸⁷

Icicle Seafoods and nine other seafood processors filed a petition in April 1986 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

⁸⁰ GATT, *Review of Developments in the Trading System, April-August 1988*, Doc. no. L/6435, Nov. 30, 1988.

⁸¹ USTR Docket No. 301-59.

⁸² See 52 F.R. 6412, Mar. 3, 1987, and 52 F.R. 7057, Mar. 6, 1987.

⁸³ See also the "Dispute Settlement" section of ch. 2 of this report.

⁸⁴ For an initial three year period, India agreed to permit its almond imports from all countries to rise from about \$7 million to \$20 million per year. During the remaining three years of the agreement, India would remove the licensing restrictions if its balance of payments position improved, but barring removal, would maintain imports at the \$20 million level. GATT, *Review of Developments in the Trading System, April-September 1988*, Doc. no. L/6435, Nov. 30, 1988.

⁸⁵ India agreed to bind and lower its tariff on shelled almonds to \$3.73 per kilogram from \$4.18 per kilogram and to bind its present tariff of \$2.09 per kilogram on unshelled almonds. GATT, *Review of Developments in the Trading System, April-September 1988*, Doc. No. 6435, Nov. 30, 1988.

⁸⁶ See 53 F.R. 21757.

⁸⁷ USTR Docket No. 301-55.

cost advantage that burdens U.S. exports in third-country markets. The USTR initiated an investigation in May 1986.⁸⁸ Following consultations between the USTR and Canadian officials under GATT article XXIII:1, the United States requested and obtained a GATT dispute settlement panel.⁸⁹

In March 1988, the GATT Council adopted a panel report favorable to the U.S. position. The report found Canada's export controls to be inconsistent with article XI (on quantitative restrictions) of the GATT.⁹⁰ In February 1988, the GATT Council adopted the panel report. Canada announced that it planned to terminate the export restrictions by January 1, 1989, but that it would replace these with new landing and inspection requirements prior to export. In August 1988, the USTR requested public comments on whether the new Canadian requirements deny U.S. rights under the GATT.⁹¹

*Argentine differential export taxes on soybeans and soybean products*⁹²

The USTR initiated the investigation in April 1986 at the request of the National Soybean Processors Association.⁹³ The petitioner complained of Argentina's system of differential export taxes, under which soybeans are charged a higher export tax than soybean oil. Following bilateral discussions, in which Argentina assured the United States that it planned to eliminate the export taxes causing the differential, the President suspended the investigation in May 1987.⁹⁴ In November and December 1987 further discussions were held with Argentina because the export tax had not yet been eliminated.

In February 1988, Argentina reduced the export tax differential by 3 percent. However, Argentina established a tributary tax rebate in July 1988 on oil and meal exports to third countries that subsidize these products. As a result, the USTR resumed consultations with Argentina which then suspended the rebate payments and began studying other options.⁹⁵ Consultations with Argentina are continuing.

⁸⁸ See 51 *F.R.* 19648, May 30, 1986.

⁸⁹ See also the "Dispute Settlement" section of ch. 2 of this report.

⁹⁰ USTR, "Report to Congress on Section 301 Developments required by Section 306 of the Trade Act of 1974," July-December 1987.

⁹¹ See 53 *F.R.* 33,207, Aug. 30, 1988.

⁹² USTR Docket No. 301-53.

⁹³ See 51 *F.R.* 16,764, May 6, 1986. The Association's petition alleged that Argentina's differential export tax system in which export taxes for soybeans were higher than for soybean products operated in such a way as to distort trade by providing the Argentine soybean processing industry a guaranteed crushing margin, permitting Argentine crushers to capture ever increasing shares of the world export market. The petitioner argued that this advantage burdens U.S. exports to third-country markets.

⁹⁴ See 52 *F.R.* 18,685, May 16, 1987.

⁹⁵ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

*Brazilian informatics policies*⁹⁶

In September 1985, the USTR initiated an investigation into Brazil's informatics policy.⁹⁷ The policy encompasses a variety of measures such as investment restrictions, subsidies, and import restrictions.⁹⁸ The first consultations with Brazil on its policies took place in February 1986. In October 1986, the President determined that Brazil's policies are unreasonable and directed the USTR to notify the GATT of the U.S. intention to suspend tariff concessions for Brazil under GATT article XVIII, and to effect the suspension when appropriate.⁹⁹ In December 1986, the President terminated the portion of the investigation dealing with Brazilian administrative procedures.¹⁰⁰

In February 1987, the USTR held hearings on the intellectual property and investment aspects of the case.¹⁰¹ The President had suspended the intellectual property portion of the investigation in June 1987,¹⁰² but in November the President announced plans to take retaliatory measures because Brazil had breached certain understandings that were the basis for the June suspension action.¹⁰³ Hearings on proposed retaliation were held in December 1987.¹⁰⁴

In February 1988, retaliation was postponed to review Brazil's regulations implementing its software law enacted in December 1987. In June the USTR announced that it would not pursue retaliation at that time while monitoring whether U.S. companies were able to obtain fair and equitable access to the Brazilian market under the new regulations.¹⁰⁵ In July 1988, the President announced that retaliation would be imposed on a list of items imported from Brazil worth at least \$200 million.¹⁰⁶

Follow-up on Cases Settled Prior to 1988

*EC enlargement*¹⁰⁷

Following a January 21, 1987 proclamation of dramatic duty increases on a number of EC

⁹⁶ USTR Docket No. 301-49.

⁹⁷ See 50 *F.R.* 37608, Sept. 16, 1985.

⁹⁸ See also "Brazil" section of ch. 4.

⁹⁹ See 51 *F.R.* 35993, Oct. 8, 1986.

¹⁰⁰ The Brazilian reforms included simplification of the licensing process, the creation of an appeals process, and narrowing the scope of import restrictions. The December determination also directed the USTR to continue negotiations with Brazil to eliminate restrictions on U.S. investment in the informatics sector and obtain adequate protection of intellectual property rights. See 52 *F.R.* 1619, Jan. 15, 1986.

¹⁰¹ See 52 *F.R.* 4207, Feb. 10, 1987.

¹⁰² See 52 *F.R.* 24971, July 2, 1987.

¹⁰³ The President proposed measures that included banning imports of Brazilian informatics products and raising duties or otherwise restricting imports of about \$105 million more in Brazilian products. See 52 *F.R.* 44937, Nov. 23, 1987.

¹⁰⁴ See 52 *F.R.* 47071, Dec. 11, 1987.

¹⁰⁵ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

¹⁰⁶ White House Statement of July 22, 1988, "Weekly Compilation of Presidential Documents," July 25, 1988.

¹⁰⁷ USTR Docket No. 301-54.

products,¹⁰⁸ the United States and the EC settled the issue of U.S. compensation for the effect of EC enlargement on U.S. trade.¹⁰⁹ The agreement was reached on January 30, 1987, the eve of the deadline for the duty hikes to take effect.¹¹⁰ As a result of the agreement, the USTR suspended the increased duties.¹¹¹

During 1988, the EC experienced start-up problems with implementing the agreement with the United States. Unable to ensure imports of the agreed-upon levels of U.S. feedgrain by the deadline of February 29, 1988, the EC was granted an extension until June 30. The USTR is continuing to monitor EC compliance with the terms of the agreement. Also, the continued EC maintenance of restrictions of soybeans into Portugal is being monitored by the USTR to determine whether U.S. soybean exports into Portugal are affected.

*Japanese barriers to the domestic sale of foreign semiconductors*¹¹²

In June 1985, the Semiconductor Industry Association filed a petition with the USTR alleging that the Japanese Government had created a protective structure that acts as a major barrier to the sale of foreign semiconductors in Japan. The USTR initiated the investigation in July 1985¹¹³ and consulted with Japan. The United States and Japan reached an agreement on semiconductors under which Japan made a commitment to increase access to the Japanese market for U.S. firms and to prevent dumping of semiconductors in U.S. and third-country markets. Consequently, the President suspended the investigation.¹¹⁴

In March 1987 the USTR reactivated the case and held hearings on whether Japan was meeting the terms of the agreement.¹¹⁵ In April, the President determined that Japan had not implemented or enforced the agreement¹¹⁶ and proclaimed retaliatory duty increases.¹¹⁷

¹⁰⁸ See 52 F.R. 2663, Jan. 26, 1987.

¹⁰⁹ For further details see the "EC Enlargement" section of ch. 4 of this report as well as *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, pp. 5-9 and 4-5.

¹¹⁰ The EC agreed to ensure annual imports of corn and sorghum in Spain of 2 million and 300,000 metric tons, respectively. The EC also agreed to rescind the requirement in Portugal that 15 percent of the Portuguese grain market (about 400,000 metric tons) be reserved for sales from EC member countries. Moreover, the EC agreed to reduce duties on 26 other products and to extend all current EC tariff bindings to Spain and Portugal.

¹¹¹ See 52 F.R. 3523, Feb. 4, 1987.

¹¹² USTR Docket No. 301-48.

¹¹³ See 50 F.R. 28866, July 16, 1985.

¹¹⁴ See 51 F.R. 27811, Aug. 4, 1986.

¹¹⁵ See 52 F.R. 10275, Mar. 31, 1987.

¹¹⁶ See 52 F.R. 13419, Apr. 22, 1987.

¹¹⁷ He proclaimed increased duties on Japanese imports, including certain color televisions, power hand tools, and automatic data processing machines and authorized the USTR to modify, suspend, or terminate the duties. See 52 F.R. 13412, Apr. 22, 1987.

Some of the duty increases were subsequently removed, but other sanctions imposed in April 1987 remain in effect.¹¹⁸

In August 1988, the U.S. Government responded to requests by industry associations to modify some aspects of implementation of the agreement on semiconductor trade. The associations argued that by setting minimum price levels based on cost of manufacture, the agreement discouraged Japanese suppliers from increasing manufacturing capacity, thus causing artificial shortages and exorbitant prices. The U.S. Department of Commerce agreed to consider a number of changes in the method of calculating whether semiconductors are dumped in the United States, as well as whether to consider measures that would lower the price levels triggering antidumping action.

*EC citrus preferences*¹¹⁹

In November 1976, the Florida Citrus Commission alleged that EC preferential import duties on orange and grapefruit juices and fresh citrus fruits from certain Mediterranean countries adversely affected U.S. citrus producers. This case, which was considered by a GATT panel,¹²⁰ was finally resolved bilaterally in 1986 following several months of retaliatory and counter-retaliatory measures.¹²¹

Passage of the Omnibus Trade and Competitiveness Act of 1988, enacted in August 1988, enabled the President to implement the tariff reductions that constituted the remainder of the agreement. The President issued the tariff proclamation on December 21, 1988. The EC accordingly reduced its tariffs on almonds and peanuts.¹²²

¹¹⁸ In June 1987, the USTR suspended the increased duties on imports of 20-inch color television sets because of Japan's improved conformity with the agreement. See 52 F.R. 22693, June 15, 1987. In November 1987, USTR suspended duties on certain power hand tools, certain other color television sets, and low performance 16 bit desktop computers, once it was determined that Japan was no longer dumping semiconductors in third country markets. See 52 F.R. 43146, Nov. 9, 1987.

¹¹⁹ USTR Docket No. 301-11.

¹²⁰ Following the 1979 Tokyo Round in which duty reduction was obtained only on fresh grapefruit, GATT consultation and conciliation efforts were pursued without results. The GATT Council established a panel in November 1982. The panel report, completed in 1984, did not specifically find that EC preferences violated GATT rules but agreed that U.S. exports had been adversely affected. See also the section on "Dispute Settlement" in ch. 2.

¹²¹ See also "European Community" section of ch. 4. For further background on the case see *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, pp. 5-10 and 4-7.

¹²² USTR, "Report to Congress on Section 301 Developments required by Section 309(a)(3) of the Trade Act of 1974," July-December 1988.

Cases Inactive in 1988

Outstanding cases in which no further action occurred in 1988 include:¹²³

- EC export subsidies on wheat flour¹²⁴;
- EC and Brazilian export subsidies on poultry¹²⁵;
- Canadian tax and customs measures on front-end loaders¹²⁶;
- Brazilian import restrictions on nonrubber footwear¹²⁷;
- Barriers to U.S. exports of soybean oil and meal:
 - Brazil¹²⁸ and Spain¹²⁹;
- EC technical standards for fertilizers¹³⁰.

Other Import Administration Laws

Arrangement Regarding International Trade in Textiles

The Arrangement Regarding International Trade in Textiles, commonly known as the Multifiber Arrangement (MFA), was established under the aegis of the GATT. The MFA provides the framework under which countries can establish limits on international trade in textiles, including apparel, primarily through negotiation of bilateral agreements between importing and exporting countries. It also permits importing countries to impose unilateral restraints on specific products for up to two years in the absence of an agreement to control textile trade and thus prevent market disruption.

The MFA was established in 1974 and has been extended three times since then. The most recent extension, referred to as MFA IV, went into effect on August 1, 1986, and is scheduled to expire on July 31, 1991. This extension expanded coverage of the MFA from textiles and apparel of cotton, wool, and manmade fibers to include products of silk blends and of noncotton vegetable fibers. As of December 16, 1988, 39 countries had signed MFA IV, including the EC as a single signatory, and the United States.

During 1988, the United States had bilateral textile agreements with 45 countries and 2 U.S. possessions, as shown in table 19. Not all of these agreements were concluded with signatories to the MFA. The United States negotiates agreements with non-MFA signatories under the authority of

¹²³ For further details on these cases see *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, July 1987, pp. 5-10 and 4-7.

¹²⁴ USTR Docket No. 301-6. Initiated in Dec. 1975.

¹²⁵ USTR Docket No. 301-23. Initiated in Oct. 1981.

¹²⁶ USTR Docket No. 301-34. Initiated in October 1982.

¹²⁷ USTR Docket No. 301-35. Initiated in December 1982.

¹²⁸ USTR Docket No. 301-40. Initiated in May 1983.

¹²⁹ USTR Docket No. 301-42. Initiated in May 1983.

¹³⁰ USTR Docket No. 301-47. Initiated in October 1984.

section 204 of the Agricultural Act of 1956. In addition to bilateral restraints, in June 1988, the United States unilaterally imposed restraints under this act on imports of certain textile products from the United Arab Emirates, pending the outcome of bilateral negotiations. The United States has established 147 categories for purposes of setting restraint levels on U.S. textile imports. These categories comprise groupings of numbers in the U.S. tariff schedule covering textile yarns, fabrics, apparel, and made-up articles and miscellaneous textiles. The number of categories under restraint varies widely from country to country; some large suppliers may have as many as 100 categories subject to restraint, while new suppliers may have limits on as few as 4 categories. In addition to limits on specified categories, during 1988, 17 of the U.S. agreements had group or aggregate limits providing broader limits on imports.

During 1988, 85 percent of U.S. textile and apparel imports by quantity¹³¹ were from MFA signatories. These imports totaled 11.6 billion SYE, a decline of 6 percent from the volume of such imports in 1987. Of the countries with which the United States had bilateral agreements, the leading suppliers were China, Taiwan, Korea, and Hong Kong. Together these four accounted for 41 percent, or 5.9 billion SYE, of textile and apparel imports, a decline of 13 percent from 1987 levels. Imports from the EC, the major unrestrained source, amounted to 1.5 billion SYE, or 13 percent of the 1988 total, and recorded a 10-percent decline from 1987 levels. The Uruguay Round Negotiating Group on Textiles and Clothing is working to define modalities that would allow integration of this sector into the GATT.

Agricultural Adjustment Act

Section 22 of the Agriculture Adjustment Act (7 U.S.C. 624) requires the President to take action to prevent imports from undermining the integrity of U.S. Department of Agriculture (USDA) programs designed to stabilize or raise domestic agricultural commodity prices. The President acts on the basis of a formal investigation and recommendation by the U.S. International Trade Commission.¹³² Following

¹³¹ Measured in square yard equivalents (SYE), the standard unit of measurement used in the administration of the textile trade agreements program. In this system imports of nonfabric products are converted to a SYE basis. For example, 1 pound of cotton yarn equals 4.6 SYE and one dozen woven shirts equals 24 SYE.

¹³² Section 4609 of the Omnibus Trade and Competitiveness Act of 1988 has directed the International Trade Commission, in its Section 22 investigations involving tobacco or articles containing tobacco, to take into account, as if they are costs to the Federal government, contributions and assessments imposed on farmers under the no-net-cost tobacco program in determining whether imported tobacco or articles containing tobacco materially interfere with the tobacco price support program.

Table 19

U.S. bilateral textile agreements or quotas in effect during 1988

Country	Effective dates
Bangladesh*	02/01/86 - 01/31/90
Brazil*	04/01/88 - 03/31/92
Bulgaria	05/01/86 - 04/30/89
Burma	01/01/87 - 12/31/90
China*	01/01/88 - 12/31/91
Colombia*	04/01/87 - 03/31/90
Costa Rica ¹	06/01/87 - 12/31/88
Czechoslovakia*	06/01/86 - 05/31/89
Dominican Republic*	06/01/88 - 05/31/92
East Germany	01/01/87 - 12/31/89
Egypt*	01/01/87 - 12/31/89
El Salvador*	01/01/87 - 12/31/89
Guam ²	11/01/86 - 10/31/89
Guatemala*	01/01/85 - 12/31/88
Haiti**	01/01/87 - 12/31/89
Hong Kong*	01/01/86 - 12/31/91
Hungary*	10/01/82 - 12/31/91
India*	01/01/87 - 12/31/91
Indonesia*	07/01/85 - 06/30/92
Jamaica*	09/01/86 - 12/31/92
Japan*	01/01/86 - 12/31/89
Korea*	01/01/86 - 12/31/89
Macau*	01/01/84 - 12/31/91
Malaysia*	01/01/85 - 12/31/91
Maldives**	09/29/85 - 09/29/88
Mauritius	10/01/84 - 09/30/90
Mexico*	01/01/88 - 12/31/91
Nepal	10/01/85 - 12/31/90
Northern Mariana Islands ²	11/01/86 - 10/31/89
Pakistan*	01/01/87 - 12/31/91
Panama**	04/01/87 - 03/31/90
Peru ³	05/01/84 - 04/30/89
Philippines*	01/01/87 - 12/31/91
Poland*	01/01/85 - 12/31/89
Romania ⁴	01/01/88 - 12/31/89
Romania ⁵	01/01/85 - 12/31/89
Singapore*	01/01/86 - 12/31/90
South Africa ⁶	
Soviet Union	08/01/87 - 12/31/88
Sri Lanka*	06/01/88 - 06/30/92
Taiwan	01/01/86 - 12/31/89
Thailand ⁷	01/01/83 - 12/31/88
Trinidad and Tobago	10/01/86 - 12/31/89
Turkey*	07/01/87 - 06/30/90
United Arab Emirates ⁸	06/27/88 - 06/26/89
Uruguay*	07/01/87 - 06/30/90
Yugoslavia*	01/01/87 - 12/31/89

*Signatory to the MFA Protocol that went into effect on 08/01/86.

**Signatory to the MFA Protocol that expired on 7/31/86, but had not signed the new MFA Protocol, as of 12/15/88.

¹ A new agreement has been negotiated with Costa Rica but had not been signed as of 3/16/89. The new agreement is scheduled to expire 05/31/92.

² The agreements with these U.S. possessions provide for "quota exemptions" for sweaters classified as products of foreign countries, but assembled in the possessions. Quota-free entry will be allowed for a specified number of sweaters from Guam and the Northern Mariana Islands provided that at least 40 percent of the workers involved in the assembly were citizens or nationals of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the United States. The quota for the Northern Marianas may be increased if at least 50 percent of the workers were the described persons or may be decreased if less than 40 percent of the workers were such persons. Imports from Guam and the Northern Marianas in excess of the specified amounts will be charged to quotas established for the country of origin, usually the country where the sweater parts were knitted.

³ A new agreement has been negotiated with Peru but had not been signed as of 3/16/89. The new agreement is scheduled to expire 12/31/91.

⁴ The agreement for this period covers cotton textiles.

⁵ The agreement for this period covers wool and manmade-fiber textiles.

⁶ The agreement with South Africa, scheduled to be in effect for the period 09/01/85 - 08/31/88, was made inoperative by the Anti-Apartheid Act of 1986, which prohibits imports of textiles and certain other products from South Africa.

⁷ Several unilateral restraints have been placed on imports from Thailand that were covered by the agreement that expired in 1988. A new agreement had not been signed as of 3/16/89.

⁸ The quotas on imports from the United Arab Emirates were unilaterally imposed pending negotiation of a bilateral agreement. An agreement had not been concluded as of 3/16/89.

Source: 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.

receipt of the Commission's report, the President may impose, when necessary, quantitative restrictions on imports. He may also impose compensatory fees, not to exceed 50 percent of the imported product's value, to protect relevant USDA programs. In instances in which the Secretary of Agriculture determines that an emergency exists, the President may take action before completion of the Commission's investigation and report. Such emergency action continues in effect during the pendency of the above proceedings.

No actions were taken during 1988 under section 22 authority. The section 22 investigation involving sugar (investigation No. 22-49) and sugar-containing articles (investigation No. 22-48) instituted by the Commission in March 1985 to determine the respective import effects on USDA price-support programs were transmitted to the President on September 15 and October 15, respectively, of that year. At the close of 1988, the President had not indicated what action he wanted to take with regards to the Commission's recommendations. Therefore, the report findings remained confidential and the President's emergency actions with respect to sugar and sugar-containing articles temporarily established in 1985 continued in effect.¹³³ Quantitative import restrictions established pursuant to section 22 authority, through presidential proclamations of previous years, remained in place throughout calendar 1988 on cotton of certain specified staple lengths, cotton waste, and certain cotton products; peanuts; certain dairy products; and sugar, certain sugar syrups, and sugar-containing articles.

Generalized System of Preferences

The U.S. Generalized System of Preferences (GSP) is a temporary tariff preference scheme

¹³³ For further details, see *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, pp. 246-249.

designed to offer nonreciprocal duty-free treatment for designated articles of beneficiary developing countries provided that at least 35 percent of their value is added in the beneficiary country. The objective of the system is to help these countries become more competitive in U.S. markets and to diversify their economic structures away from production of primary goods. Twenty-six other industrial countries also maintain GSP programs. The USTR administers the U.S. GSP program. The original GSP was established under the Trade Act of 1974 for a period of 10 years, beginning January 3, 1975. The current GSP program, the result of amendments to and renewal of the original act by the Trade and Tariff Act of 1984, has been in effect since January 4, 1985. The program is scheduled to expire on July 4, 1993. In 1988, GSP benefits were afforded to 141 countries on approximately 3,000 products.

U.S. imports of GSP-eligible products from beneficiary countries totaled almost \$50 billion in 1988 (table 20). Of these GSP products, \$25.9 billion worth of imports were subject to mandatory "competitive-need" and discretionary exclusions.¹³⁴ Imports that actually entered the United States free of duties under the GSP

¹³⁴ The so-called competitive-need provisions of the GSP law state that if, in any calendar year, imports from an eligible country of an eligible article either (1) account for more than a specified percentage of total U.S. imports of that article for that year or (2) exceed a given dollar value (adjusted for changes in the nominal U.S. GNP), the imports of that article from that country cannot receive duty-free treatment under GSP in the following year. For the year under review, the general percentage and dollar limits were 50 percent and \$76,150,867, respectively. Countries that were found during the 1986 general review to be "sufficiently competitive" in certain products are subject to lower competitive-need limits of 25 percent and \$29,731,985 for those products. The competitive-need limits have been applied at the 5-digit TSUS level. Under the Harmonized System that became effective in 1989 the limits will be applied at the 8-digit level.

Table 20
U.S. Imports for consumption¹ from GSP beneficiaries and the world, 1988

Item	All GSP beneficiaries	World
Imports ² (thousands of dollars):		
Total	139,214,875	436,117,373
GSP-eligible products	49,954,885	153,371,946
Duty-free under GSP	18,353,627	18,353,627
GSP program exclusions	25,854,721	25,854,721
Other	5,746,537	109,163,598
Noneligible product imports	89,259,99	282,745,399
Ratio of (percent):		
GSP-eligible to total imports	35.9	35.2
GSP duty-free to GSP-eligible imports	36.7	12.0
GSP exclusions to GSP-eligible imports	51.8	16.9
Other imports to GSP-eligible imports	11.5	71.2
GSP duty-free to total imports	13.2	4.2

¹ Customs value basis.

² In this and other tables in this section, U.S. import data exclude entries into the U.S. Virgin Islands, which totaled \$1.0 billion in 1988. This is consistent with the concept of U.S. imports used in the GSP program for the competitive-need determinations.

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

program totaled almost \$18.4 billion in 1988, up from \$16.3 billion a year earlier. GSP imports receiving duty-free access represented 36.7 percent of all eligible products. They also accounted for 13.2 percent of total imports from beneficiary countries and 4.2 percent of U.S. imports from the world.

The four Asian Newly Industrializing Economics (NIEs)—Taiwan, Korea, Hong Kong, and Singapore—accounted for slightly over half of the total duty-free GSP imports in 1988 with imports valued at almost \$9.9 billion. Table 21 shows the amount of duty-free imports that entered the United States under the GSP in 1988 from the leading beneficiaries, and the ratio of such imports to the GSP-eligible and total U.S. imports from each of these countries.

The top ten beneficiaries supplied 85.6 percent of all U.S. imports that received duty-free treatment under the GSP program in 1988: Taiwan, Korea, Mexico, Hong Kong, Singapore, Brazil, Thailand, Malaysia, the Philippines, and Israel. GSP duty-free imports from these beneficiaries collectively amounted to about \$15.7 billion.

The list of leading beneficiaries remained relatively unchanged in 1988 except for some changes in ranking, such as Israel's drop from eighth to tenth position. Total U.S. imports from Israel increased by 13 percent in 1988, however, growth in GSP imports from the country remained flat. GSP duty-free imports are expected to account for an increasingly smaller share of U.S. imports from Israel with the phase-in of the United States-Israel Free-Trade Area Agreement (FTA)¹³⁶. Malaysia became the

¹³⁶ For a discussion of the United States-Israel FTA Agreement see ch. 3 of this report.

eighth largest beneficiary in terms of the value of GSP duty-free imports, followed by the Philippines. Although Taiwan continued to be ranked number one among the GSP-eligible beneficiaries, its value of GSP duty-free exports to the United States declined by 18 percent from the previous year. The share of imports entering duty-free under GSP provisions to overall imports from each of the top ten beneficiaries ranged from almost 23 percent for Singapore to just under 10 percent for Mexico. Duty-free GSP imports from Mexico increased by over 30 percent last year moving it from fourth to third position. However, Mexico's ratio of GSP duty-free imports to total imports remains low because of the dominance of petroleum in the composition of U.S. imports from that country. Petroleum is not a GSP-eligible article.

Based on the five-digit TSUS, switchboard panels were again responsible for the largest value among all articles entering the United States under the GSP in 1988 (see appendix table B-25). The next-largest product categories for GSP imports were air-conditioning equipment, telephone sets, and wood furniture. Accounting and computing equipment, which was the second highest category in 1987, dropped to fifth as a result of the near doubling of the applicable competitive-need exclusions in 1988. Appendix table B-26 lists GSP-eligible imports by two-digit divisions of the Standard International Trade Classification (SITC) system, showing also the percentage of duty-free imports in total U.S. imports for the articles in question. Appendix table B-27 gives the same information by divisions of the Standard Industrial Classification (SIC) system.

Table 21
U.S. Imports for consumption under the GSP from leading beneficiaries, 1988

Rank Beneficiary	Total Imports	GSP-eligible imports		GSP duty-free Imports			GSP share
		Value	Share of total	Value	Share eligible	Share of total	
	Million dollars	Million dollars	Percent	Million dollars	Percent	Percent	Percent
1 Taiwan	24,709	14,547	58.9	3,420	23.5	13.8	18.6
2 Republic of Korea ..	20,071	7,401	36.9	2,766	37.4	13.8	15.1
3 Mexico	22,614	10,231	45.2	2,188	21.4	9.7	11.9
4 Hong Kong	10,153	4,207	41.4	1,859	44.2	18.3	10.1
5 Singapore	7,958	2,822	35.5	1,809	64.1	22.7	9.9
6 Brazil	9,052	2,657	29.4	1,319	49.6	14.6	7.2
7 Thailand	3,195	922	28.9	714	77.5	22.3	3.9
8 Malaysia	3,697	827	22.4	634	76.7	17.1	3.5
9 Philippines	2,662	605	22.7	508	83.9	19.1	2.8
10 Israel	2,975	1,128	37.9	494	43.8	16.6	2.7
Top 10	107,086	45,347	42.3	15,711	34.6	14.7	85.6
Total	139,215	49,955	35.9	18,354	36.7	13.2	100.0

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

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

1988 changes in country eligibility

On January 29, 1988, President Reagan announced the removal of GSP privileges from Taiwan, Korea, Hong Kong, and Singapore, effective January 2, 1989.¹³⁶ He took this action following a review of a broad range of economic and competitiveness indicators, including per capita GNP, economic growth rates, and the beneficiaries' ability to export manufactured items into the United States. In deciding to discontinue GSP benefits to the NIEs, the President determined that they had sufficiently advanced in economic development and improved in trade competitiveness such that preferential treatment under the GSP was no longer warranted. The four NIEs have accounted for nearly 60 percent of all U.S. imports under the GSP program over the last several years. GSP duty-free trade has generally represented from between 15 to 20 percent of total U.S. imports from each of these countries.

On March 23, 1988, acting under the authority granted him under section 802(b) of the Trade Act of 1974, as amended by the Anti-Drug Abuse Act of 1986, President Reagan announced that he was suspending GSP duty-free treatment for articles imported from Panama. This action was taken because Panama had not adequately prevented the domestic production and exportation of narcotics and psychotropic drugs.¹³⁷ GSP preferences for imports originating in Panama were suspended effective April 9, 1988.

On July 1, 1988, Bahrain, Bermuda, Brunei, and Nauru were removed from the list of GSP beneficiaries.¹³⁸ These countries were graduated from the GSP program because in 1985 each exceeded the applicable level of GNP per capita that was mandated by subsection 504(f) of the Trade Act of 1974 as amended. The GNP per capita limit for 1985 was \$8,500—for subsequent years it was pegged to the growth in U.S. GNP.

In all decisions relating to country eligibility and product specific benefit levels, consideration is given to the beneficiary's laws and practices relating to: market access for U.S. goods and services; protection of intellectual property rights; foreign investment; international trade; and worker rights. Specifically, a mandatory criterion of country eligibility is a respect for "internationally recognized worker rights." Pursuant to this requirement, Chile was removed from the list of GSP beneficiaries on February 28, 1988. President Reagan decided to suspend indefinitely Chile's GSP eligibility because it had not taken adequate steps to afford internationally

recognized workers' rights.¹³⁹ In response to private sector requests made as part of the 1987 annual review process, the GSP beneficiary status of Thailand, Indonesia, Korea, Taiwan, and Turkey was re-examined on the same criteria. The President determined, however, that sufficient action had been taken on the part of these beneficiaries regarding workers' rights to warrant their retention of GSP privileges.¹⁴⁰ The review of worker rights in the Central African Republic instituted at the same time was carried-over into the 1988 annual review.

In response to two additional private sector requests made during the 1987 annual proceedings, a review of Thailand's practices regarding intellectual property rights was initiated. That review continued through 1988 and culminated in President Reagan's January 19, 1989 finding that Thailand had not provided adequate and effective means to secure, exercise, and enforce exclusive rights in intellectual property. Presidential action, pursuant to this finding, consisted of three main elements affecting imports valued at \$156.5 million in 1987 trade: the denial of Thailand's outstanding request for a competitive-need waiver on certain jewelry items; the revocation of four competitive-need waivers granted to Thailand as part of the 1986 GSP general review; and the application of lower competitive-need limits on selected imports of wood furniture, ceramic floor tile, and artificial flowers. Future requests for competitive-need waivers from Thailand are not expected to be approved until such time as the USTR determines that Thailand is providing adequate and effective intellectual property protection.

Product coverage changes resulting from 1987 annual review

On April 1, 1988, the USTR released the results of the customary annual review procedures that modify GSP benefits in response to petitions from interested parties and by automatic adjustments based on the previous year's level of GSP imports. As a result of the 1987 review, duty-free treatment was removed on imports from beneficiaries worth a total of \$1.1 billion in 1987 trade, while items valued at \$154 million were either reinstated or newly added to the list of eligible products. The GSP modifications mandated by the annual review took effect on July 1, 1988.¹⁴¹ Details of the program changes are discussed below.

¹³⁶ See 53 *F.R.* 1302, Jan. 15, 1988.

¹⁴⁰ See 53 *F.R.* 11039, Apr. 5, 1988. Separately, Korea and Taiwan were scheduled to lose beneficiary status on Jan. 2, 1989.

¹⁴¹ In operating the GSP program, the interagency Trade Policy Staff Committee, chaired by a representative of the USTR, conducts annual reviews in which petitions are received from any interested party (foreign governments, U.S. producers, exporters, and importers) for modification of the list of items eligible for GSP duty free treatment. The review also covers the application of the competitive need criteria, which can result in products of certain beneficiary countries being excluded from, or reinstated to, eligibility for GSP treatment.

¹³⁶ See *Operation of the Trade Agreement Program, 39th Report, 1987*, USITC Publication 2095, p. 5-14.

¹³⁷ See 53 *F.R.* 9850, Mar. 25, 1988.

¹³⁹ The President's intention to terminate GSP duty-free treatment for these countries was originally announced on May 19, 1987. See *Operation of the Trade Agreement Program, 39th Report, 1987*, USITC Publication 2095, p. 5-15.

Under the mandatory "competitive-need" procedure, the annual review resulted in new exclusions from GSP eligibility of imports valued at \$944.8 million in terms of 1987 trade. This brought total competitive-need exclusions to \$22.5 billion, from 16 countries, compared to \$18.6 billion affected by the statutory exclusions the prior year. Imports from Taiwan, Singapore, Korea, and Hong Kong accounted for \$673.4 million of the new exclusions and about \$16.1 billion of the total, roughly a 71 percent share in both instances. As a result of the GSP de minimis provision, imports of \$321.8 million (based on 1987 trade) from 29 countries were exempted from the percentage competitive-need limit.¹⁴² This waiver was denied to imports valued at \$94.6 million.

At the President's discretion, countries previously excluded from receiving GSP duty-free treatment for particular products may be redesignated for GSP benefits if their shipments to the United States of these individual items subsequently falls below the competitive-need limits. In the course of the 1987 GSP annual review, four products from three countries, valued at \$114.5 million in 1987 trade, were redesignated to receive GSP duty-free treatment.¹⁴³ This accounted for 7.6 percent of the total amount of trade that was eligible for redesignation. The remaining \$1.5 billion worth of trade eligible for redesignation was "graduated."¹⁴⁴

Product coverage may also be modified annually in response to petitions filed by U.S. producers and trade associations, under the President's discretionary authority to "graduate" countries for particular products, or to remove or add products entirely from the list of eligible articles. Under this authority, the President graduated nine beneficiaries from eligibility on individual products worth \$159.7 million in 1987 trade compared with \$942 million graduated in the previous year's round of changes. This action affected a total of nine products from Taiwan,

Korea, Brazil, Venezuela, and Hong Kong.¹⁴⁵ As part of the 1987 review, the President removed cast iron fittings worth \$11 million from the list of GSP eligible products and added 14 products totaling \$40 million in 1987 trade. Talking dolls and fireworks valued at \$12 million and \$17 million, respectively, accounted for most of the additions.¹⁴⁶

1988 annual review

On August 25, 1988, the USTR announced that it had accepted, for its 1988 annual review, petitions to re-examine the GSP duty-free status of six countries, based on alleged workers' rights abuses. The GSP status of the following countries are being reviewed: Israel, Malaysia, Haiti, Burma, Liberia, and Syria.¹⁴⁷ Of the six countries, Malaysia is the largest recipient of GSP duty-free preferences followed by Israel. The USTR declined to accept petitions for investigations of workers' rights practices in El Salvador, Guatemala, Indonesia, Thailand, the Philippines, and Turkey. The USTR also announced that it would review the GSP beneficiary status of Venezuela based on a petition alleging that the Government of Venezuela expropriated the property of Occidental Petroleum Company in 1975 without compensation. This marks the first time that the U.S. has raised the possibility of discontinuing duty-free GSP privileges on grounds that a beneficiary has expropriated a U.S. firm's property. The USTR's determinations in these cases are due by April 1, 1989.¹⁴⁸

¹⁴⁵ Slightly over one-half the new graduations were for transceivers from Korea, Hong Kong, and Taiwan with a total value of \$81 million in 1987 imports. Aluminum rods from Venezuela, valued at \$55 million, comprised the next-largest category of graduated products.

¹⁴⁶ Separately, Section 1903 of the Omnibus Trade and Competitiveness Act of 1988 amended Section 503 (c)(1)(B) of the Trade Act of 1974 to allow GSP treatment for those watches entering the United States after June 30, 1989, which the President specifically determines, after public notice and comment, will not cause material injury to the watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions. Such review was initiated by the USTR in late 1988, with a determination to be announced in 1989.

¹⁴⁷ The petitioner against Israel was the American-Arab Anti-Discrimination Committee, against Liberia the Lawyer's Center For Human Rights, and against the rest of the countries the AFL-CIO.

¹⁴⁸ Results of the 1988 annual review were announced by the USTR on April 13, 1989. As a consequence of the review, GSP treatment will be removed on products valued at \$227 million in 1988 trade, of which \$216 million worth exceeded the competitive-need limits. Products worth \$19.5 million were either redesignated for individual beneficiaries or added to the list of GSP eligible products. Following the review of certain beneficiaries' policies relating to workers' rights, the President decided to suspend indefinitely the GSP benefits of Burma and the Central African Republic, but not of Israel and Malaysia. Country eligibility reviews of Haiti, Liberia, Syria, and Venezuela were extended for one year. All program changes were scheduled to take effect on July 1, 1989.

¹⁴² The President has discretionary power to waive the percentage competitive need limit for eligible GSP products for which U.S. imports in a calendar year fall below a minimum level. The *de minimis* level applicable for the 1988 review was \$8.94 million. Further, the 50 percent provision is waived for certain GSP eligible articles which were not produced in the United States on January 3, 1985. Beneficiaries may petition for a waiver of competitive need limits on a product-specific basis.

¹⁴³ Sugar from the Dominican Republic accounted for \$62.2 million of the total. Two categories of toys from Mexico accounted for an additional \$51.1 million and citizen band transceivers from Taiwan constituted the remainder.

¹⁴⁴ Graduation is the discretionary removal from the GSP list of beneficiary countries on a product-by-product basis. It is a recognition that a beneficiary country does not currently need GSP treatment for particular products in order to be competitive. This authority may also be applied by the President in denying redesignation to countries eligible for reinstatement of GSP status on specific articles.

Caribbean Basin Economic Recovery Act (CBERA)

In 1988 the Caribbean Basin Initiative (CBI) marked its fifth year of operation. It was authorized by the CBERA, which was signed into law in August 1983; the program became operative by Presidential proclamation on January 1, 1984.¹⁴⁹ As a 12-year program, the CBERA is designed to encourage economic development in the Caribbean Basin by providing a combination of trade preferences, aid, and investment incentives to eligible countries.¹⁵⁰

The centerpiece of the CBERA is a one-way trade preference program that allows duty-free access of eligible products from designated beneficiary countries to the U.S. market, provided that at least 35 percent of their value is added in a Caribbean Basin country participating in the program. (U.S. value may be counted up to a level of 15 percent.)¹⁵¹ Pursuant to the Omnibus Trade and Competitiveness Act of 1988, CBERA product eligibility was modified by broadening the President's authority under the program to withdraw, suspend, or limit the application of duty-free treatment for a particular import of a beneficiary, in lieu of removing the country entirely from the program. This could occur in instances where, as a result of changed circumstances, a beneficiary would be out of compliance with the program's original designation criteria.¹⁵²

The Caribbean Basin is defined as 28 Caribbean and Central American countries and territories, including 27 specified as potential beneficiaries in section 212(b) of the original Act, and Aruba. Caribbean countries are categorized

¹⁴⁹ On March 2, 1989, legislation was introduced in the U.S. Congress to expand benefits of the CBERA. The proposed bill would extend the program indefinitely, expand limited duty-free treatment to many products currently exempt from the program, set a minimum sugar quota for CBERA beneficiaries as a group, and grant duty-free treatment to the total value of textile and apparel imports entering under the 807-A program (see discussion below).

¹⁵⁰ Public Law 98-67, title II.

¹⁵¹ The Tax Reform Act of 1986 required that ethanol producers use at least 30 percent local feedstock in 1987 to qualify for duty-free status, with the minimum rising to 60 percent in 1988 and to 75 percent thereafter. An amendment is pending to repeal this special domestic content requirement.

¹⁵² The program amendment (1) creates a set of options from which the President may select the appropriate action should he decide that a beneficiary is no longer in compliance with the program's criteria for designation, and (2) establishes a process for public comment on the proposed action. The President may decide to (1) remove the country beneficiary status entirely, or (2) limit product eligibility for the beneficiary. After the President decides on the appropriate action, he must publish a notice in the Federal Register at least 30 days prior to its taking effect. Within the 30 day period, the USTR shall accept written comments and hold a public hearing regarding the proposed action. See Public Law 100-418, section 1909.

as either "designated," which signifies beneficiary status, or "nondesignated." On April 9, 1988, Panama became the first CBERA beneficiary to lose its designated status. Panama's preferential tariff treatment under the CBERA was suspended by the President, acting under the authority granted him under section 802(b) of the Trade Act of 1974, as amended by the Anti-Drug Abuse Act of 1986, because Panama had not cooperated fully with the United States in preventing the exportation of narcotic and psychotropic drugs.¹⁵³ Guyana was designated as a program beneficiary effective on November 24, 1988.¹⁵⁴ The group of designated countries, as listed in this report, consists of those 23 countries that were beneficiaries of the program during all or part of 1988. The nondesignated country group contains the remaining five eligible Caribbean countries that have not been designated. The list of all designated and nondesignated Caribbean countries and U.S. imports from these countries during 1984-88 are shown in table B-28.¹⁵⁵

In 1988, total U.S. imports from the Caribbean Basin amounted to \$6.2 billion, essentially unchanged from 1987. The downward trend characterizing this trade flow in recent years slowed during 1988, and the composition of imports continued to change. Between 1983 and 1986, a 72 percent drop in the value of crude oil and petroleum product imports pushed total U.S. imports from the region sharply downward. After leveling off in 1987, the value of crude oil and refinery product imports dropped again, by 23 percent in 1988. Chemicals, consisting predominantly of crude oil and its derivatives, accounted for 24 percent of all U.S. imports from the Caribbean in 1988, down from 27 percent in 1987. This compares with 60 percent in 1986. Imports of animal and vegetable products, consisting primarily of fruit, coffee, shellfish, sugar, and meat, continued to decline. In 1988, these imports accounted for 31 percent of U.S. imports from the Caribbean Basin compared with 34 percent a year earlier. Conversely, imports of textiles and apparel have grown rapidly, almost tripling since 1984. In 1988, textile and apparel imports grew by 29 percent to account for 24 percent of all imports from the region, up from 19 percent in 1987. Notably, petroleum, petroleum products, and most textiles and apparel, are not eligible for duty-free treatment under the current CBERA.

CBERA preferences constitute one of three major U.S. duty-remission or duty-free reduction

¹⁵³ See Presidential Proclamation 5779, Mar. 23, 1988.

¹⁵⁴ See Presidential Proclamation 5909, Nov. 18, 1988.

¹⁵⁵ For a description of the criteria that the President must consider in designating a country eligible for CBERA benefits, see *Operation of the Trade Agreements Program, 35th, Report, 1983*, USITC Publication 1535, pp. 27-28.

programs available to Caribbean Basin countries. The other two, which have been in effect for years, are the GSP¹⁵⁶ and TSUS items 806.30 and 807.00.¹⁵⁷ Item 807.00 provides an exclusion from the calculation of dutiable value on U.S. components of imports that have been assembled in a foreign country and then returned to the United States for additional processing. Item 806.30 provides similar treatment for certain U.S. metal products. Considering the significance of textiles and apparel for the region's economy, the President announced a "special access program" in February 1986 to liberalize quotas for CBERA

countries for imports of apparel and made-up textiles, such as bed linens. That program, referred to as 807-A, is designed to provide greater access to the U.S. market for products that CBERA countries ship under TSUS item 807.00 and that have been assembled with fabric produced and cut in the United States. CBERA countries have been invited to enter into bilateral agreements with the United States under which guaranteed access will be permitted for their exports of apparel and textile products that qualify.¹⁵⁸ These guaranteed access levels are separate from quotas applicable to those products that were not assembled solely from U.S.-made

¹⁵⁶ For a discussion of the GSP, see the previous section in this chapter.

¹⁵⁷ Under the U.S. Harmonized Tariff Schedule, item 806.30 becomes 9802.00.60; item 807.00 becomes 9802.00.80.50; and item 807-A becomes 9802.00.80.10.

¹⁵⁸ To date, Costa Rica, the Dominican Republic, Haiti, Jamaica, and Trinidad and Tobago have entered into bilateral textile agreements under the program.

Table 22
U.S. Imports for consumption from the world and from the Caribbean Basin, 1986-1988

Item	1986	1987	1988
	<i>Value (1,000 dollars)</i>		
Imports from the world (customs value)	368,656,594	402,066,002	437,140,185
Customs value of Imports from the Caribbean Basin	6,186,826	6,178,052	6,172,278
TSUS Items 806.30 and 807.00 from Caribbean Basin	874,281	1,094,949	1,333,662
807-A	906	78,565	219,344
Other 807.00	873,272	1,016,369	1,114,207
Dutiable value of Imports from Caribbean Basin ¹	1,919,829	2,106,326	1,978,645
TSUS Items 806.30 and 807.00	261,755	337,398	427,144
807-A dutiable value	693	20,143	57,636
Other 807.00	261,002	317,253	369,484
Duty-free value of Imports from the Caribbean Basin	4,266,997	4,071,726	4,193,633
CBERA duty-free ²	675,053	777,555	790,987
GSP duty-free ²	487,718	308,835	355,491
TSUS Items 806.30 and 807.00 duty-free	612,526	757,551	906,518
807-A duty-free	562	58,422	161,708
Other 807.00 duty-free	611,921	699,116	744,723
MFN duty-free ³	2,445,230	2,180,837	2,030,780
Other ⁴	46,470	46,948	109,857
	<i>Share (percent)</i>		
Customs value of Imports from Caribbean Basin to the world	1.7	1.5	1.4
TSUS 806.30 and 807.00 to total from the Basin	14.1	17.7	21.6
807-A to total Imports from the Basin	(⁵)	1.3	3.6
Other 807.00 to total Imports from the Basin	14.1	16.5	18.1
Dutiable value to total Imports from the Basin	31.0	34.1	32.1
806.30 and 807.00 to total dutiable value	13.6	16.0	21.6
807-A to total dutiable value	(⁵)	0.9	2.9
Other 807.00 to total dutiable value	13.6	15.1	18.7
Duty-free value to total Imports from the Basin	69.0	65.9	67.9
CBERA to total duty-free	15.8	19.1	18.9
GSP total duty-free	11.4	7.6	8.5
806.30 and 807.00 to total duty-free	14.4	18.6	21.6
807-A to total duty-free	(⁵)	1.4	3.9
Other 807.00 to total duty-free	14.3	17.2	17.8
MFN to total duty-free	57.3	53.6	48.4
Other	1.1	1.2	2.6

¹ Reported dutiable value has been reduced by the duty-free value of TSUS items 806.30 and 807.00 imports.

² Reported values for CBERA and GSP duty-free imports have been reduced by the value of MFN duty-free imports recorded in the trade statistics as entering under the programs.

³ MFN duty-free figures represent the customs value of imports that are listed as duty-free in column 1 of the U.S. Tariff Schedule.

⁴ Calculated as a remainder.

⁵ Less than 0.05 percent.

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

and U.S.-cut fabric. The levels may be increased upon request by CBERA beneficiaries if evidence of increased production capacity for an item is evidenced. Table 22 separately lists imports from the Caribbean region which entered the United States under special programs during 1986-88.

Sixty-eight percent of all imports from the Caribbean Basin entered the United States free of duties in 1988, almost half of which were duty-free on an MFN basis. Out of the \$4.2 billion worth of duty-free imports from the Caribbean Basin last year, \$791.0 million, or about 19 percent, entered under the CBERA.¹⁵⁹ This is up only slightly from \$777.6 million worth of CBERA duty-free imports in 1987, but still accounted for 13 percent of all imports from the region. Duty-free entries under the GSP rose by 15 percent in 1988, but accounted for only 9 percent of the region's duty-free imports. The upward trend in textile and apparel imports from the Caribbean Basin noted earlier, largely reflects

¹⁵⁹ The values given for duty-free imports under CBERA have been adjusted to remove MFN duty-free imports recorded as CBERA imports. Figures for years prior to 1988 may be less than those previously reported.

the growth of imports entering under 807.00 provisions. The total value of imports entering the United States under item 807.00 grew by 22 percent in 1988 reaching \$1.3 billion. Imports under the 807-A program more than doubled in value from 1987 to account for \$219 million of the 807.00 imports. The duty-free value of imports under 807-A amounted to nearly \$162 million and other 807.00 imports totaled \$745 million. Collectively, duty-free imports under items 807-A and 807.00 accounted for almost 22 percent of all duty-free imports from the region.

As in past years, beef and veal composed the leading product category in 1988 imports entering the United States under CBERA provisions. The top 20 imports are listed in table 23 along with the corresponding figures for total U.S. imports from the region. Sugar imports regained second place in 1988 due to an increase in the total U.S., and therefore CBERA quota level during the year.¹⁶⁰

¹⁶⁰ The global sugar quota for 1988 imports was increased from 757,880 short tons to 1.05 million short tons because of possible domestic shortfalls resulting from a drought.

Table 23
Leading Items in U.S. imports for consumption entered under CBERA provisions, by descending duty-free value, 1988

(Customs value, in thousands of dollars)

TSUS Item No.	Description	Total U.S. imports for consumption from CBERA countries ¹	Duty-free under CBERA	Percent of CBERA duty-free to total from CBERA	Leading source ²
106.10	Beef and veal, fresh, chilled	133,748	123,449	92.3	Costa Rica
155.20	Sugars, sirups, and molasses	150,348	104,820	69.7	Dominican Republic
685.90	Electrical switches	114,793	44,302	38.6	Dominican Republic
148.96	Pineapples, fresh, in packages	29,807	29,350	98.5	Costa Rica
734.56	Baseball equipment and parts	38,012	26,293	69.2	Haiti
740.15	Jewelry, etc and parts	27,356	23,910	87.4	Dominican Republic
427.97	Methyl alcohol, other	41,188	23,492	57.0	Trinidad and Tobago
170.70	Cigars each valued 23 cents	35,376	22,121	62.5	Honduras
686.10	Resistors, fixed	20,682	18,987	91.8	Costa Rica
685.80	Electrical capacitors	32,408	14,526	44.8	Dominican Republic
791.27	Leather, other than patent leather	63,096	12,313	19.5	Dominican Republic
709.27	Medical instruments, other	22,801	11,547	50.6	Dominican Republic
427.88	Ethyl alcohol for nonbeverage	17,110	10,641	62.2	Jamaica
734.86	Lawn-tennis rackets, not strung	10,503	10,125	96.4	St. Vincent and Grenadines
155.40	Beet or cane molasses, (not for consumption or extraction)	18,636	9,697	52.0	Dominican Republic
682.60	Generators, other	14,694	9,395	63.9	Haiti
110.35	Fresh fish, whole	24,325	8,585	35.3	Costa Rica
148.30	Melons fresh, except cantaloupes	10,475	8,406	80.2	Panama
165.29	Fruit juices, not mixed, orange	8,313	8,269	99.5	Belize
152.72	Banana and plaintain, paste and pulp	8,097	6,708	82.8	Panama
	Total, above items	821,767	526,936	64.1	
	Total, all items entering under CBERA	1,926,205	790,987	41.1	

¹ CBERA countries refers to designated countries.

² Indicates leading source based on total U.S. imports for consumption from CBERA countries.

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

Total analgesics imports from the region were valued at over \$65 million in 1988, but only \$4 million worth entered under the CBERA program. This is probably related to the column 1 duty rate suspension of a major product in the category.¹⁶¹ Analgesics products composed the second-largest import group entering under the program in 1987. The list of leading CBERA imports in 1988 includes electrical and electronic articles, games and sporting goods, fruit, and tobacco products. Organic chemical compounds remained a leading import category even though duty-free imports of ethyl alcohol (ethanol) dropped by over 60 percent in 1988, due to more stringent value-added requirements for that product. In addition to petroleum and textile products, articles ineligible for CBERA preferences include: canned tuna; footwear; certain leather apparel; most handbags and luggage; work gloves; and watches and watch parts, if any component originated in a communist country.

As part of the CBERA, the United States also assists eligible countries in improving their business climate, and by facilitating private investment in the area. In 1988, the activities of the Caribbean Basin Information Center (CBIC) of the Department of Commerce continued. CBIC supplies information on trade and investment opportunities in the region to the U.S. business community, and assists Caribbean firms by organizing exhibitions for their products and promoting their participation in trade shows.

Meat Import Act of 1979

The Meat Import Act of 1979, successor to the Meat Act of 1964, became effective on January 1, 1980. The act requires the President to impose a quota on imports of certain meats, mainly fresh, chilled, or frozen beef, if the projected aggregated quantity of such imports for the calendar year, as estimated by the Secretary of Agriculture, is expected to exceed a level equal to approximately seven percent of annual domestic production.¹⁶² This "trigger" level is calculated on the basis of a Congressionally prescribed formula outlined in the law. Included in the formula is a "countercyclical factor" that increases the maximum import allocation if U.S. domestic per capita supplies are inadequate, and decreases the allowable level in the event of domestic surpluses. The "trigger" level is 110 percent of the quantitative limitation (quota) that will be applied to meat imports in a given year if, left unrestrained, imports are expected to exceed the trigger level.

¹⁶¹ See the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418, Title I, Section 1755. The column 1 duty rate suspension for naproxen is in effect until December 31, 1990.

¹⁶² The law also encompasses imports of veal, mutton, and goat meat.

Meat imports subject to the law are reviewed quarterly by the Secretary of Agriculture, at which time an estimate is made of total imports for the year. If the unrestrained meat import level for the year is estimated to exceed the "trigger" level, attempts are made to negotiate voluntary export limitations with the major suppliers. If agreements are negotiated, meat imports are subject to the higher "trigger" limitation; if not, the lower quota restriction is applied. No quotas have been imposed since the act became effective on January 1, 1980. The predecessor statute, the Meat Act of 1964—on the basis of a similar formula—also provided authority to the President to impose quotas on imports of meat.

On January 6, 1988, the Secretary of Agriculture announced that the applicable quota level for meat imports in 1988 was 1,386.8 million pounds, translating into a 1,525.5 million pound "trigger" level.¹⁶³ At the same time, the USDA estimated that in the absence of limitations 1,475 million pounds of quota meat would be imported during 1988, approximately 50 million pounds below the 1988 "trigger" level mandating imposition of the quota limitation. In 1988, imports of meat subject to the act totaled 1,521.3 million pounds, as shown in the following tabulation (in millions of pounds):

<i>Source</i>	<i>Quantity</i>
Australia	810.1
New Zealand	451.3
Canada	131.1
Costa Rica	49.1
Dominican Republic	31.2
Guatemala	20.0
Honduras	19.2
European Community	5.9
El Salvador	1.9
Sweden	1.4
Total	1,521.3

Source: U.S. Customs Service.

Since the 1,521.3 million pounds of meat imported in 1988 was below the "trigger" level, the quota was not imposed. However, as a result of heavy shipments in the first two quarters of the year, Australia and New Zealand agreed, effective October 13, to limit voluntarily exports of quota meat to 800 million pounds and 445 million pounds, respectively, for calendar year 1988.¹⁶⁴ A provision of the agreement allowed for an increase in these levels given a shortfall of imports from other suppliers. Pursuant to this provision, on November 30, 1988, the Secretary of Agriculture increased the allowable meat import levels of Australia and New Zealand to 811.57 million pounds and 451.43 million pounds, respectively.¹⁶⁵

¹⁶³ See 53 F.R. 267, Jan. 6, 1988.

¹⁶⁴ See 53 F.R. 0716, Oct. 18, 1988. Shipments from Australia were particularly heavy during the early part of the year due to an unusually high slaughter rate induced by a drought.

¹⁶⁵ See 53 F.R. 48896, Dec. 5, 1988.

On January 3, 1989, the USDA released its first quarter estimate of 1989 meat imports in the absence of restraints.¹⁶⁶ Meat imports subject to the law were estimated to total 1,425 million pounds, 12.8 million pounds below the 1989 "trigger" level of 1,437.8 million pounds that would mandate quantitative restrictions. On January 1, 1989, meat imports from Canada became exempt from this law, effective with the implementation of the U.S.-Canada FTA. Accordingly, on April 4, 1989, the Secretary of Agriculture issued a revised 1989 meat import "trigger" level of 1,369.8 million pounds and an annual import estimate of 1,315 million pounds, excluding Canada.¹⁶⁷ Canada's share of U.S. meat imports subject to the law over the last 5 years has been declining; in 1988 it was about 9 percent.

National Security Import Restrictions

Section 232 of the Trade Expansion Act of 1962 authorizes the President, on the basis of a formal investigation and report by the Secretary of Commerce, to regulate the importation of articles that threaten to impair the national security of the United States. Unless the President reverses the Secretary's finding, he must take whatever action he considers necessary to control imports of the contested article. The predecessor statute of section 232—section 8 of the Trade Agreements Extension Act of 1958—provided the President similar authority to regulate imports in the interest of national security. Section 232 has been administered by the Department of Commerce since January 1980. Previously, responsibility for the program was centered at the Department of the Treasury and the Office of Emergency Preparedness. Pursuant to the Omnibus Trade and Competitiveness Act of 1988, Commerce must complete its section 232 investigations within 270 days rather than within the 1 year previously allowed. Further, the President now has 90 days in which to decide on appropriate action after receiving the report from the Secretary of Commerce. Previously there was no deadline for a Presidential decision. Section 232 cases active in 1988 involved antifriction bearings, petroleum plastic injection molding machinery, and uranium. These cases are discussed below.

Antifriction Bearings

On July 15, 1988, the Secretary of Commerce forwarded to the President his report following a section 232 investigation on the effect of antifriction bearing imports on the national security. This study was initiated on July 17,

1987.¹⁶⁸ In the July report, the Secretary concluded that bearings were essential components in virtually all machinery and equipment and that the domestic bearing industry would be able to meet most, but not all, national security requirements in the event of a major conventional war. On August 5, 1988, the President accepted the Secretary of Commerce's recommendations, but deferred his final decision on appropriate action pending a supplemental assessment by the Departments of Defense and Commerce on the impact of a number of current administration initiatives on the bearing industry. The Defense/Commerce report was forwarded to the President on November 16, 1988. In the supplemental assessment, the Departments concluded that conditions for the antifriction bearing industry had improved since July and that administration initiatives would probably be adequate to bring the domestic industry into acceptable posture for national security needs. On November 28, the President announced his approval of the Commerce Secretary's finding that antifriction bearings were not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. In view of the approved finding, no action was taken to adjust imports of antifriction bearings.

Petroleum

On December 1, 1988, the Secretary of Commerce forwarded to the President his report on a section 232 investigation of petroleum imports. The Department's investigation was in response to a petition filed in December 1987 by the Enserch Corporation, on behalf of the National Energy Security Committee (an ad hoc coalition of State petroleum associations, industry associations, and companies) and the Texas Independent Producers and Royalty Owners Association.¹⁶⁹ The Secretary of Commerce found that although there had been substantial improvement in U.S. energy security since the last section 232 petroleum finding in 1979, declining domestic crude petroleum production, rising crude petroleum imports, and a growing reliance on potentially insecure sources of supply raised the concern of vulnerability to a major supply disruption. However, in taking into account the Administration's program to improve energy security transmitted to Congress on May 6, 1987, the Secretary recommended that no action be taken to adjust imports. On January 3, 1989, President Reagan concurred and decided not to take action under section 232. However, in announcing his decision the President urged Congress to take legislative action on those May 1987 recommendations not yet enacted,

¹⁶⁶ See 54 *F.R.* 320, Jan. 5, 1989.

¹⁶⁷ See 54 *F.R.* 13538, Apr. 4, 1989.

¹⁶⁸ See the Operation of the Trade Agreements Program, 38th Report, 1987, USITC Publication 2095, p. 5-19.

¹⁶⁹ *Ibid.*

including the further deregulation of natural gas prices, greater access to natural gas pipelines, opening of an Alaskan wildlife refuge to exploration and development, increased tax benefits for the petroleum and gas industry, and reform of nuclear power licensing.

The embargo on imports of crude petroleum originating in Libya imposed on December 22, 1983, through Presidential Proclamation No. 5141, and its extension to refined petroleum products imposed on November 15, 1985, through Executive Order 12538, continued in place throughout 1988. Libyan policies and actions aided and abetted through proceeds from the exportation of crude petroleum to the United States were initially declared to be adverse to U.S. national security in March 1982.

Cases Initiated in 1988

In 1988, the Department of Commerce initiated two section 232 investigations. On January 11, 1988, the Commerce Department received a petition from the Society of the Plastics Industry requesting an investigation on imports of plastic injection molding machinery.¹⁷⁰ In addition, a petition from the Secretary of Energy was received on December 30, 1988, requesting an investigation to determine the effects of uranium imports on the national security. The report is due to the President by September 26, 1989. The plastic injection molding equipment and uranium cases represent, respectively, the eighth and ninth section 232 cases conducted by Commerce. Previous investigations covered glass-lined chemical processing equipment; ferroalloys; crude oil from Libya; industrial fasteners; machine tools; antifriction bearings; and petroleum¹⁷¹.

¹⁷⁰ On Jan. 11, 1989, Commerce reported to the President its findings on the section 232 investigation of plastic injection molding equipment imports. On February 17, 1989, Commerce announced that President Bush had agreed with its recommendation to deny the plastic industry's petition for import relief while instructing the National Institute of Standards and Technology, the Department of Justice, and the Defense Department to develop programs to enhance the domestic industry's productivity, reliability, and competitiveness.

¹⁷¹ 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 certain 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 the Operation of the Trade Agreements Program, 38th Report, 1986, USITC Publication 1995, pp. 4-11, 4-27, and 4-41.

The Steel Import Program

Background of Voluntary Restraint Arrangement Program

On September 18, 1984, the President determined, following a section 201 (escape clause) investigation conducted by the Commission, that import relief for the steel industry was not in the national economic interest (49 F.R. 36813). The President outlined instead a nine-point program designed to assist the domestic steel industry in competing with imports.¹⁷² Under this program, the President directed the USTR to negotiate voluntary restraint agreements (VRAs) to cover the period from October 1, 1984, through September 30, 1989 (and to self-initiate unfair trade petitions, if necessary) with countries "whose exports to the United States increased significantly in recent years due to an unfair surge in imports." As a result of the President's program, finished steel products were expected to fall to a more normal level of 18.5 percent of the domestic market. That share excludes semifinished steel, which would be limited to about 1.7 million tons annually. In 1988, imports accounted for about 21 percent of U.S. apparent consumption of steel.¹⁷³

In December 1986, Taiwan announced a unilateral export restraint of steel products to the United States of 20,000 to 25,000 net tons per month through 1987. In the case of South Africa, steel imports in 1988 were reduced by the Comprehensive Anti-Apartheid Act of 1986 which embargoes certain steel products. In December 1985, the 1982 Arrangement Concerning Trade in Certain Steel Products between the European Coal and Steel Community and the United States and the Pipe and Tube Arrangement were extended to coincide with the scheduled expiration of the VRAs on September 30, 1989. The current EC agreement includes approximately 200,000 tons of semifinished steel which may be imported at the discretion of the U.S. Trade Representative.

Current Status of the Program

As of March 1989, VRAs have been concluded with 19 countries and the EC, excluding Spain and Portugal, which negotiated separate agreements (see table 24). The agreements are in the form of market share arrangements and quotas, or a combination thereof. The agreements, tailored to each country, vary in the number of individual product categories subject to limitation.

¹⁷² For additional details on the steel import program, see the *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, pp. 16-26.

¹⁷³ USITC, *Monthly Report on the Status of the Steel Industry*, March 1989, USITC Publication 2162.

Table 24
Countries subject to VRAs and their respective limits,¹ 1988

Country	Overall limits ²	Semifinished steel
Australia	0.24 percent	50,000 tons
Austria	0.23 percent	(³)
Brazil	1.42 percent	700,000 tons
China	77,400 tons	(³)
Czechoslovakia	40,100 tons	(³)
EC ⁴	5.36 percent	840,000 tons
East Germany	228,500 tons	(³)
Finland	0.23 percent	15,000 tons
Hungary	33,300 tons	(³)
Japan	5.93 percent	100,000 tons
Korea	1.82 percent	50,000 tons
Mexico	0.42 percent	100,000 tons
Poland	87,200 tons	(³)
Portugal	29,300 tons	(³)
Romania	111,400 tons	(³)
South Africa	0.0 ⁵	0 tons
Spain	0.69 percent	50,000 tons
Trinidad and Tobago	43,500 tons	(³)
Venezuela	143,900 tons	71,225 tons
Yugoslavia	20,900 tons	(³)

¹ Percentage reflects imports as a percent of U.S. apparent consumption. Tonnage is in short tons.

² Including semifinished steel for all countries except Venezuela. Does not include adjustments for overages in 1987.

³ No explicit semifinished steel provisions.

⁴ Includes approximately 200,000 tons which may be imported at the discretion of the U.S. Trade Representative.

⁵ Steel imports from South Africa are reduced by the Comprehensive Anti-Apartheid Act of 1986 which embargoes certain steel products.

Source: USITC, *Monthly Report on the Status of the Steel Industry*, March 1989, USITC Publication 2162, pp. I-vii.

During the period of the VRAs, 1984-88, several developments occurred which helped improve conditions in the domestic steel industry—(1) imports decreased, (2) domestic demand increased, and (3) exports rose 50 percent.¹⁷⁴ As a result, shipments by domestic producers increased 14.7 percent. Apparent consumption of all steel products rose 4.2 percent from 1984-88, with imports as a percentage of apparent consumption declining from almost 27 percent to just over 21 percent. VRA imports as a percentage of apparent consumption, however, fell by 30 percent while imports from non-VRA countries rose by 41 percent. Canada was the largest non-VRA supplier, while Singapore, Taiwan, Thailand, Malaysia, Indonesia and Turkey also accounted for a large share of increased non-VRA imports.

Specialty Steel

On July 19, 1983, the President announced his decision to grant import relief to the specialty

¹⁷⁴ Ibid.

steel industry for a period of 4 years (48 F.R. 33233). The relief was scheduled to expire on July 19, 1987. Under the relief, quotas were put on imports of stainless steel bars, stainless steel wire rods, and certain alloy tool steel products; increased duties were imposed on stainless steel plates and stainless steel sheets and strip. On July 16, 1987, the President announced his decision to extend the import relief in the form currently in effect for a period from July 20, 1987, through September 30, 1989. Under the steel VRAs, in return for their agreement to limit exports of stainless steel plates and sheets and strip, the VRA countries were exempted from having to pay additional duties (with the exception of Finland, whose VRA does 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, Brazil whose VRA now includes the specialty steel products subject to quotas, and Austria, which included alloy tool steel in its VRA.

APPENDIX A
PROVISIONS OF THE OMNIBUS TRADE AND
COMPETITIVENESS ACT OF 1988 RELATED TO THE
OPERATION OF THE TRADE AGREEMENTS PROGRAM

Table A-1
Provisions of the Omnibus Trade and Competitiveness Act of 1988 related to the operation of the trade agreements program

<i>Provision Action mandated</i>	<i>Lead Agency</i>	<i>Effective date or deadline</i>	<i>Section of the Act</i>
Market Access			
Special 301			
Identification of priority foreign countries that deny protection of intellectual property rights or deny equitable market access to those relying on such protection.	USTR	05/30/89 and each April 30 thereafter	1303(b)
Begin investigation of countries identified under sec. 1303(b).	USTR	05/30/89 and each May 30 thereafter	1301(a)
Super 301			
Identification of U.S. trade liberalization priorities for 1989.	USTR	05/30/89	1302(a)
Begin investigations based on U.S. trade liberalization priorities for 1989.	USTR	06/20/89	1302(a)
Identification of U.S. trade liberalization priorities for 1990.	USTR	04/30/90	1302(a)
Begin investigations based on U.S. trade liberalization priorities for 1990.	USTR	05/21/90	1302(a)
Telecommunications			
Completion of investigation to identify priority foreign countries regarding telecommunications trade barriers.	USTR	01/23/89	1374
Report to Congress on priority foreign and countries identified regarding telecommu- nications trade barriers. Negotiations with countries identified to follow.	USTR	02/22/89	1374 and 1375(a)
Government procurement			
Report to Congress and consultations with violating countries			
President to submit report to Congress on the extent to which foreign countries discrimi- nate against U.S. products or services in government procurement. USTR to request consultations with any countries identified as discriminating in government procurement.	President and USTR	Each April 30 until 4/30/96	7003
Dispute settlement proceedings			
Request dispute settlement proceedings under Government Procurement Code with countries identified as, and continuing to be, not in compliance with the Code.	USTR	Each June 29 from 6/29/90 to 4/30/96	7003
Sanctions			
Impose sanctions against countries identified as and continuing to be, not in compliance with the Government Procurement Code.	President	Each June 30 from 6/30/90 to 4/30/96	7003
Report to Congress on actions			
Report to Congress on actions taken pursuant to section 7003, procedures to prevent government procurement discrimination.	President	04/30/94	7003
Trade agreement negotiating authority			
Last date to request extension through May 1993 of "fast track procedures" for trade agreements.	President	03/01/91	1103(b)(2)
Expiration of President's authority to enter into trade agreement to be implemented through "fast track procedures".	President	05/31/91	1103(b)(1)(A)
Expiration of trade agreement negotiating authority.	President	06/01/93	1102

See footnotes at end of table.

Table A-1—Continued

Provisions of the Omnibus Trade and Competitiveness Act of 1988 related to the operation of the trade agreements program

<i>Provision Action mandated</i>	<i>Lead Agency</i>	<i>Effective date or deadline</i>	<i>Section of the Act</i>
Implementation of trade agreements			
Enactment of the Harmonized Tariff Schedule	USTR	01/01/89	1217(b)
Implementation of the U.S.-EC Agreement on Citrus and Pasta	USTR	09/30/89	1122
Extension of the International Coffee	(4)	10/01/89	1123
Agreement Act of 1980			
Implementation of the Nairobi Protocol	(4)	05/30/89	1121
Other trade agreements activities			
NTE Report			
Release National Trade Estimate Report	USTR	04/30/89 and each March 31	1304(b)(1)
Investigation of barriers in Japan to certain U.S. services			
Begin investigation of Japanese barriers to	USTR	11/21/88	1305
U.S. architectural, engineering, construc- tion, and consulting services.			
Import fee to fund Trade Adjustment Assistance			
Notification of willingness of U.S. trade	President	08/23/90	1428(a)
partners to allow import fee to fund TAA, or of President's determination that such fee is not in the national interest.			
Effective date for import fee to fund TAA.	(4)	09/22/90	1430(b)
Reports on trade negotiations			
Progress report			
Report to Congress with views on progress in trade negotiations	ACTP&N ¹	03/01/91	1103(b)(3)
GATT negotiations on agricultural trade			
Certification on progress in GATT	President	02/16/90 ²	4301(a)
negotiations on agricultural trade			
Follow-through with trade concessions			
Determination whether any major industrial	President	05/31/93	1105(b)(1)
country has failed to make concessions under trade agreements entered into under section 1102(a) and (b).			
U.S. coal exports to Japan			
Report to Congress on the outcome of	President	11/01/88	1933
negotiations with Japan concerning U.S. coal exports.			
Other trade negotiations issues			
Exchange rates			
Negotiations on currency exchange rates	Treasury and President	(3)	1124 and 3004
and economic policies.			
Section 201			
Authority to initiate international negotiations	President	(3)	1401
to address the underlying cause of the increase in imports of the article found, or otherwise to alleviate the injury or threat thereof.			
U.S.-Mexico Framework Agreement			
President urged to continue to pursue	President	(3)	2101
consultations with Mexico for implementation of the Agreement and achieving an expansion of mutually beneficial trade and investment.			
Negotiations to eliminate foreign availability			
To eliminate foreign availability of goods or tech-	President	(3)	2418
nology subject to export controls for national security purposes.			
International Debt Management Authority			
International initiative regarding debt	Treasury	(3)	3111

See footnotes at end of table.

Table A-1—Continued

Provisions of the Omnibus Trade and Competitiveness Act of 1988 related to the operation of the trade agreements program

<i>Provision Action mandated</i>	<i>Lead Agency</i>	<i>Effective date or deadline</i>	<i>Section of the Act</i>
Sense of the Congress provisions on various trade agreements issues			
Special summit with Japan			
Summit on trade and economic relations	President	(³)	1306
International trade in eggs and egg products			
Negotiations with the EC regarding EC export subsidies on eggs and egg products, and limits to market access for U.S. exports of such products.	USTR	(³)	4606
Negotiations with Korea			
Negotiations to gain access to the Korean market for U.S. beef.	USTR	(³)	4607
U.S. access to Japanese agricultural markets			
The United States should continue to persuade Japan to remove its trade barriers.	(⁴)	(³)	4608
Negotiation of an OECD agreement on prohibited foreign trade practices			
Negotiations for an agreement regarding prohibited foreign trading practices.	President	(³)	5003

¹ Advisory Committee for Trade Policy and Negotiations.

² Certification required only if a law has not been enacted before Jan. 1, 1990 that implements a Uruguay Round agriculture trade agreement.

³ No effective date or deadline specified.

⁴ No lead agency specified.

APPENDIX B
STATISTICAL TABLES

Table B-1
Countervailing duty actions reported by signatories to the GATT Committee on Subsidies and Countervailing Measures, 1988

<i>Reporting country</i>	<i>Country of origin</i>	<i>Product</i>	<i>Initiation date</i>	<i>Provisional measures</i>	<i>Date and final outcome</i>
Australia	Brazil	Galvanized Hoop, Strip, Sheet and Coil, and Steel	12-22-86	5-7-87	1-22-88 No injury
Canada	Brazil	Polyphase Induction Motors above 200 h.p	09-03-88	12-29-88	
	Spain	Wide Flange Beams	11-23-88		
EEC	Brazil	Sheets and plates of iron, or steel hot rolled			7-31-88 Date of expiry
New Zealand ...	Australia	Aluminum passenger catamarans	10-20-87	12-10-87	3-2-88 Definitive duty
	Canada	Edible rapseed oil	5-24-88		7-21-88 Terminated
	Federal Republic of Germany	Edible rapseed oil	5-24-88		7-21-88 Terminated
	Netherlands ...	Edible rapseed oil	5-24-88		7-21-88 Terminated

Source: Compiled from documents of the GATT Committee on Subsidies and Countervailing Measures.

Table B-2
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome	
EC	Austria	Stainless steel tubes		1-21-88		
	Austria	Urea	10-9-87	8-25-88		
	Austria	Glutamic acid	6-4-88			
	Brazil	Kraftliner	4-28-87		3-8-88-No Injury	
	Brazil	Hardboard (R)	6-24-88			
	Canada	Iron steel coils (hot rolled) (R)	6-17-88			
	Canada	Cellular mobile telephones	7-16-87			12-30-88-No Injury
	Czechoslovakia	Hardboard (R)	6-24-88			
	Czechoslovakia	Oxalic acid	5-22-87			12-13-88-Price Undertaking
	Czechoslovakia	Methenamine	12-15-88			
	Hong-Kong	Cellular mobile telephones	7-15-87			12-30-88-No Injury
	Hong-Kong	Small screen colour television receivers	11-12-88			
	Hong-Kong	Photo albums	12-15-88			
	Hong-Kong	Video cassette tapes and video tape reels	12-18-87		12-24-88	
	Japan	Electronic weighing scales (anti-circumvention)	9-1-87			4-20-88-Duty Imposed
	Japan	Electronic typewriters (anti-circumvention)	9-1-87			4-20-88-Duty Imposed
	Japan	Daisy wheel printers	5-7-87		11-6-88	
	Japan	Video cassette recorders	9-26-87		12-23-88	
	Japan	Ferroboron	12-1-88			
	Japan	Microwave ovens	12-18-86			12-13-88-Case Withdrawn
	Japan	Mica	12-18-88			
	Japan	Cellular mobile telephones	7-15-87			12-30-88-Case Withdrawn
	Japan	Electronic typewriters (Matsushita)	9-1-87			6-17-88-Price Undertaking
	Japan	DOT matrix typewriters			4-25-87	11-24-88-Definitive Duty
	Japan	Hydraulic excavators	6-3-88			
	Japan	Wheeled loaders	6-3-88			
	Japan	Miniature ball bearings (R)	6-18-88			
	South Korea	Oxalic acid	6-22-87		3-18-88	7-15-88-Definitive Duty
	South Korea	Polyester yarn	12-15-88			
	South Korea	Ammonium paratungstate	12-15-88			
	South Korea	Photo albums	12-15-88			
	South Korea	Video cassette tapes and video tape reels	12-18-87		12-24-88	
	South Korea	Video cassette recorders	9-26-87		12-23-88	
	South Korea	Microwave ovens	12-18-86			12-13-88-Case Withdrawn
	South Korea	Tungsten carbide	12-15-88			
	South Korea	Tungsten metal powder	12-15-88			
	South Korea	Polyester fibres	1-12-88			
	South Korea	Small screen colour television receivers	11-12-88			
	South Korea	Glutamic acid	6-4-88			
	South Korea	Inner tubes and tire cases (R)	6-30-86			5-31-88-Price Undertaking
	Mexico	Synthetic textile fibres of polyester	7-1-87		6-17-88	12-16-88-Definitive Duty
	Mexico	Polyester yarn	7-1-87		6-17-88	12-16-88-Definitive Duty
Mexico	Iron or steel coils	5-12-87			7-19-88-Definitive Duty	
Mexico	Acrylic fibres (R)	5-4-88				
Norway	Ferro-silicon (R)	6-2-88				
Rumania	Synthetic textile fibres	7-1-87		6-17-88	12-17-88-Definitive Duty	
Rumania	Urea	10-9-87		12-23-88		
Rumania	Welded tubes of iron or non alloy steel	9-16-88				
Rumania	Methenamine	12-16-88				

Table B-2—Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome		
EC	Rumania	Herbicide	6-29-87		1-30-88-Price Undertaking		
	Rumania	Light sodium carbonate (R)	6-21-88				
	Rumania	Hardboard (R)	6-24-88				
	Sweden	Ferro-silicon (R)	6-2-88				
	Sweden	Diesel engine	9-27-88				
	Sweden	Hardboard (R)	6-24-88				
	Switzerland	Glutanic acid (R)	6-4-88				
	United States ..	Synthetic textile fibres of polyesters	7-1-87	6-17-88		12-17-88-Definitive Duty	
	United States ..	Urea	10-9-87	8-25-88			
	Yugoslavia	Iron or steel coils	6-12-87	1-22-88		7-19-88-Definitive Duty	
	Yugoslavia	Sheets of iron or non-alloy steel (cold rolled)	7-14-88				
	Yugoslavia	Certain iron or steel sections (hot rolled)	6-14-87	7-21-88		11-19-88-Definitive Duty	
	Yugoslavia	Welded tubes of iron or non-alloy steel (cold rolled)	9-16-88				
	Yugoslavia	Methenamine	12-15-87				
	Yugoslavia	Synthetic textile fibres of polyesters	7-1-87	6-17-88		12-17-88-Definitive Duty	
	Yugoslavia	Sheets and plates of iron or steel (hot rolled) (R)	1-28-88	1-26-88		7-9-88-Definitive Duty	
	Yugoslavia	Ferro-silicon (R)	6-2-88				
	Finland	Diesel engine	9-27-88				
	Canada	Hungary	Urea	10-9-87		8-25-88	
		Hungary	Methenmine	12-15-88			
Hungary		Methenmine	12-15-88				
Poland		Methenmine	12-15-88				
Singapore		Microwave ovens	12-18-86		12-13-88-Case Withdrawn		
Federal Republic of Germany		Photo albums with pocket sheets	8-28-87	10-30-87	2-26-88-Definitive Duty		
Federal Republic of Germany		Gasoline powered chainsaws (R)	7-25-88		10-25-88-Definitive Duty		
Federal Republic of Germany		Station post insulators (R)	8-8-88	(Amendment)	4-11-88-Price Undertaking		
Federal Republic of Germany		Wide flange beam (R)	11-23-88				
Federal Republic of Germany		Stainless steel pipe (R)	2-29-88		5-27-88-Definitive Duty		
Federal Republic of Germany		Oil and gas well casing (R)	3-31-88		6-29-88-Definitive Duty		
Federal Republic of Germany		Carbon and alloy steel plate (R)	12-31-87		6-10-88-Definitive Duty		
France		Carbon and alloy steel plate (R)	12-31-87		3-30-88-Definitive Duty		
France		Wide flange beam	11-23-88				
France		Polyphase induction motors above 200 h.p.	9-30-88	12-29-88			
France		Carbon steel welded pipe	9-16-87		1-29-88-No Dumping		
France		Alpine ski poles (R)	3-31-88		6-30-88-Definitive Duty		
East Germany ..		Carbon and alloy steel plate (R)	5-6-88	(Renewal)	10-7-88-Price Undertaking		
Luxembourg ...		Carbon and alloy steel plate (R)	9-16-87		1-29-88-Price Undertaking		

Table B-2—Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
	Luxembourg ...	Wide flange beams (R)	11-23-88		
	Malaysia	Photo albums with pocket sheets	8-28-87	10-30-87	2-26-88-Definitive Duty
	Malaysia	Waterproof rubber footwear (R)	3-31-88		6-30-88-Definitive Duty
	Netherlands ...	Carbon alloy and steel plate (R)	12-31-87		3-30-88-Definitive Duty
	China	Photo albums with pocket sheets	8-28-87	10-30-87	2-26-88-Definitive Duty
	China	Waterproof rubber footwear (R)	3-31-88		6-30-88-Definitive Duty
	Poland	Waterproof rubber footwear (R)	3-31-88		6-30-88-Definitive Duty
	Poland	Carbon steel welded pipe	9-16-87		1-29-88-Other
	Poland	Barbed wire (R)	5-2-88		7-29-88-Definitive Duty
	Poland	Drywalls screws (R)	2-5-88		5-5-88-Definitive Duty
	Romania	Carbon and alloy steel plate (R)	12-31-87		6-22-88-Definitive Duty
	Singapore	Countertop microwave ovens (R)	12-23-87		3-22-88-Definitive Duty
Canada	Singapore	Drywall screws (R)	2-5-88		5-5-88-Definitive Duty
	Singapore	Photo albums with pocket sheets	8-28-87	10-30-87	2-26-88-Definitive Duty
	Spain	Carbon and alloy steel plate (R)	12-3-87		6-28-88-Definitive Duty
	Spain	Wide flange beams (R)	11-23-88		
	Sweden	Stainless steel pipe (R)	2-29-88		5-27-88-Definitive Duty
	Sweden	Polyphase induction motors above 200 h.p.	9-3-88	12-29-88	
	Sweden	Artificial graphite electrodes	7-15-88		10-15-88-Definitive Duty
	Sweden	Gasoline powered chainsaws	7-25-88		10-25-88-Definitive Duty
	Japan	Wide flange beams (R)	11-23-88		
	Japan	Stainless steel butt-weld fittings	2-8-88	4-5-88	8-3-88-Definitive Duty
	Japan	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	
	Japan	Artificial graphite electrodes	7-15-88		10-15-88-Definitive Duty
	Republic of Korea	Lead-acid batteries	8-30-88		12-29-88-No Injury
	Republic of Korea	Vinyl coated fabrics	9-16-88		12-15-88-Definitive Duty
	Republic of Korea	Wide flange beams (R)	11-23-88		
	Republic of Korea	Barbed wire	5-2-88		7-29-88-Definitive Duty
	Taiwan	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	
	Taiwan	Padded clothes hangars	9-16-88	12-15-88	
	United Kingdom	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	
	United Kingdom	Aluminum offset printing plates	4-22-88		7-21-88-Definitive Duty
	United Kingdom	Wide flange beams (R)	11-23-88		
	United States ..	Recreational vehicle doors	8-28-87	11-25-87	3-18-88-No Injury
	United States ..	Metal storage cabinets (R)	11-2-87		1-14-88-Price Undertaking (Renewal)
	United States ..	Stainless steel pipe (R)	2-29-88		5-27-88-Definitive Duty
	United States ..	Oil and gas well casing (R)	3-31-88		6-29-88-Definitive Duty
	United States ..	Sour cherries	6-17-88	9-30-88	
	United States ..	Frozen pot pies (R)	3-11-88		7-14-88-Price Undertaking (Renewal)
	United States ..	Padded clothes hangars	9-16-88	12-15-88	
	United States ..	Grinding balls	9-23-88		12-15-88-Price Undertaking
	United States ..	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	
	United States ..	Vehicle washing equipment (R)	4-15-88		

Table B-2—Continued

Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
	United States ..	Tile backer board (R)	2-9-88		6-5-88-Price Undertaking
	United States ..	Integral induction motors (R)	4-19-88	(Amendment)	7-18-88-Definitive Duty
	United States ..	Plate coils (R)	6-20-88		9-19-88-Definitive Duty
	United States ..	Steel wool	5-26-88		9-13-88-No Injury
	United States ..	Delicious apples	7-8-88	10-6-88	
	United States ..	Frozen pot ples	3-11-88		7-14-88-Price Undertaking
	(Renewal)		
	United States ..	Vehicle washing equipment (R)	4-15-88		7-14-88-Definitive Duty
	United States ..	Artificial graphite electrodes	7-15-88		10-15-88-Definitive Duty
	United States ..	Gasoline powered chainsaws	7-25-88		10-25-88-Definitive Duty
	United States ..	Barbed wire	5-2-88		7-29-88
	Yugoslavia	Waterproof rubber footwear	3-31-88		7-29-88-Definitive Duty
South Korea ...	Japan	Slide fastener (zipper)	2-16-87		2-19-88-No Injury
	Taiwan	Dicumyl peroxide	5-6-86	10-15-88	12-18-86-Price Undertaking
South Korea ...	Japan	Dicumyl peroxide	5-6-86		
New Zealand ...	Federal Republic of Germany	Refined sugar	5-24-88	8-16-88	11-9-88-Definitive Duty
	Malaysia	Refined sugar	5-24-88	8-16-88	11-9-88-Definitive Duty
	Thailand	Refined sugar	5-24-88	8-16-88	11-9-88-Definitive Duty
	Papua New Guinea ..	Refined sugar	12-21-88		
	Belgium	Refined sugar	12-21-88		
	Denmark	Refined sugar	12-21-88		
	China	Hog bristle paint brushes	1-19-88	3-14-88	5-31-88-Definitive Duty
	Canada	Edible rapseed oil	5-24-88		7-21-88 Terminated
	Federal Republic of Germany	Edible rapseed oil	5-24-88		
	Netherlands ...	Edible rapseed oil	5-24-88		
	Netherlands ...	Refined sugar	12-21-88		
Brazil	Australia	Canned catfood	12-21-88		
	Czechoslovakia ..	Transmission chains of iron and steel for cycles	5-9-88		
Finland	Austria	Electricity meters for household purposes	6-12-87		2-25-88-Case Withdrawn
	Poland	Polyetene foil and sheet for agricultural or building purposes	2-23-88	6-6-88	9-27-88-Definitive Duty
	Romania	Polyetene foil and sheet for agricultural or building purposes	2-23-88	6-6-88	9-27-88-Definitive Duty
	East Germany ..	Polyetene foil and sheet for agricultural or building purposes	2-23-88	6-6-88	9-30-88-Price Undertaking
	East Germany ..	Steel reinforced aluminum conductors	5-31-88		11-30-88-Case Withdrawn
	East Germany ..	Low voltage electric cables	5-31-88		12-1-88-Case Withdrawn
Mexico	United States ..	Triethylamine	3-3-87		2-29-88
	United States ..	Monoisopropylamine	7-8-87		6-3-88-Definitive Duty
	United States ..	Ethylene glycol monoethyl ether acetate	9-14-87	2-9-88	
	United States ..	Potassium hydroxide, solid, in flakes (caustic potash)	9-18-87	2-15-88	10-10-88 Definitive Duty
	United States ..	Potassium carbonate	9-18-87	2-15-88	10-19-88-No Injury
	United States ..	Monoethylamine	10-30-87	2-9-88	
	United States ..	VAT blue no. 1	12-18-87	6-10-88	12-6-88-Price Undertakings
	United States ..	UNIX PC-7300 and UNIX 3 B 1 microcomputers	1-5-88	1-7-88	12-5-88-Other
	United States ..	Toluenediisocyanate (TDI-80)	8-3-88	8-10-88	

Table B-2—Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
	United States ..	Regemented cellulose film (cellophane)	11-28-88	12-6-88	
	Brazil	Silicon carbide, except block of a mesh finer than 220 and green	9-14-87	2-9-88	11-29-88-No Dumping
	Brazil	carbon steel (SAE 1018 and 1045)	8-31-88	9-15-88	
	Brazil	low alloy (SAE 4140 and 8620 H)	8-31-88	9-15-88	
	Brazil	Hoop and strip of cold-rolled steel	8-29-88	9-15-88	
	Brazil	Brown artificial corundum, with a mesh width of between 6 to 220	8-29-88	9-15-88	
	Brazil	Potassium carbonate	9-18-87	9-15-88	2-15-88-No Injury
	Brazil	Potassium hydroxide, solid, in flakes (caustic potash)	9-18-87	9-15-88	2-15-88-No Injury
	Malaysia	Urethral draining probes (Foley probes)	2-17-88	11-29-88	
	Federal				
	Republic of				
	Germany	Triethylamine	3-3-87		2-29-88-No Dumping
	Federal				
	Republic of				
	Germany	Potassium carbonate	9-18-87	2-15-88	10-19-88-No Dumping
	Federal				
	Republic of				
	Germany	Potassium hydroxide, solid, in flakes (caustic potash)	9-18-87	2-15-88	10-19-88-No Dumping
	Federal				
	Republic of				
	Germany	VAT blue no. 1	12-18-87	1-11-88	
	EC	Steel flat rolled (cold rolled)		11-25-88	
Mexico	EC	Steel flat rolled (hot rolled)		11-25-88	
	EC	Steel flat rolled (tinplate)		11-25-88	
	EC	Steel not flat rolled (bars)		11-25-88	
	EC	Steel not flat rolled (shapes)		11-25-88	
	EC	Steel not flat rolled (bars and rods, hot-rolled in irregularly wound coils)		11-25-88	
	Taiwan	Articles of enamelled steel (pewter)	11-14-88	12-8-88	
	Spain	Graphite electrodes for furnaces		7-27-88	
	Japan	Bearings (ball bearings)	11-22-88	12-2-88	
	Japan	Bearings (conical bearings)	11-22-88	12-2-88	
Australia	Belgium	Leyamisole Hydrochloride	6-22-88	12-29-87	11-1-88-Price Undertakings
	Federal				
	Republic of				
	Germany	Leyamisole Hydrochloride	12-29-87	6-22-88	11-10-88-Definitive Duty
	People's				
	Republic of				
	China	Leyamisole Hydrochloride	3-31-88	6-22-88	11-10-88-Definitive Duty
	Switzerland	Leyamisole Hydrochloride	12-29-87	6-22-88	11-10-88-Definitive Duty
	Hong Kong	Leyamisole Hydrochloride	12-29-87	6-22-88	
	Hong Kong	Video cassette tapes	5-17-88		11-30-88-No Injury
	Singapore	Leyamisole	6-22-88	12-29-87	11-1-88-Price Undertakings
	Singapore	Low Voltage aerial bundled XLPEpower cable	8-12-88		
	Republic of				
	Korea	Low Voltage aerial bundled XLPEpower cable	8-12-88		
	Republic of				
	Korea	Cement clinker	3-2-88	8-31-88	

Table B-2—Continued

Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1988

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
	Republic of Korea	Audio cassette tape jumbo webs and pancakes	11-13-87	6-30-88	11-4-88-Definitive Duty
	Republic of Korea	Video cassette tapes	5-17-88		11-30-88-No Injury
	Japan	Video cassette tapes	5-17-88	6-30-88	
	Japan	Cement Portland	5-16-88		10-21-88-No Injury
	Japan	Fork lift trucks	11-9-87	5-9-88	9-26-88-Price Undertakings
	New Zealand	Urea	12-31-87	6-17-88	10-28-88-No Injury
	Poland	Pencils, coloured	6-20-88	10-18-88	
	Brazil	Pencils, coloured	6-20-88	10-18-88	10-18-88-No Injury
	Hungary	Pencils, coloured	6-20-88		
	Canada	Milk Evaporated	9-23-88		
	Czechoslovakia	Parts for certain Electric motors	10-14-88		
	Czechoslovakia	Multi-tyred rollers	8-29-88	12-22-88	
	Taiwan	ProvinceParts of certain electric motors	10-9-87	4-6-88	12-6-88-No Dumping
	Netherlands	Ham canned	7-9-88		9-20-88-Price Undertakings

Table B-3
 Leading Items exported to Israel, by Schedule B Item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
694.65	Parts, for aircraft and spacecraft	\$226,384	\$321,875	\$267,597
660.54	Parts of compression-ignition piston-type engines, and non-piston-type engines	25,420	66,173	149,278
685.60	Radio navigational aid apparatus, radar apparatus, and remote control apparatus, and parts thereof	56,030	74,540	138,541
520.33	Diamonds, weighing over 0.5 carat	79,897	104,745	137,706
175.41	Soybeans, other than seed for planting	80,574	88,236	128,455
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	42,327	48,260	65,984
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	57,331	48,252	63,842
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	68,953	58,599	59,852
130.65	Wheat	63,527	61,031	55,226
678.50	Machines not specially provided for, and parts thereof	26,181	32,947	55,140
685.27	Radiotelegraphic, radiotelephonic, and radiobroadcasting transmission and reception apparatus, and parts thereof, n.s.p.f.	40,266	35,945	53,056
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	39,808	32,640	42,149
694.40	Airplanes	68	85,296	41,997
818.90	General merchandise valued under \$1,501, except shipments requiring a validated export license	115,866	39,302	41,149
130.34	Corn or maize, not donated for relief or charity	31,444	35,945	37,925
170.65	Cigarettes	10,396	12,089	36,793
688.40	Electrical articles n.s.p.f., and electrical parts of articles n.s.p.f.	26,285	31,964	36,386
130.40	Grain sorghum	33,142	22,762	33,550
676.27	Digital machines comprising in one housing the central processing unit and input and output capability	29,644	40,603	33,353
692.05	Automobile trucks, except truck tractors	3,615	8,489	25,076
	Total	957,157	1,249,693	1,503,055
	Total U.S. exports to Israel	1,752,455	2,066,048	2,439,395

¹ Prior to Jan. 1, 1987, Schedule B Item 818.90 included only general merchandise valued at \$1,000 or less.
 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 B-4
Leading Items Imported from Israel, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
520.33	Diamonds over 1/2 carat, cut, not set, suitable for jewelry	\$429,017	\$406,056	\$675,243
520.32	Diamonds not over 1/2 carat, cut, not set, suitable for jewelry	542,689	629,819	532,827
694.67	Parts of aircraft, excluding civil aircraft and spacecraft, n.e.s	78,993	77,537	66,124
800.00	U.S. goods returned	55,098	56,831	65,645
685.33	Radio transmission and reception apparatus not specially provided for, including parts	14,269	124,987	57,507
740.13	Necklaces and neck chains, not rope or mixed link, almost wholly of gold	52,874	50,365	46,013
740.14	Jewelry and other objects of personal adornment, of precious metals, n.e.s	44,090	51,585	45,233
687.74	Electronic tubes, not cathode-ray tubes; transistors and related electronic crystal components; mounted piezoelectric crystal, and parts	2,840	20,764	42,782
712.49	Electrical measuring, checking, analyzing, or automatically controlling instruments or apparatus, n.s.p.f., and parts thereof	16,735	34,090	41,536
685.60	Radio navigational aid apparatus, radar apparatus, and radio remote control apparatus, and parts thereof	6,200	26,577	33,444
740.15	Jewelry and other objects of personal adornment, of precious metal and/or stones, not elsewhere specified	14,565	13,320	32,102
676.30	Office machines, n.s.p.f.	29,820	28,952	31,949
660.73	Parts for internal combustion engines, certified for use in civil aircraft	24,257	31,197	30,460
678.50	Machines, n.s.p.f., and parts thereof	7,382	10,322	29,518
712.05	Electrical optical instruments or apparatus, and parts thereof	12,468	14,765	26,805
475.25	Motor fuel, including gasoline and jet fuel	8,388	16,414	26,035
688.42	Ferrite core memories, resistor/capacitor networks, articles incorporating a watch module, and other electrical articles and parts n.s.p.f.	52,574	23,927	25,881
480.50	Potassium chloride or murlate of potash	18,427	18,636	25,677
520.38	Emeralds, cut but not set, and suitable for use in the manufacture of jewelry	14,110	19,376	24,672
694.41	Airplanes and parts thereof of civil aircraft and spacecraft	54,799	30,858	24,622
	Total	1,469,595	1,586,378	1,884,077
	Total U.S. imports from Israel	2,414,689	2,638,098	2,975,232

¹ Prior to July 1, 1987, trade for TSUS item 685.33 was reported under 685.32 (pt.).
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 B-5
 Leading items exported to the European Community (EC),¹ by Schedule B Item numbers, 1986-88
 (In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	\$3,470,828	\$4,165,480	\$5,319,140
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	2,544,370	2,993,115	3,593,490
694.40	Airplanes	2,093,546	2,663,727	3,516,089
694.65	Parts, for aircraft and spacecraft	1,886,981	2,124,174	2,459,486
660.54	Parts of compression-ignition piston-type engines, and non-piston-type engines	1,604,748	1,766,643	2,208,265
175.41	Soybeans, other than seed for planting	1,948,589	1,987,228	1,926,996
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	1,928,885	1,506,710	1,856,792
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	737,507	847,200	1,320,158
676.27	Digital machines comprising in one housing the central processing unit and input and output capability	710,113	852,832	1,141,095
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	745,395	945,877	1,137,776
184.80	Other animal feeds and ingredients therefor, n.s.p.f.	870,413	888,996	986,973
818.90	General merchandise valued under \$1,501, except shipments requiring a validated export license	456,471	872,714	963,292
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	590,274	743,826	957,738
660.49	Non-piston-type internal combustion engines	446,430	603,872	912,374
692.29	Parts of motor vehicles, not elsewhere specified	468,041	558,901	819,222
170.65	Cigarettes	453,180	600,629	767,902
678.50	Machines not specially provided for, and parts thereof	634,233	619,972	761,576
433.10	Chemical mixtures and preparations, n.e.s.	496,849	626,323	760,887
664.05	Excavating, leveling, boring, extracting machinery, excluding front-end loaders, pile drivers, non-self-propelled snow plows, and parts	523,217	466,445	682,584
712.50	Instruments and apparatus for measuring or checking electrical quantities, except electricity meters, and parts thereof	573,503	582,004	681,000
	Total	23,183,572	26,416,668	32,772,835
	Total U.S. exports to the EC	50,251,834	57,230,077	71,358,930

¹ On Jan. 1, 1988, The Bureau of the Census began reporting trade separately for small principalities and regions—Faroe Islands, Andorra, Monaco, San Marino, and Vatican City—that had previously been included in the respective trade figures for Denmark, France, and Italy. For consistency in reporting, the value of exports from these areas are included in the EC figures for 1988. During this year, exports from these regions amounted to \$53,305,816.

² Prior to Jan. 1, 1987, Schedule B item 818.90 included only general merchandise valued at \$1,000 or less.

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 B-6
Leading Items Imported from the European Community (EC),¹ by TSUS item numbers, 1986-88
(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
692.10	Passenger automobiles, snowmobiles, trucks valued under \$1,000, and other miscellaneous vehicles	\$9,974,796	\$11,269,621	\$8,353,791
692.32	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined	1,390,843	1,722,243	2,037,572
800.00	U.S. goods returned	1,586,709	2,028,900	1,940,283
694.41	Airplanes and parts thereof of civil aircraft and spacecraft	1,490,566	1,497,749	1,780,880
475.10	Crude petroleum, topped crude petroleum, crude shale oil, distillate and residual fuel oils, testing 25 degrees a.p.i. or more	2,044,315	2,223,217	1,566,789
475.25	Motor fuel, including gasoline and jet fuel	947,570	954,419	1,277,248
676.54	Parts of automatic data-processing machines and units thereof, other than parts incorporating a cathode-ray tube	2670,825	915,482	891,575
700.45	Leather footwear n.e.s., valued over \$2.50 per pair, not for men, youths, or boys	951,500	857,296	873,395
660.73	Parts for internal combustion engines, certified for use in civil aircraft	711,033	684,924	851,565
712.49	Electrical measuring, checking, analyzing, or automatically controlling instruments or apparatus, n.s.p.f., and parts thereof	636,093	730,834	840,941
692.34	Tractors suitable for agricultural use and parts thereof	605,765	615,223	806,690
678.50	Machines, n.s.p.f., and parts thereof	789,641	781,710	802,363
740.14	Jewelry and other objects of personal adornment, of precious metals, n.e.s.	611,525	644,029	782,575
694.61	Parts of civil aircraft and spacecraft	35,620	79,834	740,135
999.95	Under \$251 formal and informal entries, and nonexempt items from \$251 to \$1,000, estimated	624,446	686,208	725,098
660.61	Internal combustion engines, non-piston-type, for aircraft, certified for use in civil aircraft	932,874	888,340	703,738
660.71	Parts of internal combustion engines, not specially provided for	501,832	539,259	688,201
685.90	Electrical apparatus for making, breaking electrical circuits, protection of electrical circuits, making connections to or in circuits	524,392	563,396	663,655
520.33	Diamonds over 1/2 carat, cut, not set, suitable for jewelry	474,544	446,715	656,948
664.08	Excavating, leveling, boring, extracting machinery n.e.s., stationary or mobile, for earth, minerals, ores, pile drivers, snow plows, and parts	616,564	595,736	648,994
	Total	26,121,454	28,725,136	27,632,435
	Total U.S. Imports from the EC	75,474,337	80,144,348	84,085,673

¹ On Jan. 1, 1988, The Bureau of the Census began reporting trade separately for small principalities and regions—Faroe Islands, Andorra, Monaco, San Marino, and Vatican City—that had previously been included in the respective trade figures for Denmark, France, and Italy. For consistency in reporting, the value of imports from these areas are included in the EC figures for 1988. During this year, imports from these regions amounted to \$49,469,060.

² Prior to Feb. 1, 1986, trade for TSUS item 676.54 was reported under 676.52 (pt.). Since that portion of TSUSA item 676.5215 (January 1986) assigned to 676.54 is not known, this item was excluded from the data above. 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 B-7
Leading Items exported to Canada, by Schedule B Item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
818.91	Adjustment for undocumented exports to Canada	¹ \$10,179,000	¹ \$6,429,102	¹ \$8,314,900
692.29	Parts of motor vehicles, not elsewhere specified	5,458,973	6,175,325	7,085,495
692.10	On-the-highway, four-wheeled passenger automobiles, ambulances, hearses, motor homes, ski vehicles, and other like motor vehicles	5,856,177	5,777,519	6,328,668
818.90	General merchandise valued under \$1,501, except shipments requiring a validated export license.	² 1,654,454	2,787,233	3,272,580
818.80	Shipments valued at \$10,000 and under, not identified by kind	³ 1,472,862	³ 1,872,562	³ 2,105,359
692.05	Automobile trucks, except truck tractors	1,664,065	1,804,578	1,772,437
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	1,047,441	1,457,336	1,388,414
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	730,220	889,522	899,919
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	784,297	711,282	861,106
660.48	Piston-type internal combustion engines, other than compression-ignition engines	966,002	832,279	845,487
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	357,407	488,875	792,584
694.65	Parts, for aircraft and spacecraft	503,830	563,798	661,506
660.52	Parts of piston-type engines, other than compression-ignition engines	356,044	478,348	645,205
694.40	Airplanes	109,804	82,234	612,794
660.54	Parts of compression-ignition piston-type engines, and non-piston- type engines	471,171	497,163	608,999
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	368,511	457,838	542,544
664.05	Excavating, leveling, boring, extracting machinery, excluding front-end loaders, pile drivers, non-self-propelled snow plows, and parts	372,309	407,456	516,591
618.28	Wrought aluminum bars, plates, sheets, and strip, whether or not cut, pressed, or stamped to nonrectangular shapes	238,802	334,941	486,046
692.20	Bodies (including cabs), and chassis for automobile trucks, truck tractors, and motor buses	479,225	507,233	451,555
605.20	Gold or silver bullion, dore, and gold or silver precipitates	1,018,389	527,499	433,645
	Total	34,088,982	33,082,126	38,625,833
	Total U.S. exports to Canada	53,165,113	57,001,048	65,910,336

¹ These are The Bureau of the Census' estimates of the value of undocumented exports from the United States to Canada.

² Prior to Jan. 1, 1987, Schedule B item 818.90 included only general merchandise valued at \$1,000 or less.

³ General merchandise valued at \$1,000 and less in 1986 was reported under Schedule B item 818.90. In 1987 and 1988, such merchandise valued at \$1,500 and less was reported under Schedule B item 818.90.

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 B-8
Leading Items Imported from Canada, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
692.11	Passenger automobiles, snowmobiles, and other miscellaneous vehicles (Automotive Products Trade Act)	\$11,812,986	\$10,237,651	\$13,319,940
692.33	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined (Automotive Products Trade Act)	4,234,085	4,385,232	4,697,315
252.65	Standard newsprint paper	3,553,359	3,949,994	4,320,023
692.03	Trucks valued at \$1,000 or more each (Automotive Products Trade Act)	3,081,276	3,773,449	4,306,036
475.10	Crude petroleum, topped crude petroleum, crude shale oil, distillate, and residual fuel oils, testing 25 degrees a.p.i. or more	2,296,220	2,530,820	2,499,577
800.00	U.S. goods returned	2,098,218	2,153,870	2,241,507
475.15	Natural gas, methane, ethane, propane, butane, and mixtures thereof	2,451,193	2,165,809	2,232,650
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	1,422,180	1,841,952	2,226,429
202.03	Spruce lumber	1,972,281	2,004,601	1,927,688
660.49	Piston-type engines other than compression-ignition engines for automobiles, including trucks and buses (Automotive Products Trade Act)	949,221	1,126,257	1,329,742
475.05	Crude petroleum, topped crude petroleum, crude shale oil, distillate, and residual fuel oils testing under 25 degrees a.p.i.	1,146,217	1,418,160	1,183,628
692.21	Automobile truck and motor bus chassis and bodies (Automotive Products Trade Act)	687,490	775,967	1,083,275
618.02	Unwrought aluminum n.e.s., other than alloys of aluminum	587,632	801,467	934,308
605.20	Gold or silver bullion, dore, and precipitates	2,672,085	961,322	902,985
618.08	Other unwrought alloys of aluminum	504,379	549,299	769,422
620.03	Unwrought nickel	231,243	250,659	685,277
692.32	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined	531,034	605,376	673,011
694.61	Parts of civil aircraft and spacecraft	38,230	31,575	671,173
999.95	Under \$251 formal and informal entries, and nonexempt items from \$251 to \$1,000, estimated	426,016	554,359	655,039
252.67	Book paper and printing paper, not specially provided for	348,452	423,195	560,320
	Total	41,043,797	40,541,015	47,219,346
	Total U.S. imports from Canada	68,146,979	70,850,625	80,678,621

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 B-9
Leading items exported to Japan, by Schedule B item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
130.34	Corn or maize, not donated for relief or charity	\$877,194	\$1,035,373	\$1,615,364
200.35	Logs, softwood and hardwood, including pulpwood, in the rough, split, hewn, or roughly sided or squared	788,952	1,127,472	1,332,818
694.40	Airplanes	1,158,937	1,093,260	1,251,969
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	629,802	825,657	1,084,462
110.46	Fish, fresh, chilled, or frozen, whole or eviscerated, but not otherwise prepared or preserved, and live eels	599,469	690,099	1,058,119
175.41	Soybeans, other than seed for planting	837,212	783,512	1,027,231
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	542,393	599,744	885,318
694.65	Parts, for aircraft and spacecraft	654,261	795,983	854,589
106.10	Beef and veal, carcasses and primal cuts, excluding offal, fresh, chilled, or frozen	465,116	543,793	811,618
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	674,675	617,644	736,296
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	327,159	500,565	719,707
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	366,909	479,498	708,571
618.03	Unwrought aluminum, other than alloys of aluminum	155,883	304,995	664,082
170.65	Cigarettes	127,974	491,857	606,318
712.50	Instruments and apparatus for measuring or checking electrical quantities, except electricity meters, and parts thereof	289,701	350,912	490,671
660.54	Parts of compression-ignition piston-type engines, and non-piston- type engines	363,033	379,346	483,096
300.10	Cotton, not carded, not combed, and not similarly processed, having a staple length under 1-1/8 inches	228,372	393,593	457,938
618.10	Aluminum waste and scrap	223,830	300,858	441,645
422.55	Uranium compounds, excluding uranium oxide, and thorium compounds	546,530	417,907	439,245
130.65	Wheat	424,330	352,280	425,510
	Total	10,281,735	12,084,346	16,094,566
	Total U.S. exports to Japan	22,890,847	26,903,632	36,041,575

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 B-10
Leading Items Imported from Japan, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
692.10	Passenger automobiles, snowmobiles, trucks valued under \$1,000, and other miscellaneous vehicles	\$24,343,760	\$24,622,946	\$23,699,978
676.30	Office machines, n.s.p.f.	3,451,251	4,130,501	4,460,372
676.54	Parts of automatic data-processing machines and units thereof, other than parts incorporating a cathode-ray tube	1,831,071	2,764,253	3,795,678
692.02	Trucks valued at \$1,000 or more each	4,810,692	4,158,348	3,074,631
692.32	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined	1,767,114	2,160,342	2,833,231
685.40	Tape recorders and dictation and transcribing machines, and parts thereof	4,935,126	3,128,871	2,483,185
687.74	Electronic tubes, not cathode-ray tubes; transistors and related electronic crystal components; mounted piezoelectric crystal, parts and parts	919,208	1,306,205	2,423,991
685.49	Radiotelegraphic, radiotelephonic, and other devices for the transmission, reception, and reproduction of sound or image, n.s.p.f.	1,104,268	1,322,226	1,714,899
678.50	Machines, n.s.p.f., and parts thereof	1,344,931	1,347,212	1,513,281
734.20	Game machines, including coin- or disc-operated game machines and games having mechanical controls for manipulating the action, and parts	148,090	417,340	1,172,431
684.66	Electrical telegraph terminal apparatus, including teleprinting and teletypewriting machines, and parts thereof	335,200	594,793	1,026,221
685.90	Electrical apparatus for making, breaking electrical circuits, protection of electrical circuits, making connections to or in circuits	552,848	785,045	1,008,664
676.56	Parts of office machines, not specifically provided for	² 630,476	723,774	863,238
724.45	Magnetic recording media, no material recorded thereon	859,149	803,767	746,883
674.35	Metalworking machine tools, n.e.s.	791,600	735,415	741,942
772.51	Pneumatic tires, n.e.s.	547,551	573,397	735,571
676.15	Accounting, computing, and other data-processing machines	583,918	581,077	631,478
682.60	Generators, motors, motor-generators, converters, transformers, rectifying apparatus, inducers, other electrical goods, parts, n.e.s.	369,005	455,032	609,369
712.49	Electrical measuring, checking, analyzing, or automatically controlling instruments or apparatus, n.s.p.f., and parts thereof	407,861	498,196	603,705
722.16	Photographic cameras, other than fixed-focus, over \$10 each, lens not over 50 percent of value	654,836	684,157	597,614
	Total	³50,391,502	51,792,895	54,736,362
	Total U.S. imports from Japan	81,985,873	84,008,499	89,110,486

¹ Prior to Feb. 1, 1986, trade for TSUS item 676.54 was reported under 676.52 (pt.). Since that portion of TSUSA item 676.5215 (January 1986) assigned to 676.54 is not known, this item was excluded from the data above.

² Prior to Feb. 1, 1986, trade for TSUS item 676.56 was reported under 676.52 (pt.). Since that portion of TSUSA item 676.5215 (January 1986) assigned to 676.56 is not known, this item was excluded from the data above.

³ TSUS items 676.54 and 676.56 replaced TSUS item 676.52 on Feb. 1, 1986. While individual coverage for the current items is not certain prior to this date, the total for both is available using 676.52. Therefore, since both are included above, trade for 676.52 is included in this total.

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 B-11
Leading items exported to Mexico, by Schedule B Item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
692.29	Parts of motor vehicles, not elsewhere specified	\$983,233	\$1,198,481	\$1,557,768
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	441,653	490,218	601,261
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	356,123	374,328	579,379
688.12	Ignition wiring sets and wiring sets designed for use in motor vehicles, aircraft, spacecraft, ships, boats, and other vessels	332,985	400,955	503,708
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	272,958	344,119	461,474
818.90	General merchandise valued under \$1,501, except shipments requiring a validated export license	¹ 178,315	339,334	459,502
130.34	Corn or maize, not donated for relief or charity	144,751	281,090	390,450
175.41	Soybeans, other than seed for planting	178,153	214,482	346,932
685.20	Television apparatus and parts thereof	176,856	202,687	334,299
682.60	Generators, motor-generators, rotating converters, rectifiers and rectifying apparatus, coils, inductors, lamp ballasts, and parts thereof	166,892	200,050	327,563
685.27	Radiotelegraphic, radiotelephonic, and radiobroadcasting transmission and reception apparatus, and parts thereof, n.s.p.f.	217,316	223,970	321,935
660.54	Parts of compression-ignition piston-type engines, and non-piston- type engines	289,553	270,115	314,390
818.80	Shipments valued at \$10,000 and under, not identified by kind	² 128,474	² 154,535	² 268,281
688.40	Electrical articles n.s.p.f., and electrical parts of articles n.s.p.f.	99,839	136,232	256,508
660.52	Parts of piston-type engines, other than compression-ignition engines	197,839	163,958	217,514
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	123,830	170,597	196,768
774.50	Tread rubber, plumbing goods, and other articles not specially provided for, of rubber or plastics	84,139	103,675	184,164
475.07	Crude petroleum; topped crude petroleum; crude shale oil; and distillate and residual fuel oils derived from petroleum, shale or both	106,165	233,359	167,784
256.57	Sacks, bags, or packets, of paper or paperboard, excluding those used in serving or storing foods or beverages	73,159	94,070	167,067
711.80	Instruments for measuring, checking, automatically controlling the flow, depth, pressure, etc. of liquids or gases, and temperature, and parts	56,204	159,133	166,725
	Total	4,608,436	5,755,388	7,823,473
	Total U.S. exports to Mexico	11,924,851	14,045,175	19,853,345

¹ Prior to Jan. 1, 1987, Schedule B item 818.90 included only general merchandise valued at \$1,000 or less.

² General merchandise valued at \$1,000 and less in 1986 was reported under Schedule B item 818.90. In 1987 and 1988, such merchandise valued at \$1,500 and less was reported under Schedule B item 818.90.

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 B-12
Leading Items Imported from Mexico, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
475.05	Crude petroleum, topped crude petroleum, crude shale oil, distillate, and residual fuel oils testing under 25 degrees a.p.i.	\$2,168,456	\$2,486,682	\$1,985,066
692.10	Passenger automobiles, snowmobiles, trucks valued under \$1,000, and other miscellaneous vehicles	769,944	1,496,270	1,857,965
475.10	Crude petroleum, topped crude petroleum, crude shale oil, distillate, and residual fuel oils, testing 25 degrees a.p.i. or more	1,363,023	1,151,135	1,037,538
688.12	Ignition wiring sets and wiring sets for transportation equipment	519,126	611,568	884,699
692.32	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined	465,175	542,683	805,156
800.00	U.S. goods returned	452,836	567,926	742,536
685.90	Electrical apparatus for making, breaking electrical circuits, protection of electrical circuits, making connections to or in circuits	365,230	448,820	638,357
684.92	Complete television receivers	107,268	258,982	533,990
660.48	Piston-type engines other than compression-ignition for automobiles, including trucks and buses	585,370	610,918	495,930
678.50	Machines, n.s.p.f., and parts thereof	217,012	283,099	438,136
682.60	Generators, motors, motor-generators, converters, transformers, rectifying apparatus, inductors, other electrical goods, parts, n.e.s.	252,818	322,241	392,970
676.54	Parts of automatic data-processing machines and units thereof, other than parts incorporating a cathode-ray tube	1,223,325	299,026	371,103
114.45	Shellfish other than clams, crabs, or oysters	357,338	435,823	350,792
160.10	Coffee, crude, roasted, or ground	570,973	397,014	295,522
605.20	Gold or silver bullion, dore, and precipitates	239,733	284,808	267,599
684.98	Printed circuit boards or the like for color TV's, or subassemblies containing one or more such units, containing specified components	195,702	206,925	263,800
100.45	Cattle, weighing 200 pounds or more but under 700 pounds each	273,585	246,305	255,389
727.06	Furniture designed for motor-vehicle use, and parts thereof	145,467	167,676	251,494
676.15	Accounting, computing, and other data-processing machines	18,121	117,702	216,598
688.18	Insulated electrical conductors, with fittings, not elsewhere specified	170,802	215,179	216,597
	Total	9,461,304	11,150,785	12,301,236
	Total U.S. Imports from Mexico	17,196,360	19,765,789	22,617,177

¹ Prior to Feb. 1, 1986, trade for TSUS item 676.54 was reported under 676.52 (pt.). Since that portion of TSUSA item 676.5215 (January 1986) assigned to 676.54 is not known, this item was excluded from the data above.

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 B-13
Leading items exported to Taiwan, by Schedule B item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
605.20	Gold or silver bullion, dore, and gold or silver precipitates	\$1,700	\$564,099	\$2,458,000
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	283,893	489,469	582,164
692.10	On-the-highway, four-wheeled passenger automobiles, ambulances, hearses, motor homes, ski vehicles, and other like motor vehicles	10,645	111,348	497,348
175.41	Soybeans, other than seed for planting	358,750	379,935	476,362
130.34	Corn or maize, not donated for relief or charity	271,002	250,825	462,547
678.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	134,465	191,155	228,538
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	157,377	192,156	189,340
475.07	Crude petroleum; topped crude petroleum; crude shale oil; and distillate and residual fuel oils derived from petroleum, shale, or both	85,321	82,435	187,051
404.22	Polycarboxylic acids, anhydrides, and their derivatives	132,216	133,890	172,072
120.14	Whole cattle hides	155,687	172,259	156,937
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	87,686	116,294	144,735
660.10	Steam, other vapor-generating boilers (not central-heating hot water boilers used to produce low pressure steam), and parts thereof, n.s.p.f.	49,131	68,150	144,727
404.05	Cyclic intermediate hydrocarbon compounds, except derivatives	38,688	111,574	141,656
661.35	Refrigerators and refrigerating equipment, whether or not electrical, and parts thereof	19,723	49,945	130,159
130.65	Wheat	101,505	103,578	128,345
170.65	Cigarettes	4,355	118,767	119,152
684.62	Electrical telegraph (including printing and typewriting) and telephone apparatus and instruments; and parts thereof, n.s.p.f.	39,549	101,845	109,547
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	57,778	81,741	103,124
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	71,648	83,117	100,107
250.04	Waste paper and paperboard; scrap paper and paperboard products fit only for remanufacture; flax and hemp fibers to be used in paper- making	74,233	89,692	99,355
	Total	2,135,353	3,492,273	6,631,265
	Total U.S. exports to Taiwan	5,057,124	7,019,239	11,599,286

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 B-14
Leading Items Imported from Taiwan, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
700.56	Footwear having uppers over 90 percent of exterior surface area of rubber or plastics, n.e.s.	\$1,173,108	\$1,331,681	\$1,197,288
676.30	Office machines, n.s.p.f.	498,530	708,946	725,573
676.54	Parts of automatic data-processing machines and units thereof, other than parts incorporating a cathode-ray tube	1,337,443	557,052	704,590
676.15	Accounting, computing, and other data-processing machines	229,587	359,022	509,280
700.35	Footwear n.s.p.f., of leather, for men, youths, and boys	373,767	415,392	504,637
687.74	Electronic tubes, not cathode-ray tubes; transistors and related electronic crystal components; mounted piezoelectric crystal, and parts	230,539	334,425	463,677
727.35	Furniture of wood, other than chairs	395,617	500,621	434,596
700.45	Leather footwear n.e.s., valued over \$2.50 per pair, not for men, youths or boys	347,769	428,357	389,718
678.50	Machines, n.s.p.f., and parts thereof	312,740	443,586	381,841
661.06	Fans and blowers, and parts, n.s.p.f., whether operated by hand or any kind of power unit	344,515	384,477	374,630
685.90	Electrical apparatus for making, breaking electrical circuits, protection of electrical circuits, making connections to or in circuits	181,987	277,710	347,589
727.70	Furniture, and parts thereof, n.s.p.f.	273,660	346,192	339,307
384.80	Other women's, girls', or infants' blouses, body suits and shirts, shirts and sweaters, of man-made fibers, knit, not ornamented	439,342	476,663	326,663
735.20	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing and parts thereof, n.s.p.f.	279,304	306,797	292,367
685.08	Other television apparatus and parts thereof, n.e.s.	157,270	255,805	286,680
684.92	Complete television receivers	420,828	421,269	279,828
684.70	Microphones, loudspeaker, head phones, etc., and parts	177,642	254,667	262,339
774.58	Articles not specially provided for, of rubber or plastics	*76,717	*214,486	248,535
772.35	Curtaains, drapes, napkins, table covers, mats, scarves, runners, dollies, centerpieces, slipcovers, like furnishings, of rubber or plastics	183,563	281,633	246,811
381.95	Men's and boys' coats, selected shirts, suits, trunks and other swimwear, trousers, slacks, and shorts, of manmade fibers, not knit	283,188	287,368	244,395
	Total	6,717,118	8,586,149	8,560,343
	Total U.S. Imports from Taiwan	19,770,612	24,575,682	24,710,730

¹ Prior to Feb. 1, 1986, trade for TSUS Item 676.54 was reported under 676.52 (pt.). Since that portion of TSUSA Item 676.5215 (January 1986) assigned to 676.54 is not known, this item was excluded from the data above.

² Prior to July 1, 1987, trade for TSUS Item 774.58 was reported under 774.55 (pt.). Since that portion of TSUSA Item 774.5595 (January-June 1986) assigned to 774.58 is not known, this item was excluded from the data above.

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 B-15
Leading items exported to Korea, by Schedule B Item numbers, 1986-88

(In thousands of dollars)

Schedule B Item No.	Description	1986	1987	1988
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	\$467,859	\$566,972	\$708,759
120.14	Whole cattle hides	445,780	577,469	636,864
694.40	Airplanes	54,432	85,302	447,327
130.34	Corn or maize, not donated for relief or charity	129,956	356,490	429,920
300.10	Cotton, not carded, not combed, and not similarly processed, having a staple length under 1-1/8 inches	142,066	289,213	408,159
694.65	Parts, for aircraft and spacecraft	209,951	215,075	302,401
130.65	Wheat	240,388	213,349	286,127
678.50	Machines not specially provided for, and parts thereof	126,892	149,513	281,879
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	119,443	176,179	268,945
175.41	Soybeans, other than seed for planting	206,091	232,188	259,473
200.35	Logs, softwood and hardwood, including pulpwood, in the rough, split, hewn, or roughly sided or squared	105,718	158,375	246,121
607.08	Carbon steel and iron waste and scrap	239,278	212,007	243,896
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	117,540	181,501	243,070
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	158,162	171,735	175,344
250.04	Waste paper and paperboard; scrap paper and paperboard products fit only for remanufacture; flax and hemp fibers to be used in papermaking	103,539	122,164	150,850
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	76,157	92,641	138,643
404.05	Cyclic intermediate hydrocarbon compounds, except derivatives	47,815	45,086	125,239
404.22	Polycarboxylic acids, anhydrides, and their derivatives	72,282	88,399	113,610
612.09	Copper waste and scrap	29,407	44,065	109,262
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, and parts thereof	61,079	69,858	104,030
	Total	3,153,836	4,047,581	5,679,920
	Total U.S. exports to Korea	5,795,704	7,486,064	10,381,436

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 B-16
Leading Items Imported from Korea, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
692.10	Passenger automobiles, snowmobiles, trucks valued under \$1,000, and other miscellaneous vehicles	\$798,685	\$2,062,209	\$2,510,600
687.74	Electronic tubes, not cathode-ray tubes; transistors and related electronic crystal components; mounted piezoelectric crystal, and parts	436,375	656,015	1,194,961
700.35	Footwear n.s.p.f., of leather, for men, youths, and boys	663,083	756,941	1,008,953
700.45	Leather footwear n.e.s., valued over \$2.50 per pair, not for men, youths, or boys	462,631	442,817	621,790
791.76	Leather wearing apparel, n.s.p.f., other than reptile leather, and other than in chief weight of textile material	241,068	390,325	567,747
676.30	Office machines, n.s.p.f.	158,551	299,619	459,335
685.40	Tape recorders and dictation and transcribing machines, and parts thereof	307,099	337,687	449,696
678.50	Machines, n.s.p.f., and parts thereof	221,415	340,792	423,191
676.15	Accounting, computing, and other data-processing machines	205,745	261,993	389,866
684.25	Microwave ovens	292,411	366,201	376,195
381.95	Men's and boys' coats, selected shirts, suits, trunks, and other swimwear, trousers, slacks, and shorts, of manmade fibers, not knit	333,256	359,516	346,348
737.30	Stuffed toy figures of animate objects, valued over 10 cents per inch of height	357,467	442,859	304,693
610.32	Iron or steel pipes and tubes, welded, jointed, or seamed, not alloyed, 0.375-inch or more in outside diameter	159,448	132,016	226,451
676.54	Parts of automatic data-processing machines and units thereof, other than parts incorporating a cathode-ray tube	181,659	115,646	224,817
684.92	Complete television receivers	357,109	336,870	217,118
700.95	Footwear, n.e.s. used on daily basis for men, youths, boys, women, misses, children, and infants	26,389	66,574	206,935
724.45	Magnetic recording media, no material recorded thereon	168,977	142,802	188,594
338.59	Woven fabrics, of manmade fibers, except containing over 17 percent wool, and except of glass	² 158,213	² 158,449	² 185,642
384.80	Other women's, girls', or infants' blouses, body suits and shirts, shirts and sweaters, of manmade fibers, knit, not ornamented	246,511	248,217	178,094
772.51	Pneumatic tires, n.e.s.	162,926	163,554	174,026
	Total	5,839,017	8,081,103	10,255,053
	Total U.S. imports from Korea	12,682,819	16,888,153	20,071,989

¹ Prior to Feb. 1, 1986, trade for TSUS item 676.54 was reported under 676.52 (pt.). Since that portion of TSUSA item 676.5215 (January 1986) assigned to 676.54 is not known, this item was excluded from the data above.

² Statistical reporting numbers under TSUS 338.50 were reissued with different commodity coverage on Apr. 1, 1985. TSUS item 338.59 was established to provide reporting numbers distinct from those used prior to this date. Trade carryovers of \$33,998 and \$24,955 were reported in 1986 and 1987 respectively for item 338.50, and are included above.

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 B-17
Leading Items exported to Brazil, by Schedule B Item numbers, 1986-88

(In thousands of dollars)

<i>Schedule B Item No.</i>	<i>Description</i>	<i>1986</i>	<i>1987</i>	<i>1988</i>
694.40	Airplanes	\$218,041	\$627,024	\$583,461
685.27	Radiotelegraphic, radiotelephonic, and radiobroadcasting transmission and reception apparatus, and parts thereof, n.s.p.f	205,383	279,033	337,053
521.31	Coal; petroleum and other coke; compositions of coal, coke, or other carbonaceous material used for fuel	279,195	254,539	237,351
676.55	Parts of automatic data-processing, photocopying, calculating, accounting, and similar machines incorporating a calculating mechanism	205,023	170,820	213,392
694.65	Parts, for aircraft and spacecraft	108,638	130,927	206,246
660.54	Parts of compression-ignition piston-type engines, and non-piston-type engines	110,947	125,645	132,335
692.29	Parts of motor vehicles, not elsewhere specified	71,477	93,634	108,359
687.60	Electronic tubes, transistors, integrated circuits, diodes, rectifiers, mounted piezoelectric, related electronic crystal components, and parts	84,094	83,397	107,136
480.10	Fertilizers and fertilizer materials	156,004	105,533	96,986
676.28	Digital central processing units; auxiliary storage units; input units; output units, and combinations thereof	63,263	65,709	89,342
660.49	Non-piston-type internal combustion engines	17,391	21,094	74,289
664.05	Excavating, leveling, boring, extracting machinery, excluding front-end loaders, pile drivers, non-self-propelled snow plows, and parts	107,903	84,853	72,994
433.10	Chemical mixtures and preparations, n.e.s	71,856	61,804	68,022
446.15	Synthetic rubber	57,444	48,507	52,546
682.60	Generators, motor-generators, rotating converters, rectifiers and rectifying apparatus, coils, inductors, lamp ballasts, and parts thereof	5,058	4,538	52,099
692.38	Parts of tractors, except for automobile truck and off-the-highway platform tractors	25,179	32,713	39,926
818.90	General merchandise valued under \$1,501, except shipments requiring a validated export license	22,960	37,819	39,738
685.90	Electrical apparatus for making, breaking, protecting, or connecting to electrical circuits, switchboards and control panels, parts thereof	20,525	23,371	38,943
712.50	Instruments and apparatus for measuring or checking electrical quantities, except electricity meters, and parts thereof	20,850	23,999	30,158
676.27	Digital machines comprising in one housing the central processing unit and input and output capability	13,869	7,684	26,286
	Total	1,865,098	2,282,645	2,606,663
	Total U.S. exports to Brazil	3,746,982	3,889,272	4,106,260

¹ To avoid disclosure of confidential business information, trade statistics under Schedule B items 480.25 through 480.95 were combined and reported under item No. 480.10, effective July 1, 1985.

² Prior to Jan. 1, 1987, Schedule B item 818.90 included only general merchandise valued at \$1,000 or less.

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 B-18
Leading Items Imported from Brazil, by TSUS Item numbers, 1986-88

(In thousands of dollars)

TSUS Item No.	Description	1986	1987	1988
700.45	Leather footwear n.e.s., valued over \$2.50 per pair, not for men, youths, or boys	\$700,464	\$774,682	\$798,888
692.10	Passenger automobiles, snowmobiles, trucks valued under \$1,000, and other miscellaneous vehicles	217,257	445,072	594,829
475.25	Motor fuel, including gasoline and jet fuel	225,131	479,887	585,560
160.10	Coffee, crude, roasted, or ground	503,380	487,948	574,630
165.29	Orange juice, concentrated or made from a juice having a degree of concentration of 1.5 or more, not over 1 percent ethyl alcohol by volume	352,317	407,054	472,716
692.32	Parts n.s.p.f. of motor vehicles, not alloyed nor advanced beyond cleaning, partly machined	190,724	256,028	250,497
660.42	Compression-ignition engines, other than those to be installed in tractors or other agricultural or horticultural machinery or implements	54,480	123,339	202,662
250.02	Woodpulp; rag pulp; and other pulps derived from cellulosic fibrous materials and suitable for papermaking	88,794	114,551	190,433
694.41	Airplanes and parts thereof of civil aircraft and spacecraft	62,807	103,053	163,835
692.20	Bodies, including cabs, and chassis, for automobile trucks and motor buses	82,702	117,694	140,674
700.35	Footwear n.s.p.f., of leather, for men, youths, and boys	104,345	133,903	140,015
170.35	Filler tobacco, cigarette leaf, stemmed, mixed or packed with 0 to 35 percent wrapper tobacco	103,411	138,422	116,139
156.35	Cocoa butter	139,068	158,613	114,731
622.02	Tin other than alloys of tin, unwrought	62,334	87,306	114,411
772.51	Pneumatic tires, n.e.e	99,085	100,717	110,580
678.50	Machines, n.s.p.f., and parts thereof	96,479	101,968	108,803
114.45	Shellfish other than clams, crabs, or oysters	98,479	110,995	108,358
606.67	Ingots, blooms, billets, slabs, and sheet bars, of nonalloy iron or steel	43,126	48,921	101,739
145.44	Cashews, shelled, blanched, or otherwise prepared or preserved	89,462	74,542	93,743
660.67	Parts of piston-type engines, other than compression-ignition engines	62,311	68,887	90,629
	Total	3,376,156	4,333,584	5,073,871
	Total U.S. Imports from Brazil	6,682,597	7,612,206	9,058,916

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 B-19

Antidumping cases active in 1988, 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)

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action ²
				Commission	ITA ¹	ITA ¹	Commission	
Affirmative:								
731-TA-376	Stainless steel butt-weld pipe fittings	Japan	4/02/87	A	A	A	A	3/14/88
731-TA-377	Internal combustion engine fork-lift trucks	Japan	4/22/87	A	A	A	A	5/31/88
731-TA-378	Electrical conductor aluminum redraw rod	Venezuela	7/14/87	A	A	A	A	8/05/88
731-TA-379	Brass sheet and strip	Japan	7/20/87	A	A	A	A	7/29/88
731-TA-380	Brass sheet and strip	Netherlands	7/20/87	A	A	A	A	7/29/88
731-TA-384	Nitrile rubber	Japan	9/01/87	A	A	A	A	6/10/88
731-TA-385	Granular polytetrafluoroethylene resin	Italy	11/06/87	A	A	A	A	8/16/88
731-TA-386	Granular polytetrafluoroethylene resin	Japan	11/06/87	A	A	A	A	8/16/88
Negative:								
731-TA-381	Granite	Italy	7/28/87	A	A	A	N	8/11/88
731-TA-382	Granite	Spain	7/28/87	A	A	A	N	8/11/88
731-TA-383	Bimetallic cylinders	Japan	8/04/87	A	A	A	N	5/13/88
731-TA-387	Fabricated structural steel	Canada	1/11/88	N				2/25/88
731-TA-401	Thermostatically controlled appliance plugs	Hong Kong	4/15/88	A	N	N	(*)	12/13/88
731-TA-421	Shock absorbers and parts, components, and subassemblies	Brazil	8/09/88	N	(*)	(*)	(*)	9/23/88
Suspended:								
731-TA-374 ⁽³⁾	Potassium chloride	Canada	2/11/87	A	A	S	S	1/19/88
Terminated:								
731-TA-200	Radial ply tires	Korea	7/20/84	N	T	(*)	(*)	(*)
In Progress:⁴								
731-TA-167 ⁽⁵⁾	Table wine	France	1/27/84	A	(*)	(*)	(*)	(*)
731-TA-168 ⁽⁵⁾	Table wine	Italy	1/27/84	A	(*)	(*)	(*)	(*)
731-TA-388	All terrain vehicles	Japan	2/09/88	A	A	(*)	(*)	(*)
731-TA-389	Microdisks	Japan	2/26/88	A	A	(*)	(*)	(*)
731-TA-390	Digital readout systems	Japan	3/28/88	A	A	A	(*)	(*)
731-TA-391	Antifriction bearings	West Germany	3/31/88	A	A	(*)	(*)	(*)
731-TA-392	Antifriction bearings	France	3/31/88	A	A	(*)	(*)	(*)
731-TA-393	Antifriction bearings	Italy	3/31/88	A	A	(*)	(*)	(*)
731-TA-394	Antifriction bearings	Japan	3/31/88	A	A	(*)	(*)	(*)
731-TA-395	Antifriction bearings	Romania	3/31/88	A	A	(*)	(*)	(*)
731-TA-396	Antifriction bearings	Singapore	3/31/88	A	A	(*)	(*)	(*)
731-TA-397	Antifriction bearings	Sweden	3/31/88	A	A	(*)	(*)	(*)
731-TA-398	Antifriction bearings	Thailand	3/31/88	A	A	(*)	(*)	(*)
731-TA-399	Antifriction bearings	United Kingdom	3/31/88	A	A	(*)	(*)	(*)

See footnotes at end of table.

Table B-19—Continued

Antidumping cases active in 1988, 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)

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action ²
				Commission	ITA ¹	ITA ¹	Commission	
In Progress—Continued:								
731-TA-400	Thermostatically controlled appliance plugs	Canada	4/15/88	A	A	A	(*)	(*)
731-TA-402	Thermostatically controlled appliance plugs	Japan	4/15/88	A	A	A	(*)	(*)
731-TA-403	Thermostatically controlled appliance plugs	Malaysia	4/15/88	A	A	A	(*)	(*)
731-TA-404	Thermostatically controlled appliance plugs	Taiwan	4/15/88	A	A	A	(*)	(*)
731-TA-405	Sewn cloth headwear	China	5/26/88	A	A	(*)	(*)	(*)
731-TA-406	Electrolytic manganese dioxide	Greece	5/31/88	A	A	(*)	(*)	(*)
731-TA-407	Electrolytic manganese dioxide	Ireland	5/31/88	A	N	(*)	(*)	(*)
731-TA-408	Electrolytic manganese dioxide	Japan	5/31/88	A	A	(*)	(*)	(*)
731-TA-409	Light-walled rectangular pipe and tube	Argentina	6/06/88	A	A	(*)	(*)	(*)
731-TA-410	Light-walled rectangular pipe and tube	Taiwan	6/06/88	A	A	(*)	(*)	(*)
731-TA-411	Calcined bauxite proppants	Australia	6/14/88	A	A	(*)	(*)	(*)
731-TA-412	Industrial belts	Israel	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-413	Industrial belts	Italy	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-414	Industrial belts	Japan	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-415	Industrial belts	Singapore	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-416	Industrial belts	Korea	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-417	Industrial belts	Taiwan	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-418	Industrial belts	United Kingdom	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-419	Industrial belts	West Germany	6/30/88	A	(*)	(*)	(*)	(*)
731-TA-420	Certain steel wheels	Brazil	7/29/88	A	(*)	(*)	(*)	(*)
731-TA-422	New steel rails	Canada	9/26/88	A	(*)	(*)	(*)	(*)
731-TA-423	Generic cephalixin capsules	Canada	10/27/88	A	(*)	(*)	(*)	(*)
731-TA-424	Martial arts uniforms	Taiwan	11/15/88	A	(*)	(*)	(*)	(*)
731-TA-425	Hydrostatic transmissions and subassemblies	Japan	11/22/88	(*)	(*)	(*)	(*)	(*)
731-TA-426	Telephone systems, subassemblies	Japan	12/28/88	(*)	(*)	(*)	(*)	(*)
731-TA-427	Telephone systems, subassemblies	Korea	12/28/88	(*)	(*)	(*)	(*)	(*)
731-TA-428	Telephone systems, subassemblies	Taiwan	12/28/88	(*)	(*)	(*)	(*)	(*)

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 decision.

³ Effective January 19, 1988 the Department of Commerce terminated this investigation through a suspension agreement prior to final determination on the issue of price discrimination.

⁴ Not applicable.

⁵ The Commission's decisions in the above-referenced cases were pursuant to remand orders from the U.S. Court of International Trade.

⁶ One investigation involving 256K dynamic random access memory semiconductors from Japan remained suspended in 1988. For additional details on suspension arrangements in place throughout calendar year 1987, see the table immediately following.

Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table B-20
Antidumping orders and findings in effect as of Dec. 31, 1988

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Argentina:	
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:	
Disk wheels	May 28, 1987.
Orange juice	May 5, 1987.
Brass sheet and strip	Jan. 12, 1987.
Butt-weld pipe fittings	Dec. 7, 1986.
Pipe fittings	May 21, 1986.
Construction castings	May 9, 1986.
Canada:	
Color picture tubes	Jan. 7, 1988.
Fresh cut flowers	Mar. 18, 1987.
Brass sheet and strip	Jan. 12, 1987.
Oil country tubular goods	July 16, 1986.
Construction castings	Mar. 5, 1986.
Salted codfish	July 8, 1985.
Raspberries	June 24, 1985.
Choline chloride	Nov. 19, 1984.
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.
China:	
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.
Shop towels	Oct. 4, 1983.
Printcloth	Sept. 16, 1983.
Colombia: Fresh cut flowers	Mar. 18, 1987.
Dominican Republic: Portland cement	May 4, 1963.
East Germany: Urea	July 19, 1987.
Ecuador: Fresh cut flowers	Mar. 18, 1987.
Finland: Rayon staple fiber	Mar. 21, 1979.
France:	
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.
Rayon staple fiber	Mar. 21, 1979.
Large power transformers	June 14, 1972.
Hong Kong: Photo albums	Dec. 16, 1985.
Hungary: Tapered roller bearings	June 19, 1987.
India:	
Pipes and tubes	May 12, 1986.
Construction castings	May 9, 1986.
Iran: Pistachio nuts	July 17, 1986.
Israel:	
Phosphoric acid	Aug. 19, 1987.
Oil country tubular goods	Mar. 6, 1987.
Italy:	
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.

See footnote at end of table.

Table B-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1988

Country and commodity	Effective date of original action ¹
Italy—Continued:	
Spun acrylic yarn	Apr. 8, 1980.
Rayon staple fiber	June 13, 1979.
Pressure sensitive tape	Oct. 21, 1977.
Large power transformers	June 14, 1972.
Clear sheet glass	Dec. 9, 1971.
Japan:	
Granular polytetrafluoroethylene resin	Aug. 28, 1988.
Brass sheet and strip	Aug. 12, 1988.
Nitrile rubber	June 16, 1988.
Forklift trucks	June 7, 1988.
Color picture tubes	Jan. 7, 1988.
Tapered roller bearings over 4 inches	Oct. 6, 1987.
Filament fabric	Sept. 23, 1987.
Neoprene laminate	July 19, 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.
Calcium hypochlorite	Apr. 18, 1985.
Cell-site transceivers	Jan. 3, 1985.
Titanium sponge	Nov. 30, 1984.
Cyanuric acid and derivatives	Apr. 27, 1984.
Pagers	Aug. 16, 1983.
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. 18, 1978.
Impression fabric	May 25, 1978.
Swimming pools	Sept. 2, 1977.
Melamine	Feb. 2, 1977.
Acrylic sheet	Aug. 30, 1976.
Tapered roller bearings 4 inches and under	Aug. 17, 1976.
Birch 3-ply doorskins	Feb. 18, 1976.
Calcium pantothenate	Jan. 17, 1974.
Expanded metal	Jan. 16, 1974.
Polychloroprene rubber	Dec. 6, 1973.
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.
Ferrite cores	Mar. 13, 1971.
Television receiving sets	Mar. 10, 1971.
Tuners	Dec. 12, 1970.
Kenya: Standard carnations	Apr. 23, 1987.
Korea:	
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:	
Fresh cut flowers	Apr. 23, 1987.
Cookware	Dec. 2, 1986.
Elemental sulphur	June 28, 1972.
Netherlands:	
Brass sheet and strip	Aug. 12, 1988.
Animal glue	Dec. 22, 1977.
New Zealand: Brazing copper wire and rod	
	Dec. 4, 1985.
Romania:	
Urea	July 4, 1987.
Tapered roller bearings	June 19, 1987.
Singapore:	
Color picture tubes	Jan. 7, 1988.
Rectangular pipes and tubes	Nov. 14, 1986.
South Africa: Brazing copper wire rod	
	Jan. 29, 1986.
Spain: Potassium permanganate	
	Jan. 19, 1984.
Sweden:	
Seamless stainless steel hollow products	Dec. 3, 1987.

See footnote at end of table.

Table B-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1988

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Sweden—Continued:	
Brass sheet and strip	Mar. 6, 1987.
Staples	Dec. 20, 1983.
Staplers	Dec. 20, 1983.
Animal glue	Dec. 22, 1977.
Stainless steel plate	June 8, 1973.
Taiwan:	
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.
Polyvinylchloride sheet and film	June 30, 1978.
Clear sheet glass	Aug. 21, 1971.
Thailand:	
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:	
Crankshafts	Sept. 21, 1987.
Diamond tips	Apr. 1, 1972.
U.S.S.R.:	
Urea	July 14, 1987.
Titanium sponge	Aug. 28, 1968.
Venezuela: Electrical conductor redraw rods	Aug. 22, 1988.
West Germany:	
Crankshafts	Sept. 23, 1987.
Brass sheet and strip	Mar. 6, 1977.
Barium carbonate	June 25, 1981.
Sugar	June 13, 1979.
Animal glue	Dec. 22, 1977.
Drycleaning machinery	Nov. 2, 1972.
Yugoslavia:	
Tapered roller bearings	Aug. 14, 1987.
Animal glue	Dec. 22, 1977.
Revocations in 1988: None	
Suspension agreements in effect:	
Canada:	
Potassium chloride	Jan. 19, 1988.
Sheet piling	Sept. 14, 1982.
Hungary: Truck trailer axles	Jan. 4, 1982.
Japan:	
Erasable programmable read-only memory chips	Aug. 1, 1986.
265K dynamic random access memory chips	Aug. 1, 1986.
Small motors	Nov. 6, 1980.

¹ The U.S. Department of Commerce conducts a periodic review of outstanding antidumping duty orders and suspension agreements, upon request, to determine if the amount of the net margin of underselling has changed. If a change has occurred, the imposed antidumping duties are adjusted accordingly. The results of the periodic review must be published together with a formal notice of any antidumping duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

Source: U.S. Department of Commerce, International Trade Administration.

Table B-21
 Countervailing cases active in 1988, filed under authority of sec. 303 or 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)

USITC Investigation No.	Product	Country of origin	Date original petition filed ¹	Preliminary determination		Final determination		Date of final action ⁹
				Commission	ITA ²	ITA ²	Commission	
Affirmative:								
(4)	Carbon steel wire rod	Malaysia	9/30/87	(5)	A	A	(5)	4/22/88
(4)	Welded carbon steel pipe and tube products	Argentina	4/25/88	(5)	A	A	(5)	9/27/88
701-TA-287	Electrical conductor aluminum redraw rod	Venezuela	7/14/87	A	A	A	A	8/05/88
Negative:								
(4)	Carbon steel wire rod	Singapore	11/18/87	(5)	N	N	(5)	5/06/88
(4)	Welded carbon steel pipe and tube products	Malaysia	6/17/88	(5)	A	N	(5)	11/21/88
701-TA-288	Granite	Italy	7/28/87	A	N	N	(5)	7/19/88
701-TA-289	Granite	Spain	7/28/87	A	A	A	N	8/11/88
701-TA-290	Thermostatically controlled appliance plugs	Canada	4/15/88	A	N	N	(5)	12/13/88
701-TA-291	Thermostatically controlled appliance plugs	Malaysia	4/15/88	A	N	N	(5)	12/13/88
Terminated:								
(4)	Circular welded carbon steel pipe and tube	Iran	8/24/87	(5)	A	T	(5)	1/08/88
In Progress:⁹								
(4)	Carbon steel wire rod	Zimbabwe	3/31/86	(5)	A	(5)	(5)	(5)
(4)	Malleable iron pipe fittings	Thailand	9/23/88	(5)	A	(5)	(5)	(5)
701-TA-210 ⁶	Table wine	France	1/27/84	A	(5)	(5)	(5)	(5)
701-TA-211 ⁶	Table wine	Italy	1/27/84	A	(5)	(5)	(5)	(5)
701-TA-292	Thermostatically controlled appliance plugs	Taiwan	4/15/88	A	A	A	(5)	(5)
701-TA-293	Industrial belts	Israel	6/30/88	A	A	(5)	(5)	(5)
701-TA-294	Industrial belts	Singapore	6/30/88	A	N	(5)	(5)	(5)
701-TA-295	Industrial belts	Korea	6/30/88	A	A	(5)	(5)	(5)
701-TA-296	Steel wheels	Brazil	7/29/88	A	A	(5)	(5)	(5)
701-TA-297	New steel rails	Canada	9/26/88	A	(5)	(5)	(5)	(5)
303-TA-19 ⁷	Antifriction bearings	Singapore	3/31/88	A	A	(5)	(5)	(5)
303-TA-20 ⁷	Antifriction bearings	Thailand	3/31/88	A	A	(5)	(5)	(5)

¹ 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.

² U.S. Department of Commerce, International Trade Administration (ITA).

³ For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.

⁴ 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.

⁵ Not applicable.

⁶ The Commission's decisions in the above-referenced cases were pursuant to remand orders from the U.S. Court of International Trade.

⁷ 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).

⁹ Twelve investigations covering a variety of products remained suspended in 1988 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1988, see the table immediately following.

Notes—Continued

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 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 B-22
Countervailing duty orders and findings in effect as of Dec. 31, 1988

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Argentina:	
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. 17, 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.
Scissors and shears	Feb. 11, 1977.
Certain castor oil products	Mar. 16, 1976.
Canada:	
Standard carnations	Mar. 12, 1987.
Oil country tubular goods	Jun. 16, 1986.
Groundfish	May 15, 1986.
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.
Nitrocellulose	Mar. 22, 1983.
India:	
Certain iron-metal castings	Oct. 6, 1980.
Certain fasteners	July 21, 1980.
Iran:	
Roasted pistachios	Oct. 7, 1986.
Pistachios (nonroasted)	Apr. 11, 1986.
Israel:	
Industrial phosphoric acid	Aug. 19, 1987.
Oil country tubular goods	Mar. 6, 1987.
Fresh cut roses	Sept. 4, 1980.
Italy: Forged undercarriages	Jan. 4, 1984.
Korea:	
Stainless steel cookware	Jan. 20, 1987.
Offshore platforms	May 21, 1986.
Mexico:	
Porcelain cookware	Dec. 12, 1986.
Textile mill products	Mar. 18, 1985.
Auto glass	Jan. 14, 1985.
Lime	Sept. 11, 1984.
Bars, rebars, and shapes	Aug. 17, 1984.
Bricks	May 8, 1984.
Portland hydraulic cement and cement clinker	Sept. 21, 1983.
Carbon black	June 20, 1983.
Iron-metal castings	Mar. 2, 1983.
Toy balloons and playballs	Dec. 27, 1982.
Litharge, red lead, and lead stabilizers	Dec. 6, 1982.
Ceramic tile	May 10, 1982.
Leather wearing apparel	Apr. 10, 1981.
Netherlands: Standard chrysanthemums	Mar. 12, 1987.
New Zealand:	
Steel wire nails	Oct. 5, 1987.
Steel wire	Aug. 5, 1987.
Copper rod and wire	Aug. 5, 1987.
Carbon steel wire rod	Apr. 7, 1986.
Lamb meat	Sept. 17, 1985.
Copper rod and wire	Aug. 5, 1985.
Pakistan: Cotton shop towels	Mar. 9, 1984.
Peru:	
Pompom chrysanthemums	Apr. 23, 1987.
Rebars	Nov. 27, 1985.
Textiles and apparel	Mar. 12, 1985.
Cotton sheeting and sateen	Feb. 1, 1983.
Cotton yarn	Feb. 1, 1983.
Saudi Arabia: Carbon steel wire rod	Feb. 3, 1986.
South Africa: Ferrochrome	Mar. 11, 1981.

See footnotes at end of table.

Table B-22—Continued
Countervailing duty orders and findings in effect as of Dec. 31, 1988

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Spain:	
Stainless steel wire rod	Jan. 3, 1983.
Footwear	Jan. 17, 1979.
Sri Lanka: Textiles and apparel	Mar. 12, 1985.
Sweden:	
Certain carbon steel	Oct. 11, 1985.
Viscose rayon staple fiber	May 15, 1979.
Taiwan: Stainless steel cookware	Jan. 20, 1987.
Thailand:	
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. 25, 1987.
Pipes and tube	Apr. 7, 1986.
Uruguay: Leather wearing apparel	July 17, 1982.
Venezuela: Electrical conductor redraw rods	Aug. 22, 1988.
Zimbabwe: Wire rod	Aug. 15, 1987.
Revocations in 1988:	
Philippines: Canned tuna	Oct. 30, 1983.
Suspension agreements in effect:	
Argentina: Carbon steel wire rod	Sept. 27, 1982.
Brazil:	
Forged crankshafts	July 28, 1987.
Orange juice	Mar. 4, 1983.
Canada: Red raspberries	Jan. 9, 1986.
Colombia:	
Miniature carnations	Jan. 13, 1987.
Textiles and apparel	Mar. 12, 1985.
Cut flowers	Jan. 12, 1983.
Leather wearing apparel	Apr. 2, 1981.
Costa Rica:	
Fresh cut flowers	Jan. 3, 1987.
Cement	Dec. 4, 1984.
Mexico:	
Float glass	Feb. 28, 1984.
Polypropylene yarn	Feb. 7, 1983.
Polypropylene film	Dec. 7, 1982.
Pectin	Dec. 7, 1982.
Peru: Shop towels	Sept. 12, 1984.
Singapore: Compressors	Nov. 7, 1983.
Thailand: Textiles	Mar. 12, 1985.

¹ The U.S. Department of Commerce conducts a periodic review of outstanding countervailing duty orders and suspension agreements, upon request, to determine if the amount of the net subsidy has changed. If a change has occurred, the imposed countervailing duties are adjusted accordingly.

² Includes Belgium, Denmark, France, Ireland, Italy, the United Kingdom, West Germany, Luxembourg, the Netherlands, and Greece.

Source: U.S. Department of Commerce, International Trade Administration.

Table B-23
 Sec. 337 Investigations completed by the U.S. International Trade Commission during 1988 and those pending on Dec. 31, 1988

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
Completed:			
337-TA-228	Fans with Brushless DC Motors	Japan	Issued Limited exclusion order.
337-TA-237	Miniature Hacksaws	Taiwan, Hong Kong	Advisory Opinion, article in question does not infringe exclusion order.
337-TA-253	Electrically Resistive Monocomponent Toner & Black Powder Preparation Thereof	Japan	No violation.
337-TA-261	Ink Jet Printers	Japan	Terminated on basis of settlement agreement.
337-TA-264	Mail Extraction Desks	Federal Republic of Germany	Complaint withdrawn.
337-TA-266	Certain Reclosable Plastic Bags	Singapore, Taiwan, Korea Thailand, Hong Kong, Malaysia	Issued general exclusion order.
337-TA-267	Minoxidil Power, Salts	Austria, Canada, Finland, Italy, Mexico, Switzerland	Issued general exclusion order.
337-TA-268	Retroreflective Sheeting	Japan	Issued limited exclusion order and cease and desist order.
337-TA-270	Tonometers	Japan, The United Kingdom	No violation.
337-TA-271	Buoyant Metallized Balloons	South Korea	Terminated with prejudice.
337-TA-273	Cellular Mobile Telephones	Canada, South Korea, Hong Kong	Terminated on basis of consent order.
337-TA-274	Toggle Clamps	Taiwan	Terminated on basis of settlement agreements and consent orders.
337-TA-275	Glass Filters	The Netherlands	Issued a limited exclusion order.
337-TA-277	Marine Automatic Pilots	None named in notice	Terminated on basis of settlement agreement.
337-TA-278	Thermostats	Hong Kong	Terminated on basis of consent order.
337-TA-280	Catalysts	Denmark	Terminated on basis of settlement agreement.
Pending:			
337-TA-190	Softballs	Taiwan	Pending before Commission (on remand).
337-TA-240	Laser Inscribed Diamonds	Israel	Pending enforcement proceeding.
337-TA-242	Dynamic Random Access Memories	Japan	Pending before ALJ (on partial remand).
337-TA-256	Cryogenic ultramicrotome apparatus	Austria, England	Investigation suspended during pendency of patent reexamination proceeding at U.S. Patent and Trademark Office.
337-TA-266	Plastic Bags	Singapore, Taiwan, Korea Thailand, Hong Kong, Malaysia	Advisory opinion proceeding pending before ALJ.
337-TA-276	Erasable Programmable Read Only Memories	Korea	Pending before Commission.
337-TA-279	Screw Anchors	Taiwan	Pending before Commission.
337-TA-281	Recombinant Erythropoietin	Japan	Pending before Commission.
337-TA-282	Venetian Blinds Components	Taiwan	Pending before Commission
337-TA-283	Electronic Dart Games	None named in notice	Pending before ALJ.
337-TA-284	Electric Power Tools, Battery Cartridges	Taiwan	Pending before ALJ.
337-TA-285	Chemiluminescent Compositions and Components	France	Pending before ALJ.
337-TA-286	Track Lighting	Taiwan	Pending before ALJ.
337-TA-287	Strip Lights	Taiwan	Pending before ALJ.
337-TA-288	Straight Knife Cutting Machines	Taiwan	Pending before ALJ.
337-TA-289	Concealed Cabinet Hinges & Mounting Plates	Korea, Taiwan, Italy	Pending before ALJ.

Table B-24
Outstanding sec. 337 exclusion orders as of Dec. 31, 1988

<i>Investigation No.</i>	<i>Article</i>	<i>Country</i>	<i>Date patent expires</i>
337-TA-2	Certain Convertible Game Tables and Components Thereof	None named in notice; imports from Taiwan	Jan. 16, 1990
337-TA-24	Certain Exercising Devices	Hong Kong, Taiwan, Singapore	July 3, 1990
337-TA-30	Certain Display Devices for Photographs and the Like	Hong Kong, Japan	Nov. 27, 1990
337-TA-39	Certain Luggage Products	Taiwan, Korea	Nov. 2, 1990
337-TA-42	Certain Electric Slow Cookers	Japan, Hong Kong	Apr. 29, 1992
337-TA-44	Certain Roller Units	Korea, Taiwan	May 29, 1994
337-TA-47	Certain Flexible Foam Sandals	Taiwan	Sept. 7, 1993
337-TA-55	Certain Novelty Glasses	Hong Kong	Nonpatent
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	Nonpatent
337-TA-74	Certain Rotatable Photograph and Card Display Units and Components Thereof	Hong Kong	Feb. 12, 1991
337-TA-83	Certain Adjustable Window Shades and Components Thereof	Taiwan	Feb. 8, 1994
337-TA-87	Certain Coin-Operated Audio-Visual Games and Components Thereof	Japan	Nonpatent
337-TA-88	Certain Spring Assemblies and Components Thereof, Methods of Their Manufacture	Canada	Jan. 19, 1991 Feb. 19, 1992
337-TA-90	Certain Airless Paint Spray Pumps	Italy	Nov. 30, 1993
337-TA-105	Certain Coin-Operated Audio Visual Games and Components Thereof	Japan, Taiwan	Nonpatent
337-TA-112	Certain Cube Puzzles	Taiwan, Japan, Canada	Nonpatent
337-TA-114	Certain Miniature Plug-In Blade Fuses	Taiwan	Sept. 30, 1992; Aug. 9, 1994; Nov. 8, 1994; Dec. 26, 1995.
337-TA-118	Certain Sneakers With Fabric Uppers and Rubber Soles	Korea	Nonpatent
337-TA-120	Certain Silica-Coated Lead Chromate Pigments	Japan	Feb. 1, 1989
337-TA-137	Certain Heavy-Duty Staple Gun Tackers	Taiwan	Nonpatent
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 17, 1998
337-TA-143	Certain Amorphous Metal Alloys and Amorphous Metal Articles	Japan, West Germany	Sept. 9, 1997
337-TA-146	Certain Canape Makers	Taiwan	Mar. 28, 1997
337-TA-152	Certain Plastic Food Storage Containers	Hong Kong, Taiwan	Nonpatent
337-TA-161	Certain Trolley Wheel Assemblies	Korea	Aug. 29, 1995
337-TA-167	Certain Single Handle Faucets	Taiwan	Nonpatent
337-TA-169 /148	Certain Sausage Casings	Spain	Nonpatent (Exp.11/26/94)
337-TA-170	Certain Bag Closure Clips	Israel	Nov. 22, 1999; July 26, 2000.
337-TA-171	Certain Glass Tempering Systems	Finland	Nov. 30, 1993
337-TA-174	Certain Woodworking Machines	Taiwan, South Africa	Aug. 28, 1990 Nov. 13, 1996 Mar. 13, 2001
337-TA-184	Certain Foam Earplugs	West Germany, Sweden, Japan	May 21, 1991
337-TA-194	Certain Aramid Fibers	Netherlands	Oct. 23, 1990
337-TA-195	Certain Cloisonne Jewelry	Taiwan	Nonpatent
337-TA-196	Certain Apparatus For Installing Electrical Lines and Components Thereof	Canada	Oct. 10, 1989

Table B-24—Continued
 Outstanding sec. 337 exclusion orders as of Dec. 31, 1988

Investigation No.	Article	Country	Date patent expires
337-TA-197 ..	Certain Compound Action Metal Cutting Snips and Components Thereof	Taiwan	Nonpatent
337-TA-225 ..	Certain Multilevel Touch Control Lighting Switches	Hong Kong, Taiwan,	Feb. 6, 1990
		Canada	
337-TA-228 ..	Certain Fans w/Brushless DC Motors	Taiwan, Hong Kong	Jan. 15, 2002
337-TA-229 ..	Certain Nut Jewelry and Parts Thereof	Philippines, Taiwan	Nonpatent
337-TA-231 ..	Certain Soft Sculpture Dolls, Popularly Known as "Cabbage Patch Kids," Related	None Named in Notice	Nonpatent
	Literature, and Packaging Thereof		
337-TA-237 ..	Certain Miniature Hacksaws	Taiwan, Hong Kong	Sept. 4, 1990
337-TA-242 ..	Certain Dynamic Random Access Memory Chips, Components Thereof, and Products ..	Japan	Feb. 13, 1990
	Containing Same		Feb. 24, 1993
			Mar. 28, 1995
			Aug. 6, 2002
			Sept. 24, 2002
337-TA-260 ..	Certain Feathered Fur Coats and Pelts	Korea, Greece, China	Sept. 23, 1990
337-TA-266 ..	Certain Plastic Film With Profiles and Opening Means for Bags	Singapore, Taiwan,	Dec. 26, 1990
		Korea, Thailand,	
		Hong Kong, Malaysia	
337-TA-267 ..	Certain Minoxidil Powder, Salts	Austria, Canada,	Feb. 13, 1996
		Finland, Italy, Mexico,	June 24, 2003
		Switzerland	
337-TA-268 ..	Certain Retroreflective Sheeting	Japan	May 24, 1994
337-TA-275 ..	Certain Gas Filters	The Netherlands	Nov. 1, 1994

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table B-25

U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1988

Rank	TSUS Item No.	Description	GSP-eligible			Duty-free under GSP		Leading GSP source	Mandatory competitive- need and discretionary exclusions
			Total U.S. Imports for consumption	Value	Share of total U.S. Imports	Value	Share of total eligible Imports		
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		
1	685.90	Switchboards panels	3,710,303	1,564,348	42.2	389,674	24.9	Hong Kong	985,948
2	661.20	Air-conditioning machines	724,030	416,536	57.5	297,708	71.5	Korea	109,870
3	684.58	Telephone sets and other terminal equipment and parts thereof	1,148,879	629,269	54.8	289,590	46.0	Singapore	288,096
4	727.35	Furniture, wood n.s.p.f.	1,503,450	755,292	50.2	281,926	37.3	Mexico	434,596
5	676.15	Accounting, computing, and other data processing machines	2,969,007	1,601,215	53.9	266,223	16.6	Singapore	1,006,973
6	774.58	Articles of rubber	1,467,524	573,484	39.1	218,824	38.2	Hong Kong	301,453
7	155.20	Sugar, syrup, molasses	437,666	394,473	90.1	218,446	55.4	Philippines	79,587
8	678.50	Machines, n.e.s.	4,804,896	1,812,667	37.7	200,476	11.1	Singapore	1,548,623
9	737.93	Toys having an electric motor	290,924	216,640	74.5	188,768	87.1	Hong Kong	20,774
10	685.24	Other transceivers	416,239	200,496	48.2	186,723	93.1	Singapore	0
11	685.73	Bells, sirens, indicator panels	714,628	316,671	44.3	176,198	55.6	Taiwan	38,777
12	685.25	Cordless handset telephones	394,381	310,752	78.8	173,908	56.0	Hong Kong	135,513
13	740.14	Jewelry, n.e.s., of precious metal	1,300,478	411,519	31.6	165,427	40.2	Israel	204,162
14	534.94	Nonbone chinaware or subporcelain	272,214	171,262	62.9	161,368	94.2	Taiwan	0
15	712.49	Electrical measuring instruments	2,088,665	315,668	15.1	158,438	50.2	Taiwan	0
16	682.60	Generator, motor	2,424,247	1,067,869	44.0	156,882	14.7	Singapore	790,627
17	657.25	Articles of iron or steel	843,401	324,680	38.5	153,115	47.2	Korea	146,241
18	683.32	Electro-mechanical appliances	428,723	264,059	61.6	145,135	55.0	Taiwan	85,071
19	724.45	Magnetic recording media	1,346,755	454,503	33.7	143,380	31.5	Hong Kong	299,513
20	618.25	Bars, plates, sheets	866,197	168,364	19.4	135,354	80.4	Brazil	0
21	688.04	Insulated electrical conductors	292,153	143,859	49.2	133,652	92.9	Mexico	0
22	685.39	Telephone answering machines	372,134	260,086	69.9	130,615	50.2	Singapore	127,674
23	740.15	Jewelry, n.s.p.f.	467,810	391,024	83.6	129,776	33.2	Thailand	221,374
24	680.17	Taps, cocks, valves, etc., of iron or steel	321,949	138,114	42.9	129,188	93.5	Korea	0
25	791.27	Leather, other than patent	160,206	155,003	96.8	124,326	80.2	Dominican Republic	14,298
26	705.82	Surgical medical supplies	391,759	279,081	71.2	120,178	43.1	Malaysia	145,680
27	737.96	Toys wholly or almost wholly of rubber or plastics, not inflatable	418,024	251,016	60.0	119,561	47.6	Taiwan	99,228
28	534.87	Earthenware or stone	206,381	123,673	59.9	116,818	94.5	Taiwan	0
29	727.11	Furniture, and parts thereof	170,552	135,230	79.3	107,280	79.3	Philippines	20,914
30	771.43	Flexible film, strips	692,966	212,795	30.7	107,238	50.4	Korea	97,429
31	121.61	Bovine leather, not fancy	256,984	191,671	74.6	106,807	55.7	Brazil	82,057
32	661.10	Compressors and parts	816,950	126,508	15.5	105,063	83.0	Brazil	0
33	685.14	Entertainment broadcast band receivers	565,338	281,431	49.8	104,799	37.2	Singapore	165,489
34	772.51	Pneumatic tires, n.e.s.	2,270,447	439,908	19.4	102,766	23.4	Mexico	323,289
35	252.75	Writing paper, < 9 lbs. per ream	209,849	102,683	48.9	101,464	98.8	Mexico	0
36	727.70	Other furniture n.e.s.	1,163,086	450,110	38.7	101,317	22.5	Mexico	339,309
37	684.15	Electric flatirons, other	110,637	100,305	90.7	99,962	99.7	Singapore	0
38	676.25	Adding machines, other	134,080	102,417	76.4	99,056	96.7	Taiwan	0

See footnote at end of table.

Table B-25—Continued

U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1988

Rank	TSUS Item No.	Description	Total U.S. Imports for consumption	GSP-eligible		Duty-free under GSP		Leading GSP source	Mandatory competitive-need and discretionary exclusions
				Value	Share of total U.S. Imports	Value	Share of total eligible imports		
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent	1,000 dollars	
39	709.27	Medical & surgical equipment, other ...	343,568	188,245	54.8	96,633	51.3	Singapore	0
40	734.20	Game machines	1,490,849	231,601	15.5	95,370	41.2	Hong Kong	99,461
41	740.70	Chains etc. of precious metals	100,283	99,079	98.8	94,204	95.1	Peru	0
42	692.32	Parts of motor n.s.p.f.	7,203,823	1,471,445	20.4	94,104	6.4	Venezuela	1,368,042
43	685.60	Radio navigation apparatus & parts	404,452	138,885	34.3	88,767	63.9	Korea	0
44	661.35	Refrigerating equipment	419,999	153,749	36.6	86,734	56.4	Mexico	55,136
45	737.30	Stuffed toy animals	553,240	404,064	73.0	86,555	21.4	Taiwan	304,693
46	256.95	Articles, of pulp, of paper	182,510	96,619	52.9	86,243	89.3	Mexico	0
47	737.18 ¹	Stuffed dolls	148,428	93,931	63.3	85,207	90.7	Taiwan	4,172
48	734.77	Golf equipment n.s.p.f.	282,839	226,317	80.0	83,837	37.0	Taiwan	115,662
49	183.05	Edible preparations	232,577	84,826	36.5	81,652	96.3	Korea	0
50	737.40	Toy animals etc. n.s.p.f.	173,709	85,567	49.3	79,453	92.9	Taiwan	0
Total, above items			48,710,189	19,129,009	39.2	7,206,188	37.4		10,059,731
Total, all GSP items			153,371,946	49,954,885	32.6	18,353,627	36.7		25,854,721

¹ Prior to July 1, 1988, trade for TSUS item 737.18 was reported under 737.23.

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 B-26

U.S. Imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard International Trade Classification (SITC), 1988

SITC No.	Description	GSP-eligible			Duty-free under GSP			Mandatory competitive-need and discretionary exclusions
		Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	Share of total eligible imports	Leading GSP source	
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars	
00	Live animals chiefly for food	753	(¹)	(¹)	(¹)	(¹)	(¹)	
01	Meat and meat preparations	2,735	87	3.2	83	95.7	Brazil	
02	Dairy products and birds' eggs	389	3	0.7	2	67.7	Taiwan	
03	Fish, crustaceans and molluscs	5,301	142	2.7	103	72.8	Mexico	
04	Cereals and cereal preparation	718	14	1.9	8	59.5	Mexico	
05	Vegetables and fruit	4,406	645	14.6	163	25.2	Mexico	
06	Sugar, sugar preparations and honey	848	532	62.7	325	61.2	Philippines	
07	Coffee, tea, cocoa, spices	3,969	76	1.9	72	94.6	Brazil	
08	Feeding stuff for animals	266	2	0.9	1	49.4	Argentina	
09	Miscellaneous edible products	428	142	33.2	134	94.1	Korea	
11	Beverages	3,311	276	8.3	78	28.5	Mexico	
12	Tobacco and tobacco manufactures	643	68	10.6	29	43.0	Mexico	
21	Hides, skins and furskins, raw	256	(²)	(²)	(²)	100.0	Dominican Republic	
22	Oil seeds and oleaginous fruit	94	(²)	0.3	(²)	44.4	Turkey	
23	Crude rubber (including synthetic)	1,448	(²)	0.0	(²)	100.0	Mexico	
24	Cork and wood	3,260	(²)	0.0	(²)	92.9	Mexico	
25	Pulp and waste paper	2,635	(¹)	(¹)	(¹)	(¹)	(¹)	
26	Textile fibres and their waste	656	6	0.9	5	92.0	Uruguay	
27	Crude fertilizers and crude minerals	890	52	5.9	29	55.7	Mexico	
28	Metalliferous ores and metal stones	2,942	105	3.6	48	45.4	Mexico	
29	Crude animal and vegetable materials	1,173	257	21.9	108	42.2	Colombia	
32	Coal, coke and briquettes	341	5	1.6	5	100.0	Yugoslavia	
33	Petroleum, petroleum products	36,695	2	(³)	2	99.2	Argentina	
34	Gas, natural and manufactured	2,575	(¹)	(¹)	(¹)	(¹)	(¹)	
40	Special U.N. category	31	(¹)	(¹)	(¹)	(¹)	(¹)	
41	Animal oils and fats	15	(²)	2.3	(²)	83.9	Brazil	
42	Fixed vegetable oils and fats	717	43	6.0	39	91.0	Brazil	
43	Animal and vegetable oils and fats	41	6	15.7	6	92.5	Philippines	
51	Organic chemicals	5,806	431	7.4	337	78.2	Mexico	
52	Inorganic chemicals	3,365	133	3.9	79	59.9	Mexico	
53	Dyeing, tanning and coloring	1,024	50	4.9	24	46.8	Mexico	
54	Medicinal and pharmaceutical products	2,784	257	9.2	42	16.3	Mexico	
55	Essential oils and perfume materials	1,145	134	11.7	112	83.6	Mexico	
56	Fertilizers, manufactured	1,020	(¹)	(¹)	(¹)	(¹)	(¹)	
57	Explosives and pyrotechnic products	114	19	16.8	4	21.4	Israel	
58	Artificial resins and plastic	2,298	516	22.4	261	50.6	Mexico	
59	Chemical materials and product	1,543	165	10.7	135	81.7	Brazil	
61	Leather, leather manufactures	1,317	731	55.5	434	59.4	Brazil	
62	Rubber manufactures, n.e.s	3,217	691	21.5	227	32.8	Mexico	
63	Cork and wood manufactures	2,213	705	31.8	337	47.8	Mexico	
64	Paper, paperboard, and articles	8,423	646	7.7	439	68.0	Mexico	
65	Textile yarn, fabrics, made-up	5,862	210	3.6	104	49.5	Korea	

See footnotes at end of table.

Table B-26 —Continued

U.S. imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard International Trade Classification (SITC), 1988

SITC No.	Description	Total U.S. imports for consumption	GSP-eligible		Duty-free under GSP			Mandatory competitive-need and discretionary exclusions
			Value	Share of total U.S. imports	Value	Share of total eligible imports	Leading GSP source	
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent		Millions of dollars
66	Non-metallic mineral manufactures	10,219	1,002	9.8	764	76.2	Taiwan	155
67	Iron and steel	11,329	310	2.7	151	48.8	Mexico	138
68	Non-ferrous metals	10,010	947	9.5	443	46.8	Mexico	286
69	Manufactures of metal, n.e.s.	9,087	2,617	28.8	1,243	47.5	Taiwan	1,139
71	Power generating machinery	11,056	1,759	15.9	384	21.8	Korea	1,187
72	Machinery specialized	13,130	724	5.5	296	40.9	Taiwan	333
73	Metalworking machinery	3,391	274	8.1	128	46.5	Brazil	133
74	General industrial machinery	12,008	2,221	18.5	1,099	49.5	Taiwan	857
75	Office machines and automatic data processing	22,529	3,829	17.0	528	13.8	Singapore	2,619
76	Telecommunications and sound	21,085	5,841	27.7	1,709	29.3	Singapore	3,529
77	Electrical machinery, apparatus	30,859	8,113	26.3	2,151	26.5	Taiwan	4,850
78	Road vehicles	75,856	1,596	2.1	164	10.3	Taiwan	1,401
79	Other transport equipment	6,320	271	4.3	96	35.2	Taiwan	136
81	Sanitary, plumbing, heating	850	612	72.0	180	29.5	Korea	407
82	Furniture and parts thereof	4,782	2,151	45.0	702	32.7	Mexico	1,377
83	Travel goods, handbags	1,909	44	2.3	28	59.6	Korea	15
84	Articles of apparel and clothing	21,586	985	4.6	422	42.9	Malaysia	520
85	Footwear	8,021	19	0.2	9	44.9	Taiwan	10
87	Professional, scientific, equipment	5,145	1,037	20.2	506	48.8	Taiwan	63
88	Photographic apparatus, equipment	5,894	726	12.3	304	41.9	Korea	319
89	Miscellaneous manufactures articles	21,011	7,682	36.6	3,244	42.2	Taiwan	3,808
93	Special transactions, n.e.s.	10,710	7	0.1	6	91.8	Mexico	0
94	Animals, live, n.e.s.	47	9	19.1	9	95.6	Indonesia	0
95	Armaments	375	30	8.0	12	39.8	Israel	0
97	Gold	1,242	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)
Total, above items		436,117	49,955	11.5	18,354	36.7	Taiwan	25,855

¹ Not applicable.² Less than \$500,000.³ Less than 0.5 percent.

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 B-27-

U.S. Imports for consumption and Imports eligible for GSP treatment, by import categories based on the Standard Industrial Classification (SIC), 1988

SIC No.	Description	Total U.S. Imports for consumption	GSP-eligible		Duty-free under GSP		Mandatory competitive-need and discretionary exclusions
			Value	Share of total U.S. Imports	Value	Share of total eligible imports	
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars
01	Agricultural products	6,968	637	9.1	153	24.0	Mexico 375
02	Livestock and livestock products	1,238	11	0.9	10	90.0	Indonesia 0
08	Forestry products, n.s.p.f	1,235	(¹)	(²)	(¹)	100.0	Brazil 0
09	Fish, fresh, chilled, or frozen	4,707	118	2.5	77	65.3	Mexico 0
10	Metallic ores and concentrates	1,278	33	2.6	11	33.2	Bolivia 0
12	Coal and lignite	64	(³)	(³)	(³)	(³)	(³)
13	Crude petroleum and natural gas	26,770	(³)	(³)	(³)	(³)	(³)
14	Nonmetallic minerals, except fuel	2,114	49	2.3	26	52.6	Mexico 17
20	Food and kindred products	13,689	1,488	10.9	898	60.4	Mexico 366
21	Tobacco manufactures	86	41	47.6	13	32.4	Dominican Republic 0
22	Textile mill products	4,456	132	3.0	77	58.0	India 44
23	Apparel and related products	22,157	598	2.7	199	33.4	Korea 376
24	Lumber and wood products	5,906	970	16.4	529	54.5	Mexico 400
25	Furniture and fixtures	4,720	2,217	47.0	648	29.2	Mexico 1,502
26	Paper and allied products	11,041	679	6.1	409	60.2	Mexico 237
27	Printing, publishing products	1,687	114	6.7	87	85.0	Taiwan 3
28	Chemicals and allied products	20,479	1,320	6.4	805	61.0	Mexico 322
29	Petroleum refining and related products	10,364	1	(²)	1	89.7	Venezuela 0
30	Rubber and miscellaneous plastics	7,756	2,502	32.3	989	39.5	Korea 1,358
31	Leather and leather products	10,948	803	7.3	468	58.2	Brazil 296
32	Stone, clay, glass, and concrete	5,963	1,137	19.1	794	69.8	Taiwan 280
33	Primary metal products	24,004	1,864	7.8	792	42.5	Mexico 794
34	Fabricated metal products	10,553	3,036	28.8	1,292	42.6	Korea 1,415
35	Machinery, except electrical	53,168	7,262	13.7	2,065	28.4	Taiwan 4,082
36	Electrical and electronic machinery	52,133	14,459	27.7	4,052	28.0	Singapore 8,797
37	Transportation equipment	86,385	2,430	2.8	295	12.1	Taiwan 2,074
38	Scientific and professional instruments	15,461	2,153	13.9	952	44.2	Taiwan 465
39	Miscellaneous manufactured products	16,665	5,793	34.8	2,659	45.9	Taiwan 2,649
99	Other imports	14,125	111	0.8	44	39.6	Mexico 1
Total		436,117	49,955	11.8	18,354	36.7	Taiwan 25,855

¹ Less than \$500,000.

² Less than 0.05 percent.

³ Not applicable.

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

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

Table B-28

U.S. Imports for consumption from the Caribbean Basin, designated and nondesignated countries under the CBERA, 1984-88

(Customs-value basis, in thousands of dollars)

Country	1984	1985	1986	1987	1988
Designated:					
Antigua	7,898	24,695	11,849	8,621	6,893
Aruba	(¹)	(¹)	1,797	2,452	647
Bahamas	1,154,282	626,084	440,985	377,881	268,328
Barbados	252,598	202,194	108,991	59,110	51,413
Belize	42,843	46,951	50,181	42,906	52,049
British Virgin Islands	1,335	11,902	5,904	11,162	684
Costa Rica	468,633	489,294	646,508	670,953	777,797
Dominica	86	14,161	15,185	10,307	8,530
Dominican Republic	994,427	965,847	1,058,927	1,144,211	1,425,371
El Salvador	381,391	395,658	371,761	272,881	282,584
Grenada	766	1,309	2,987	3,632	7,349
Guatemala	446,267	399,617	614,708	487,308	436,979
Guyana ²	(³)	(³)	(³)	(³)	50,432
Haiti	377,413	386,697	368,369	393,660	382,466
Honduras	393,769	370,219	430,906	483,096	439,504
Jamaica	396,949	267,016	297,891	393,912	440,934
Montserrat	989	3,620	3,472	2,413	2,393
Netherland Antilles ⁴	2,024,367	793,162	453,333	478,836	408,100
Panama ⁵	311,627	393,605	352,206	342,700	256,046
St Christopher-Nevis ⁶	23,135	16,258	22,278	23,793	20,822
St Lucia	7,397	13,796	12,269	17,866	26,044
St Vincent and Grenadines	2,958	9,643	7,836	8,493	13,950
Trinidad and Tobago	1,360,106	1,255,498	786,405	802,838	701,738
Total	8,649,235	6,687,226	6,064,745	6,039,030	6,061,054
Nondesignated					
Anguilla ⁶	(³)	(³)	89	168	497
Cayman Islands	6,212	10,950	14,611	27,670	18,195
Guyana	74,417	46,010	62,928	58,828	(²)
Nicaragua	58,064	41,003	1,071	1,231	1,121
Suriname	104,636	60,091	38,591	46,445	87,894
Turks and Caicos Islands	3,935	4,649	4,792	4,680	3,517
Total	247,264	162,703	122,081	139,022	111,224
Grand total	8,896,499	6,849,928	6,186,826	6,178,052	6,172,278

¹ Aruba's designation as a CBERA beneficiary became effective on Jan. 1, 1986. For statistical purposes, Aruba had been treated as part of the Netherland Antilles until, in the second half of 1986, separate data became available.

² Guyana was not designated as a CBERA beneficiary until Nov. 24, 1988.

³ Not applicable.

⁴ See footnote 1.

⁵ Panama lost its designation as a beneficiary effective Apr. 8, 1988.

⁶ Anguilla, which has not been designated as a beneficiary country, had been included with the data for St. Christopher-Nevis through 1985. For 1986, 1987, and 1988, data for Anguilla have been excluded and are shown separately among the nondesignated countries.

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

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